MUNICIPAL AFFAIRS.

BOARD OF ALDERMEN.

THE COMPTROLLER'S ANNUAL REPORT.

This Board met last evening, the President, Isaac O Barker, Esq., in the chair.

The annual report of the Comptroller was received. It is as follows:—

DEPARTMENT OF FINANCE, COMPTROLLER'S OFFICE, NEW YORK, Feb. 15, 1856.

TO THE COMMON COUNCIL:—

The 21st section of the act of 1849, to amend the charter of the city of New York, provides that "every head of Department shall report in writing to the Common Council, at the commencement of each stated session, the state of his Department, with such suggestions in relation to the improvement thereof, and to the public business connected therewith, as he may deem advisable."

The ordinance of the Common Council, adopted in 1849, organizing the Departments, declares (sec. 102) that the Comptroller shall report to the Common Council, at its first meeting in January, in each year, for the general information of the citizens of New York, a full and detailed statement, setting forth—

1. The receipts and expenditures of the Corporation during the preceding year, and the different sources of the city revenue, and the amount received from each.
2. The annual appropriations made by the Common Council, the objects for which they were made, and the amount of moneys expended under each appropriation.
3. The moneys borrowed on the credit of the Corporation, the authority for each loan, and the terms upon which it was obtained.

In compliance with the ordinance referred to, statements have been prepared and annexed to this report, showing the operations of this Department for the year 1855.

Statement No. 1 shows the receipts and expenditures of the Corporation during the year ending on the 31st of December, 1855, exclusive of the sinking fund set apart for the payment of the principal and interest of the city debt.

The total amount received into the treasury during the year, from all sources except the sinking fund.... $14,035,586 67
The payments from Jan. 1, 1855, to Dec. 31 of the same year.... 14,105,712 60

Excess of expenditures over receipts.... $70,125 93

Statement No. 2 shows the appropriations, expenditures and receipts of the city government proper, and not including either trust funds or the sinking funds, for the year ending Dec. 31, 1855. The totals are as follows, viz.:—

Expenditures for the support of the city government.... $3,934,410 29
Receipts, except from taxation.... 55,588 47

Balance payable from taxation.... $3,878,821 82

Statement No. 3 shows the appropriations, expenditures and receipts on account of trust and special accounts, from Jan. 1 to Dec. 31, 1855, as follows, viz:—

Expenditures on trust and special accounts $10,171,302 31
Receipts, including taxation.... 8,484,027 08

Excess of expenditures.... $1,787,275 23

THE SINKING FUNDS.

The sums received and expended on account of the sinking funds, for the year ending 31st December, 1855, have been as follows:—

Received on account of the fund for the redemption of the city debt, during the year.... $1,251,376 39
Balance in bank, January 1, 1855.... 17,403 23

Total.... $1,268,779 62
Paid from the same fund.... 1,047,396 61

Balance in bank January 1, 1856.... $221,383 01
Received on account of the fund for the payment of interest on debt.... $1,733,126 97
Balance in bank, January 1, 1855.... 316,940 33

Total.... $2,050,067 30
Paid for interest on the city debt, invested, &c.... 1,380,299 30

Balance.... $669,768 00

Statement No. 4 gives the several items of receipts and expenditures on account of the Sinking Fund for the payment of the principal of the city debt; and statement No. 5, the items of receipts and expenditures on account of the fund for the payment of interest on the debt.

The balance, subject to the draft of the Commissioners of the Sinking Fund, on the 1st of January, 1856, was $891,151 01.

Statement No. 6 shows the total amount of the permanent city debt, and also the means accumulated by the Sinking Fund for its payment.

The debt on the 1st of January, 1856, amounted to the sum of.... $14,000,856 00
There was, at the same date, in the hands of the Commissioners of the Sinking Fund, applicable to the city debt.... 5,594,719 97

Balance of debt unprovided for.... $8,406,136 03

Statement No. 7 shows the stocks and other securities held by the Commissioners of the Sinking Fund, for the reimbursement of the debt, the total of which is given above.

DEBT PAYABLE BY TAXATION.

Statement No. 8 shows the amount of debt redeemable from year to year by direct taxation. The total amount of this debt is $1,204,000.

There has been paid, February 1, 1855, on account of the loan for building stock No. 2, the sum of $50,000, which was raised by tax.

The Commissioners have on hand sufficient means, in revenue and assessment bonds, for the redemption of the Public Building Stock falling due May 6, 1856, $515,000. The amount of Revenue Bonds which can be received in May next, in time to pay the above debt, as may be seen by reference to statement No. 4, is $625,550.

The amount of stock to be reimbursed in May was issued for money borrowed, as provided by chapter 255 of the laws of 1850, and the proceeds of the loan were applied to the erection of public buildings. The stock bears interest at the rate of five per cent per annum.

On the 1st of February, 1857, $990,488 of the Water Loan Stock is payable, which is a seven per cent stock. The Commissioners will have the means, consisting of revenue and assessment bonds, sufficient to pay this debt, without disturbing the permanent investments in their hands for the redemption of the city debt. In 1858, three millions of dollars of five per cent stock is payable.

TOTAL OPERATIONS OF THE TREASURY IN 1855.

The following statement is a summary of the amounts paid out of the treasury, and received into it, on account of the sinking funds; the ordinary support of the city government, and the several trust funds, for opening, grading and paving streets, and covering the entire operations of the treasury.

Payments as shown in statement No. 1.... $14,105,712 60
On account of the sinking fund, for the payment of the city debt, as shown in statement No. 4.... 1,047,396 61
On account of the sinking fund, for the payment of interest, statement No. 5.... 1,380,299 30

Total amount of payments.... $16,533,408 51
Receipts, as shown in statement No. 1.. $14,035,586 67
On account of the sinking fund for the payment of city debt, statement No. 4.... 1,251,376 39
On account of the sinking fund, for the payment of interest, statement, No. 5.... 1,733,126 97

Total amount of receipts.... $17,020,090 03

In the statement of the total operations of the treasury in the last report for 1854, the payments in statement No. 1 were given at.... $10,184,318 27
The total of both sinking funds.... 2,541,481 85

Total.... $12,725,800 12

The receipts as follows:—
In statement No. 1.... $9,744,310 58
Both sinking funds.... 1,971,290 08

Total.... $11,715,600 66

The expenditures during the past year, as shown in statement No. 1, exceed those of the preceding year, by the sum of.... $3,921,394 33

The increase is accounted for as follows:—
Increase of payments on account of opening streets.... $922,379 31
Streets paving.... 47,499 61
Common schools for State.... 87,225 50
Common schools for city.... 197,186 50
Croton water extension.... 130,266 19
Commissioners of Records.... 50,000 00
Revenue bonds.... 2,810,298 00

Total.... $4,274,855 11

Statement No. 9 shows the amount of revenue bonds issued in the year 1855, in anticipation of the tax levied in September of the same year, to enable the treasury to pay the ordinary expenses for the support of the city government, and to pay the appropriations for the Board of Education, the Governors of the Almshouse, the mill tax, the tax for State schools, &c. These expenditures begin at the commencement of the fiscal year, in January, and the taxes are collected in September, October, November, &c. This state of things renders it necessary to anticipate a large portion of the annual tax, by borrowing to meet the claims on the treasury from month to month. This is done by an issue of revenue bonds, at five, six and seven per cent interest, reimbursible in six, nine and twelve months.

