THE CITY POST.

WEDNESDAY MORNING::SEPTEMBER 19.

Supreme Court—Present: Chief Justice Woodward and Judges Thompson, Strong, Read, Agnew, Sharswood and Williams.

Thursday, September 12, 1861.

Clarke & Co. vs. Platt. No. 19, Jan'y., 1861.
Error to Court of Common Pleas, No. 1, Allegheny county.

This is an action of assumpsit by the defendants in error against the plaintiffs to recover the price of a quantity of iron sold by the former to the latter. The defendants below pleaded the general issue, and gave notice of a set-off for damages sustained by them in consequence of the plaintiffs' failure to deliver the iron according to the terms of the contract. The cause was tried in the Court of Common Pleas of Allegheny county, before Judge Sterrett, who charged the jury that the defendants were entitled to the difference between the contract price and the market price of the iron at the time it should have been delivered. The jury found a verdict for the plaintiffs for $1,000, and the defendants sued out this writ of error.

Per Curiam—The charge of the learned judge was correct. The rule of damages in such cases is the difference between the contract price and the market price at the time and place of delivery. The defendants below had the right to purchase iron in the market to fill their contract, and to charge the plaintiffs with the difference between the contract price and the price they were compelled to pay. The plaintiffs had the right to sell their iron in the market, and to charge the defendants with the difference between the contract price and the price they received. The jury found the market price at the time and place of delivery, and the defendants have no reason to complain. Judgment affirmed.

Commonwealth vs. Allegheny Bridge Company. No. 20, Jan'y., 1861. Error to Court of Common Pleas, No. 1, Allegheny county.

This was an action of debt by the Commonwealth against the Allegheny Bridge Company, to recover the penalty imposed by the act of 1st April, 1840, for the non-payment of tolls. The defendants pleaded that they were exempted from the payment of tolls by the act of 1st April, 1844, which provides that "the Allegheny Bridge Company shall not be required to pay any tolls for the passage of any of their property, or the property of any of their stockholders, or any person employed by them, over any of the bridges of said company." The plaintiffs replied that the defendants had violated the provisions of the act of 1844, by charging tolls for the passage of persons and property over their bridges. The defendants demurred to the replication, and the Court below gave judgment for the defendants. The plaintiffs sued out this writ of error.

Per Curiam—The act of 1844 is a supplement to the act of 1840, and must be construed with reference to it. The act of 1840 authorized the bridge company to charge tolls, and the act of 1844 exempts the property of the company and its stockholders from the payment of tolls. The act of 1844 does not repeal the act of 1840, but only exempts the property of the company and its stockholders from the payment of tolls. The act of 1844 does not exempt the company from the payment of tolls for the passage of persons and property over their bridges. The replication is therefore bad, and the judgment must be affirmed.

Judgment affirmed.

Commonwealth vs. Pittsburgh, Virginia and Charleston Railroad Company. No. 21, Jan'y., 1861. Error to Court of Common Pleas, No. 1, Allegheny county.

This was an action of debt by the Commonwealth against the Pittsburgh, Virginia and Charleston Railroad Company, to recover the penalty imposed by the act of 1st April, 1840, for the non-payment of tolls. The defendants pleaded that they were exempted from the payment of tolls by the act of 1st April, 1844, which provides that "the Pittsburgh, Virginia and Charleston Railroad Company shall not be required to pay any tolls for the passage of any of their property, or the property of any of their stockholders, or any person employed by them, over any of the bridges of said company." The plaintiffs replied that the defendants had violated the provisions of the act of 1844, by charging tolls for the passage of persons and property over their bridges. The defendants demurred to the replication, and the Court below gave judgment for the defendants. The plaintiffs sued out this writ of error.

Per Curiam—The act of 1844 is a supplement to the act of 1840, and must be construed with reference to it. The act of 1840 authorized the bridge company to charge tolls, and the act of 1844 exempts the property of the company and its stockholders from the payment of tolls. The act of 1844 does not repeal the act of 1840, but only exempts the property of the company and its stockholders from the payment of tolls. The act of 1844 does not exempt the company from the payment of tolls for the passage of persons and property over their bridges. The replication is therefore bad, and the judgment must be affirmed.

Judgment affirmed.

City Mortality.—By the following report of the Board of Health, it will be seen that the number of deaths in this city for the week ending last night, is considerably less than the average. The cool weather of the past few days has materially assisted in checking the ravages of cholera infantum, which has been very fatal during the past few weeks. The number of deaths from this disease, if the ratio was all reliably reported, would be much smaller:

Cholera Infantum 0
Dysentery 0
Diarrhœa 0
Scarlatina 0
Congestion of Brain 0
Consumption 0
Dropsy 0
Dysentery 0
Epilepsy 0
Fever 0
Hooping Cough 0
Inflammation of Brain 0
Inflammation of Lungs 0
Marasmus 0
Measles 0
Old Age 0
Scarlet Fever 0
Small Pox 0
Teething 0
Typhoid Fever 0
Unknown 0
Whooping Cough 0
Total 21

OF THE ABOVE THERE WERE:

Under 1 year	7	30 to 40	2
1 to 2	3	40 to 50	0
2 to 5	1	50 to 60	0
5 to 10	0	60 to 70	0
10 to 20	0	70 to 80	0
20 to 30	8	80 to 90	0

Mayor's Office, Sept. 18, 1861.

We were yesterday shown by our friend Col. Glass, of Mrs. McKinley, widow of the late S. McKinley, Esq., the service medals of

Rev. Thomas Boyle,
Capt. Jas. Parker,
Capt. Jas. Wilson,
Rev. Thomas Hunter,

Sons of Mrs. McKinley, now serving their country in the army. The service medals of

Rev. Thomas Boyle,
Capt. Jas. Parker,
Capt. Jas. Wilson,
Rev. Thomas Hunter,

are now in the possession of Col. Glass, and will be presented to the parties named as soon as he can find them. Col. Glass has also in his possession the service medal of Capt. Jas. Wilson, which he will present to him as soon as he can find him. The service medals of the Rev. Thomas Boyle, Rev. Thomas Hunter, and Capt. Jas. Parker, have not been heard of since.

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The Rain of yesterday put appearances of more rain the people, but as it is making its entry we would recommend the lads, who have Grist or Saw Mills in their vicinity, to keep their eyes open for the latter chance.

Peter Francesa was arrested on Monday evening, charged with the larceny of several silk handkerchiefs, the property of Mr. Thomas Kerr, and was committed to answer by Alderman Wigeler also, but this time on the charge of assault and battery. The prosecutor was the gentleman who was engaged trying the case, and the assault was committed in the Court room.

Two Drunken Fellows were committed to jail, yesterday, for the robbery of a gold watch, worth $100 from William Parker.

Larceny.—Thomas Conley was committed to jail, yesterday, for the robbery of a gold watch, worth $100 from William Parker.

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Assault and Battery.—Jas. Gannon was committed to jail, yesterday, by Alderman Wigeler, for assaulting and beating Patrick Hopkins.

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