REPORT OF THE AUDITOR OF THE CANAL DEPARTMENT.

STATE OF NEW-YORK, CANAL DEPARTMENT, ALBANY, Monday, Dec. 31, 1855.

To The Hon. Commissioners of the Canal Fund:

In compliance with the requisitions of the statute creating the office of Auditor of the Canal Department, and vesting the Auditor with the powers and duties of the Controller in relation to the Canals, except his powers and duties as Commissioner of the Canal Fund, and in accordance with the course hitherto pursued of submitting a statement of the operations of the last fiscal year, and an estimate of its revenues and expenditures for the present, together with such suggestions, if any, as may be deemed necessary for the improvement and management of the revenues, the following Statement and Report are respectfully submitted:

On the first day of October, 1854, there was belonging to the Canal Fund on hand $3,358,071 25, viz.:

Deposited in Banks	$3,213,282 40	
Invested Securities in custody of the Auditor	145,726 60	
Due from the General Fund	194,062 71—	$3,358,071 25
Receipts during 1855		7,115,938 68
Total		$10,733,909 93

The payments of the year, as shown in accompanying tables, have been $7,547,279 64. Balance on hand at close of fiscal year $3,186,730 29

Of this balance there was deposited in banks	$2,946,931 50	
Invested securities in custody of Auditor	145,726 00	
Due from the Treasury	194,062 71—	3,186,730 29

Document No. 1, accompanying this Report, enumerates the several sources from which the above receipts have been realized, and the purposes for which the several payments have been made, rendering a repetition of them in this place unnecessary.

Nos. 2 and 3 of the documents accompanying this Report are statements of the receipts, payments, and condition of the Sinking Fund provided for by sec. 1 of Art. 7 of the Constitution, and which, for the sake of distinction, is designated as "Sinking Fund No. 1."

Nos. 4 and 5 of such documents are statements of like character relative to the Sinking Fund provided for by sec. 3 of Art. 7 of the Constitution, designated as "Sinking Fund No. 2."

From these statements it will be seen that the balance on hand belonging to these Sinking Funds on the 30th September last was:

Sinking Fund No. 1	$371,883 11	
Sinking Fund No. 2	79,979 49—	$451,862 60
There is a deficiency in Sinking Fund No. 2 of		211,274 82

To pay interest already accrued to be supplied from loan on the credit of the Sinking Fund, under sec. 3 of Art. 7 of the Constitution, and sec. 3 of chap. 338 of Laws of 1855, which, when supplied, will make a total belonging to both funds of $662,637 42

Of this sum, $243,883 34 is required for the payment of stock that matured prior to 30th September last, but which was outstanding on that day, though it ceased to carry interest at its maturity. The revenue having been insufficient to meet the demands of the Sinking Funds for the payment of interest and redemption of principal, there was paid for interest upon loans prior to Sept 30, $211,274 12 from Enlargement Fund, which is to be replaced by loan upon the credit of the Sinking Fund, and comes from the above sum of $662,637 42, and will leave, as the balance of said Sinking Funds, on the 30th September the sum of $202,479 26, of which there belongs to Sinking Fund No. 1, $122,499 77, and to Sinking Fund No. 2, $79,979 49 —$202,479 26.

Land damages and all claims against the Canal Fund which accrued prior to July 1, 1846, though adjusted as to amount since, are payable from Sinking Fund No. 1; hence there should always be a sum on hand belonging to that fund from which payments can be made at any and all times. A large portion of the lands taken for the enlargement of the Erie, and for the construction of the Genesee Valley and Black River Canals, were in fact appropriated prior to 1846, though the occupants were not then dispossessed, nor the damages awarded until since that period; and awards are still to be made to considerable amount for land appropriated prior to that date. Special Acts are passed at almost every session of the Legislature directing the appraisal of damages and adjustment of claims accruing before July 1, 1846. These facts render apparent the propriety and necessity of a fund from which payments of such demands can be made as they are adjusted.

REVENUES AND EXPENDITURES OF THE FISCAL YEAR.

The revenues of the State Canals, and the expenses of collection, superintendence, and ordinary repairs for the last fiscal year have been as follows, viz:

RECEIPTS.

From tolls, rent of surplus water, and interest on current Canal revenues		$7,639,732 12

PAYMENTS.