The tax levy of 1855, amounted to the sum of.... $5,843,822 89
The sum borrowed on revenue bonds, in 1855, in anticipation of this tax, as shown in statement No. 9.... 5,584,900 00

Difference, only.... $258,922 89

Revenue bonds issued in previous year were paid off, during the same period, to the amount of $5,553,309.

Statement No. 10 shows the amount of assessment bonds issued and paid during the year 1855. The amount issued was.... $1,170,800 00
Amount redeemed.... 370,800 00

Amount issued more than redeemed.... $800,000 00

The amount of assessment bonds has been largely increased by the operation of an ordinance passed December, 1854, authorizing and requiring the Comptroller to make advances on contracts to the amount of seventy per cent as the work progresses. This ordinance and the operations under it will be noticed hereafter.

Statement No. 11 shows the condition of the building loan stock No. 3. The excess of expenditures on account of Union and Catharine markets, and Firemen's Hall, has left the treasury in the lurch to the amount of $26,277 13.

Statement No. 12 is an exhibit of building loan stock, Nos. 3 and 4.

Statements from Nos. 13 to 26 exhibit, in minute detail, the receipts of the Commissioners on account of the Sinking Fund for the payment of the city debt; and statements from Nos. 27 to 37 show the same as to the receipts on account of the sinking fund for the payment of interest, prepared by the Stock Clerk, W. H. Dikeman.

THE DEBT OF THE CITY—PRESENT AND PROSPECTIVE.

The debt of the city, for which stocks have been issued, amounted, on the 1st of January, to the sum of $14,000,856. Statement No. 6 shows the general objects for which this debt was created. The same statement shows that there is an accumulation of funds in the custody of the Comptroller, and subject to the management of the Commissioners of the Sinking Fund, a considerable portion of the stock which constitutes this debt and other securities, amounting, in the aggregate, to the sum of $5,594,719 97.

This leaves a balance of debt unprovided for of $8,406,136 03

The two sums equalling the stock debt, as before given.... $14,000,856
There is also a debt against the city, for which Corporation bonds have been issued, (statement No. 8), amounting to the sum of.... 1,204,000

Total.... $15,204,856

The principal of the latter debt, ($1,204,000,) is payable at the rate of $50,000 per annum. The several laws authorizing this debt to be created seem to contemplate that the interest on the several sums borrowed should also be provided for by an annual tax—sec. 4, chap. 253, laws of 1845; chap. 296, 1846; chap. 289 of 1850.

Although the several laws referred to authorise the collection of an annual tax, for the payment of interest, I do not find, on examination, that any sum has been raised for this purpose, in any one year, from 1845 to the present date. These laws authorize $1,475,000 to be borrowed, and the interest on the debt thus created has been paid from the Sinking Fund.

The sum of $50,000 has been raised annually, to pay off the principal, which has reduced the debt to about one million, after deducting $154,000 borrowed to pay off the mortgages on the property transferred to the city by the Public School Society. On this latter debt, there has been raised, by a tax, a sum sufficient to pay the annual interest for the years 1854 and 1855, together with a portion of the principal, in all $12,448 58 in 1854, and $12,357 36 in 1855.

These sums have been transferred from the city treasury to the Commissioners of the Sinking Fund, as provided by section 5, chapter 361, laws of 1853.

We now have the prospect of a very large increase to the stock debt of the city for the construction of a new and large reservoir for Croton water, and for the establishment and maintenance of the great park. The commissioners appointed by the Supreme Court to ascertain the value of the lands which are to be taken for the Central park have made their report, which was confirmed on the 5th of February, 1856. This park or place extends from Fifty-ninth to 106th street, between Fifth and Eighth avenues, covering an area of 750 acres, equal to about 7,700 lots, 25 by 100 feet. The whole quantity of land taken, is valued, by the Commissioners of Estimate and Assessment, at.... $5,111 526 30
The costs as taxed are.... 57,943 60

Total cost.... $5,169,469 90

The seventh section, chapter 616, of the laws of 1853, in relation to paying for the land for this park, provides as follows:—

Sec. 7. For the payment of so much of the damages awarded by the Commissioners of Estimate and Assessment, and the expenses, disbursements and charges in the premises, as shall exceed the amounts or sums that may be assessed by the said commissioners upon the parties and persons, lands and tenements deemed by them benefitted by the opening of such public square or place, it shall be lawful for the said Mayor, Aldermen and Commonalty to raise the amount of such excess by loan by the creation of a public fund or stock, to be called "The Central Park Fund," which shall bear an interest not exceeding five per centum per annum, and shall be redeemable within a period of time not exceeding forty-five years after the passage of this act, and for the payment of which the said piece of land, so as aforesaid to be taken, shall be irrevocably pledged.

In compliance with this section of the act, the Commissioners have assessed upon the persons and parties, lands and tenements deemed by them benefitted by the opening of such public square or place the sum of $1,657,590. This leaves upon the city at large the payment of $3,511,526 30. The city, however, owns lots within the limits of the park, and for these the Commissioners have awarded to the Mayor, Aldermen and Commonalty the sum of $342,695; at the same time, they have assessed on the city, on account of lands owned by the Corporation, and deemed by them benefitted by the opening of the park, the sum of $36 269; leaving the sum of $3,205,100 30 to be raised by loan, and paid to the owners of the residue of the land taken from individuals for the park. This sum, however, will be increased, in case any portion of the assessments should be remitted by the Common Council, or not be collected from the property assessed. The city must include in the loan the amount of its assessment, $36,269, or add that sum to the tax levy of 1856.

Besides, the sum of $342,695, awarded to the Corporation for its "common lands," within the limits of the park, the Commissioners of the Sinking Fund, as the trustees of the public creditors, for loans heretofore made, hold bonds and mortgages for land sold, and which fall within the Central park, to an amount of several hundred thousand dollars. The "common lands" included in the park, for which the sum of $342,695 is awarded, may be appropriated to this public use without making any provision for the payment of the award. But in regard to the "common lands" in the same locality, which have been sold under the sinking fund ordinance of 1844, and mortgages taken for them, the case is very different. These mortgages cannot be taken from the trustees of the public creditors without being paid for, dollar for dollar. In relation to these securities, the ordinance of 1844 pledges to the public creditors until the final redemption of the debt of the city, "the net proceeds of all sales of real estate belonging to the Corporation, when sold." The sales have been made and the net proceeds in cash and mortgages are in the hands of the Commissioners and have been reported from year to year as available funds in their hands for the payment of the existing city debt. The permanence of the ordinance of 1844 is guaranteed to the public creditors by an act of the Legislature, (chapter 235 of 1851,) which declares that said ordinance "shall not be amended without the consent of the Legislature first had and obtained, except by setting apart and appropriating to and for the purpose of the Sinking fund additional revenue." To meet this case, it is proposed by the ordinance now before the Common Council to issue certificates of stock based on the Central park fund, to the amount of the mortgages held by them on lands falling within the park, and thus settle the account. This, it is supposed, will leave $2,800,000 to be borrowed to pay awards to individuals, beyond the amount of the assessments.

The 6th section of the act before referred to declares that "payment of the damages awarded by the said Commissioners shall be made and become due and payable immediately upon the confirmation of the report of the said Commissioners in the premises."

A compliance with this section will necessarily add $3,205,453 90 to the permanent stock debt of the city; and the interest on this sum, at 5 per cent, will add $160,272 69 to the annual tax levy of the city for the next forty-two years.

