board, fixing the Salary at $5.000, intact and in full operation, was adopted; and that the subject of the increase of the said Compensation, or of repealing or modifying the said resolution of the 30th March 1854 was never afterwards brought before the Board of Directors.

That the said Sherman did, nevertheless, assume as member of the Executive Committee, of which he and the said Mehaffey formed a quorum, to authorize the payment of a Salary to the said Mehaffey, as President, at the rate of $7.000 per annum, and the said Mehaffey as trustee of the said Company did, in pursuance of such pretended authority pay to himself, as president, a Salary at the rate of $7.000 per annum, from the said 30th of March 1853, to the 1st of January, 1858; and the credit therefor was entered at the times specified in Schedule M., which is hereto annexed and made part of this complaint.

That the said Sherman did, as a member of the said Executive Committee, assume to authorize the payment to the said Mehaffey, on the 7th of April, 1856, of the sum of $1.217.73; on the 11th of April 1856 the sum of $3.000; and on the 8th of September, 1856, the sum of $2.976.59; that the said sums were paid by the said Mehaffey, as trustee of the Company, to himself, as president under the pretended authority of the said Executive Committee, and as an increase of his Salary over and above the rate of $7.000 a year as president on the ground that the said Salary at the said rate of $7000 was inadequate.

That the said payments were not authorized in any manner by the Board of Directors, and were not brought before it in their character as an increase of Salary, but were studiously kept from its knowledge, and were unknown to it, in any such character; that the payment of $3.000 on the 11th of April 1856, was entered as "cash on hand" from that time until May 7th, 1857, when it was entered in an account then recently opened in the books of the Company Entitled "A. Mehaffey Loan Acct." that at the outset it was pretended that the company held security for the repayment of the said sums, but such security was afterwards surrendered; that the payment on the 7th April 1856, of $1.217.73 and the payment on the 5th September, 1856 of $2.976.59, were originally charged to the said Mehaffey in what was called his individual account, and in which his Salary was from time to time credited; that the presence of these Entries there kept the said Mehaffey's account overdrawn; that for the purpose of obviating this inconvenience, and at the same time keeping the books from showing the increase of Salary designed to be effected these Entries were on the 30th of April 1857 transferred to the aforesaid "A. Mehaffey Loan Acct." which was then opened in order to receive them.

That these various Entries and changes of entries in the books of the Company were directed by the said Sherman and the said Mehaffey and were so directed for the fraudulent purpose of keeping the said books from disclosing the real character and effect of the transaction which they intended to accomplish.

That on the 19th September, 1857, the said Mehaffey took moneys, amounting to $2038.45 from the Shipping agent of the plaintiff at Alexandria, and converted the same for his individual use; that the said moneys were so taken about eleven days before the Execution

of the said deed of trust, and while the plaintiff was struggling with embarrassments: that the said moneys were just charged to the said Mehaffey in the said Loan Account on the 30th of October, 1857.

And the said plaintiff further says: That in April, 1855, the term of the office of the said Mehaffey was about to expire: that the item of "A. Mehaffey Loan Ac." appeared in a Statement submitted by the Secretary of the plaintiff to the Board of Directors; that the said item attracted attention, and the said Mehaffey represented that it was a nominal account on which nothing was due to the plaintiff: and a committee of the Board was appointed on the 13th of April 1855, to examine and report upon the matter: that on the next day the said Committee made the following report:

New York, April 14th 1855.

"The Committee appointed by the Board of Directors on the 13th inst to "examine and report on the balance appearing to be due to the Company "from Mr. A. Mehaffey of $9232.77/100 of principal, having decided that the "Board have not full power in the premises, report to the Stockholders "that the amount was drawn out at various times as per account annexed. "That the Executive Committee authorized such advance, excepting the "item of $2038.45/100 and that the advances so authorized were made upon "the idea that the salary of Mr. Mehaffey was inadequate.

"As the Board have no power to act fully in the premises, the Committee "under instructions from the Board, refer the whole matter to the Stock-"holders for action at their Meeting on the 15th inst.

"(Signed) Chas. Engel, A. M. Sherman, Joseph Dorney.

"A. Mehaffey, Esq. Dr. New York, April 13th 1855.
In account with the Cumberland Coal and Iron Co.

1856. April 7th	To amount paid him per instructions of Executive Committee		$1217.73
" " 11	Do. do. do.		3.000.00
" Sept 8.	Do. do. do.		2.976.59
1857 Sept. 19	Do. do. do.		2.038.45
			$9.232.77

That the Stockholders held a meeting on the 15th of April 1858: and at such meeting the said account was referred to a committee, consisting of D. Ivesback, D. Nathan and William H. Scofield: that the said Committee had conference with the said Mehaffey, and investigated his account and his claim, and came unanimously to the conclusion that his claim to the $9232.77. had no foundation, and that he had received that amount without authority; a Majority, came to the same conclusion as to the Excess which he had received over $5000 per annum: but the committee offered in pursuance of the power in them vested, to allow the Salary at the rate of $7000, upon the Satisfactory adjustment of the balance.

That on the 18th of May 1858, the said Sherman moved in the Board of Directors a resolution, inquiring of the committee of Stockholders what conclusion they had arrived at; that on the 20th, the said committee made