

22615

2617 3839  
Petition

Benjamin Lake

Perth April 5/10  
54

To pur. 11 in 5 of  
Oso. -

P 4/54

Transferred to the Resident  
Agent - with refer to  
his report of the 24<sup>th</sup> of  
March

Crown Lands Dept  
Perth April 20/54

Report enclosed Received  
May 29/54

at date 2668  
app 4530 1/2

no further

26 17/54.

Canada } Archibald Gray of the Township of Oss in the County  
 To Wit } of Frontenac and Province of Canada, Geoman Maketh  
 oath and saith, that he resides within a mile of Lot Num-  
 ber eleven in the Fifth concession of the said Township  
 of Oss that he is well acquainted with Benjamin  
 Lake of the same place Geoman Knows that Benjamin  
 Lake resides on said Lot and has improved and cropped  
 a part of same that said Lake has Fall wheat growing  
 on said Lot at present that Benjamin Lake has built  
 a dwelling house on said Lot and that he resides  
 thereon <sup>that</sup> there has been no actual improvements made  
 on said land by any person whatsoever except by said  
 Lake that one John Armstrong has felled a few trees  
 on said land and built a Shanty for his oven thereon,  
 but has in no way cultivated or improved said Lot -  
 This deponent further saith he wrought in company  
 with Lake and Armstrong in building the House in  
 which Lake now lives on said Lot and is well aware  
 that Armstrong knew Lake intended to purchase  
 said Lot and that Armstrong was quite satisfied  
 that Lake should do so.

Sworn before me at Perth in the  
 County of Lanark this fifth day of  
 April in the year of our Lord one thousand  
 eight hundred and fifty four and I do  
 hereby certify that the above affidavit  
 was first read over by me to the above  
 named Archibald Gray and that he seemed  
 perfectly to understand same and made  
 his mark thereon in my presence.

his  
 Archibald Gray  
 mark

W. Shaw a Commissioner for  
 taking affidavits in the Queen's Bench  
 in and for the United Counties of Lanark  
 and Renfrew

W. Shaw

I hereby certify that at the request of Benjamin Lake, I have inspected Lot No 11 in the 5<sup>th</sup> Concession of the township of Oso in the County of Frontenac, of which Lot the Annexed is a plan.—

That the first work done upon the said Lot was in the Spring of the year 1849, by John Armstrong, who at that time cut down the timber standing upon a piece of Land measuring from 16 to 18 yards wide and 50 yards in length, the timber yet lies where it fell and the second growth is supplying its place; One Active Chopper woud do all was done in One day, but it may be called between one and two days work; What the actual object of this Chipping was I cannot say, John Armstrong, in his own house in the morning, told me that he had commenced with the object of settling there, but that being advised by his friends that it was rather too far into the woods to commence, he left it and commenced elsewhere; in the course of the day I went with his father to look at the Chipping who there and there told me that it had been done with the reasonable object of securing the right to purchase the land against other settlers; It is that marked A upon the plan its Area is about three quarters of a Wood-

30 Acres

The Red line on the plan is intended to show the position of a line in the woods marked with an A upon the trees by John Armstrong a year or two after this Chipping was done.—

The next work done upon the Lot was by the present occupant

-pan Benjamin Lake, he built the house which he now  
lives in, a beauty 24 $\frac{1}{2}$  by 15 $\frac{1}{2}$  Feet, in the Fall of the year 1852  
, in the Spring and Summer following he chopped and cleared  
off a piece of land about the house, which I found by actual  
measurements, to contain 2 Acres 2 Roods 8 perches, which  
has been well cleaned up and is mostly under fall wheat,  
he has also chopped about one quarter of an acre more in  
the past winter which is not cleaned off yet. The plan  
shows the exact position of this clearing laid down from  
actual survey. — It is that marked B. —

When Lake settled on this Lot, it is beyond all doubt that  
he settled in good faith, intending to purchase as soon as  
it could be ascertained what Lot he was upon, and that the  
reason of his making the deposit on Lot No 9 was his being  
told by those whom he thought knew that his improvements  
were upon that Lot. — previous to a survey made by  
other parties and for other purposes, neither of those parties  
knew what lands they had settled upon. It is also  
beyond a doubt that there existed a good understanding be-  
tween Lake and the Armstrongs — More than one of the  
Armstrong assisted Lake in the building and covering  
of his House and actually agreed with Lake that if  
he did not clear over the blazed line before referred to,  
and marked by the Red line on the plan, they, the Arm-  
strongs, would confine themselves to the other side of it,  
which agreement has never been violated; John Arm-  
strong, besides other improvements which I shall again  
mention, has a considerable clearance upon the Lot  
adjoining

which has been  
not purchased

adjoining the SL in question, No 12, as far, or further, from the said blazed line on one side as Lake's improvements are upon the other. It is also beyond a doubt that Lake never intended to pay any thing upon any other SL than the one he settled upon, being very poor and quite inadequate to it. —

