

In the matter of lot number
 fourteen in the fifth concession
 of the Township of Grantham

The facts of this case are
 detailed in a long report herewith
 from the Crown Lands Dept.
 It is mentioned therein that
 the original locater Samuel
 Cassidy having fled to the
 enemy & in the war of 1812
 upon requisition from the
 land was taken possession
 of by the crown - then a license
 of occupation was given to one
 McNeal through whom one
 Donaldson now claims a patent
 adversely to the Municipality
 of St Catharines to whom the
 Govt promised (but never granted)
 the lot for a cemetery. The facts
 are perplexing; but the only
 apparent point of law is whether
 the crown found was feudal.
 Presuming that it was a
 crown issued under 54 Geo III
 cap 9 and regularly claimed
 there can be little doubt of its
 feudality (see also *Re v Phelps*
57 Mich 57).

1105

745 S8
1150

Auson Snively
John ^{her} Cochrane
Toronto Jan^y 23/28
58

For Patent for 8-31
no 16 of Zarra -

Ref B.L. 11-166
1810
sent letter 2 April 1856

Mr 38/116
R.B. 28/333
See Report 28th
October 1856

Wm Sprague

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6667/50 5799

James Synnam of the City of London in
the County of Middlesex and Province of
Canada School Teacher Mak. H. Oath and
Sath that he was personally present
this 27th day of June 1856 with Anson
Snively and Peter. E. Gengerech at Jacob
Wagster and from the Conversation
had between the parties respecting
said half Lot and from his own obser-
vation as to the Improvements made
thereon that the accompanying affida-
vit made by Peter. E. Gengerech is correct
in its principal details depoint
further saith that he saw in Wagsters
possession a Bond from Snively to
Wagster for fifty acres also one from
Snively to Hope for the other fifty acre
of said Lot wherein it was stated that the
above named parties was to ^{pay} said Snively
twenty five pounds each with interest
yearly for ten years from the date of
the obligation which was dated in May 1855
Sworn to before Me this 27th day of June 1856

John Carroll
Crow Land Agent
County of York

James A. Synnam

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Province of Canada, Personally appeared before us William
 County of York } Milton and George W. Skelton
 De Witt } Two of the Majesty's Justices of the Peace in
 and for the said County of York James L. Bush of the Township
 of Surinval in the County of Simcoe Thomas and John Cook
 Cox of the Town of Woodstock in the said County of York Subscribed
 taken on oath this twenty fifth day of May in the year of our
 Lord one thousand eight hundred and fifty five this
 deponent James L. Bush for himself saith that on yesterday
 he personally inspected the East half of Lot Number thirty one
 in the Sixteenth Concession of the Township of East York in
 the said County of York and found upwards of ten acres of
 the said premises was cleared and under cultivation and
 occupied by Jacob Wagstar and Christopher Hope as Tenants
 under Aaron Shirley of the City of London in the said
 Province of Canada who is the assignee of Isaac Shirley who
 is heir at law to his late Father George Shirley the
 Original Grantee of the said East half of the said Lot
 Number thirty one in the Sixteenth Concession of the said
 Township of East York and so far as deponent knows
 there is not any Counter Claim to the said half Lot and
 deponent further saith that the said Jacob Wagstar and
 Christopher Hope acknowledge themselves to be Tenants
 under the said Aaron Shirley and this deponent John
 Cook Cox for himself saith that he was present with the
 above deponent James L. Bush at the time he mentions
 in this deposition and confirms all the statements made
 therein by the said James L. Bush

James L. Bush
 John Cook Cox

Taken and sworn before us
 at the Town of Woodstock this
 25th day of May 1855

Wm Wilson
 Magistrate for the County of York
 Geo W Skelton
 Magistrate for the County of York

It is not shown by whom
 these improvements were
 made and that the
 improvements upon the
 half lot in question

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11. Oct. 50th in

Ansford
 Sir/-
 Toronto Aug. 25/56
 E/2 51. 16 June

I beg to acknowledge the
 agreement of the Survey with parties
 who are tenants under license
 of the Act which agreement
 provides that the Survey is also
 bound to sell them the Land.
 The amount of the Patent within
 the time calculated upon is
 being to cause loss and being
 referred to Mr. Smith.

