

1862. *Henderson v. Graves.* stances very little attention should be paid in a court of justice to any equity claimed by or for *George Graves* on the pretence of such a retainer.

Mr. *Smith's* letter to Mrs. *Graves* of the 31st of July, 1848, shews that he had heard some months before that date that Mr. *Bridge* (I presume he meant *Samuel S. Bridge*) held a deed from one *Samuel Doty*, conveying all the 980 acres to him; and that he wrote to Mrs. *Graves*, acquainting her with that fact, and desiring that she would give any information she had as to *Doty's* right to convey the lands. That letter was a natural and proper one for him to have written upon the occasion, supposing that he had been hitherto acting in the matter, for the purposes which he admits he was. We do not see what answer, if any, he received, but in his answer to the plaintiff's bill Mr. *Smith* states that Mrs. *Graves* either was, or pretended to be, ignorant of the fact, and urged him to proceed with the action.

If nothing was heard of *George Graves* later than by his letter of the 12th of April, 1848, then seven years had elapsed before the arrangements made by the defendants with *James Graves*, in October, 1850, without any intelligence from *George Graves*, this plaintiff, who was beyond seas, and there was that foundation, and no other, for assuming at the time of the conveyance made to *James Graves*, on the 14th of October, 1850, that he was then the heir of *George Graves*, and so would be entitled to any land in Upper Canada, of which *Adam Graves* had died seised and intestate.

It seems a natural inference, however, from Mr. *Smith's* letter of the 22nd of September, 1849, to Miss *Graves*, that Mr. *Smith* knew at the time of the trial of the ejectment, which had taken place a few days before, that a letter had been received from *George Graves*, dated the 12th of April, 1848, which was clear proof that he was alive at that time; though Mr. *Smith* had

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