

*EXCESSIVE DAMAGES.*

A practice has grown up in appellate Courts here and in England of making the granting, or refusing, a new trial, where the Court finds the damages excessive, depend on whether or not the plaintiff will consent to a reduction of damages to a sum which the Court names; and it has been assumed that the plaintiff's wishes alone were to be consulted in giving this option. This practice which has been adopted not only by Divisional Courts of the High Court, but also by the Court of Appeal, has received a rude shock in a recent deliverance of the House of Lords in the case of *Watt v. Watt*, 21 Times L.R. 386. There the English Court of Appeal appears to have found the damages excessive, but refused a new trial on the plaintiff consenting to reduce the damages. The defendant, with the courageous persistence, characteristic of British litigants when a question of principle is at stake, appealed to the House of Lords, and has succeeded. And *Belt v. Lawes*, 12 Q.B.D. 356, has been overruled.

As usual the Lord Chancellor with that masculine force for which he is distinguished, put the case in a nutshell, when he said: "Assume it to be the constitutional view that a person can only have damages assessed against him for a tort [by a jury] what right has a Court to intervene and say that damages which in its judgment are appropriate shall be the amount assessed against him? The only judgment by a jury is one which the Court itself, by the hypothesis, says is unreasonable and excessive. Has not the defendant a right to say, I refuse to have judgment [damages] assessed against me by the Court? The law gives me a right to a jury, and because the jury have already found a verdict against me, which you decide cannot be allowed to stand because it is unreasonable and excessive, how does that displace my right to have the verdict of the jury upon the question?"

Put thus, the impropriety of the practice heretofore prevailing seems manifest.

The House of Lords, it is true, is not our ultimate Court of Appeal, but probably its high authority will be sufficient hereafter to warrant a modification in the practice on this point, and