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

of 1867, when, having broken up his business in Tennessee, he returned to Altoona, Pennsylvania, fulfilled his part of the contract, and in pursuance thereof took exclusive possession of the land. Upon the assumption of a mere parol contract, the proofs here in respect to the identity of the land, the terms of the contract, performance by the purchaser, the taking possession by him in pursuance of the contract, the continuance of that possession and the notoriety thereof, improvements made, assessment of taxes to and payment by the purchaser, are so direct, positive, express, and unambiguous as to take the case out of the statute of frauds under the most exacting of the authorities. *McGibbeny* v. *Burmaster*, 53 Pa. St. 332; *Milliken* v. *Dravo*, 67 Pa. St. 230. John, therefore, was clearly entitled to the specific performance of his contract, had his right to a deed been denied. But it was not questioned; and when the deed of conveyance of November 11, 1871, was executed and delivered, he had a perfect and unimpeachable title, whether his father was then solvent or insolvent.

We might, therefore, dispense altogether with any inquiry into the then financial *status* of William M. Lloyd, were it not for what occurred so soon afterwards, and which is shortly to be mentioned. Looking back after this lapse of time, it is very difficult, if not impossible, to determine with certainty what the actual financial condition of William M. Lloyd was on November 11, 1871. He himself testifies: "I was worth a half a million of dollars over all liabilities. It was not uncertain at that. I was fully informed of the facts;" and he fixes his then yearly income at $50,000. But Mr. Lloyd enters into no details, and his figures are in the nature of an estimate. A vast amount of testimony was taken to show the state of his affairs on November 11, 1871, and the case is loaded down with complex and contradictory financial exhibits having relation to that particular date. The expert witnesses—the accountants, representing the respective sides, who speak from a mere examination of the books of the several banking houses which Mr. Lloyd conducted or in which he had an interest—widely differ in their views. And when real estate is touched, there is a great diversity of opinion as to values among the witnesses, as might be expected. The aggregate of his debts, which in the main were to depositors and holders of certificates, was large,—in the neighborhood of $2,000,000. But the assets of the several banking concerns, as shown by the books, were also large; and upon the best judgment I can form from a study of the exhibits were in clear excess of all his debts, although not very largely so. But in addition to those assets Mr. Lloyd had other more strictly personal assets, such as real estate, stocks, bonds, etc., to a large amount. According to the defendants' evidence these personal assets greatly exceeded $500,000. No doubt the values placed by the defendants' witnesses on the real estate are extravagant; but, after all reasonable abatement, these personal assets were very large. And the evidence

leads me to the conclusion that on November 11, 1871, William M. Lloyd was entirely solvent.

In the spring of 1872 William M. Lloyd began the erection of a dwelling-house upon John's land, the 26-acre tract. His original purpose was to build at a cost not exceeding $10,000; but his son-in-law, Mr. Hutchison, persuaded him to change his purpose and employ an architect, who prepared a plan. The limit of cost which Mr. Lloyd then fixed was $15,000. Mr. Hutchison took charge of the erection of the building, and Mr. Lloyd gave little personal attention to the matter. The house proved to be a much more costly affair than he anticipated. It is described in the bill as "a large stone house, constructed in the most elegant and expensive architectural style, and finished in the most elegant, rich, extravagant, and expensive manner throughout the inner part of the building." The cost, including a stable, ran up to the sum of $49,770.59. When Mr. Lloyd's suspension occurred, in October, 1873, the house was well on towards completion. The materials necessary to complete it, although paid for afterwards, had already been contracted for, and were delivered, or ready for delivery, and the wood worked out. Mr. Lloyd got himself released from contracts for expensive gas-fixtures, and, so far as he could, from contracts for mantels. Upon his suspension the work was stopped, but was resumed in about two months; and in the middle of February, 1874, Maxwell Kinkead, Mr. Lloyd's son-in-law, moved into the house; and in the spring of 1874 William M. Lloyd and his wife went there to board with Mr. Kinkead.

I am satisfied from the evidence that William M. Lloyd entertained no purpose of building on John's land when the deed of November 11, 1871, was executed. The project was of a later conception. I am also convinced by the proofs that he put these improvements on John's land without his request and without consulting him. There was no agreement, arrangement, or understanding between the father and son in respect to them. It was a purely voluntary act on the part of William M. Lloyd. He himself entertained the purpose of making an exchange with John, and of giving him for his land the old homestead property, consisting of 19 acres of land; and, while the stone building was in progress, John was told by members of the family that his father entertained such purpose. In his testimony John says: "I suppose I would have exchanged if he had wanted me to." While these improvements were going on,—until his suspension, in October, 1873,—William M. Lloyd's credit continued unimpaired, and he was entirely free from financial embarrassment. I have no doubt both he and John speak the truth when they respectively testify that they then believed he was worth a half a million of dollars. The belief thus entertained by them must be taken into account in passing judgment on their conduct. It must be remembered, too, that the father and son had the utmost confidence in each other, and were not dealing as strangers would. The father assumed that the son would