I have the honor to be
 Sir
 Your obedt Servt

John Johnson
 The Comr. of Lands April.
 Toronto.

sh

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7987.
John Cochran to
Mr Smiley
Toronto Aug 25/25
-56
With 2 assents of Gov
31 in 16 of Toronto.
For Patent -

Ref B.L.N. 346

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14-5000.

Grantland

Memorandum

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Entire
 Crown Land Office
 Toronto 3rd Decr 1856.

Sir,

I have the honor to inform you that an order in Council issued on the 28th Ultimo, on the respective claims of Anson Smively and Jacob Wagster to the East half of Lot No 31 in the 16th Concession of the Township of Zorra, authorizing a grant of the land to Smively upon the condition that he make a sale thereof to Jacob Wagster at the rate of £ 2.10 per Acre, executing a conveyance in his favor upon payment

John Cochrane Esq
 Toronto

of

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of the instalment of fifty pounds,
according to the Agreements entered
into, and secured by Mortgage
payment of four equal amounts,
with interest to be paid with them
annually as they become due.
The arrangements to be effected through
the instrumentality of the Local
Agent.

I have the honor

to be Sir

Your Obedt Servant

Joseph Banham

Commissioner

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S. 8

No 50



John Cochrane Esq
Toronto

per

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7987 56 J. W. W. 522

I now all men by these presents that Anson
Surrey of the City of London in the County of
Middlesex, in the Province of Canada
Mechanic of the first part being the Assignee
of George Surrey the oldest son or heir at law
of late George Surrey Locuttee of the East
half Lot Number thirty one in the sixteenth
Concession of Yonge East, does hereby agree
to lease unto Christopher Hope the present occupant
and tenant under said Anson Surrey,
of the North half of said half lot, fifty acres
be the same more or less, for the term of
nine months from the first day of April
last, for the sum or rent of Ten pounds
currency for the use of said land for the
said term of nine months to be paid at
the expiration of said nine months to
said Anson Surrey his heirs or assigns and
at the expiration of said nine months said
Anson Surrey agrees to sell said fifty acres
be the same more or less to said Christopher
Hope his heirs or assigns said fifty acres
be the same more or less for the sum of
Two hundred and fifty pounds currency
which said Christopher Hope agrees to pay
as follows viz in Ten equal annual in-
statements of Twenty five pounds each

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with interest at the rate of six per cent
 per annum and each and every payment
 to be made on the first day of January
 in each and every year, with interest
 from the first of January next when
 the first payment of Twenty five Pounds
 is to be made which said Christopher Hopfe
 agrees to pay as aforesaid until the whole
 amount of Two hundred and Fifty Pounds
 and Interest as aforesaid be paid and
 again for the fulfillment of the aforesaid
 or foregoing both parties hereby and themselves
 their heirs or assigns jointly by these
 presents for which purpose they hereto
 attach their hands and seals dated at York
 East this the 22th day of May 1865 in
 presence of a

John Cooke, Esq.
 William Morlock
 James S. Smith

Christoph Hopfe
 Joseph Hopfe
 mark

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Spencer
Suzer

Toronto April 10th 1856.

C^o 31. 16th Con. L. Zorra.

I have the honor to acknowledge receipt of your letter of the 2nd inst. calling for further proof as the Master & Paper being Tenants of Mr. Anson Smiley, the claimant of this lot.

I beg to enclose an agreement signed by both these persons acknowledging themselves Tenants and requesting the issue of Patent to Mr. Smiley, also an affidavit by E. Madams one of the Witnesses to said agreement.

May I request that you will be pleased to issue the issue of Patent without further delay.

I have the honor to be

Sir

Your Adm^o Serv^t

The Hon^{ble}

The Comm^r of C. Lands

+ + +

Toronto.