In addition to this, as the awards are payable "immediately upon the confirmation of the report of the commissioners," it is deemed necessary to make a loan at 6 per cent for three years, in anticipation of the collection of the assessments on property benefitted. The total sum thus assessed is $1,657,590. Of this sum the tax costs, $57,590, have already been advanced from the treasury, which will be reimbursed when the assessments are collected. This leaves the amount contained in the ordinance, now before the Common Council, to be raised by loan for three years, at $1,600,000. The interest on this sum at 6 per cent is $96,000, which must be added to the tax levy, unless the collection of interest on the assessment can be made available for the purpose. The ordinance before referred to, provides for the immediate collection of the assessments, and these ought to indemnify the city for the $1,600,000 borrowed for three years, and for the interest thereon. If this reasonable expectation is realized, the loan of $1,600,000 will be only a temporary debt.

The cost of the land for the park, which, to the city at large and its citizens, who own property in its vicinity, is equal to $5,169,469 90, only lays the foundation for a large annual expenditure on a work which possesses extensive capabilities for draining the treasury, but none for replenishing it. The ground must be fenced and graded, and ornamented in a manner not unworthy of a site for a public square in which the city has invested over five millions of dollars.

THE NEW CROTON RESERVOIR.

The Commissioners of Appraisal, appointed by the Supreme Court under chapter 501, of the Laws of 1853, for the purpose of acquiring lands for the construction of a new reservoir, between Eighty-sixth and Ninety-sixth streets, and Fifth and Seventh avenues, will soon be ready to present their report for confirmation. The cost of the land for this reservoir, covering an area of ninety-seven acres, amounts to $708,000, which includes that owned by the city. The plan on which the work is to be constructed, is not yet fully settled, and the cost will depend very much on the decision made by the Aqueduct Board in regard to the plan. The cost of construction may be put down at a million of dollars. The cost of this reservoir, which falls within the general outlines of the great park, may be set down at not less than $1,708,000.

In 1854 an act was passed (chapter 342) authorizing a loan of $500,000, to be denominated "The water stock of the city of New York, for the year 1854," and the avails to be "applied to the purpose of building a new reservoir, purchasing lands, and extending the Croton water works in said city."

This reservoir and the extension of the works will make an addition probably of $2,000,000 to the permanent stock debt of the city. But, unlike that for the park, it is a work which will add vastly to the capabilities of the Croton Aqueduct Department for increasing its revenues, which have already reached about $700,003, and with the increase of population will in a short time, as estimated by the Croton Board, produce a revenue of a million of dollars annually.

STATE TAXATION AND THE STATE DEBT.

The call on the tax payers of this city for an addition of more than six hundred thousand dollars annually to the tax levy, for the purpose of making up deficiencies in the canal and general funds of the State, and for the support of the State government, is a most significant commentary on the assurances so confidently given, and so often repeated, that the taxpayers were in no danger from the creation of a great State debt, and that the canal revenues were ample for the payment of any debt for the enlargement of the Erie Canal and the full developement of the resources of the State. Under the influence of the plausible fallacy that a government can create any amount of debt for public works, whether productive or not, without increasing the burdens of the taxpayers, the agents of the people opened the way for breaking down the barriers erected by the seventh article of the constitution of 1846, for the protection of those who labor and pay taxes, and the people themselves gave, by their votes or negligence to vote, a seeming sanction to this suicidal measure.

As soon as the breach was made in the constitution a new debt of nine millions of dollars was authorized, and during the progress of borrowing and expending this large sum, the several counties are called on, by chapter 335 of the laws of 1855, to pay into the State treasury a tax of a mill and a quarter on the assessed value of the property of each county, equal to $1,758,561 17 on the whole State; of which sum the city of New York must pay at least $608,000, being more than one-third of the amount paid by the fifty-nine counties of the State. This is equal to the interest, at six per cent, on a debt of over ten millions of dollars. If we put these annual exactions with the interest on the present city debt, and add thereto the debts soon to be required for the reservoir and park, we have a result which is well calculated to awaken anxiety in the mind of every person who believes that an economical administration of the city government is essential to its welfare.

There was paid during the last year, on account of interest on the present debt of the city.... $778,802 56
Add for interest on the Central Park permanent debt.... 155,000 00
Add for temporary loan for three years, to be reimbursed by assessment.... 96,000 00
Add interest for reservoir debt.... 100,000 00
Tax payable for support of State government 600,000 00

Total.... $1,729,802 56

This shows an annual payment, from revenues and from direct taxation, equal to the interest at six per cent, on a debt of nearly twenty-nine millions of dollars.

It is important to the well being of the city that the Common Council, the Board of Supervisors, the Board of Education, the Governors of the Almshouse, and last, though not least in extravagance, the departments and bureaux, should adopt and pursue a rigid, yet a just and enlightened system of economy.

THE SINKING FUND AND THE SYSTEM FOR ITS MANAGEMENT.

We have in prospect a very large increase of the city debt, not only for those objects which have already been alluded to, but also for the construction of docks, piers, &c., for the protection and convenience of a commerce which is probably destined to rival that of any city in the world. If the city construct such docks as are required for the accommodation of a trade, a portion only of which, at a low charge, pays the general government an annual revenue of forty millions of dollars, it will be necessary to create a large addition to the city debt for the purpose. Such a debt, in a financial point of view, would be much less onerous and objectionable than that for the great park, from the fact that the docks would be productive, and yield a revenue to indemnify the city for the outlay. It would be still better, however, to lease or sell the city water privileges to individuals, and afford the business men, who manage the trade of the city, an opportunity to construct such works as their experience has taught them are best adapted to facilitate the commerce of the city.

The debts heretofore created by the city for constructing piers, public buildings, and the Croton Aqueduct, are secured to the public creditors by a pledge of almost the entire property of the city, and all the revenues derived from that property, as well as from other sources. Statements Nos. 4 and 5, show the character and comprehensiveness of these pledged funds. There are two sinking funds—one for the redemption of the principal of the debt, and the other for the payment of interest.

The sinking funds, by the ordinance of 1844, are placed under the management of trustees, consisting of the Mayor, Recorder, Comptroller, Chamberlain, and the Chairman of the Finance Committee of each Board of the Common Council.

There is at this time an accumulation of funds in the hands of the Comptroller, and under the management of these trustees, equal to $5,594,719 97. Of this sum there are certificates of stock amounting to $3,717,594, being a portion of the identical debt which this fund is pledged to reimburse. These certificates have been purchased or redeemed from individuals who originally loaned money to the city, and have transferred the certificates to the Commissioners of the Sinking Fund, which are held by them for that fund, and the Comptroller collects the interest on this stock quarterly, which is reinvested, from time to time, in other stocks.

On this state of facts, the inquiry forces itself on the mind, and the Comptroller has been called on by the Common Council to explain, why it is that those evidences of debt, after they have been redeemed by the identical funds which have been set apart for the purpose, are not cancelled, instead of being retained by the Trustees, and the interest collected on them from time to time. This inquiry was answered by the Comptroller, in a report to the Board of Councilmen, on the 20th of February, 1854, in Doc. No. 16, of that Board. The reason is, that the laws and ordinances, as they now stand, do not permit the Commissioners to cancel these certificates; on the contrary, they require them to invest the surplus in the stock having the longest time to run, and to collect and reinvest the interest in stock of similar character, when it can be done. A copy of title 3 of the ordinance of 1844, is appended and marked No. 38, which shows the conditions on which the investments of the surplus fund are to be made.

