

this kind, where there has been no injury done, I take it to be always in the discretion of the court to interfere or not, and I confess it appears to me that there is no good reason for interfering in this case on behalf of the plaintiff, who did not in fact repose any confidence in *Smith & Henderson*, either directly or through his agent; who had no right that could be injured, or compromised by their intervention, and who has therefore suffered no damage. All that can be said is, that *Smith* took a deed from *Bridge* under the impression that *Adam Graves* had died seised of the land, and that his heir had perhaps a title to it, legal, if not equitable, and that he took it with the admitted intention of conveying it to the heir. He swears that he conveyed it to *James Graves*, believing him to be the heir, though afterwards it turned out that he was not, for the elder brother, whom the court and jury had presumed to be dead, was still living.

1862.
Henderson
v.
Graves.

Judgment.

But it has since been made clear that neither the one nor the other can be the heir to this land, because their ancestor had sold and conveyed it away for value. By accident, it may be said, the land got, with the exception of one lot, (18 in the 2nd concession,) into the hands of *James Graves*, for I think it cannot be said upon the evidence that it was certainly conveyed to him, with any intention of violating a trust—*James Graves* is not complaining of *Smith & Henderson*—and we cannot in this suit go into any investigation of their dealings with him. In regard to their transactions with *James Graves*, if they have done any wrong there are proper means of redress; and if from what has been done there results any fair legal or equitable claim against *Smith & Henderson*, or any just cause of complaint at the instance of *James Graves*, or of *Thomas Bridge*, or his creditors, or his assignees, or of any one else, we cannot go into such claim or complaint in this suit, in which it is only the plaintiff *George Graves* who is praying for relief. And as to *George Graves*, unless we are clearly