For repairs on the Canals, viz:		
To Superintendents of Repairs	$788,781 41	
To Canal Commissioners	22,279 62	
For collection of tolls, viz:		
By Collectors	71,753 20	
By Weighmasters	8,093 09	
For refunding tolls, printing, salary of Auditor and Clerks of Canal Department, and miscellaneous payments	38,884 40—	939,732 12
Surplus revenue		$1,650,000 00
Amount set apart by the Constitution as a Sinking Fund to pay the interest and redeem the principal of that part of the debt called the Canal debt		$1,300,000
Of that part of the debt called the General Fund debt		350,000
Total		$1,650,000

The foregoing statement shows a deficiency in the revenue to meet the demands of the Constitution for an appropriation therefrom of $200,000 in aid of the general fund for the support of Government. In anticipation of this deficiency the payments to this fund have been withheld. The increased amount of $400,000 required by Sec. 1, Art. 7 of the Constitution to be set apart the present fiscal year for the Canal debt sinking fund, making the sum of $1,700,000 instead of $1,300,000 as heretofore, renders it necessary still to withhold any payment to the general fund for the support of Government until the close of the year shall have developed whether the revenue will justify such payment.

EXPENDITURE BY SUPERINTENDENTS.

From the preceding statement it will be seen that the expenditure by Superintendents for repairs for the last fixed year amounted to the sum of $788,781 41, being a diminution from that of the preceding year of $180,617 02, or, if the sum of $115,000 of special appropriation by chap. 16, laws of 1854, for bottoming out the crooked portions of the Erie, Oswego, and Cayuga and Seneca Canals be deducted from this balance, it will still leave a difference of $65,617 02. Notwithstanding this favorable reduction in the ordinary expenditure for repairs by Superintendents, the Auditor entertains no doubt that there is still a pretty wide margin for improvement in this respect, and he confidently believes that if all who are selected to discharge the important duties of Superintendent would exercise the same vigilance, prudence and economy that characterize the management of thriving private affairs, sufficient saving might still be effected to meet in part the demands of the Constitution for a contribution from the revenue to the general fund for the support of government.

[Here the Auditor explains some of the details of the process by which Superintendents draw money from the Treasury, and recommends some change which he has recently adopted and which appears to work favorably to the revenue.]

The experiment of keeping the Canals in repair by contract, so far as tested, proves a saving to the Treasury without any detriment to navigation that has come to the knowledge of this department. As was to have been expected, questions of no great moment have arisen as to whether certain items of needed expenditure were included or not to come within the terms of the contract. A very limited number of questions of this character have been submitted to the Auditor for his opinion, and he has held that such questions were in the first instance, in all cases, to be decided by the Commissioner in charge, and that they could not legitimately come before the Auditor for decision in any other form than by his being called upon to audit or allow some item of expenditure by a Commissioner or Superintendent, relative to which the question might arise as to whether it was included in the contract, and therefore not allowable to them, but chargeable to the contractor. As yet the question of that description has been presented for decision involving any difficulty. Differences of opinion as to what is or is not included in the contract, may reasonably be expected to arise between the contractor and Commissioner, but it is not anticipated that they can be the source of any considerable difficulty. At all events, the saving of expense indicated by the contracts which have been made is sufficient to induce a more full and perfect trial and test of the system; and it is well worthy of consideration whether the office of Superintendent may not be abolished with advantage upon all sections, the repairs of which have been contracted for, and their supervision committed exclusively to the Commissioner and Resident Engineers in charge. It is doubtless true that this is a subject belonging to the Canal Board rather than to the Commissioners of the Canal Fund as such; and yet, inasmuch as it may have an important bearing upon the productiveness of the fund committed to their care, and suggestions for the management and improvement of the revenue are strictly within the line of the Auditor's duty in his Annual Report, it is not deemed out of place to refer to it here. Should this be done, a provision might be inserted in the contract somewhat similar to that contained in contracts for construction, providing that Resident Engineers shall determine the amount or quantity of the several kinds of work to be paid for under the contract, whereby an effective and speedy decision may be made of many of the questions of difference that may arise between the contractor and Commissioner, by means of which the interests of navigation may be protected and expense avoided. The supervision of the Canals by practical and experienced persons is very essential to the revenue, and should be secured to the greatest practicable extent. Should the measure suggested be deemed unadvisable, the devising of some means by which the present mode of investigating charges preferred against Superintendents can be superseded, without endangering the public interest or hazarding just protection to the rights of the accused, and at the same time relieve the revenue from its past drain from that source, is eminently desirable.

EXPENDITURES FOR REPAIRS BY CANAL COMMISSIONERS.

This item of expenditure for the last fiscal year, as shown by the preceding statement, has amounted to the sum of $92,279 62, which is a large diminution of expenditure under this head from any former year since 1849, as will appear from the following statement:

For the year ending Sept. 30, 1849, the amount was	$80,677 81
For the year ending Sept. 30, 1850, the amount was	200,312 79
For the year ending Sept. 30, 1851, the amount was	119,501 74
For the year ending Sept. 30, 1852, the amount was	126,132 85
For the year ending Sept. 30, 1853, the amount was	227,664 37
For the year ending Sept. 30, 1854, the amount was	162,341 37
For the year ending Sept. 30, 1855, the amount was	92,279 62

