

**INDIANS NO NEARER TO REGAINING LANDS**

**Court Reserves Decision in Montauk's Action Against Bensons and Others.**

**SOME DEFENDANTS ARE OUT.**

Evidence to Show That Some of the Tribe Have Voted Injures Their Case.

(Special to the Eagle.)

Riverhead, L. I., October 13.—The contention that the Montauk Indians, as a tribe, had never abandoned their rights to Montauk, had never had such rights legally taken from them, and was now legally entitled to the use of the peninsula, received a serious setback in the Supreme Court yesterday afternoon, when it was put upon record that no longer ago than 1861 the State Legislature passed an act setting apart a reservation in Ontario County for several tribes of Indians, among them being specifically mentioned the Montauks; and it was further stated that some of the Montauks were even now making their home there.

In addition to this, to prove that there was no such thing now as a Montauk tribe, it was shown that some of the Indians, no called, were in the habit of voting at state elections. Such evidence was given by Justice of the Peace Mulliken of Southampton, who at the time the Indians voted was an inspector of elections. This was introduced by the defense to show that the Indians themselves had given by their tribal capacity, were not "tribes, simply phantoms" they asserted their elective franchise.

**Court Reserves Decision.**

Although Justice Blackmer did reserve decision at the conclusion of the case the Indians got an order regarding the leasing of Montauk that they were a half century ago. That seems to be the general impression of those in court who heard the case. Justice Blackmer gave the plaintiffs considerable latitude in trying the case, but it was quite evident that much of the evidence proving that some tribes existed and was entitled to Montauk was lacking, or fell by the way-side.

Before court adjourned yesterday afternoon Justice Blackmer dismissed the case as affecting the Bensons on the ground that, in property, the Bensons had also dismissed the action against the Long Island Railroad because none of the property touched by that corporation crossed Indian Park.

**Typical Indian Is Old Ephraim Pharaoh.**

Ephraim Pharaoh, the first witness yesterday, was a typical old Indian. He looks as though he might be full-blooded, but speaks English very, English and customs. He is old, tooth and hair, as well as being somewhat illiterate. His father was Isaac Fowler, a real Indian. His mother married a Pharaoh, but, as he testified that man, he was born in the Helder West, Montauk, exactly 17 years ago. He testified that when the Bensons got him to sign a deed they told him all the rest of the tribe was "coming off of Montauk and that he would have to come," so he accepted \$200, took a deed for another place in Frewsburg, and left.

Justice Pharaoh did not continue, "we went to Eliza's house at the Flat Rock and elected David Pharaoh king, because he was the oldest Montauk then living, and Bensons had no children. After David died we elected Wyanadach king. Wyanadach is the present king. We call him King David. He was David's oldest son, you know, as far as Montauk is concerned."

He was a little stony on some of the ancient customs of the Indians. He said he had never voted.

Charles Fowler, who did not look as much of an Indian as Ephraim, was the next witness. He remembered King David. He fell off 80 a year from the Bensons and he got a deed from them for twenty-eight acres of land. He said there was a tribal meeting in 1861 at which Wyanadach presided and at which it was decided to begin a suit for their rights.

**Queen Dawager on the Stand.**

Marie Baska, wife of King David, testified a woman in her own right and member of the present King Wyanadach, followed Fowler on the stand. She was born on the Indian Flat reservation many ago. She said she married King David when she was quite young and added that seven tribes had squares that have been to her. She of whom are still to be seen among them being Poughkeeps, Poughkeeps, besides "King Baska."

"Yes, I have heard King David say to the present King, 'Baska, you will be a king some day,'" she testified.

This testimony and that of others on a similar line, was given to show that tribal customs still exist and, according to the present day, although on reservation conditions, possibly some of the witnesses could tell of more than one or two tribal meetings within many years, and most of what they knew about such meetings was merely hearsay.

Justice Abbott of Riverhead reported nearly all of the defendant and the trial of the case.

**WOMEN ELECT DELEGATES**

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Sat, Feb 28, 2015