

land in addition to the injury which was already accrued; or if not then that the plaintiff should have a mandatory injunction compelling the defendants to afford proper lateral support for the plaintiff's land and restore it to its former condition and level. Restoration and adequate support are out of the question—the expense is prohibitive. The benefit accruing would not be at all in proportion to the very heavy outlay which a work of this character would involve. Even where restoration is the proper remedy a plaintiff may have to content himself with something very far short of the old conditions. *Lodge Holes Colliery Co. v. Mayor, etc., of Wednesbury*, [1908] A. C. 323. The injury to the plaintiff, however, so far as it has accrued, can be adequately compensated in money, and is damage of the class intended to be covered by sec. 18 of the Judicature Act. As to damages, however, for that which is not yet a wrong, other considerations arise. The statute does not create any new cause of action, or enable the Court to reach to that which it could not otherwise include as a basis of relief—it changes only the character of the relief. The removal of lateral support is not in itself a cause of action, and *Arthur v. Grand Trunk Rv. Co.* (1895), 22 A. R. 89, is not a guide to the decision of this case. There the wrongdoing was complete upon the building of the embankment and the diversion of the stream; and the Court found that it was permanent, and the loss to the plaintiff immediate and continuous, and his whole cause of action had accrued. See also the cases of *Kine v. Jolly*, [1905] 1 Ch. 480, at p. 504, affirmed on appeal in [1907] A. C. 1; and *Colls v. Home and Colonial Stores*, [1904] A. C. 179, at p. 212. Even where the statute can be invoked, as in the case of a continuing nuisance, it is a jurisdiction to be cautiously and sparingly exercised. *Shelfer v. London Electric Lighting Co.*, [1895] 1 Ch. 287. There are undoubtedly cases in which the beneficial provisions of sec. 18 of the Judicature Act can be given a wider range than in a case of the class I am dealing with. The basis upon which the Court can act, as I understand it, is well defined, and is not of recent origin. The limitation of its powers results from the fact that it is the actual subsidence or falling away of the plaintiff's property, and not the excavation, however, close it may approach, which constitutes the defendant's wrongdoing and gives a cause of action. I have not here to consider the possible right of a landowner to obtain an