

Montauk Indians Appeal From Judge Maddox's Decision

IN SUSTAINING A DEMURRER.

King Pharaoh Determined to Test His Tribe's Rights to the Long Island Railroad Property at Montauk Point. Body of an Unknown Man Found in the Jamaica Flats — Private Likam's Death.

(Special to the Eagle.)

Riverhead, L. I., December 22—Notice of appeal in the case of the Montauk Indians against the Long Island Railroad Company was filed in the Suffolk County Clerk's Office here to-day. This appeal is taken from a recent decision of Judge Samuel T. Maddox of Brooklyn, who rendered judgment for defendant on the demurrer argued before him while here at the October term of the Supreme Court for Suffolk County. The defendant, the Long Island Railroad Company, demurred to the complaint, on the ground that the Indians were without legal capacity to maintain the action and that the complaint did not state facts sufficient to constitute a cause of action. During the argument before Judge Maddox it was asserted by the defendant company that the Indians were not recognized as a tribe and were without tribal organization.

It was claimed that the action should have been brought in the name of their chiefs or head men, in order to conform to the statutes, but as the matter had been brought through one chief, King Pharaoh or Wyandank, it should not stand.

The plaintiff claimed on the other hand and still assert that the Indians are recognized as tribe by various authorities and particularly by a judgment of Judge Dykman in a partition suit and by the United States census of 1890. They claim that the action was brought by the Montauk Tribe through the chief, King Pharaoh.

In his decision for defendant Judge Maddox says plaintiffs have to plead over again upon payment of costs.

This action is the famous Indian case where the Montauk Indians through King Pharaoh are endeavoring to oust the Long Island Railroad from a very large and valuable tract of land at Montauk, once the property of the Montauk tribe, but now held by the Railroad. Ex-Judge George M. Curtis of New York represents the Indians in the matter and William J. Kelly is for the Long Island Railroad.

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