During the last fall or in the early part of the past winter John Armstrong made a small clearing just on the north east corner of the SL in question, the exact position of which is shown upon the plan, it is that marked C and contains by actual measurement 1 Wood and 8 Perches which includes the half width of the road allowance at the rear of the Concession, so that the actual clearing on the SL in question is considerably less than one quarter of an Acre; the timber has been taken off from it, but it has not been cleared off for cultivation nor has even the brush been burnt upon it & there is a very rough description of an Out House upon it, 12 by 15 Feet, and high enough inside for a man to stand up in with a hat on, it is with one or two exceptions, composed of baswood logs — covered with a single tier of baswood scoops, or troughs, — is without a floor and has a hole cut in one side of it the size of a Common door; from 8 to 10 men in one day would make both the clearing and House. — I cannot but remark here that it is evident that this clearing and house have been made with no other view than to create, if possible, a right to purchase the Land. —

John Armstrongs Dwelling house is upon SL No 11, his clearing is partly <sup>10</sup> on SL 11 and partly on 12. at the front of the 6<sup>th</sup> Concession —

Manual

I observe that the Crown Land agent at Kingston has been made to believe that Armstrong had possession of this Lot for Five years before Lake settled upon it, The fact is there was no such thing as a possession, or claim of any kind, upon it previous to Lake's occupancy, unless the trees which Armstrong felled in 1849, before referred to, be considered as improvements, or as creating a right to purchase, which is an absurdity. And I may here remark that the front or west half of the Lot, which it appears Lake might be allowed to purchase or exchange for, is timbered mostly with scrubby pine and hemlock and taken by itself is utterly unfit to support a family.

I may further remark that respectable persons were produced to Lake to swear to the facts which he wished to establish, and, as a Commissioner in the Queen's Bench, I would have taken their affidavits, but that I had called upon John Armstrong at his own house in the morning, and after stating to him the nature of my Mission had a lengthy conversation with him in which he admitted every material statement which Lake had made to be correct, John Armstrong being himself indisposed sent for his father Richard Armstrong who was with me through-out the whole of the survey and inquiry - who, as his son had done in the morning, candidly and openly admitted all that Lake wished to have proved and upon which I have based this report. In fact one single contradiction did not occur between them.

Both John Armstrong and his father stated repeatedly that it had always been well known that they had the right to this land and had had it in possession for years, but upon what grounds they based their pretensions I <sup>am</sup> utterly unable to divine. They certainly did not know what lands either one of themselves or Lake was upon, neither did they object to Lake's locating himself where he did, and if they had known and objected, I could not yet understand what grounds they had to build any such claims upon.

Perth 3<sup>rd</sup> April  
1854

Joseph M. O. Cromwell  
P. L. Surveyor

2617  
54

Marked line between the 5<sup>th</sup> and 6<sup>th</sup> Concessions.

Side line between Lots Nos 11 and 12. N 74° E. - 66.67 Chains

Marked line in the woods.

Rear, or east, Half.

Front, or West, Half.

Side line between Lots Nos 10 and 11

Lot No 12

30 chains

Lot No 11

26.91 76

Lot No 10

Road Allowance at the Front of the 5<sup>th</sup> Concession.

Scale, 6 chains to an Inch

3

26 17/54.

Veriaid a } Archibald Gray of the Township of Dso in the County  
 To Wit } of Frontenac and Province of Canada, Geoman-Maketh  
 oath and saith, that he resides within a mile of Lot Num-  
 ber 36 very in the Fifth Concession of the said Township  
 of Dso - that he is well acquainted with Benjamin  
 Lake of the same place, Geoman - Knows that Benjamin  
 Lake resides on said Lot and has improved and cropped  
 a part of same that said Lake has Fall wheat growing  
 on said Lot at present - that Benjamin Lake has built  
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 his mark thereon in my presence.

W. McShaw A Commissioner for  
 taking affidavits in the Queen's Bench  
 in and for the United Counties of Lanark  
 and Renfrew

Archibald <sup>his</sup> Gray  
 mark



LAKE, Benjamin

11/5/1854

Crown Land Office

Kingston 30 May 1854

Sir

With reference to the petition of Benjamin Lake transmitted to me under date 30 April last I beg leave to report that on 26<sup>th</sup> April last made known to John Armstrong the purport of Mr Lake's Petition on the receipt of which Mr Armstrong sent me the affidavit of George Buchanan to the effect that he (Buchanan) assisted Armstrong in the spring of 1849 in clearing said Lot. This affidavit with Mr Armstrong's letter accompanying it.

I enclose for your perusal - as the North half of the lot was all that Armstrong in the first place applied for, as it is evident that he made some improvements on this part of the lot as far back as the spring of 1849. and is still in possession of it. I do not see anything more equitable than that Armstrong be allowed to hold the North half of the lot in his paying Lake for any improvements he may have made on that half of the lot and to allow Lake to become the purchaser of the <sup>south</sup> ~~lot~~ <sup>half of the</sup> lot on which his house and the principal part of his

The Honble

The Commissioner

of Crown Lands &c &c

Quebec

Of his improvements appears to have been made.

Mr. O. Cromwell the surveyor appears to labour & hard to do away with Armstrong's Claim whether Mr. O. Cromwell has any personal interest in the transaction its is not for me to say, for I have no personal knowledge of either of the parties

I have the Honor to be

Sir

Your most obedient servant  
Allan Macpherson  
agent