

because he *Thomas H. Bridge* had, since his father's death, become bankrupt, and all his property real and personal was vested in his assignees, so that he had no real interest in the land.

1849,

Henderson
v.
Graves

We have no other account of this part of the transaction, and there is documentary evidence confirming this statement.

Then it appears that some time before the trial, (whether before or after the 3rd of July, 1849, when the release or quit-claim was obtained from *Thomas Bridge*, I do not make out from the evidence,) Mr. *Smith* went to Sorel for the purpose of obtaining proof that *George Graves*, in whose name the action was going on, and who had then been absent, it seems, from Canada nearly 29 years, had been heard of within seven years. This, I suppose, it was thought necessary to learn, upon the principles on which Doe dem. *Knight v. Nepean* (a) was determined, in order that the plaintiff's counsel might be prepared to rebut any evidence that the defendants might attempt to give that nothing had been heard of *George Graves* (the plaintiff in the ejectment) within seven years. We are told by the defendant Mr. *Smith*, that the mother or sister of *George Graves*, either could not, or would not put it in his power to give any such evidence, and that the action of ejectment in consequence failed at the trial.

Judgment

It is not explained, and it is not material for us now to know, whether on the defence any evidence was given to prove that more than seven years had elapsed since the plaintiff, who had been so long beyond seas, had been heard of; or whether the plaintiff or the learned judge at the trial assumed, which I think would have been erroneous, that proof of the plaintiff being alive within seven years formed a necessary part of the plaintiff's case in the first instance.

(a) 2 M. & W. 894.