In view of the rapid accumulation of the city debt, and the financial entanglements which surround us, the Comptroller considers that it would be the most prudent course for the city, and decidedly advantageous to those interested in the present debt, to have the surplus funds applied at once to the purchase of the outstanding stock which is first payable, and have it cancelled. In doing this, the greatest care should be taken, not only to preserve and secure all the rights of the stockholders, but to do it in such manner as to preserve their confidence in the good faith of the transaction.

The Legislature of the State, at request of the Common Council, passed acts in 1845 and in 1851, guaranteeing to the creditors of the city that the ordinance of February 22d, 1844 establishing the Sinking Fund, should not be altered, except to make additions to the fund, without the consent of the legislature. Chapter 225, laws of 1845; and chapter 235 of 1851.

It would be necessary, in order to change the ordinance of 1844, that the alterations should be prepared so as to give ample protection to the holders of all the certificates, to be submitted to the Legislature and sanctioned by an act to be passed by them.

The Sinking Fund of this city possesses the unobjectionable features of the sinking fund established by Mr. Pitt in 1786, but it is entirely free from the objectionable principle engrafted upon that system in 1792, which was to have extinguished the debt of England in 1837, but exploded in 1813, as will be shown in a subsequent part of this report. The fidelity of the government of this city to its Sinking Fund may not be so severely tried as was that of England in her wars with Bonaparte, contending, as was said at the time, for national existence; yet it would be quite as well for the city, and as safe for the public creditors, if the temptation was removed out of our reach.

The uninvested surplus of the Sinking fund is in constant use for the ordinary purposes of the city government. At stated periods, when the outstanding stocks are not presented fast enough to absorb the money, a revenue bond is issued to the Commissioners of the Sinking Fund at 5 or 6 per cent interest, to balance the account. The extent to which the surplus is temporarily used, may be seen by reference to a report from this department in October, 1855, Doc. 60 of the Board of Councilmen.

The State of New York, in constructing the Erie canal, established a sinking fund on a very sensible basis. After providing ample means for the payment of the debt, it was enacted in the law that the Commissioners of the Canal Fund, after providing for the payment of interest, should apply the surplus to the purchase of stock, and when thus purchased, it should be cancelled. This is the only certain mode of giving effect to a sinking fund. The cancelment of the stock kills the interest for the remainder of the term; and if a premium is paid for the stock, the government is remunerated for it in the removal of all risk in regard to principal and interest, and in the credit it establishes for itself in case of future loans. The original canal debt of seven and a half millions was paid by purchase at a large premium, and the stock was cancelled as soon as purchased. The transaction extended from 1833 to 1845. The entire stock was redeemed and the original canal debt extinguished.

The Revolutionary debt of the United States, and the debt created by the war of 1812, were paid off by the application of the surplus revenues of the government to the purchase of the stock, and cancelling it. In this way the entire public debt of the United States government was extinguished in 1835, and the nation presented to the world the gratifying spectacle of a free people, after establishing their independence by a seven years' war, discharging all their obligations to the public creditors by their own industry, economy and a regard to the sacredness of a pledge of the public faith.

The United States government is now redeeming, at a high premium, the debt created on account of the war with Mexico, by using the surplus revenues of the government for the purpose.

This is the mode in which the sinking funds of the United States and of the State of New York have been made effective, and secured the actual extinguishment of the obligations of government.

THE SINKING FUND OF ENGLAND.

Let us now see what has been the practical effect, so far as relates to the removal of the debt, by the sinking fund system of England.

Previous to the establishment of the sinking fund for the payment of the British debt, under the administration of Mr. Pitt, in 1786, the interest of the debt absorbed more than two-thirds of the public revenue; and it was then asserted that "all former sinking funds had failed of producing great effects, because they were directed to the annual discharge of a certain portion of debt, not the formation, by compound interest, of a fund destined to its future and progressive liquidation; they advanced, therefore, by addition, not multiplication, in an arithmetical, not a geometrical progression."

The public attention, at the period referred to, was directed to the prodigious powers of the accumulation of money at compound interest; and Dr. Price had demonstrated, with mathematical certainty, that any sum, however small, increasing at that ratio, would, in a given time, extinguish any debt, however great.

Mr. Pitt's plan was, that a million yearly, made up from savings on certain branches of the public service and new taxes, should be set apart and sacredly applied to the purchase of stock. In his speech in Parliament, he illustrated the operations of his plan, as follows :—

If this million, said Mr. Pitt, to be so applied, is to be laid out, with its growing interest, it will amount to a very large sum in a period that is not very long in the life of an individual, and but an hour in the existence of a great nation; and this will diminish the debt of this country so much as to prevent the exigencies of war from raising it to the enormous height it has hitherto done. In the period of twenty-eight years, the sum of a million, annually improved, would amount to four millions per annum. But care must be taken that this sum be not broken in upon. This has hitherto been the bane of this country; for if the original sinking fund had been properly preserved, it can easily be proved that our debts at this moment would not have been very burdensome; but this, hitherto, has been found impracticable, because the Minister has uniformly, when it suited his convenience, gotten hold of this sum, which ought to have been regarded as most sacred. To prevent this, I propose that this sum be vested in certain dignified commissioners, to be by them applied quarterly to buy up stock; by which means no considerable sum will ever be open to spoliation, and the fund will go on without interruption. Long, and very long, has the country struggled under its heavy load, without any prospect of being relieved; but it may now look forward to the object upon which the existence of the country depends. A minister could never have the confidence to come down to the House and propose the repeal of so beneficial a law—of one so directly tending to relieve the people from their burdens. The essence of the plan consists in the fund being invariably applied in diminution of the debt; it must forever be kept sacred, and especially so in time of war. To suffer the fund, at any time or on any pretence, to be diverted from its proper object, would be to ruin, defeat and overturn the whole plan.—Allison's Europe, vol. 2, p. 388.

The loans required to carry on the war growing out of the French Revolution, rendered it necessary to strengthen the Sinking Fund, which was done by an act of Parliament, in 1792, providing that a sum equal to one per cent on each loan, should be issued to the Commissioners, for the reduction of the national debt. It was estimated that this consolidated Sinking Fund would pay off the entire debt in forty-five years.

The Sinking Fund was administered with exemplary fidelity till 1813, "when a total change in the system took place, which eventually led to its ruin." Ibid. vol. 2, p. 289. Whilst the Sinking Fund had increased to the enormous sum of £15,500,000 yearly in 1813, and the nation generally were delighted with the rapid growth of the Sinking Fund, a careful scrutiny had not been instituted to ascertain whether the funds for this prodigious extension were provided by the fictitious supply of loans, or the solid growth of the revenue above the expenditure. In 1813, the whole system was inquired into, and it appeared that a great proportion of the sums paid off by the Sinking Fund were raised by loans, and that the doctrine which was denounced, in 1786, as the cause of the failure of all previous sinking funds, was, after all, the only true system," and that the only way of getting quit of incumbrances, was by bringing the expenditure permanently under the income. —Ibid. vol. 2, p. 390.

