Advocate's bill is favoured by the Report of the English and Irish Commissioners before alluded to. It appears from that Report that not only the procedure at law, as already explained, but also the practice in Chancery, considerably differs from the same practice in England, but that, after having fully considered the whole matter, the Commissioners unanimously — Irish as well as English — recommend the adoption in Ireland of the English plan.

In conclusion, let me express the hope that, whatever form this Government bill may have assumed, when it becomes law, its provisions will, in letter and spirit, be strictly and rigidly worked out by the Judges, and that, ere long, their enlightened decisions may reduce its enactments into a system of procedure, which, in the words of the great English charter, will secure to the Scottish people the pure and speedy administration of right and justice.—*Law Magazine & Review.*

NEW TRIALS FOR EXCESSIVE DAMAGES.

Notwithstanding the abundance of treatises upon practice and legal subjects generally, there is yet no one work which contains a full collection of the decisions in New York and England, down to a recent period, upon the subject of new trials. The following synopsis of the cases in regard to the allowance of new trials on the ground of excessive damages, which we have prepared for our own convenience, may therefore be useful to some of our readers.

It is well known to be the constant practice of the Courts to set aside verdicts for excessive damages (*Harris* v. *Panama R.R.*, 5 Bosw., 312; *Finch* v. *Brown*, 13 Wend., 601; *Moandinger* v. *Mechanics' Fire Ins. Co.*, 2 Hall, 490; *Sherry* v. *Freeking*, 4 Duer, 452). In actions upon personal injuries, however, whether willful or negligent, the Courts are more cautious of interference than in other cases; and will not grant a new trial on this ground alone, unless the damages assessed are so clearly excessive as to indicate that the jury were swayed by improper motives, or acted under some mistake (*Clapp* v. *Hudson R.R.*, 19 Barb., 461; *Collins* v. *Albany &c. R.R.*, 12 id., 492); but where they are thus excessive a new trial will be granted.

In actions for willful injuries, this rule is more strictly enforced than in the other class of cases. Thus, in the suits for libel (*Fry* v. *Bennett*, sp. t., 9 Abb. Pr., 45, *Root* v. *King*, 7 Cow., 613; *Coleman* v. *Southwick*, 9 Johns. 45; *Southwick* v. *Stevens*, 10 id. 443), slander (*Ryckman* v. *Parkins*, 9 Wend., 470; *Ostrom* v. *Calkins*, 5 id., 263; *Douglas* v. *Tousey*, 2 id., 352; *Moody* v. *Baker*, 5 Cow., 351; *Cole* v. *Perry*, 8 id., 214; see *Potter* v. *Thompson*, 22 Barb., 87), malicious prosecution *Bump* v. *Betts*, 23 Wend., 85: *Marquiss* v. *Ormston*, 15 id., 368), or assault and battery (*Blumb* v. *Higgins* 3 Abb. Pr., 104; *M Connell* v. *Hampton*, 12 Johns. 234), the Court will not interfere with the damages, unless they are so excessive as clearly to indicate that the jury acted under the influence of passion, partiality, prejudice, mistake, or corruption.

It is said (and we think correctly) that there is no precedent for granting a new trial on the ground of excessive damages in an action for seduction (*Travis* v. *Barger*, 24 Barb., 614) or crim. con. (*Smith* v. *Masten*, 15 Wend., 270; *Duberley* v. *Gunning*, 4 T. R., 651); and verdicts for $3,000 (*Travis* v. *Barger*; *Smith* v. *Masten*) $10,000 (*Chambers* v. *Caufield* 6 East, 244), and even $25,000 (*Duberley* v. *Gunning*), the last under circumstances which rendered it a very unjust verdict, have been sustained.

Even where it was conceded that the plaintiff's daughter was not a virtuous girl, the Court refused to interfere with the damages, saying that it could not do so unless they were so excessive as to shock the sense of mankind (*Sargent* v. ——, 5 Cow., 106).

On the same principal, the Courts are reluctant to interfere with the damages in actions for enticing away a wife (*Scherpf* v. *Szadezky*, 4 E. D. Smith, 110, 1 Abb. Pr., 366), or for breach of promise of marriage.

Instead of granting a new trial absolutely, the Court may, and frequently does, order a new trial unless the plaintiff will remit a specified portion of the damages assessed (*Clapp* v. *Huds. R.R.*, 19 Barb., 461; *Collins* v. *Albany, &c., R.R.*, 12 id., 492; *Potter* v. *Thompson*, 22 id., 86; *Dublin* v. *Murray*, 3 Sandf. 19).—*N. Y. Transcript.*

DIVISION COURTS.

TO CORRESPONDENTS.

All Communications on the subject of Division Courts, or having any relation to Division Courts, are in future to be addressed to "The Editors of the Law Journal, Barrie Post Office."

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THE LAW AND PRACTICE OF THE UPPER CANADA DIVISION COURTS.

(*Continued from page* 94.)

OF THE SPECIAL PROVISIONS FOR THE PROTECTION OF OFFICERS GENERALLY AND OTHERS.

For the protection of officers and others acting in good faith under the Division Courts Act, the 192, 193 and 194 sections make special provision and are of great value. They relate as well to the ordinary proceedings under the authority of the court, as to prosecutions before a magistrate allowed in certain cases under the statute. Subordinate to these, section 116 makes certain provisions as to costs in actions of a trifling character.

The first of these protective clauses (sec. 192) enacts that no levy or distress for any sum of money to be levied by virtue of this act, shall be deemed unlawful or the party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage. This section has the effect (*inter alia*) of making the warrants and precepts issued by the clerk a complete protection to those authorised to act under them, notwithstanding any irregularity in the previous proceedings; and defect or want of form, previous to the issue, will not affect the party executing the writ; but if injury is caused by the defect, the party aggrieved has his remedy against the author of the defect for his special damage.

An express provision in this clause prevents the application of trespass *ab initio*. The general rule on the subject may be stated thus—that one who has authority by law for doing an act, and does not pursue that authority, but abuses it, the abuse turns the act into trespass, and the party be-