The difference of expenditure under this head during the last fiscal year and that immediately preceding, as shown by this statement, is $80,061 55, or nearly one-half, and is truly gratifying, as so far as is known to the Auditor no detriment to navigation has resulted therefrom. The reasons for this difference can be more appropriately set forth by the Commissioners themselves in their annual report than by the Auditor. The diminution in the amount expended by Superintendents for repairs is $149,617 02

Repairs by Commissioners 80,061 55

Making a total of		$229,678 57
Less expended the last than the preceding year under these heads.		
The amount expended for the collection of the revenue exceeds that of the preceding year, and is as follows:		
By Collectors	$71,753 20	
By Weighmasters	7,093 09—	$78,846 29
Same items for preceding year		$75,547 43
Showing an increase of		$4,298 36

In the amount set down to collectors is included their compensation, the compensation of clerks, and of inspectors, and all the expenses of their offices. The Auditor is clearly of the opinion that the number of collectors' offices may be reduced without any detriment, and a saving of expense be effected thereby. The whole amount received at a few of the collectors' offices is insufficient to pay the salaries and expenses of the office. Such offices may certainly be dispensed with, with benefit to the revenue. At some other offices, the amounts collected are but very little in excess of their expenditures. Most, if not all, of this class may be abolished with advantage to the revenue.

[Here the Auditor seconds, with considerable emphasis, the recommendation of his predecessor to abolish the office of Inspectors of Canal Boats.]

REVISION OF TOLLS.

Upon pages 24 and 25 of the last Annual Report of the Auditor are statements showing that with a large increase of tunnage there has been decrease of revenue, and a recommendation of a revision of tolls, with an increase upon many articles deemed low tow. These statements are deemed worthy of consideration, and attention thereto is respectfully invited. The pressure for reduction of tolls by forwarders and manufacturers is constant, urgent and natural; and the combination of interests and influence in large companies for transportation purposes facilitates and increases this pressure, while competition from railroads and rival routes furnishes foundation for plausible argument to justify it. To adjust the tolls in such manner as to secure the largest amount of revenue practicable, and at the same time promote and extend the benefits and interests of production, manufactures and commerce, is not an easy matter; and yet the demands for the revenue upon the one hand, and of justice and equity to those who provide the materials for transport, and those from whom that revenue is derived, on the other, equally and imperatively demand that no reasonable study, effort or labor be omitted in the attempt to reach so desirable a result. The insufficiency of the revenue to meet the demands of the Constitution upon it, and the cheap rival routes and rival methods of transport to which the business from which the revenue must be derived is subjected, are cogent facts to illustrate the necessity of due deliberation and action in the premises.

[It is here recommended by the Auditor that the Regulations of the Canal Board be so amended that lumber shall always be cleared by weight, instead of the alternative of weight or measurement, as at present.]

TOLLS UPON RAILROADS.