Some of the writers, at the period referred to, denounced the whole system of Mr. Pitt as a fallacy and a delusion. These terms cannot justly apply to the sinking fund of 1786, but they do no injustice to that created by borrowing under the law of 1792:—

The prevailing ideas, says the historian, spread to the Legislature, and the statesmen who succeeded to the government, imbued partly with the declamation of the period, influenced partly by the desire of gaining a temporary popularity by the reduction of the public burdens, without any regard to the interests of future times, went on borrowing or abstracting from the sinking fund till it was totally extinguished during the great convulsion of 1832; and the commissioners for the reduction of the national debt, issued an official intimation that their purchases for the public service had altogether ceased. The principle acted upon since that time has been to apply to the reduction of debt no more than the annual surplus of the national income above its expenditure; and as that surplus, under the present democratic system, can never be expected to be considerable, Mr. Pitt's sinking fund may now, to all practical purposes, be considered as destroyed.—Ibid, vol. 2, pp. 390.

The preceding history shows the hazard of attempting to hold large accumulations of money, or its equivalent, by the government for future use. It is subject to be misapplied by the infidelity of the public agents or to be used to meet some exigency of the government.

SCHOOL TAX OF THE STATE.

The act of the Legislature for raising eight hundred thousand dollars annually for the support of the free schools throughout the State, was passed on the 12th of April, 1851. The portion of this sum required of the city of New York, does not appear to have been included in the tax levy of 1851. In the annual report of the State Superintendent of Common Schools, in January, 1852, the amount required to be raised by the county of New York, for its portion, to make up the $800,000, is given at $314,350 62. The sum apportioned back to the county out of the $800,000, as shown in the same report—after deducting $40,621 63, apportioned from the school fund—was $95,606 65; thus drawing from the city, by a general tax on property, the sum of $314,350 62, to make up a common fund to be distributed to the several counties of the State, and then returning to the county of New York $220,743 97 less than was drawn from the tax payers of the county; and this unjust exaction is annually visited on the inhabitants of this city.

The result of the rule of distribution established by the act of 1851, is shown by the figures given below:—

The first column shows the sum annually assessed on the county of New York, for the common schools of the State.
2. The sum apportioned back to the county.
3. The excess drawn from the county by taxation, beyond the sum returned.

Year.	1. Tax.	2. Apportioned.	3. Ex. of Tax.
1852	$314,350 62	93,606 65	220,743 97
1853	225,670 80	95,699 15	129,971 65
1854	257,616 11	95,648 06	161,968 05
1855	271,839 40	95,648 06	176,191 34
Total	$1,069,476 93	$380 601 92	$688,875 01

It is thus seen that in four years the city has paid taxes for the support of free schools in the State at large to the amount of $1,069,476 93, and has received back only $380,601 92; and the excess paid by the city, beyond any fair rule of assessment and apportionment, is $688,875 01.

It should also be borne in mind by those who legislate for the State, that before the act of 1851 was adopted, which works such injustice to this city, a special act had been passed, which compels the Board of Supervisors of the county to levy upon the real and personal property of the city a sum sufficient to erect school houses, and furnish fuel, books and stationery sufficient for the accommodation of the inmates of the public schools, and to pay for the tuition of every child in the city whose presence can be secured at the common schools. The city also supports evening schools for the instruction of those who are compelled to labor during the day, and maintains a Free Academy, where the higher branches of instruction are imparted, not only thoroughly, but gratuitously, to such as are recommended for their scholarship and meritorious conduct, from the several ward schools. The sum annually raised by tax for the maintenance of our local system of free schools, already exceeds a million of dollars. The only abatement to this exaction is the apportionment of $132,000 on account of the common school fund proper, and the United States deposite fund (both amounting to $37,063 62), and $95 648 01 from the $800,000 raised for the free schools of the State.

When the taxpayers of this city contribute a million of dollars annually for the maintenance of a free school system, which provides for all the charges of gratuitous instruction to every child of suitable age, they ought to be entirely exempted from the $271,839 40, now exacted of them to maintain the free schools of the State. But if entire exemption from this excessive tax is not attainable, an equitable distribution of the fund raised is demanded by the plainest principles of justice.

The 4th section of the free school act for the State requires the Superintendent to "apportion and divide" one-third of the $800,000 equally among the several school districts of the State. Under this rule of apportionment, a district school, in any of the counties out of the county of New York, with twenty-five scholars, will receive as large a portion of this one third of the tax as is paid to a district in the city of New York, in which two thousand five hundred children are actually instructed at the district school. And it is worthy of remark, that one-third of the revenue arising from the capital of the Common School fund, to the establishment of which this city has contributed its full share, is apportioned according to the new method of division which was adopted by the Legislature in 1851.

The rule of apportionment in the Common School law, as it has existed for forty years, is as follows:—The money is "apportioned among the several towns and cities of the State, according to the ratio of their population respectively, as compared with the population of the whole State," (section 3, title 2, ch. 15, 1 R. S.) The town commissioners (section 6) apportion the school moneys among the school districts in proportion to the number of children residing in each.

In the three preceding annual reports of the Comptroller, giving the financial transactions of the city for the years 1852, 1853 and 1854, the attention of the Common Council has been called to the inequality between the assessment and apportionment of the $800,000 Free School fund of the State. I cannot refer to these reports from the number of the document, except as to the report for 1854, which is document No. 12, Board of Councilmen, 1855.*

Your predecessors have left to you the opportunity of being the first to memorialize the Legislature for the removal of an unjust and grievous burden from the shoulders of a confiding constituency who have claims on all their agents for faithfulness in the discharge of the duties which devolve on them respectively.

In again calling the attention of the Common Council to this matter, I beg leave to suggest that a respectful memorial be presented to the Legislature, in the name of the Mayor, Aldermen and commonalty, soliciting, at least, a modification of the rule of distribution which produces a result so extremely unjust to the patient tax payers of this city.

We now have the assurance of a co-operation from the Board of Education. The matter has been examined by a committee of that Board, and the result is embodied in an able report of Andrew H. Green, Esq., the recently elected President of the Board of Education.

PAYMENTS ON CONTRACTS FROM ASSESSMENT BONDS.

Statement No. 39 shows the amount advanced on contracts under the ordinance of December 30, 1854, authorizing the advance of seventy per cent on contracts over $10,000, on certificates from the surveyor in charge of the work, of the amount completed, and of the Street Commissioner, for the advance, and also showing the amounts paid to close such contracts, after confirmation.

The total of the amount advanced on these contracts, and to close those which have been completed during the year 1855, is, as shown by this statement, $319,726.

The contractors are charged interest at the rate of seven per cent on the amount advanced to them from time to time as the work progress.

ALLOWANCES TO LESSEES OF PIERS AND SLIPS.

Statement No. 40, shows the allowances made to the several lessees of piers and bulkheads, on account of repairs, for the cost of dredging out slips, and for damages in consequence of the slips not being dredged out, for the year 1855. The total sum is $20,711 73.

VALUATION OF REAL AND PERSONAL ESTATE.

Statement No. 41 shows the valuation of real and personal estate in the several wards for 1854 and 1855.

Total value of real estate in 1855.... $336,975,866 00
" personal estate.... 135,531,282 13
" non-residents' personal estate. 14,491,130 00

Total of real and personal estate.... $486,998,278 13
The amount of tax levied in 1855, $5,843,822 89.

TAXES ON INCORPORATED COMPANIES.

Statement No. 42 gives a list of the names of the several incorporated companies in the city and county of New York, deriving an income from their capital; showing also the amount of real and personal property, and the amount of tax assessed on each company. The total results are as follows, viz:—

Total amount of personal estate.... $70,882,862 82
Total amount of real estate.... 6,581,911 00

Total valuation.... $77,464,773 82
Total amount of tax levied on incorporated companies in 1855.... $933,222 32.

