

REVIEW OF CURRENT ENGLISH CASES.

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LANDLORD AND TENANT—CONTRACT TO SUPPLY POWER—EXCESSIVE SUPPLY CAUSING DAMAGE—LIABILITY OF LANDLORD—MEASURE OF DAMAGES.

Bentley v. Metcalfe (1906) 2 K.B. 548 was a somewhat peculiar case, and one of first impression. The plaintiffs were tenants of a room in the defendants' mill, and the defendants had contracted to supply the plaintiffs with the necessary power for turning a drum in the plaintiffs' premises. By some defect in the governor of the defendants' engine, which produced the power, the speed was excessive and beyond the plaintiffs' requirement. The result was that the drum revolved so fast that it burst and killed one of the plaintiffs' servants. The plaintiffs had paid compensation to the representatives of the deceased, and now claimed to recover over against the defendants the amount so paid. The jury found that the engine was defective to the defendants' knowledge. Judgment was given by Darling, J., at the trial for the plaintiffs. On the appeal the point was raised by the defendants that there was no contract express or implied that the engine should be in perfect order, and that "power" could not be regarded as a chattel, but that the contract should be regarded as a mere demise of premises of which the power was a part and in respect of the fitness of which there is no warranty by the landlord. The Court of Appeal (Collins, M.R., and Cozens-Hardy, L.J., and Barnes, P.P.D.), however, was unable to accede to this view, and held that the real nature of the bargain was the sale of a thing or subject matter called "power" to which attached an implied warranty by the seller that the thing he supplied should be reasonably fit for the purpose for which it was supplied, and that the furnishing an excessive and dangerous amount of power beyond what was requisite resulting in damage to the plaintiff was a breach.

LANDLORD AND TENANT—DISTRESS—ILLEGAL DISTRESS—TRESPASS AB INITIO—SECOND DISTRESS FOR SAME RENT.

In *Grunnell v. Welch* (1906) 2 K.B. 555 the Court of Appeal (Lord Alverstone, C.J., and Barnes, P.P.D., and Farwell, L.J.) have affirmed the judgment of the Divisional Court (1905) 2