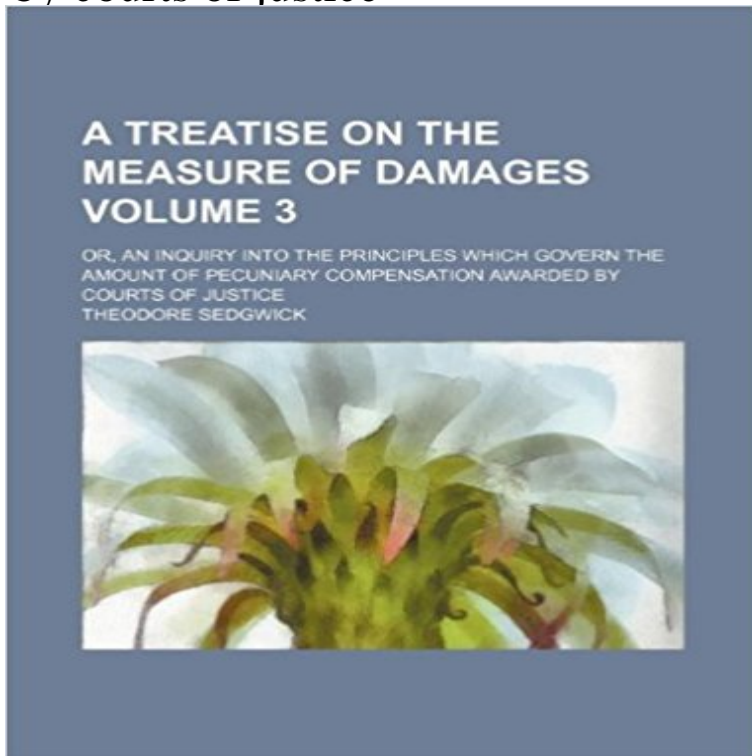


A treatise on the measure of damages Volume 3 ; or, An inquiry into the principles which govern the amount of pecuniary compensation awarded by courts of justice



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1920 Excerpt: ...The plaintiff was let into possession, and the defendant executed a bond in the penalty of \$10,000, conditioned to convey upon the payment of the balance of the purchase-money. The plaintiff was evicted by the judgment creditors of the defendant, and the property sold by the plaintiff for \$2,500, which was admitted to be the real value of the property at the time. Here the court refused to allow the plaintiff to recover the amount of the purchase-money, as if he had repudiated the contract and sued for money had and received. Here the plaintiff seeks to recover compensation; what sum will put him in as good a condition as if the contract had been performed? In that event he would have got property, which is worth \$2,500, but he would have been forced to pay the balance of the purchase-money and interest. He has not paid this latter amount, and his damage is the difference between that sum and the value of the property which by the case agreed is \$207.80; and to that sum the redress was limited. 1016. Quality or quantity deficient. Where the title to part of the land contracted to be sold proves not to be in the vendor, but the vendee chooses to complete the purchase, the abatement from the purchase-money *Mayne on Damages*, 4th ed., 192. 97 *Nichols v. Freeman*, 11 *Ired.* See ch. xxxv. (N. C.) 99. will be that proportion of the purchase-money which the value of the part unconveyed bears to that of the part conveyed.⁹⁸ limited, however, by the actual value of the part unconveyed. In a few cases, especially where there is not mere error in measurement but failure of title, the actual value of the deficient land is allowed.¹⁰⁰ If the deficiency is not in quantity, but in defect of title, the reduction is of the

amount by which th:i va...

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