such a verdict.'"[7] In many cases the necessary element of passion or prejudice is absolutely disregarded by the Appellate Court. It will merely consider the evidence, and if it concludes that the amount of damages given by the jury is excessive, will proceed to cut it down.[8] A distinction is often made between excessive verdicts rendered by mistake and those rendered under the influence of passion or prejudice.[9] It is claimed that an excessive verdict may be honestly rendered by a jury, and that where such is the case, the Appellate Court may require a remittitur or allow a new trial. Where the damages are liquidated, such a distinction may rightfully be made. But where they are not liquidated and no mistake of law is alleged, the only ground on which the Court can require a remittitur is that it disagrees with the jury in regard to the weight to be given to the evidence. This however is not sufficient to justify the intervention of the Court. The power to interfere with the verdict of the jury in such a case does not belong to it unless expressly given by statute. This class of cases was entrusted to juries for the very reason that their opinion was regarded as more valuable than the opinion of a Court. Where passion or prejudice is shewn to have actuated a jury in rendering a verdict, even though the damages are liquidated, some Courts will attempt a calculation at the part that such factor has played, and will cut down the verdict accordingly.[10] The same objection exists to such action that was mentioned in the former case. The verdict of a Court is substituted for the verdict of a jury. The additional and more vital objection exists that if passion or prejudice is found, the verdict is vitiated, that the discovery of one of those elements ipso facto nullifies the verdict and renders it incapable of lawful ratification, even in part. An interesting answer was made to this objection by a Tennessee Court. It was there held that if a reduc-

[7] Cf. *Chicago & N. W. R. Co.* v. *Jackson*, 55 Ill. 128.

[8] Cf. *Gallamore* v. *Olympia*, 34 Wash. 390.

[9] Enc. of Pl. & Pr., vol. 18, p. 144.

[10] *Trow* v. *Village of White Bear*, 78 Minn. 432, 80 N.W. Rep. 1117; *Baxter* v. *C. & N. W. R. Co.*, 104 Wis. 307, 80 N.W. Rep. 644.