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*THE DOG AND THE POTMAN: OR "GO IT, BOB."*

The somewhat discursive judgments delivered by the five learned judges who took part in deciding *Baker v. Snell* [1908] 2 K.B. 352, 825, 77 L.J.K.B. 1090, in the Divisional Court and the Court of Appeal have roused Mr. Thomas Beven to a drastic utterance in the May number of the *Harvard Law Review*. Now Mr. Beven, as our readers know, is a specially learned and expert critic on everything connected with the law of negligence, including the cases of "extra-hazardous risk," as Mr. Justice Holmes names them, in which negligence need not be proved. When such a critic attacks the Court of Appeal at large, and publishes his argument in a jurisdiction where English decisions, though constantly quoted with respect, are not binding authorities, it is a matter not to be neglected. It may save a little trouble to any readers already familiar with the case if we say at once that we agree with the general view of the law taken in the judgments of Channell, J., and Kennedy, L.J. (though not with all the language of either), and to that extent disagree with Mr. Beven's strictures, but, with great respect, are unable to accept the extra-judicial opinions of their learned brethren, and to that extent are in accordance with Mr. Beven.

For the present purpose the summary of the facts in the Law Reports head-note may suffice. "The owner of a dog known by him to be savage entrusted it to the care of a servant, who incited it to attack the plaintiff, and thereupon the dog bit the plaintiff." First, what is the position of the owner? We humbly conceive that, knowing the dog to be savage, he is bound to keep it under control at his peril to just the same extent as if it were a wild beast. A wild beast, we say, not an animal *ferae naturae*, which as Mr. Beven justly notes, is not exactly the same thing: for the law does not compel us to impossibilities, and cannot therefore expect us to deem the rabbit, for example, a savage and dangerous beast. We do not say, again, that a man commits a wrongful act by keeping any sort of animal, fierce or tame. Even with the qualification "in the sense that he keeps it at his peril" (see [1908] 2 K.B. 354) the phrase is not happy; without qualifica-