

If this reasoning be correct, then any which are not so situated, or are not so used, should not be regarded as a part of the dwelling, although they may in fact be within the curtilage. If there be other distinct purposes, as for instance, a store-house for the vending of goods or a shop for blacksmithing, and the dwelling is equally convenient and comfortable without them, and they are not in fact a part of it as by being under the same roof, so that the breaking into them will disturb the peace and quiet of the household, then they should not be regarded as a part of it in considering the crime of burglary or the offence named in the statute. *Armour v. State*, 3 Humph. 379. If, however, an outhouse, having no internal communication with the dwelling proper, may be considered as so appurtenant to it that burglary may be committed therein, surely it would seem it should be so held as to a cellar under the dwelling, although there may be no means of internal communication between them. It is under the same roof. It is a part of the house in which the occupant and his family sleep. It is essentially part and parcel of the habitation. It is manifest, however, that the statute above cited includes it. It says: 'Or shall feloniously break any dwelling-house, or any part thereof, or any outhouse belonging to or used with any dwelling-house.' The language is quite sweeping; and it is clear it was the legislative intention, in enacting it, to embrace not only every part of the dwelling but every outhouse properly a parcel of and appurtenant to it. It at once strikes the ordinary observer that it was not intended the cellar of a dwelling-house should be excluded from its operation, and to so hold would not only be in the face of the language used but unreasonable.—*Albany Law Journal*.

COMMENTS ON CURRENT ENGLISH DECISIONS.

PRACTICE—DEATH OF ONE OF SEVERAL PLAINTIFFS BEFORE JUDGMENT—APPLICATION TO REVIVE AND CARRY ON ACTION AGAINST THE DEFENDANT.

Arnison v. Smith, 40 Chy.D. 567, was a curious application by the executors of one of several plaintiffs, who had died before judgment, to be allowed to carry on the action against the defendants, after judgment had been given in the action in favour of the surviving plaintiffs, who had proceeded without adding the representatives of their deceased co-plaintiff. The action was for damages, and each plaintiff had a separate cause of action. The Court of Appeal (Cotton, Lindley and Lopes, L.JJ.), affirming the decision of Kekewich, J., refused the application; Cotton, L.J., holding that the Court had no jurisdiction to make such an order after a final judgment; and Lindley and Lopes, L.JJ., thinking the order should not be made in the present case even if the Court had jurisdiction.