

had sold and conveyed to the Rev. *John Doty*, of Sorel, in 1801, lots 17 and 18 in the first and second concessions of Pittsburgh, 800 acres, in consideration of lands in the parish of Sorel, which were conveyed to *Adam Graves* by Mr. *Doty*, in exchange. And thus it became clear that the plaintiff in the suit now before us, *George O. Graves*, never had been seised of any interest legal or equitable in those lands in Pittsburgh by inheritance from his father, to whom they had not descended, and it has not been pretended that he had any other claim to them.

1802.

Henderson
v.
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About three or four years after the settlement made with the several occupants of the land, by their taking title from *James Graves*, the plaintiff *George Graves*, it seems, came out from England. He had been living in Yorkshire, though for how long a period does not appear, and had written from thence a letter to his mother Mrs. *Agnes Graves*, then living at Sorel. This letter is in evidence in this cause, and is dated the 12th of April, 1843. If it had been produced and proved at the trial of the ejectment in September, 1859, it would have shewn that he was living a few months within seven years of the time when he was presumed by the jury to be dead. Mrs. and Miss *Graves* (a sister of this plaintiff) must have been able to prove the fact at the trial, if indeed Mrs. *Graves* was at that time living; and I should find it difficult to persuade myself that Mrs. and Miss *Graves* and *James Graves* were not all aware of the transaction between Captain *Adam Graves* and the Rev. *John Doty*, by which the land in Pittsburgh, or at least 800 acres of it, had passed out of their family for a good consideration. If they did know it, and gave no intimation of the fact to *Smith & Henderson*, they certainly acted disingenuously, and if the fact had been that any thing had passed between them and *Smith & Henderson*, or either of them, which could be reasonably looked upon as a retainer or authority to act for *George Graves* as the owner of the property, I think under such circum-

Judgment.