

File No. 5706 Continued.

OPINION.

Finance may direct, the funds so deposited to be withdrawn to pay the expenses incurred by the Water Board, and the interest on the water stock debt; and after said expenses and interest have been paid, "the surplus shall be applied on the first day of May and November in each year to the sinking fund of the water stock".

1189 This ordinance, in my opinion, results in an appropriation of said surplus to the sinking fund of the water stock, which appropriation is, I think, fully authorized by the Charter, Section 6, sub-title, "Stocks, Loans and Finance", and sub-title, "Water".

1190 The Acts of 1904, Chapter 677 amending Section 36 of the Charter provides that, "in case of any surplus arising in any fiscal year by reason of an excess of income received from the estimated revenue over the expenditures for such year, the said surplus shall become a part of the annual revenue of the city, and shall be available for the general expenditures of the city for the next ensuing fiscal year".

1191 The provision quoted can have no application, unless there is an excess of income from estimated revenue over expenditures; and inasmuch as in the present case the surplus is specifically appropriated to the sinking fund, I do not think that there is an excess of income over expenditures within the meaning of the Acts of 1904. The law specifically provides where the surplus in question shall go, and I am, therefore, of opinion that the surplus in the accounts of the Water Department referred to in Mr. Heffner's letter should be turned over to the Finance Commissioners under the Code of 1893, Article 54, Section 8.

Yours very truly,

Assistant City Solicitor.

File No. 5706

LAW DEPARTMENT.

Baltimore, January 3, 1907.

George R. Heffner, Esq.,
Comptroller.

Dear Sir:-

1192 Replying to your inquiry of the 2nd inst., with reference to the Water Department surplus, I enclose herewith a report dated the 3rd