That the Legislature has the power to prescribe the terms and conditions upon which railroads may exercise the franchises it has granted them, the Auditor entertains no doubt. The question relative to the imposition of tolls upon property transported upon railroads is not in his judgment one of power but of expediency. The State, having expended large sums of money and incurred heavy liabilities yet uncancelled, in the construction of navigable channels, for the benefit of all classes of its citizens, and by the means of which all are benefited, though in unequal degree, the laws of self-protection and self-preservation require its legislation to be such as shall prevent the loss or material injury of this large investment. To authorize by its action, and permit or allow with its sanction, where it has the right to restrain, such competition and rivalry as to prevent the canals from paying the interest upon and cancelling their indebtedness by means of their revenue, and thus compel a resort to taxation oppressive to all, would be manifestly unjust and destructive of those equal rights of its citizens which it is the paramount duty of the Government to protect. Were the benefits arising and resulting from the canals equal in degree to all the citizens of the State, in proportion to their taxable property, a resort to taxation to defray their cost of construction or improvement would be less objectionable, but could not then be defended if that resort was rendered necessary by reason of privileges conferred upon a portion of its citizens in the benefits of which all could not participate. Legislative acts authorizing the construction of railroads and transportation of property, which brings them in competition with canals constructed by the State, confer privileges upon the corporators so far as the revenue of the Corporation is concerned, from which other citizens are necessarily excluded; hence it must result that any tax upon the property of the whole State, rendered necessary by reason of such privileges, is unjust and indefensible, as being a burden borne by all for the benefit of a portion only. Equally unjust would it be to impose a tax upon the property or business of any Corporation to liquidate the Canal Debt, except in common with all the taxable property of the State, unless the necessity of such tax is created by the acts of the corporation or the corporations taxed. But if by their own action a necessity is created for a resort to other means for the final extinction of the debts of the Canals than their own revenues, then the actors creating that necessity should bear its burthen as a just and necessary consequence of their acts. Taxation upon the property of the whole State, *in any form* for the liquidation of the Canal Debt, can only be justified upon the assumption that their revenue will prove unequal to its liquidation, an assumption entirely at variance with all the experience of the past and prospects of the present. The time within which that debt shall be finally and entirely liquidated can be of no particular moment so long as their revenue is sufficient to preserve intact the faith of the State which has been pledged, and continue to furnish such a surplus over interest and expenses as to put beyond reasonable contingency the fact of its final liquidation from that source. Posterity even could not reasonably complain at receiving such a legacy as the Canal system of the State, though subject to some of the payment of the cost of its construction, so long as its revenue was ample for that purpose, and yet it is not posterity, but the present generation that are to witness its final extinction if any confidence can be placed in the future being as productive as the past. If these positions are sound and defensible as they are believed to be, the only question to be settled, in order to determine the propriety and justice of imposing tolls upon property transported upon railroads is, Have they by their action under the privileges granted by their charter, rendered a resort to taxation *for* the liquidation of the Canal Debt necessary? It is shown in another part of this report, under the head of "Sufficiency of Canal Revenue to "pay the Canal Debt," that even with a revenue equal only to that of the last fiscal year, and without any further increase thereof then is sufficient to meet the interest of the $1,500,000 yet to be borrowed, and without any retrenchment of expenditures for collection, superintendence and repairs, the entire debt, with its authorized additions, may be cancelled in less than twenty-three years, and unless the facts and the reasoning under that head are entirely fallacious, to resort to taxation for the payment of the Canal Debt is necessary, the revenue of the canals being sufficient for that purpose. That the railroads have carried freight, which, had they not been allowed to carry it, would have gone by canal and paid toll to the State, is unquestionable; but whether they have taken more freight from the canal than they have caused to be brought to and transported upon it, is a question not so easy of solution, and must to a very great extent be a matter of conjecture, from a want of facts from which to determine it. For this as it may, it is fairly assumable that forwarders of freight do not cease it to be transported by railroad merely, nor mainly that the revenue of the company carrying it may be enhanced, nor yet from hostility to the canal navigation and with a design to impair its revenues, but because it is believed to be for the interest of the shipper, the producer or consumer, or all combined, and that the public, so far as they resort to that method of transportation, do so for the reason that they are benefited thereby—the same reason that prevails when canals instead of railroads are resorted to for the transportation of property. From all the investigation that the Auditor has been able to make of this question, the conclusion at which he has arrived is that there is no such necessity existing which has been created by the action of railroad corporations as to justify the imposition of tolls upon property transported upon railroads for the benefit of the Canal Fund. Whether any necessity exists for such an imposition for the benefit of the General Fund is a question belonging to the Controller and not to the Auditor to discuss. The main and strongest position for the imposition of tolls upon property transported upon railroads for the benefit of the Canal Fund is understood to be that the Constitution has imposed upon that fund the duty of paying certain sums within a given period, which with its present revenue it is unable to do, and that therefore inasmuch as railroad transportation diverts from the canal property that would be otherwise carried upon it, and pay tolls to the State, *such property* should be subjected to the payment of toll the same as though it went by canal. Waving all question as to how much or how little of the property transported by railroad would be carried by the canals if not by railroad, and all the difficulty of discriminating upon this principle as to what should be subject to toll and what exempt, also the inquiring whether the railroads are anywise in fault for these Constitutional requisitions, it is respectfully submitted that this argument overlooks and ignores the fact, that the Constitution has itself provided other means for meeting any deficiency that may occur, and therefore the imposition of tolls upon railroad transportation is a departure from the means provided by itself. Should competition by railroads, thereby diverting freight from the canals, be carried to such an extent at any period in the future, as to cause the Canal Revenue to be reduced below a point sufficient to meet expenses and interest, and furnish a reasonable surplus for a sinking-fund to extinguish the debt, the necessity will then have arisen by railroad action for the adoption of protective measures, and upon principles already stated, the Auditor would in such an event unhesitatingly recommend the imposition of such tolls upon property transported upon railroads as should be sufficient to secure an amount of revenue adequate to the extinction of the debt in a reasonable period, but to impose such tolls in anticipation of such necessity, under circumstances so strongly indicating the unlikelihood of its occurrence, can be neither wise nor just. To merit and acquire by the imposition of unnecessary toll upon the transportation of property, a reputation similar to that now borne by our sister State of New-Jersey, caused and acquired by a similar imposition upon persons carried upon her railroads, is not such a condition as the Auditor can recommend in this Report.

SUFFICIENCY OF THE CANAL REVENUE TO PAY THE CANAL DEBT.

The Canal Debt, paying interest on the 30th Sept., 1854, (including $1,000,000 of Canal Revenue Certificates,) was $19,731,109 16—bearing an annual interest of $1,019,700 29. Of this debt $2,514,819 34 matured in the fiscal year ending Sept. 30, 1855, and during the same year new loans were issued for $3,750,000—leaving the entire Canal Debt subject to interest on the 30th Sept., 1855, at $19,666,289 81, the interest upon which is $1,076,822 51 per annum.

