

injunction *quia timet*—no such question arises here. But the slightest invasion of the plaintiff's property is a wrong. To cause his property to subside or fall away even to the slightest degree, is an invasion of his rights, and gives a right of action without proof of actual loss. *Attorney-General v. Conduit Colliery Co.*, [1895] 1 Q. B. 301. And whatever may be the law as to the right to an injunction to prevent probable or impending damage, apprehension of damage gives no cause of action for damages, of itself. *Lamb v. Walker* (1878), 3 Q. B. D. 389. *Backhouse v. Bonomi* (1861), 9 H. L. C. 503, makes it clear that the resultant injury, and not the excavation which causes it, is the cause of action, by declaring that the Statute of Limitations runs not from the time that the work complained of was done, but from the time that the actual injury to the plaintiff accrues.

And there is a new cause of action for each new subsidence or falling away. *Darley Main Colliery Co. v. Mitchell* (1886), 11 A. C. 127.

And by the judgment of the House of Lords in *West Leigh Colliery Co. v. Tunncliffe & Hampson, Ltd.*, [1908] A. C. 27, it was declared that depreciation in the market value of the property, attributable to the risk of future subsidence, could not be taken into account. In that case Lord Macnaghten, at p. 29, says:

“It is undoubted law that a surface owner has no cause of action against the owner of a subjacent stratum who removes every atom of the mineral contained in that stratum, unless and until actual damage results from the removal. If damage is caused, then the surface owner ‘may recover for that damage,’ as Lord Halsbury says in the *Darley Main Colliery Case*, ‘as and when it occurs.’ The damage, not the withdrawal of support, is the cause of action. And so the Statute of Limitations is no bar, however long it may be since the removal was completed; nor is it any answer to the surface owner's claim to say that he has already brought one or more actions and obtained compensation once and again for other damage resulting from the same excavation.

If this be so, it seems to follow that depreciation in the value of the surface owner's property brought about by apprehension of future damage gives no cause of action by itself.” And meeting the case I have here of damage already accrued coupled with the probability of future additional in-