the commissions; be also charged against the said 50 bonds, they will be found to have realized less than fifty per.ct.

Two other entries - one of $1,000 for a Bond given as a commission to Lowell Holbrook, and the other of $3,600, said to have been paid to Brown, Bros. & Co., (the company having paid the interest on said Bonds) should perhaps come into this class, but for the convenience of retaining the entries, which closed the account in the exact condition in which they appeared on the books, they are left in the 4th class.

Fourth Class - Other allowances to the said Sherman

On the 20th of March, 1858, the entries of that date were directed by the said Sherman, with the assent of the said Mehaffey, to be made in adjustment of the said "A. M. Sherman Loan Account" and on the 23d, the account was nominally closed by the payment of the balance, also entered under the said direction, as appears in the entry of that date: of which entries of the 20th and 23d of March the following is a copy:

1858

March 20 - By profit and loss account for 12 of the extended Bonds of the company delivered to A. M. Sherman, pr. resolution of the Board of Directors, passed April 8, 1856 say 12 Bonds of $1,000. — $12000

Do., for one of the extended Bonds of the company delivered to L. Holbrook, in accordance with authority given by the president and executive committee, for aid rendered in the negotiation of the Bonds - say one Bond of $1000. — $1000.00

For one years interest paid Brown, Bros. & Co. by A. M. Sherman; in consideration of the extension of 60 Bonds to wit, from January 1st 1856 to January 1st 1857, in lieu of the payment of $60,000 January 1, 1856 - say 6 p.c. on $60,000. — $3600.00

For loss sustained upon the sale of Bank Stock in September, 1857, to enable the company to meet its obligations promptly, which loss the Prest. and executive committee agreed that A. Sherman should be allowed the difference between the par value of said stock and the net proceeds of the sale of the same - say 189 shares Bank Stock at par is $18,900
Less the amount realized on sale of same and which the company has the benefit of, $15.120 — 3,780.00

By profit and loss acc. for allowance made by President and Executive Committee, to A. M. Sherman as one member of the Executive Committee, and other services devoted to the interests of the Co. since April 8, 1856 and which amount is intended to cover said Sherman's travelling expenses incurred by him on the Co's business, as well as in full of all demands against the Co. to date — 4,500.00

March 23 - By cash received of A. M. Sherman,

in full of this acc. as adjusted by Prest. & Ex. Committee to date — 434.90

And with respect to the entries of the Second Class, the losses on Bonds sold, for which the said Sherman claimed idemnity, under the resolutions of the 9th October, 1855, or might claim on any ground whatever, the plaintiff alleges:

1. That in the said entries the said losses are overcharged, both as to the number of Bonds sold, and the amount of the losses incurred; that of the said 467 Bonds, 63 were credited to the said Sherman, at par, as not sold by him, leaving 404; that of these the said Sherman had reported on 30th April, 1857, that he had previously sold 354, leaving but 50; that of these 13 are credited to said Sherman, at par, one as given to Lowell Holbrook as a commission, and 12 taken by himself for services - leaving but 37; but that nevertheless, losses are charged on fifty Bonds, as having been subsequently sold at panic prices, which number includes the said 13 as well as the said 37; that the Bond given to Holbrook is first charged at par, and then a loss on it, as having been sold at 41½ per cent discount, and other charges which would make the discount not less than 50 per cent, and the 12 Bonds to Sherman are likewise charged at par, and then the losses on them charged at the same enormous rate of sacrifice.

2. That at the time of the said alleged sacrifice, the said Sherman was largely indebted in various fiduciary capacities to the plaintiff; that the principal of idemnifying him for losses on the sale of his securities at less than their ordinary market value, for the benefit of the plaintiff, does not apply until the moneys paid over by said Sherman shall have first fulfilled his duties to the true estate.

And with respect to entries of the said fourth class the plaintiff alleges:

1. That the authority for the payment to the said Sherman of the said twelve Bonds was derived from a resolution adopted by the Board of Directors, on the eighth of April 1856, which was as follows:

"Resolved, That the president and secretary be authorized to pay A. M. Sherman, for his valuable services rendered in the negotiation of the loan of this company for four hundred and sixty thousand dollars, and for other services rendered, twelve of the extended eight year Bonds of $1000 each and that the thanks of this Board be tendered to Mr. Sherman;

That the adoption of the said resolution was induced by an appeal in behalf of the said Sherman, made by the said Mehaffey, the day after the said Mehaffey had received from the treasury, by the act of the said Sherman, an authorized extra allowance of $3,500, as is hereinafter more fully set forth; which said appeal is recorded in the minutes as follows.

"The president called the attention of the board to the valuable services of Judge Sherman, in negotiating, upon his own responsibility, the Bonds of the company, and suggested some action of the board that would, in their judgment, fully compensate him for the same."

That the said authority was granted under the influence of the