COLLECTIONS BY THE RECEIVER OF TAXES AND RETURNS MADE TO THE CLERK OF ARREARS.

Statement No. 43 is furnished by the Receiver of Taxes, showing the amount of taxes collected by that bureau during the year 1855, the returns made to the Clerk of Arrears, and the amount of taxes unpaid, January, 1856

Taxes collected by the Receiver in 1855.... $5,141,193 42
Croton water arrears.... 29,796 80

Total.... $5,270,990 22
Arrears of taxes returned to Bureau of Arrears.... $372,803 59
Croton water arrears.... 18,143 78

Total.... $390,937 78
Amount of interest collected by Receiver of Taxes.... $30,768 29
Discount allowed on taxes of 1855.... 29,714 76

Interest received more than allowed.... $1,053 53
Taxes and Croton water rent remitted by the Board of Supervisors, Common Council and Croton Aqueduct Department, in 1855.... $62,129 43
Taxes and Croton water rent remaining unpaid in the hands of the Receiver of Taxes, January 1, 1856.... $1,684,342 25

TAXES REMITTED.

Statement No. 44, is a list of the remission of taxes made by the Board of Supervisors and the Common Council during the year 1855, showing the date in each case.

Total amount of remissions in 1855, $61,868 38.

In order to keep the treasury in a solvent condition, it is necessary that the amount of remissions should be included in the tax levy.

In 1853 there were 288 remissions, amounting to $47,453 58.

In 1854 the Receiver of Taxes gives the sum remitted at $20,884 26.

The increase of remissions in 1855 exceeds the remissions in 1854 by $40,184 12, and the remissions of 1855 exceed those of 1853 $14,414 80.

STATIONERY.

Statement No. 45 shows that the cost of stationery delivered on the requisition of the different departments in 1855, was $15,559 53. The same statement gives the comparative expenditures for six years, from 1850 to 1855. It will be seen, by reference to that statement, that in 1852 the cost of stationery was nearly twice as much as in 1855, and in 1853 and 1854 the cost exceeded that of 1855 by more than $8,000 for each year.

REAL ESTATE AND PROPERTY OWNED BY THE CITY.

Statement No. 46 shows the cost or estimated value of the real estate owned by the city and used by the different departments of the city government. The total valuation, including the Croton aqueduct, parks, &c., is $42,684,769 90.

BUREAU OF ARREARS.

Document No. 47 is a statement made by the Clerk of Arrears, Augustus Purdy, in relation to the returns originally made to his bureau, and giving the amount of collections on account of arrears of taxes, assessments and Croton water rents, for the year 1855.

The total amount settled in the Bureau of Arrears during the year 1855, on account of arrears of taxes, assessments and Croton water rents, and sales therefor, is equal to.... $443,597 10

As follows:—
Arrears of taxes.... $165,138 44
Interest on do.... 27,266 84
Arrears of assessments.... 88,698 68
Interest on do.... 13,923 12
Arrears of Croton water rent.... 3,822 41
Interest on do.... 450 79
Void assessment sales.... 5,144 17
Charges on arrears of assessments.... 961 26
" " taxes.... 607 75
Redemptions, tax, water and assessment sales 62,214 93
By cancelment void assessment sales.... 67,993 68
Taxes cancelled upon certificate of Receiver of Taxes.... 4,175 03
Remitted by Common Council and Board of Supervisors.... 1,900 00
Sales cancelled by resolution of Common Council and certificate of Receiver.... 1,300 00

Total.... $443,597 10

The assessment and tax sales which were declared void for want of proper notice, by a decision of the Supreme Court, in 1846, have been advertised for re-sale, by the Clerk of Arrears. The day of sale was fixed for the 10th of December, 1855, but by a resolution of the Common Council the sale has been postponed to the 9th of June next. This course was taken by the advice of the counsel to the corporation, R. J. Dillon and Charles O'Conor, Esqs. Their opinions are annexed, marked No. —. The amount of cash collected on these sales is small, but a sum, equal to $67,993 68, as shown in the preceding statement, has been cancelled, and the liens on the property removed, by a surrender of the certificates or leases given when the sales were made, and which had been purchased in by the owners of the property.

The amount of cash paid to the Clerk of Arrears, from January 11, 1855, to December 31, of the same year is.... $368,228 39

Of this sum there was paid by him to the Chamberlain—
On account of arrears of taxes and assessments.... $295,027 08
On account of charges on arrears of taxes.... 350 00
Paid to the Comptroller on account of redemptions.... 68,578 11
Paid to the Chamberlain for credit of Sinking Fund, on account of arrears of Croton water rent, and interest.... 4,273 20

Total.... $368,228 39

On the amount paid to the Comptroller, about eleven hundred checks have been drawn in favor of purchasers at the general sales, entitled to receive the money paid for redemption, amounting to.... $62,214 93
Paid into Treasury on account of charges on arrears of taxes.... 257 75
Paid into Treasury on account of assessments. 961 26
Moneys refunded on void assessment sales.... 5,144 17

Total.... $68,578 11

Statement No. 48 is a continuation for the entire year 1853, of statement No. 42, in the last semi-annual report from this department, Doc. No. 33, 1855.

It appears by this statement that the total receipts from the several trust accounts enumerated is... $1,643,381 74
And the expenditures are.... 2,391,706 54
Leaving an excess of expenditure of.... 648,324 80

Of the amounts received, there has been received by the Clerk of Arrears the following sums for the respective accounts:—
From streets paving.... $73,234 74
" streets opening.... 8,383 07
" fencing vacant lots.... 52 96
" liens on lots.... 6,789 95
" wells and pumps.... 237 96
" interest on assessments.... 13,923 12

Total.... $102,651 80
Leaving the amount collected by the Collector of Assessments at.... $1,540,729 94

The confirmations by the Common Council of assessments, exclusive of the confirmations made by the Supreme Court for streets opening, during the past year, have been.... $754,463 66

In the case of streets opening, the confirmations are always made by the Supreme Court, and not by the Common Council, and hence not embraced in the amount referred to as confirmed.

[Owing to some mistake, either with the Comptroller's office, or with the printers of the document, the conclusion of the report was not received at the HERALD office last night.]

Laid on the table and ordered to be printed.

MISCELLANEOUS PAPERS.

An invitation from the Carlisle Light Guard, to attend their eleventh annual ball, at the Apollo rooms, on Monday, Feb. 25, was received and accepted. Several petitions for the remission and correction of taxes were received and referred.

P. T. BARNUM'S PETITION FOR REMISSION OF TAXES.

The petition of Phineas T. Barnum set forth that, in the year 1855, he was a non-resident of the city and a resident of Fairfield, in the State of Connecticut; that he paid large taxes on his real estate in this city, and he was called upon for his personal tax; that he attended before the Assessors, and showed them that he owed in this city more than double his personal property in this State, on bond and mortgage in this city on property, real estate otherwise taxed; that the Assessors appeared satisfied, and gave him to understand that he would not be assessed for personal property; that he (Barnum) owed on mortgage on real estate in this city on which he pays tax, over $121,000, while his personal property in this State did not amount to over $30,000. He therefore prays that the personal tax may be remitted. Referred to the Finance Committee.

The report of the Committee on Streets, concurring with the Board of Councilmen to extend Crosby street to Canal street, was laid on the table. The report of the Finance Committee, concurring to refund tax paid by the Fifth Avenue Baptist church; the report of committee, concurring to pay Joseph Davison $75 for injuries to horse. Concurred in.

