

obtain it, to the amount of loss suffered by him on the product of such intended use through failure to obtain it. The vendee, however, must do all he can to avoid or reduce injury by way of trying to procure the thing purchased elsewhere, or to otherwise occupy himself or his machinery, or to procure an available substitute for that which he was to have ; and while he is entitled to recover the necessary expense of so doing, he can only recover, in addition thereto, the difference between what he would have made had the article contracted for been supplied and what he was enabled to make without it. When the breach is by the vendee, the vendor is generally entitled to recover the difference between the contract price and the cost of manufacture or production, where the breach occurred before the preparation of the article ; if it occurred afterwards, he is entitled, on surrender of the article, or when it is useless in his hands, to the full contract price. But he, too, must reduce damages as much as he can ; and if a market at a place other than the place of delivery is available, or if he can otherwise dispose of the article sold, he can only recover the difference between the amount for which he could dispose of it and the contract price, together with the cost of transportation. It would seem that to constitute an absence of market for an article within the meaning of the above rules there must have been an absence of any substantial market where such articles were bought and sold generally. A mere nominal market furnishes no basis for an estimate of damages for a breach of contract."

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Referring to an article by Mr. J. B. McKenzie in these columns (vol. 38, p. 749) we are authorized to state that immunity from punishment was not made a condition of its acceptance by the Crown of Herbert's testimony, nor was any promise made that he should receive a lighter sentence. Readers of this journal will scarcely need be reminded that the only sentence which can be passed in case of conviction for murder is that of death, though, of course, the Governor-General can commute this sentence where he deems expedient. The writer tells us that, at the moment of writing, he overlooked the fact, when speaking of a lighter sentence, that the offence charged was murder.