John Johnson

Agent

yes

Anson Snively
3755
John Cochran for
Magster & Pope
Invento Apr 10/11
36
With affid^{ts} re to
31 in 16 of E. Gorra.

Ref B.L. # 302 c
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Know all men by these presents, that Anson Drively of the City of London in the County of Middlesex in the Province of Canada Merchant, being the assignee of Isaac Drively the eldest son and heir at law of late George Drively the located of the East half of lot Number Thirty one in the sixteenth Concession of Terra East. does hereby agree to lease or rent unto Jacob Wagter the present occupant and tenant under said Anson Drively of the South half of said half lot fifty acres be the same more or less, for the Term of Nine Months from the first day of April last for the sum of, or rent of, Ten Pounds currency for the same said term for the use of said Fifty Acres (being the South half of the East half of lot 31 in 16th Con Terra East. aforesaid) to be paid at the expiration of said nine Months, and at the expiration of said term to sell the same said land (fifty acres) to said Jacob Wagter, his heirs or assigns said fifty acres be the same more or less for the sum of Two hundred and Fifty Pounds currency, to be paid in manner following *viz*: in *scilicet* equal annual instalments of Twenty five Pounds each, with interest at the rate of Six percent per annum, each and every instalment to be paid on the first day of January in each and every year, with interest from the first of January next, when the first payment of Twenty five Pounds is to be made which said Jacob Wagter agrees to pay as aforesaid and again for the fulfillment of the above both parties hereby bind themselves their heirs or assigns firmly by these presents, for which purpose they hereto affixed their names and seals, dated at

at Iowa last this the 24th day of May 1855 in presence

of.
John Cooke, Gov.
William Morlock
James S. Davis

529
his
truly
yours

Jacob Maynard

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Yes

Durham

H. 601

3/28/6

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This is to Certify that we the undersigned
 Jacob Wagner and Christopher Hopewell occupants on East
 half lot Thirty One in the Sixteenth Concession of the
 Township of Gore formerly part of the Township of York in
 the County of Oxford in the Province of Canada tenants
 under ansons Snively of the City of London in the County
 of West Middlesex Carpenter and Joiner, the assignee of
 Isaac Snively the eldest son and Heir at Law of
 George Snively late of the Township of Crowland in the
 County of Lincoln late a private in the Grenadier Company
 of the Third Regiment of Lincoln Militia deceased.
 and we know of no other owners to said half lot
 than said Anson Snively and desire and request
 a Patent to issue as soon as convenient to said
 Anson Snively for said half lot. dated at E. Gore
 this 7th day of July 1855
 in presence of -

Jacob Wagner

Christopher Hopewell

William Morlock

Edward ^{his} Meadnes
 mark

Jonas S. Bush.

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Provine of Canada, Edward Meadows of the Town of
 -Caintry of York } Westcott in the County of York of person
 do Wit } Method both and facts that he was
 personally present on the day that the within ^{Certificates} ~~affidavits~~ mentioned
 by Jacob Wreyter and Christoph Hope and also in the
 same duly executed by the said Jacob Wreyter and Christ-
 opher Hope after having several times read over to them
 and the nature and contents of the same fully explained
 to them the said Jacob Wreyter and Christoph Hope
 which they appeared fully to understand, and that the
 mark affixed to the signature or name of this deponent
 as a subscribing Witness is the true signature of him
 deponent and he deponent also saw William Alondack
 and Janet Bush subscribe the same ^{Certificates} ~~affidavits~~ as Witnesses
 thereto, and that the same was duly executed on the
 day and at the time therein mentioned
 subscribed and sworn to before

me at Westcott in the County of person
 of the deponent Edward Meadows
 affixing his mark thereto after having
 been read and fully explained
 to him which he appeared fully to
 understand

Edward Meadows
 his
 mark

George Whitehead

Commissioner for taking affidavits
 in the Queen Bench for the County
 of York and for the County of York