The revenue of the last fiscal year was	$2,639,732 12
Cost of collection, superintendence, and repairs	989,792 12
Interest upon Canal Debt, $1,076,822 51	2,066,514 63
Surplus, over interest and expenses, applicable to payment of debt	$573,177 49

This sum, although set apart and invested for accumulation, at an interest of five per cent per annum added quarterly, will in nineteen years and three quarters amount to a sum more than sufficient to extinguish the present Canal Debt. If to the debt of $19,666,289 82 there be added the sum of $4,500,000, remaining on the 30th September last, to be borrowed under Sec. 3, Art. 7, of Constitution as amended, it will make an aggregate of $24,166,289 82, and the time requisite for an annual investment of $573,177 49, at a quarterly interest of five per cent per annum, to accumulate so as to extinguish it will be extended to twenty-two years and a quarter—at which time the accumulated sum would exceed the debt in the sum of $182,501 61, as shown by the following computation:

[This computation is here omitted.]

In this computation it is assumed that the revenue of the present fiscal year (and for the future) will exceed that of the last fiscal year to an amount equal to the interest on the additional loans of $4,500,000, so as at all times to leave a net revenue or surplus, after paying interest and cost of collection, superintendence and repairs, equal to that of the last fiscal year. That this assumption is well-founded is shown in another part of this Report, where the revenue of the present fiscal year is estimated at $3,100,000, which will give a surplus or net revenue over and above cost of collection, superintendence and repairs, and interest on a debt of $21,916,289 82 (being an addition to the present debt for the current fiscal year of $2,250,000 at 6 per cent) of $911,177 49, or $355,000 more than the net revenue of the last fiscal year. From the 30th Sept., 1846, to the 30th Sept., 1855, a period of nine years, there has been paid from the Canal Revenues (without including anything received from tolls upon railroad transportation) the interest upon the Canal Debt, and all expenses of collection, superintendence and repairs, the following sums, viz:

Upon the principal of the Canal Debt	$4,510,960 58
To the General Fund and General Fund Debt	4,550,000 00
To the enlargement and completion of the Canals	4,031,599 48
Making an aggregate in nine years of	$12,892,560 06

or $1,432,563 34 per annum. For the last three years, and since the railroads have been exempt from the payment of tolls, the net revenue, after paying interest on the Canal Debt and all expenses of collection, superintendence and repairs, has been $2,356,677 76, or an average of $785,559 24 per annum, and this, notwithstanding the unfavorable influences of dry seasons, short crops, competition from railroads, increased expenditures for repairs, and interest upon additional loans, most clearly evincing the efficiency of the Canal Revenue to liquidate the Canal Debt within a reasonable period if applied to that purpose only, and the repayment of any loan that may be necessary to meet a deficit in its sufficiency to cancel any of the present debt at maturity. From and including the year 1837 to the 30th September last, the Canal Fund has received from other sources than its own legitimate income, as shown by statement No. —, the sum of $9,130,873 76 from the following sources, viz:

From taxes	$1,113,825 [illegible]	
From sales only	3,597,629 75	
From salt duty	2,065,498 06	
From steamboat tax	75,509 99	
From sales of land	32,511 15	
From general fund of deficiencies	1,396,498 88	
From railroad tolls, after deducting the expenses of collection	651,299 45—	$9,133,373 76
During the same period there has been paid from the Canal Fund to the General Fund	4,197,697 37	
To the General Fund debt	3,471,916 56—	$7,669,613 93
Balance		$1,784,354 46

From this statement it appears that all the Canal Fund has received from other sources than its own proper income, more than it has refunded, is $1,784,354 46; and if from this be deducted the amount of railroad tolls which were imposed for the protection and benefit of the Canal Fund, the amount would be but $1,132,127 93, or a sum less than the net Canal Revenue of a single year. What other understanding of a magnitude in any good degree commensurate with the canal system of this State has ever been brought and carried so entirely and successfully upon the green credit and unstained itself so triumphantly? The credit of its Sinking Fund is such, that while the best of railroad stocks are at or below par, $4,500,000 of 5 per cent stock, having 18 years to run, and based on the credit of that Sinking Fund, has been taken in the face of a stringent money market, at a slight premium, and as soon as taken is held at an advance. Not only has the Canal system of the State been thus self-sustaining and successful, but through its influence, the valuation of the property of the State has been quadrupled since 1817, and to the same extent has enlarged the basis of taxation to which resort may be had whenever the necessities of Government may demand. Past results as well as present indications leave no room to doubt but that, wisely and prudently managed, the system must continue to extend and multiply its benefits, as well as discharge its pecuniary obligation and remain to the State an unfailing source of revenue.

ABILITY OF THE CANALS TO MEET THE CONSTITUTIONAL CHARGES UPON THEM.

