

1862. a complete defence to all the defendants, with the excep-
tion of Messrs. *Smith & Henderson*, and *James Graves*,
Henderson so far as the question of the legal estate was concerned,
v. leaving the court to deal with the securities, but with
Graves. respect to some of them I should have no doubt. I am
saying this upon such evidence as is afforded in this case;
but Messrs. *Smith & Henderson* have never denied their
position, as being trustees for some one, and the true
question now is how far that now attaches upon the
other defendants.

Judgment. I will take up the case of the *Bryants* first. It is not
denied in evidence they had a lease for that portion of
the estate in their possession for twelve years from the
1st of May, 1841, with the right to purchase within that
period from *Bridge*, who now is admitted to have been
the true owner of the estate. Mr. *Smith's* purchase
was therefore subject to that right, and he was aware
the *Bryants* were in possession, and that they claimed
such right when he acquired the estate. The action of
ejectment against them failed upon the ground of the
presumption of the plaintiff's death. The decree against
them proceeds upon the double ground that at the time
of the filing of the plaintiff's bill they had not paid up
their purchase money in full, and besides had bought the
estate after the expiration of the time allowed them to
do so, and therefore were in no situation to resist the
plaintiff's claim. The latter ground is founded upon a
mistake, as it was supposed they had only nine years in
which to purchase, whereas they had twelve years to do
so. They had succeeded in the ejectment suit on the
ground of the supposed death of the plaintiff, and im-
mediately after, namely, on the 2nd of November, 1849,
they applied through their own solicitor to *James Graves*
to purchase. Of course we must suppose that was done
without any idea that in point of fact Mr. *Smith* was the
person at that time who could have transferred to them
the legal estate.

The purchase was completed on the 18th of October,