which, moreover, did not seem to have been designed for taking care of the water which would flow over the surface of lot 9 into the ditch in the time of a spring thaw. Such water could not flow through the tile drain; and the plaintiff's case was, that it ought to have been allowed to follow the natural course, and ought not to have been brought into the ditch adjacent to his land and allowed to overflow his land. The award did not authorise the deepening of the ditch where it passes through the ridge; and the deepening of it and the bringing of a large quantity of water into the part of the ditch lying in front of lot 8, without providing an outlet through the culvert into the stream to the west, or without taking some other means of preventing its overflow from the ditch on to lot 8, seemed to have been a negligent act on the part of the defendants: see Manie v. Town of Ford (1918), 14 O.W.N. 83, 15 O.W.N. 27.

The plaintiff ought to have damages for the injury to the crops and to the potatoes in the cellar, etc.; for this injury $250 would be a fair amount to allow.

The plaintiff sought an injunction restraining the defendants from continuing to discharge the water from the hollow at lot 9 into the ditch at lot 8 until they should take adequate measures for preventing its overflow from the ditch on to lot 8. Such an injunction should not now be granted. There might be difficulty in framing the order without further evidence as to exactly what ought to be done; and the best course was to confine the judgment to the damages, reserving to the plaintiff leave to apply in case the defendants should not take steps to remove the cause of complaint.

Although the damages for the injury already sustained might have been recovered in a County Court, the action was one which it was proper to bring in the Supreme Court, and the costs ought to be upon the higher scale.