On motion of Alderman TUCKER, so much of the Mayor's message as related to public markets was referred to the Committee on Markets.

RECEIPTS OF CITY RAILROADS.

By a communication from the Comptroller, it appears that the receipts of the Sixth and Eighth Avenue Railroads, for the months of December and January last, were as follows:—

Sixth Avenue Railroad Co., for December.... $18,354 94
Eighth Avenue Railroad Co., for December.... 24,576 69

Total.... $42,931 63
Sixth Avenue Railroad Co., for January.... $13 604 56
Eighth Avenue Railroad Co., for January.... 16,769 98

Total.... $30,374 54

THE POLICE SURGEONS.

On motion to concur with the Board of Councilmen to pay certain bills of the medical staff of police surgeons, Alderman HERRICK opposed the concurrence.

Alderman FULMER thought it was a staff that should never have been appointed; that the surgeons were also the police staff and received annual pay. They had no right to extra pay for medical services. He was opposed to it altogether; and though he respected the Mayor as chief magistrate, yet he contended that he had no right to appoint such a staff.

Alderman ELY moved that the matter be referred to the Finance Committee.

Alderman MONAHAN was opposed to the reference, and thought that the Department would soon pay for itself.

The motion to refer to the Finance Committee was lost, and the matter was referred to the Police Committee.

THE CONTESTED SEAT FOR THE TWENTY-SECOND WARD.

The minority report of the committee on the contested seat for the Twenty-second ward was presented by Alderman VARIAN, but the reading was suspended.

Alderman TUCKER moved that it be entered at length on the minutes. He was opposed to the expense of printing it in a separate form.

The minority report set forth that Nicholas Segrist was entitled to the seat now occupied by Wm. B. Drake. It was ordered to be printed, and the whole matter was, on motion of Alderman VALENTINE, made a special order for the first Monday in March.

Adjourned to Monday, 5 o'clock.

* It is worthy of note, that the document here referred to is the first annual report of the Comptroller to be found in the documents of either Board of the Common Council. It is quite remarkable that the annual report of the receipts and expenditures of every description which the Comptroller is required to make at the commencement of each year, should not have found a place in the journals or documents of either Board, for the long period that these documents have been published, whilst the reports, annual and special, of every other department, it is believed, have been carefully preserved among the documents of one of the Boards. This is an oversight, probably, but which leads to embarrassment in making comparisons of the expenditures between the present time and years far back, for there is not a complete set of the Comptroller's annual reports, even in the Finance Department.

Niagara Falls in Winter—A Rare Adventure.

[From the Niagara Falls Gazette.]

During the recent "cold term" ice has formed above the falls in vast quantities, mostly in blocks which have come down the rapids and lodged on the shoal places. Last week the ice became wedged in and frozen together between Bath island and Chapin island, and from thence to the brink of the cataract. Such an occurrence, we are told, is not within the recollection of the oldest inhabitant. Those of our distant readers who have visited the falls will remember an island between the paper mill and the American Fall, above and around which the water rushes with great violence. This is called Chapin island from the circumstances that a man named Chapin, who was at work on the bridge, fell into the rapids and fortunately reached the island as the current dashed him towards the cataract. Not less remarkable was his rescue by the well known adventurer, Joel R. Robinson, who succeeded in reaching the island with a small boat. This occurred many years ago, since which the spot has not been visited by any human being until now. The first gentleman to cross the ice was Mr. Frank B. Fox, who visited the island, hoisted a flag, and found the ice had formed from the island to the brink of the precipice where it was perfectly safe to stand and look into the abyss below. It was a proud moment to him as he stood where, in all probability no man had ever stood before.

He afterwards visited the place with a number of our citizens previous to the visit of a party, who have been announced through mistake as the pioneers.

In company with Mr. Fox Mr. and Mrs. Keyser, we visited the enchanting locality on Monday afternoon. Mrs. Keyser is the first lady who visited Chapin island, or viewed the falls from a point below. We claim to be the first editor who ever travelled in that locality.

The eastern edge of the ice formation passes along the side of the current down which poor Avery was carried to his awful doom. The water though not deep, rushes with irresistible velocity. Yet it was safe travelling to the island and from thence to the precipice. Here the continual accumulations of spray and snow had formed a mound from twenty to thirty feet in height, and from the top of which we stood and viewed the scene. To the right and far below are mountains of solid ice, under which were vast caverns made by the falling torrents. On a shallow point overhanging the cavernous deep, and fastened firmly to the rock, was a body of ice from which depended vast icicles resembling inverted church spires. On our left the other portion of the American Fall could not be so distinctly observed.

A COOL SUICIDE.—Jedediah Wentworth committed suicide at the Stoddard House, in Farmington, Me., on the 9th inst., by plunging a stiletto into his heart as he stood upon the piazza. He then returned to the barroom and said, "Gentlemen, I have killed myself; it's all right," sunk to the floor and expired. He was about twenty-eight years old.

Supreme Court—General Term.

THE DISPUTED JUDGESHIP STILL UNSETTLED.

FEB. 21.—It will be recollected that on Thursday the 14th inst. the Court was, by a judicial *coup d'état*, suddenly and unexpectedly adjourned for a week. This morning the Court was densely crowded by persons who were anxious to see if the dispute between Messrs. Peabody and Davies was likely to be adjusted, but they were doomed to disappointment and uncertainty. Judge Davies took his seat some minutes before eleven o'clock, and was shortly followed by Judges Roosevelt, Clerke and Peabody.

No allusion was made to the disputed judgeship, and Judge Roosevelt proceeded to read some decisions in cases which were argued at general term, at which the late Judge Morris presided, with other justices. There is a written consent by the parties that the cases shall be decided by the surviving Judges.

DECISION OF CAUSES ARGUED AT FORMER TERMS.

Counsel to give their consent to the entry of judgment, as if argued before and decided by Justices Mitchell, Roosevelt and Clarke. The causes were argued before Judges Mitchell, Roosevelt and Morris:—

Bridges vs. Hyatt.—Report to be affirmed without cost of appeal, if plaintiff consents to deduct $58; otherwise a new trial granted without costs of appeal. The report is not clearly against the weight of evidence. If a builder agree to pay $25 a day for every day's delay beyond a certain time, and part of the delay was occasioned by the owner, the burthen of proof is on the owner to show that the builder was really guilty of negligence in not completing in due time.

Livingston vs. Banks, executor.—The covenant of title, &c., being by two tenants in common, one of whom is since dead, the action may be against the executors and survivor.

Mills vs. Thursby, &c., executors.—Form of judgment to be modified, without costs of appeal to either party. In a proceeding under the Code in nature of an action against executors on a judgment against their testator, the judgment, no matter what the answer of the defendants may be, is not to be against them personally or in a general form for the debt, but is to be special that the debt be levied on the property of the testator in their hands—or which may come to their hands—the judgment for the costs may be against them personally, or against their estate, as the Court may direct.

Clarkson vs. Willis.—Judgment for defendant affirmed with costs. An action cannot be sustained against a justice of the peace merely because he has omitted to return, on *certiorari*, some of the evidence taken before him, when there is no proof of malice on the part of the justice or of injury to the plaintiff, or that the cause was ever brought to a hearing on the *certiorari*, or that the omission was material to the plaintiff's success.

Murphy vs. Logan.—Report of referee affirmed without costs of appeal.

