

him by his father. It cannot be doubted that the latter was then abundantly able to make such a gift, and the good faith of that transaction is unassailable. William M. Lloyd and John Lloyd both testify that in the year 1866 the former, who then owned nearly the entire stock of the First National Bank of Altoona, wrote to John proposing that he should give up his business in Tennessee and return to Altoona and take the cashiership of the bank, and, as an inducement to John to do so, offered to procure for and give him, in addition to his salary as cashier, the land here in question, and that John, by letter, accepted his father's proposition. These letters are not produced, but there is sufficient proof of their loss. And I may as well, at this point, say that it does not strike me as suspicious or surprising that they were not preserved, in view of the mutual confidence subsisting between the father and son. Moreover, after the deed was executed there was no reason for preserving them.

The testimony of the Lloyds, father and son, in respect to the contract between them, is corroborated by that of S. C. Baker. The land in controversy is part of the Beal farm, which William M. Lloyd, Thomas McCauley, and Mr. Baker jointly acquired in April, 1866; and these three were the grantors to John Lloyd in the deed of November 11, 1871, conveying him the land. Now, referring to that conveyance, Mr. Baker testifies: "Years before, there was an understanding between the three of us that William M. Lloyd was to have that property for his son John, who was then in the south." It is here worthy of mention that Thomas McCauley had died before the testimony in this case was taken. It is shown that as soon as John Lloyd could get ready to leave Tennessee he did so, and he returned to Altoona in the spring of 1867. He was immediately thereafter elected to the cashiership of the said bank, accepted the position, and entered upon the discharge of his duties, and has ever since continued in the cashiership.

The testimony of William M. Lloyd and John Lloyd is strongly confirmed by what occurred immediately after John's return to Altoona, and subsequently; the facts about to be stated being shown by indubitable evidence. About the first of April, 1867, John entered into exclusive possession of the land in question. The Beal mansion stood on the land, and John occupied it until the fall of 1867, when, finding the house uncomfortable on account of its dilapidated condition, he moved out. He then leased it to a tenant, and it was leased by him to successive tenants, who occupied it until some time in 1872. In 1868 he put a fence around the land, except on the side next his father's homestead property. Besides fencing, he ditched the land, and planted trees on it. His improvements, down to the date of his deed, (November 11, 1871,) had cost him from \$1,700 to \$2,000, while the rent he received was trifling. The land was assessed to John Lloyd in 1868 and thereafter, and the taxes paid by him, except that, by some mistake, it was omitted from the trien-

nial assessment of 1871, and no taxes were paid by any one on the land during that year and the two succeeding years. But afterwards it was assessed to and the taxes were paid by him. As early as 1870 this land appeared platted on a public map of the city of Altoona with John Lloyd's name thereon as owner. This map was in common use in the city of Altoona among conveyancers and others, and was hung up in public places. On the twenty-fourth and twenty-fifth of August, 1871, James L. Given, a surveyor, surveyed the land for John Lloyd, and on October 5, 1871, gave him a plat of survey showing the courses and distances, and the exact area, viz., 26 acres and 140 4-10 perches; and on November 11, 1871, William M. Lloyd, Thomas McCauley, and S. C. Baker executed and delivered to John Lloyd a deed for the land, according to the plat of Given's survey, for the expressed consideration of \$4,719. In accounting with Thomas McCauley and S. C. Baker, his co-owners of the Beal farm, William M. Lloyd settled for this land at the same rate (with interest added) at which they bought the farm in the spring of 1866; a circumstance confirmatory of Baker's statement as to the early arrangement by which William M. Lloyd secured this piece of the farm for John, for the land had risen in value between 1866 and 1871. The parties state that the delay in executing the deed was due to mere neglect. The deed was recorded March 30, 1872.

The theory of the bill is that the conveyance of November 11, 1871, was not only a voluntary one, but covinous also; not constructively fraudulent merely, but actually so,—the intent of both father and son being thereby to cheat and defraud the creditors of the former. I am unable to accept this theory. The hypothesis is not only disproved by the direct evidence touching the transaction, but is entirely inconsistent with the surrounding circumstances. The credit of William M. Lloyd was then good and unquestioned. At no time did it stand higher. He was in no pecuniary trouble and apprehended none. His business was, at least apparently, prosperous. Of his actual financial condition I shall soon have occasion to speak. At present I content myself with saying that, whatever that condition really was, he undoubtedly believed himself to be a man of very great wealth; which was likewise John's belief. I am altogether convinced that the transaction of November 11, 1871, was thoroughly honest in intent. And had it been, as claimed, a mere gift of the land, it could not, at any rate, be successfully assailed for meditated bad faith. But it was not a gift. The conveyance was not a voluntary one, but was executed on the footing and in performance of the contract between William M. Lloyd and John Lloyd, the terms of which have been stated. That the consideration moving from John was a valuable one, and sufficient to sustain the contract, is too plain for argument. And whether the contract is referable to the letters which passed between the father and son in 1866, or is to be treated as resting in parol strictly, John's title dates back at least to the spring