clearly shows that John Cook is at his father's house, out of business, and importuning his father to permit him to go again upon the farm. These importunities, together with the persuasions of his mother, and the kind offices of his sister, resulted in the agreement and pledge just quoted, under which the father permitted his son to take possession of the land once more. It was during the time covered by this agreement that the above declarations were made, and it is not at all improbable that they were made with reference to said agreement.

Certainly, at this time, John Cook could not have believed, or even supposed that the farm was his, otherwise he would not have thought it necessary to have asked his father's permission to take possession of it.

The testimony to prove the expenditure of money by the Complainant, and permanent improvements made by him is entirely overcome by the proof offered by the defendant.

The testimony of Mrs. Mobberly, Mrs. Young, Mrs. Potts, and especially the evidence of Mr. Young, clearly shows that up to the time of John Cook's conversation with Mr. Young in the fall of 1879, he did not believe the farm was his.

The declaration and threat, made to Mr. Young in this conversation, that "if the Doctor did not do this, (that is change his will) he was going to claim the farm;" and being asked on what grounds he could claim the farm as his. He said his father at some trial or other had said the farm was his. "He said he would use every effort to sustain his claim and would sacrifice the whole of it, if necessary to do this and would give

the Doctor and the family all the trouble he could;" prove conclusively, especially when taken in connection with the other evidence, that up to that time he had made no claim to the farm.

The claim asserted in this piece of evidence, is so different from the theory set up in the bill of Complaint and which he endeavored to maintain in his testimony that the Court must conclude, John Cook had no intention of claiming the farm as a gift from his father until after he learned that a will had been made by his father, and only a life interest in the land was intended for him.

The evidence in regard to the assessment of the land in 1866, and in 1876, and the payment of taxes on the same is strongly against John Cook's claim.

I have not undertaken or pretended to analize the whole testimony, but content myself with stating that a careful consideration of the evidence has convinced me that the fact of the gift, and the acts alleged to have been done in pursuance of it have not been established to a "reasonable certainty;" that degree of certainty required in a case of this character.

The injunction must, therefore, be dissolved, and the Bill dismissed with costs to the defendant.

It is thereupon this 16th day of September A.D. 1881, by the Circuit Court for Frederick County, as a Court of Equity, and by the authority thereof, adjudged, ordered and decreed that the injunction heretofore issued in this cause be, and the same is hereby dissolved; and it is further ordered, adjudged and decreed, by the authority aforesaid, that the Bill of Complaint in this case be, and the same is hereby dismissed with costs