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Yorck 22nd January 1856

Sir: I have the honor to report that I have examined the accompanying Certificate from Deputy Surveyor John Grant and from the description he has given of the Lot in question and its situation I am of the opinion that the value he has placed upon it that is two pounds 2/6 per acre is all it is worth

I have endeavored to ascertain from as many persons as I could see who was acquainted with the lot and find that no other person except the occupant pretends to have any claim with the exception of Shively which it would seem has no claim at all

I have the honor to be

Sir,
your Obedt Servant
John Carroll
C. L. Agent

Hon^{ble}
Com^r of Crown Lands
to
Toronto

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This is to certify that I have examined
the last-half of lot thirty one, in the
sixteenth Concession of the Township of
Yora in the County of Oxford -
I value the said lot at two pounds two shillings
& sixpence an acre,

There is thirty-five acres cleared and in a
fit state for cultivation - there are two
Log dwelling houses a Log stable also a
Log Barn unfinished,

The quality of the land is a strong Clay
loam riched to stiffness, there is a narrow
strip of Black ash swale which skirts the
lot on the west limit, Timber Beech
Maple - Elm, Basswood & few Oak and
Birch, the land is level - The Village
of Hamburg is about six miles - Village
of Shakespeare about seven - Stations of
the Grand Trunk Railway - The Village
of McKennam a ^{proposed} station of the Buffalo
Montford & Goderich Railway,

The occupier of the lot is Jacob Wacaster

John Grant

Provincial Land Surveyor

Yora 18th January 1856

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To His Excellency Sir Edmund Walker Head
Bar. Governor General of British North America
and Captain General and Governor in Chief of
the Provinces of Canada New Brunswick Nova
Scotia and the Island of Prince Edward & & &

In Council
The Petition of Jacob Wagister of the
Township of East Yorra in the County of Oxford
and Province of Canada yeoman

Humbly Sheweth
That your Petitioner is occupying the East
half of Lot No. 31 in the 16th Con^{ty} of East Yorra
aforesaid and hath made large Improvements there
on and being desirous of purchasing the same has
had it Inspected and valued by John Grant
a licensed Surveyor whose Certificate is
herunto annexed

Your Petitioner therefore prays
that your Excellency will be pleased to
grant that your Petitioner may become the
purchaser of said half Lot and your Petitioner
as in duty bound will ever pray

Yorra 22nd January 1856

Jacob Wagister

582

585 S8
 Petition No 50
 Jacso Nagesta
 per
 Shulearroll
 Zorra Jan 22/53
 To put 6² 31 in lb of
 E. Zorra - Me
 Ref B. 11. 143
 see ltr 2^d Apr 1856
 M 387/415
 see Report 28th Oct
 1856

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The papers placed herewith have been filed
 on behalf of respectability of Anson Smith
 of London, and of Jacob Wagenaar of
 Lova, and have reference to the last half
 of Lot number thirty one in the 10th
 Concession of the Township of Lova.
 Anson Smith claims the half Lot in
 question under a decision of the King &
 Queen's Commission in July 1856 as the
 Assignee of Isaac Smith the Elder son
 of him at law of George Smith, to whom
 the same was granted as a Whitmanian
 in November 1823. In support of
 Anson Smith's application a paper is
 submitted bearing date 7th July 1855
 signed by Jacob Wagenaar & Christophel
 Hapeler in which their assent is expressed to
 the issue of a Patent in his favor. It has
 is filed and filed by Edward Meadows,
 for the purpose of showing that the said
 paper was read over to both parties and
 explained

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explained previously to them signing the same - Another Affidavit made by James T. Butler & John Cooke Cox on the 25th May 1855 is attached on which it is declared that the said parties acknowledge themselves the Tenants under James Smith & have on likewise two papers submitted bearing date 24th May 1855 & 7th July 1855 executed respectively by James Smith & Christopher Hope, and by James Smith & Jacob Magister. These seem to be the instruments under which Hope & Magister were placed in the position of Tenants under Smith the one of the North East quarter of the lot, the other of the South East quarter. But they secured to them possession of the land for the brief period only of nine months, to commence from the first of April; and contained a clause agreeing to sell to them those individual portions of the lot, at the expiration of the said term of nine months, at the rate of five pounds per Acre - This period of time being observed expired on the 1st September 1855, and those persons who it will presently be perceived have improved the land extensively, and are now

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now seemingly at the mercy of the
Swedish. One of these persons (the late Joseph)
appeared recently at the Office. He is a
young man, and almost entirely ignorant of
the English language.

