

which was objected to as tending to vary a contract in writing and other evidence which in one view of the contract was inadmissible, but admissible in another. The party objecting then applied to the court under 3 & 4 W. 4, c. 42, s. 39, (see R. S. O. 1887, c. 53, s. 16), for time to make the submission. The Divisional Court and the Court of Appeal refused the application, but the House of Lords held that the court had power to give leave to revoke a submission when it appeared that the arbitrator was going wrong in point of law, even in a matter within his jurisdiction, and that this power should be exercised unless the parties agreed to the arbitrator stating the questions arising, as to the admissibility of the evidence, in a special case for the opinion of the court.

PRACTICE—APPEAL NEW TRIAL—JURISDICTION OF COURT OF APPEAL TO REVERSE A VERDICT, ORD. 58, R. 4, (ONT. R. 321).

In *Toulmin v. Millar*, 12 App. Cas. 746, the action was tried by a jury and a verdict given for the defendant, a new trial was ordered by the Divisional Court on the grounds of misdirection, and the verdict being contrary to the weight of evidence. The Court of Appeal held that the verdict was against the weight of evidence, and under Ord. 58, r. 4 (see Ont. R. 321), instead of ordering a new trial assessed the plaintiff's damages at £676 19s. 6d., and ordered judgment to be entered for him for that sum. There are cases in our own courts in which a similar practice has been followed, e.g., *Stewart v. Rounds*, 7 App. R. 515, *Lancer v. Brake*, 10 O. R. 428. Lord Halsbury, L.C., in giving judgment, though not expressly deciding the point, expressed grave doubts as to its propriety, their lordships being of opinion that the judgment of the Court of Appeal was wrong on the facts, reversed the decision. On the point of practice Lord Halsbury said: "I doubt very much whether Ord. 58, r. 4, gives any such jurisdiction as the Court of Appeal claimed to exercise in finding a verdict for themselves, and actually assessing damages for breach of a contract."

Notes on Exchanges and Legal Scrap Book.

AMERICAN BAR ASSOCIATION.—We have received the report of the tenth annual meeting of the American Bar Association, which was held at Saratoga Springs, New York, on the 17th day of August last and the two following days. The report is a handsome volume of some 450 pages. The discussions which took place and the addresses which were delivered are instructive, serving as they do to show the directions in which leading members of the legal profession in the United States think that changes should be made. As a guide to legislators, the opinions of those who are so intimately acquainted with the working of the law in practice, should be of great value.