The Constitutional Convention of 1846 proceeded upon the assumption that the then existing Canal Debt would be paid in eighteen years from the surplus income of the Canals, and provision was made for a Sinking Fund to accomplish that result, should that income prove sufficient for the purpose; and the remainder was to be applied to the completion of the Erie Canal Enlargement, the Genesee Valley and Black River Canals. An increase of tolls from that period onward was assumed, which has been more than realized, notwithstanding the competition and diversion of freight to other channels which was not contemplated, and the reduction in rates of toll which has since been made, and which was to some extent rendered necessary by that competition; and yet the surplus then anticipated has not been realized. One of the prominent reasons for this is found in the fact that the cost of collection, superintendence and repairs has been much greater than was anticipated, having increased from $606,223 01 in 1846 to $1,227,166 20 in 1854. The Auditor is happy in being able to state that for the last fiscal year this expenditure has been reduced to the sum of $989,792 12, being a diminution of $236,374 08 from the preceding year, and of $108,634 80 from 1853, and that there is reasonable prospect of its being still further reduced. It is believed that the reduction will be such as to meet the deficiencies of revenue and enable it to satisfy the constitutional charges upon it without an increase, especially as with the now current fiscal year those charges for the Sinking Fund are increased from $1,300,000 to $1,700,000 under Sec. 1 of Art. 7 of the Constitution. In addition to this with every new loan that is made for the completion of the Canals, there must be an addition to the Sinking Fund of such sum as with its accumulations will extinguish such loan in eighteen years from its inception. There is no reasonable ground, therefore, to expect that the revenue from the Canals will be sufficient to meet all charges upon it, so long as they remain in an unfinished state, though there is every reason to believe that upon their completion, and thence onward, their revenue will be abundant for that purpose. The last fiscal year was marked, a portion of it, for scarcity of water, injurious to navigation, and creating a necessity for largely increased expenditure to maintain it, and the whole of it for deficiency of canal production from transportation, of which so large a portion of the revenue is derived. Until the fruits of the last harvest began to be forwarded to market, the revenue constantly declined, and from that period until navigation was obstructed by ice, it constantly and largely exceeded the corresponding periods of the preceding year. From the fourth week in July to the third week in November, inclusive, the excess amounted to the sum of $269,508 51. The toll received for the months of September, October and November amounts to $1,536,402 28, in no previous year has the aggregate revenue for the season fallen short of $3,000,000, when the fall of these months has exceeded $1,200,000. Had the tolls of the preceding months been proportionate to those of the last three, the aggregate would have exceeded $3,000,000, and there being no cause apparent why the residue of the present fiscal year may not yield a proportionate amount corresponding to those months, it is deemed safe to estimate the revenue of the present fiscal year at $3,100,000. The revenue of the Canals during the last fiscal year was less than for any preceding year since 1845, and that this was mainly owing to the short crops of the preceding year is deemed to be sufficiently evinced by the large increase that has followed the recent bountiful harvest.

DAMAGES TO WATER-POWER ON THE BLACK RIVER.

In the last Annual Report the attention of the Commissioners of the Canal Sinking Fund and of the Legislature was called to this question by the late Auditor, and his views were then given at length, with the information that it was then being tested in the Courts. Since that period a decision has been made by the Supreme Court in the third Judicial District adverse to the views then expressed by the Auditor, from which an appeal has been taken to the Court of Appeals, where the question is still pending undecided. As an early decision may be expected, it is not deemed appropriate to do more at this time, than to make this brief statement of its position.

Since the foregoing was written, the Auditor has been informed by the attorney for the claimant, that the judgment rendered by the Supreme Court has been reversed upon the pleadings without any decision upon the merits of the claim, and giving to the relator the opportunity of taking issue upon the question of the charge for water appropriated as to ownership and thereby present the merits of the question for adjudication.

The unavailable funds belonging to the Canal Fund remain as at the date of the last Annual Report from this Department, nothing having been since realized thereon.

It is understood that a dividend of five per cent from the assets of the Canal Bank, Albany, will be declared by the Receiver within a short period, which may be realized during the present fiscal year, and which is probably all that ever will be realized upon that account.

The amount stated in the last Annual Report as due from the Central Bank, New-York City, has been realized, with the interest due thereon up to the time of its payment.

WALTER JOY'S BANK.

There has been no change in action relative to the indebtedness of this Bank and the matters connected therewith, and the Auditor has nothing to add to what was stated relative thereto in the last Annual Report from this Department.

THE EMPIRE CITY BANK.

There has not been anything received from the Empire City Bank, during the last fiscal year, upon the balance due from it. It is understood that the Receiver has made a dividend amounting to $1,537 61, which is not paid over, but withheld until the State shall have exhausted its security acquired by the assignment of the mortgage referred to in the last Annual Report from this Department. That mortgage is now in progress of foreclosure; but being a second mortgage, and other parties having a preference in its avails over the State by the terms of its assignment, it is not deemed by the Auditor reliable security, and a suit has been instituted by direction of the Commissioners of the Canal Fund, upon the bond executed by the Bank and its sureties to secure the payment of the deposits made in it. That suit has been recently commenced, and is now in progress.