According to the Affidavits of Peter C
Gunnarich made 27th June 1856 & corroborated
by that of James H. Synan of the same date,
both of which are in behalf of James Gunnarich -
Joseph & Magister, "two persons of the same
"hall" lot in the latter part of the year
"1850" that there was no improvement
made, up to that time - and that the
improvements, consisting of about forty
"trees cleared - two by houses - a by barn
"30 by 60 feet" &c. was made by them -
"that" Magister purchased the lot
"in said lot and paid him for the same
"seventy five pounds".

James Magister in his Petition dated
22nd July 1856 applied to purchase the whole
of the lot in question, and
submitted a Certificate by Deputy Surveyor
John Grant dated the 18th of that month

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in which he states that there are thirty five
 Acres shown there and in a fit state
 for cultivation, and he specifies various
 buildings erected there and the return
 in occupation - and he declares the value
 of the land to be two pounds two shillings
 & six pence per Acre - The Local Agent
 in a letter placed here with the date 22 July
 - 1856 to which reference is requested, concurs
 in Deputy Surveyor Grant's valuation -

In reviewing the evidence filed by the
 respective Applicants - the following facts
 are apparent - In the year 1850 the
 first attempt to bring into cultivation
 any part of the said East half lot 1231
 in the 15th Concession of Town was made
 and this was done by Messrs. Wagston and
 Hope, without doubt independently of
 Mr. Husson, Sr. & Co. The location to George
 Snively had at that time existed for a period
 of twenty seven years, impeding the settlement
 of the Country - The ample improvements
 which they had made conformed upon
 accordingly to the essays sanctioned by
 Successors

success from Government a right to preemption
 when the King and Queen Commission
 inteposed, and indeed, Queen Mary
 to the King of Spain by the
 Robert Southey at law of the Queen
 George by a Mr. Wham - It is further
 apparent that these inexperienced
 Strangers, Baynton, Hope, were induced
 to put their names to a contract in a
 language, of which they were ignorant, and
 to accept Leases covering the improvements
 which they had themselves made, upon
 land which had virtually reverted to the
 Crown; and also to engage to pay a price,
 double the true value of the land; and
 at the same time acquiescing in an
 arrangement, which might terminate
 the tenancy, and lead to their ejection
 from their valuable improvements after
 the lapse of a very brief period, subsequent
 to their becoming parties to those instruments
 There is, confessedly difficulty, in the way

of administering whif in favor of the
 last named Attorney Magister who it
 seems purchased for the sum of seventy
 five pounds. His interest in the land,
 But the Government having by the General
 Order in Council of 28th Feb 1842 adopted
 upon the despatch of unpatented land
 imbrands in the published Schedule
 dated 4th April 1839, placed the half lot
 in question with cases, reserved to be
 "considered individually. it does seem
 competent for the Government to interfere
 and administer equity between the
 contending parties. It is accordingly
 suggested whether the issue of a Patent
 to Anderson, Smith may not be authorized
 upon the condition that he make a
 sale thereof to Jacob Magister at the rate
 of two pounds ten shillings per Acre
 executing a conveyance in his favor
 upon payment of the instalment of
 fifty pounds according to the Agreements
 entered into and securing by Mortgage
 payments of four equal amounts with

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interest to be paid on the same annually
 as they become due - The arrangement
 to be effected through the instrumentality
 of the Local Agents
 This would secure to Anderson, finally
 the value of the property as wild land
 and would effectually prevent his
 resorting from Magister an exorbitant
 price for the land with a view to prevent
 the total sacrifice of his valuable
 improvements.

