defendant, not wrongful *per se*, he can, on a further damage subsequently arising from the same cause, bring an action to recover therefor, after the lapse of more than six years from the original act. The Lords determined this question in the affirmative; Lord Blackburn, however, dissented. The damage in question was occasioned by the subsidence of the plaintiff's land, owing to the defendants' mining operations. These operations ceased in 1868, when a subsidence took place, and a further subsidence took place in 1871, by which the plaintiff suffered damage, and for which the defendants made compensation. Within six years before the present action a further subsidence took place, and the question was whether any action would lie for it. Lord Blackburn was of opinion that the cause of action arose when the removal of the support was followed by the first subsidence, and therefore, the plaintiffs could not recover; but the majority of the Lords adhered to the opinion that each subsidence constituted a fresh cause of action, although having its origin in the same act of the defendant.

The views of Lord Blackburn and the other learned law lords may be gathered from the following extracts from the judgments of Lord Blackburn and Lord Fitzgerald. Lord Blackburn, at p. 141, says:

I think that *Bonomi* v. *Backhouse*, 9 H. L. C. 503, does decide that there is no cause of action until there is actual damage sustained, and does decide that the Court of Exchequer erred when in *Nicklin* v. *Williams*, 10 Ex. 259, they said that there was an injury to the right as soon as support was rendered insufficient, though no damage had occurred. But I do not think that it at all follows from this, that the act of removing the minerals to such an extent as to make the support insufficient is an innocent act rendered wrongful by the subsequent damage. That would be a great anomaly, for I think there is no other instance in our law where an action lies in consequence of damage against a person doing an innocent act. There are many where no action lies against the doer of an improper act, unless or until damage accrues.

On the other hand Lord Fitzgerald, at p. 151, says:

It seems to me that *Bonomi* v. *Backhouse* did decide that the removal of the subjacent strata was an act (I will not say an innocent act) done in the legitimate exercise of ordinary ownership, which, *per se*, gave no right of action to the owner of the surface, and that the latter had no right of action until his enjoyment of the surface was actually disturbed. The disturbance then constituted his right of action.

There was a complete cause of action in 1868, in respect of which compensation was given; but there was a liability to further disturbance. The defendants permitted the state of things to continue without taking any steps to prevent the occurrence of any future injury. A fresh subsidence took place, causing a new and further disturbance of the plaintiff's engagement, which gave him a new and distinct cause of action.

NEW TRIAL—VERDICT AGAINST EVIDENCE.

*The Metropolitan Ry. Co.* v. *Wright*, 11 App. Cas. 152, was an appeal from a refusal of the Court of Appeal to grant a new trial on the ground that the verdict of the jury was against the weight of evidence. The House of Lords affirmed the courts below, holding that a new trial ought not to be granted on the ground of the verdict being against the weight of evidence, unless the verdict be one which a jury, viewing the whole of the evidence reasonably, could not properly find.

NEWSPAPER—LIBEL—PRIVILEGE—PUBLIC OFFICER.

*Davis* v. *Shepstone*, 11 App. Cas. 187, was an appeal to the Privy Council from the Supreme Court of Natal refusing a new trial. The action was one for libel, published in the defendants' newspaper. The libel in question consisted of certain statements of alleged particular acts of misconduct of the plaintiff in his official capacity as a public officer, for the truth of which the defendants vouched, and on the assumption of their truth, they commented on the defendant in highly offensive and injurious language.

On the trial, it was proved that the charges were without foundation, but that they had been made to the defendants, and published by them believing them to be true. But it was held by the Privy Council, affirming the court below, that the privilege, which protects fair and accurate reports of proceedings in Parliament and Courts of Justice, does not extend to fair and accurate reports of statements made to editors of newspapers. The appeal was therefore dismissed.