The Auditor is happy to be relieved from the duty of reporting any failures among the Deposit Banks during the last fiscal year.

The sum of $1,314,819 34 of Canal Debt that became due on the first day of July last, was met at maturity from the proceeds of the Sinking Fund; and the sum of $1,500,000 of Canal Revenue Certificates falling due on that day, in accordance with sec. 3, Art. 7 of the Constitution, was met by a loan as provided for by said section. Provision has been made by a second five per cent loan on the credit of the Sinking Fund, to meet the debt of $4,000,000 maturing on the 1st January next.

Among the payments of the last fiscal year was one of $2,240 97, pursuant to chap. 397 of Sess. Laws of 1855, for canal damages, which had been previously paid, and the payment of which would have been shown had an application been made to this Department for information relative thereto, before passing the law directing its payment. The draft of the Commissioner was presented to the present Auditor on the day he entered upon the duties of his office, in the usual form, referring to the Act under which it was drawn, and payment was made without any further examination than to see that the draft of the Commissioner was regular on its face, and that the Act under which it was drawn authorized and required its payment. Subsequently it was discovered that the above named sum had been previously paid, and application was made to the parties receiving to refund it. It is due to the claimants to state that the former payment was made to their ancestor, and it is believed that the fact that it had once been paid was unknown to them and to their agent upon whose affidavit the claim was entertained in the Legislature; and when information of the fact was given to them, and investigation had convinced them of it, the liability to refund was frankly acknowledged, and its amount, with interest from the date of its second payment, has been secured by good commercial paper, to mature on the 15th of March next.

[Here the Auditor recommends that, as the Canal Appraisers are constantly employed, their pay be changed from $4 a day when actually employed and travel free, to a salary of $2,000, and four cents per mile for the distance actually and necessarily traveled, not exceeding $500 per year.]

CANAL DEBT SINKING-FUND.

The balance in hand belonging to the Sinking Fund under sec. 1, art. 1 (Sinking Fund No. 1) of the Constitution, on 1st Oct., 1854, was $993,551 26

Rec'd during year (statement No. 2)	1,423,000 00	$2,261,551 26
Payments during the year (statement No. 2)		1,890,168 15
Balance on hand Sept. 30, 1855		$371,383 11
Deduct stocks due and outstanding on that day and since paid		243,583 34
Balance		$127,799 77
Required to meet debt maturing Jan. 1, 1856		1,000,000 00
Deficiency in Sinking Fund No. 1		$872,200 23

The balance on hand belonging to Sinking Fund, under sec. 3, art. 7, of the Constitution (Sinking Fund No. 2) on the 1st Oct., 1854, was $76,170 49

Received during year ending 30th Sept., 1855, for interest	$3,809 80	$79,979 49

To meet the requirements of the Constitution, there was needed as additions to this fund,

For payment of interest on loans under sec. 3, art. 7 of Constitution	$211,274 82
For annual contribution for payment of principal of loans of 1854	76,170 49
For annual contribution for payment of Enlargement Loans of 1855	76,170 49
For annual contribution of loan for redemption of Canal Revenue Certificates	50,790 33
Total	$414,406 13

The Canal Revenues being insufficient to meet these sums, there is a deficiency in the Sinking Fund to that amount, making a total deficiency in the Sinking Funds of $1,286,606 36, which has been provided for by a Five per cent Loan, awarded on the 19th Dec., 1855, of $1,500,000, on the credit of the Sinking Fund under sec. 3, art. 7 of the Constitution as amended.

PREMIUMS ON LOANS.

The premiums received upon loans made in the fiscal year ending September 30, 1854, were stated in the last annual report from this Department at pages 47 and 48, to have been as follows:

On loan awarded June 22, 1854, of	$1,000,000—	$175,706 25
On loan awarded August 31, 1854, of	1,250,000—	167,246 32

On the loans of the last fiscal year the premiums received have been on Enlargement loans, as follows:

On loan awarded February 22, 1855, of	$1,000,000—	$131,320 05
On loan awarded June 21, 1855, of	1,250,000—	251,500 00
On loan for the redemption of Canal revenue certificates, awarded June 20, 1855, of	$1,500,000—	959,455 00
Making an aggregate of		$1,685,227 62

Since the commencement of the present fiscal year the following loans have been made, viz:

Enlargement loan, awarded October 24, 1855, for	$1,250,000	
At a premium of		—$264,511 56
Loan to supply deficiencies in Sinking Fund, awarded December 19, 1855, for $4,500,000 (5 per cent loan) at a premium of		31,941 26
Total of premiums		$1,264,730 52

The amount loaned under Sec. 3, Art. 7, of the Constitution, as amended up to the date of this report, is $3,750,000, which has been taken at a premium of $801,952, being an average of a fraction over 10 48-100 per cent. The Enlargement Loans of the last fiscal year were taken at a premium averaging 16 26-100 per cent, evincing more clearly the public confidence in the credit of the State, ability of the canals, and their ability to cancel their indebtedness from their revenue; nor does it militate against this deduction to state that their being used as securities for banking purposes enhances their value, for the reason that it is their intrinsic merit and undoubted reliability which makes them so valuable, and causes them to be selected and used for that purpose.

