

year by year after three years. The present value depends upon the rate of interest allowed in the computation. The larger the rate the smaller the present value. The plaintiff's computation is based upon the rate of 4,  $4\frac{1}{2}$ , and 5 per cent., arriving at the conclusion that the present value of future payments is \$1,585.73, from which he is willing to deduct \$300, being \$100 each year for three years, leaving \$1,285.73. The defendant did not object to the correctness of this computation, but he contended that, if he is liable at all, he is liable only for the difference in value, and the farm is worth all the plaintiff paid for it.

I am of opinion that the farm, charged as it was at the time of purchase, was not worth what the plaintiff agreed to pay.

I do not wholly agree with the plaintiff's computation as to the present value of the future payments of drainage taxes; but the plaintiff, upon the whole case, is entitled to recover as damages the sum of \$950.

The defendant's further contention was that the plaintiff, not having yet paid any of these drainage taxes, is not now entitled to recover. This contention is not entitled to prevail: see *Mayne on Damages*, 8th ed., p. 261. The damages are not given in reference to a future contingent loss, but they are the proper compensation for an actual and existing loss. "The question is, how much is the value of the estate diminished at the moment by the existence of the incumbrance?" And I regard this tax as an incumbrance. Further, as to liability, see *Sugden on Vendors*, 14th ed., vol. 2, p. 202, para. 27.

There will be judgment for the plaintiff for \$950 with costs; and, the plaintiff consenting thereto, this sum may be set off against the amount of the plaintiff's debt to the defendant, secured by chattel mortgages. The plaintiff consenting, it will also be a term of the judgment that, if at any time after the expiry of 3 years from the date of the purchase, and before the expiration of 18 years from that date, the Province of Ontario shall pay any sum of money in relief of the existing drainage tax upon the land in question, or if the Corporation of the Township of Roxborough shall, after the 3 years and before the 18 years, make any reduction in the now existing drainage taxes upon the said land, the defendant, if he has paid the amount of this judgment and costs, shall be entitled to the benefit of such payment or reduction.