

1824

Trenwale
against
M'Donald

peril, and by doing more damage to the dam, than was necessary for that purpose, they had subjected themselves to an action.— That the damages given by the jury, instead of being excessive were very moderate and to obtain a new trial on the ground of excess in an action of tort it should appear that they were vindictive. That it was of much more consequence, to the public that mills should be protected than that the wetting of a person's foot should be visited by the destruction of a species of property, so valuable and useful. That, as to the discovery of new evidence which consisted merely of admeasurements taken after the verdict, they should have been taken before, as it was the plaintiff's duty, to come prepared with his evidence.

Per curiam.

Rule discharged.