ALBANY BASIN AND PIER-OWNERS.

By virtue of acts of the Legislature, certain persons known as "pier-owners" upon the Albany Basin were entitled to certain tolls collected for the use and navigation of said Basin. In 1849 an act was passed by the Legislature (chap. 200, Laws of 1849) providing for the payment of a sum of money to them in lieu of such tolls, and extinction of the claim thereto. Under and in accordance with the provisions of said act, the release required to be filed as a condition precedent to the payment of the sum of $20,000 for the extinguishment of the right to such tolls, was filed in the office of the Secretary of State, as appears by the indorsement of the Secretary thereon, on the 29th day of September, 1849. It is now claimed on the part of said pier-owners, or some of them, that they are entitled to the tolls collected in the navigable season of 1849 up to the time of filing said release and the payment of said sum of $20,000, and an application has been made to the Auditor by one of said pier-owners relative thereto; from whom it was understood that an application would be made to the Legislature for an act authorizing the payment of such tolls up to the 29th September, 1849, if authority to pay the same was now deemed to be wanting. Upon the application thus made to the Auditor, he has investigated the matter so far as time would permit, and finds that the act passed in 1849 was upon the recommendation of a select committee of the Senate, whose report is Senate Document No. 7 of 1849. The first section of the act provides for the borrowing of a sum to be paid to the City of Albany, "and also a further "sum of $30 for each pier and slip belonging to the owners of the pier connected "with said basin, in lieu of tolls as heretofore paid to said pier "owners," the said sum to be paid whenever the conditions specified were complied with. By the provisions of the fourth section of the act the sum directed to be paid was to be "in full "payment and discharge of all claims of the said corporation "(City of Albany) for any expenses incurred by them at any "time previous to the passage of this act, for excavating, clearing and cleaning out of the said basin, at the eastern termination of the Erie and Champlain Canals, and of all interest of "said city, and of the pier-owners in said basin." By sec. 7 it was provided that the act should "be a *final settlement of all "claims against the State*" in favor of the citizens of Albany or any citizens thereof, "*and also of the pier-owners*," under the several acts specified, and when are the only acts that confer any right upon said pier-owners to the tolls claimed. By sec. 6 the section of the act under and by which the tolls were directed to be collected and paid over to the pier-owners was repealed; and by sec. 9 it was provided that tolls should thereafter be collected for said basin as on the canals of the State, and that such tolls should be considered as part of the Canal revenues, "and not be diverted therefrom."

Sec. 8 provides that the act should not take effect *unless* certain tolls should be done within six months from its passage, nor unless the proprietors of said pier should within the same time and in the manner prescribed "*consent thereto*," such "consent to be duly acknowledged and filed in the office of the "Secretary of State, and also a release of all their interests in "said basin." It is understood that the claim to the tolls collected in 1849, prior to the filing of the release on the 29th day of September in that year, is based upon the position that the act was not to go into effect until that consent and release were filed, and therefore that until that time the acts authorizing and directing the collection of tolls for the benefit of the pier-owners were in full force and effect, and that tolls having been collected during that period by the State, it is in duty bound to pay them over to the pier-owners.

To the Auditor it would seem that the Act in question was a proposition on the part of the State (so far as it effects the present question) to the pier-owners for a full and final settlement and release of all claims to tolls under former laws for a specified sum, to take effect from the date of its passage, giving to them the option for six months of accepting or rejecting it, and that having accepted it, their claim to tolls imposed after the passage of the law was by their consent and release finally and forever extinguished. The Act speaks as of the date of its passage and the consent and release of the pier-owners, being based upon and having reference to it, must relate to the same period. It does not provide that it shall not take effect until certain acts are performed by the pier-owners, thus enabling them to fix within certain limits the *time* of its going into operation, but gives them the option of determining whether it shall go into effect at all or not, by saying it shall not take effect *unless* certain acts and things are done within a prescribed period, leaving the time of its going into effect, if at all, to be regulated by the general laws upon that subject.

To the Auditor, therefore, the claim does not appear to be well founded; but if in error in this, there is clearly no authority for its payment, for the Act authorizing the payment of tolls collected to the pier-owners is now repealed, and was so as soon as the necessary consent and releases were filed, even upon the assum