As bearing upon all cases adjudicated by
 the King & Queen's Commission the following
 opinion given by the Hon. Mr. Draper
 when Attorney General; to Mr. Cummins' Paper
 is respectfully submitted.

"I think that the report of the Audit Division
 Commission, though conclusive as to the right
 of the State to the grant of the land does
 not, or never was intended by the Legislature
 to operate so as to supersede any conditions
 to which the grant to the original donee of
 the Crown would be subject of Mr. Draper

29 May 1847
 This view was concurred in by the Council of the
 June 1847 in the report of the Commission was
 originally subject to settlement duties since became

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Submitted by the General Order in Council p. 173 Oct 1835 which
contemplates the immediate issue of Patents to the
Landlords - And the lands being rendered liable to the Government
taxes - Of this Order the Society Family had not during
the past 20 years avail themselves - Consequently it had
as regarded them, become a dead letter.

Crown Land Department

Toronto, 28th Oct. 1856

Joseph Beaubien

com

31st Oct 1856
Joseph Beaubien
com
The Committee
of the Crown Lands
Department
has the honor to
acknowledge the
receipt of your
letter of the 27th
inst. in relation
to the lands
mentioned in
the same. The
Department
will be pleased
to comply with
the suggestions
of the Committee
in the event
of a favorable
report from
the Surveyors
General.

In Committee 27 Nov. 1856

The Committee
concur in the suggestions of the
Chair the Com^{rs} of Crown Lands
Report: approved 28th
Nov 26 1856 J. B. Beaubien

Peter E. Gengerich of the Township of East
Yona in the County of Oxford and Province
of Canada yeoman Maketh Oath and
Saieth that he is well acquainted with the
East half of Lot No. 3 in the 16th Con^{se} of
East Yona aforesaid that there is about
forty acres cleared on said half Lot there
is two Log Houses one 20 by 36 the other 16
by 18 also a Log Barn 30 by 60 feet
also the body of a log Building about
28 by 50 feet Not Roofed or floored

The above improvements when made
by Jacob Wagister and Christopher Hope
Wagister purchased Hopes interest in said
Lot and paid him for the same seventy
five pounds that the above named
parties took possession of said half lot
in the latter part of the year 1850 there was
no improvement on said Lot previous to
the time above stated

Sworn to before me this 27th day of June 1856

John Canoll

Crown Land Agent
County of Oxford

Peter E. Gengerich

16667 524

London 5 July 1856.

Dear Sir
I have the honor to enclose you plans intended to show the improvements made on the East 1/2 of 31 in the 16 Con of Gorea East. which was awarded by the Hon & Respected Com^{rs} to Arthur Sullivan on Jan 1856.

The Hon
Sir Cauchon
Com^{rs} of Lands
Toronto.

I have the honor to be
Dear Sir
Yours
A. Sullivan

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JUL
1858



PAID

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The Hon J. M. Cauchon
Cow-Crow-Lands
Toronto

LONDON
9-11-56

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1866

1866
John Wilson for
Answer Sniveley
Answer July 5/7
1.38

With 2 affid^{ts} of impro^{ts}
on lot 31 in 16 town^{sh}
East.

Ref B. 1. 1. 235

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Canada Land Petitions "S" Bundle 8, 1855-1858
(RG 1, L 3, Vol. 487 (a))

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To His Excellency
Genl. Edmund Head. Galt.

James Grant & Co
St. Louis

The Petition of Anson Amory -
respectfully sheweth;

That at the January Session of the
House of Commons in 1851 he was admitted the
Eye of Act 31 - 16th Con. of 3000.

Your Petitioner sheweth further,

That James Grant with his friend &
partner have a Patent for the same.

and for Petitioner as a duty had
with me for

Anson Amory

by atty -

John Lubman
Agent

Received
July: 25/56

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