CAUSES HEARD BEFORE JUDGES MITCHELL, CLERKE AND COWLES.

Gebhardt vs. Wolfe.—Judgment to be reduced to $400, with cost below, but no costs on appeal. If plaintiff do not consent, new trial to be granted without costs to either party.

The other cases which were argued before Justice Morris, and in which there is no consent that they be decided by the other two Justices, will be re-argued.

The following are decisions in cases argued this term:—

Harper vs. The Mutual Insurance Company of Albany.—Judgment for plaintiff, on the verdict of the jury. The defendants having insured against the hazards of the printing business, and it being established by the evidence that the use of camphene is a necessary and ordinary material used in the process of printing, they are liable, notwithstanding that the use of that material may have occasioned the loss.

Thompson vs. The Eagle Life and Health Insurance Company.—Judgment for plaintiff on the verdict of the jury. In the absence of all fraud and some interest being shown—namely, that of a creditor in the life of his debtor—the amount for which the premium was demanded and paid must be deemed the value of the interest of the insured as fixed by mutual agreement. Such policies of insurance are of a dangerous tendency; yet the law seems to sanction them.

Thompson, vs. The Eighth Avenue Bank.—Judgment affirmed with costs. The original cause of action against the bank on their protested circulating notes was not destroyed, but only diminished, by the acceptance of a partial dividend from the Bank Department. As to the balance, the defendants, by demurring, admit that it has not been paid. The legal consequence is that they are still justly indebted to the plaintiff, as claimed in his complaint.

Quackenbush vs. Johnson.—Judgment for plaintiff affirmed with costs.

Sears vs. Burnham.—Decree of the Surrogate affirmed with costs.

Jewett vs. Russell—Judgment of special term affirmed with costs.

Paxon vs. The Eagle Life and Health Insurance Company.—Judgment for the plaintiff, on the verdict of the jury, affirmed with costs. This case is similar to that of Thompson against the same defendants.

Judge Roosevelt asked counsel if they were ready in the case of Carroll against Carroll—will case.

Mr. Kirkland replied that it would be either argued or submitted this term.

Mr. Busteed said that in the case of Thos. Carlin, deputy Sheriff, he had received a letter from the Attorney General saying that he would argue the case on the part of the people, and it was, for the accommodation of that gentleman, set down for Thursday next.

Judge Roosevelt said it was probable that there would be a Judge here next Monday from another district, when several railroad cases would be heard.

The Corporation Counsel said he had received a letter from Judge Denio in relation to Judge Bacon coming on; Judge Bacon can only remain here a day or two.

Motions were then proceeded with.

Mr. Sanxey, in proceeding to reply for the respondent in one case, asked the Court if the matter was to be decided upon by four Judges.

Judge Roosevelt said it was counsel's option whether he would proceed or not.

Mr. Sanxey was anxious to know, because in the event of a division amongst the Court there might not be a majority on either side. (Laughter.)

Judge Roosevelt—You had better proceed. You will have three Judges, at all events, to dispose of it.

The case was then proceeded with.

Court of Common Pleas.

Before Hon. Judge Ingraham.

FEB. 19.—*Richard Goodman vs. John Orser, Sheriff, &c.*—The plaintiff or assignee of the moneys recovered in a certain suit seeks to recover from the Sheriff the moneys collected by him upon the execution issued therein. On the trial the jury found a verdict for the plaintiff. The defendant now moves for a new trial. First. Upon the ground that nothing passed to the plaintiff by the assignment, and therefore the plaintiff could not recover. The assignment was made after the recovery of the verdict, but before judgment was entered up, and purported to convey the moneys recovered by him in that action. It is conceded that a right of action for a personal tort, or injury to the person merely, was not assignable. Is it altered by the recovery of a verdict? There can be no doubt that after a judgment is entered up in a verdict, such judgment is assignable, and the assignee has a perfect right to the proceeds of such judgment. I am inclined to the opinion that the assignment of the verdict was valid, and that the right to the verdict drew after it the judgment which was entered upon it. It is not necessary now to decide whether the rule prohibiting the assignment of personal torts extends any further than to protect the defendant from the consequences which might follow from such assignment. The extent to which the authorities go appears to be: that it would not give any effect to the claim in case of the death of the assignors, and that it would not give the assignee any right against a settlement made between the parties prior to a recovery. But as between the parties, I have no doubt but that such verdict may be assigned, and that the transfer of such rights, as between the assignee and a third person, should be sustained. Judge Cowan, in The People vs. Tioga C. P., 19 Wend. 73, says, "Assignments of personal injuries must still be regarded as mere covenants or promises, which we cannot protect against the interference of the immediate party, though the defendant have full notice of the assignment." See Kip vs. Brigham, 1 J. R., 168; Garland vs. Scoones, 2 Esp. Rep. p. 648—"If the person professing to assign will do prejudice to the right by extinguishing or impairing it, the party with whom he deals must be left to his action for damages." But a third person, who has received the proceeds for the benefit of the assignee, is not at liberty to make the objection. The plaintiff entered up the judgment. Such judgment followed, I think, the assignment of the verdict. He issued the execution with no ice to the Sheriff that it was his property, and the Sheriff, in collecting the money on the execution, acted for the plaintiff's benefit. He cannot now object that the assignment is invalid upon grounds which no one but the debtor ought to be allowed to make. Second—It is also said that the action should have been in the name of the assignors. I think not; the party in interest is the one who should bring the action. The plaintiff had a right to the proceeds from the Sheriff, and he only under the case could maintain the action. At the time the Sheriff received the money the claim had been changed into personal property, and the action against the Sheriff is not to recover for a tort, but for money received by him to the plaintiff's use. Motion for a new trial denied.

Obituary.

MRS. JOANNA GRAHAM died in Boston, on the 18th inst., at the advanced age, as reported by the undertaker who buried her to the City Registrar, of one hundred and ten years. There is no doubt that Mrs. Graham was of great age, perhaps over one hundred; but as her relatives are all dead, it is probable that her exact age cannot be ascertained. It is now forty years since her husband died, and for that long period she has occupied the room of the house in Humphrey place where she died, and which was given to her rent free by the owner of the building.

HON. ALVAH WORDEN, a prominent lawyer in Canandaigua, and a conspicuous member of the Constitutional Convention of 1846, died at his residence in Canandaigua on Saturday evening last, of consumption.

JAMES H. JAMAR, Esq., Register of Wills, for Cecil county, Maryland, died at his residence, on the 13th inst., aged 43 years. He was a member of the Elkton bar, and had been a prominent politician in the old whig party, in which he possessed great influence and popularity.

Captain WM. POLK, of the United States Revenue service, died at Frederick, Md., on the 12th inst.; and on the next day his wife died.

ARREST EXTRAORDINARY.—Edward H. Ruloff, a physician, was tried and convicted in Tompkins county for the abduction of his wife and child. He was sentenced for ten years at hard labor in the Auburn State prison. On Saturday morning the long period of his service in prison was ended, and he went out a discharged convict. No sooner had he been discharged than the Sheriff of Tompkins county, R. J. Ives, arrested him upon a bench warrant for the murder of his wife and child. It seems that at the time of his conviction a suspicion rested upon him that he was their murderer, but the act could not be proved. The warrant is issued upon evidence which is deemed sufficiently strong to convict him. During his incarceration it is said a large property has fallen to him in Europe. We have not been able to learn the particulars in regard to this fact.—*Auburn Advertiser.*