

Montauk's Proprietors – 1600 to 1691

September 5th 2002

Good evening. My name is Bob Ficalora, and I thank you for coming tonight. This is the third lecture in a five-week series intended to share my research pertaining to the powerful nature of our rights, liberties and privileges as property owners or residents of Montauk.

The first lecture was delivered on August 22nd entitled “Genesis of Liberty – 1492 to 1691” in which I described the feudal origins of private property and the development of jurisdictions and liberties at law that evolved dialectically with them. This covered colonial patents in general and the Dongan patent specifically.

The second lecture of August 29th was entitled “Defense of Liberty – 1691 to 1791”. The contentious republican rebellion of the 1680s and the first convening of the Assembly of the Royal Province of New York in 1691 were covered with emphasis on the arrest of Jacob Leisler. In its first law (Chapter 1 of the Laws of 1691) New York surrendered to Royal Authority and in its second law (Chapter 2) received a royal guarantee of the enforceability of the patents and charters to bodies politic previously issued. I emphasize that as a result, the Dongan patent is not only protected by our state and federal Constitutions, but by the laws of the State of New York as well.

This lecture, entitled “Montauk’s proprietors – 1600 to 1924” will cover the purchases from the Indians by the proprietors using contracts that remain enforceable today, to the efforts of the Proprietors of Montauk to protect their rights through those contracts and the Dongan Patent up to their defeat in 1924.

This presentation is in lecture format, so I ask that all questions be held until the end.

I was asked to discuss my discoveries pertaining to the tribes' aboriginal condition so I will touch upon it briefly now.

In 1600 there were no European claims to land in northeastern America. There had been a patent issued to Sir Walter Raleigh for the Virginia colony, but attempts at settlement had failed – at least once due to suspected Indian attack.

So what existed here in Montauk and Long Island? By all accounts there remained a healthy and thriving native community.

In the eighteenth year of his reign, in 1620, king James I granted letters patent known as the Charter of New England. A petition had been made by some of his “well disposed subjects” for the purpose of establishing plantations in America. He notes the success an earlier colony, that I think was Virginia, and having made them

“...one distinct and entire body by themselves, giving unto them their distinct Lymitts and Bounds, and have upon their like humble request, granted unto them divers Liberties, Priveliges, Enlargements and Immunities, as in and by our severall Letters-Patents it doth and may more at large appears.”

The king then goes on to consider the petition for letters patent for the lands at New England and goes on to write:

“And for asmuch as We have been certainly given to understand divers of our good Subjects, that have for these many Years past frequented those Coasts and Territoryes, between the Degrees of Fourty and Forty-Eight, that there is noe other the Subjects of any Christian King or State, by any Authority of their Sovereignes, Lords, or Princes, actually in Possession of any of the said lands and Precincts, whereby any Right, Claim, Interest, or Title may, might or ought by that Meanes accrue, belong, or appertaine unto them, or any of them.

OK, so the land had been visited and was unclaimed by any European power but it then goes on to say.

And also for that We have been further given certainly to knowe, that within these late years there hath been by God's Visitation reigned a wonderfull Plague, together with many horrible Slaughters, and Murders, committed amongst the Savages and brutish People there, heretofore

inhabiting, in a Manner to the utter Destruction, Devastacion, and Depopulacion of that whole Territorye, so that there is not left for many Leagues together in a Manner, any that doe claime or challenge any Kind of Interests therein, nor any other Superiour Lord or Sovereigne to make Claim hereto, whereby We in our Judgment are persuaded and satisfied that the appointed Time is come in which Almighty God in his Goodness and Bountie towards us and our People, hath thought fitt and determined, that those large and goodly territories, deserted as it were by their naturall Inhabitants, should be possessed and enjoyed by such of our Subjects and People as heretofore have and hereafter shall by his Mercie and Favour, and by his Powerfull Arme, be directed and conducted hither.”

Anthropologists believe that at the time Christopher Columbus arrived that the population of First Peoples was many times the population of Europe. The above charter was made almost one hundred and thirty (130) years after Columbus arrived and almost fifty years after the first charter was issued to Sir Walter Raleigh for Virginia. It is evident that the reason for the slowness of the conquest of America was that it had been heavily populated by the Indians, but was now depopulated and open for settlement.

The tribes of Long Island and Connecticut up through Massachusetts and Canada were of the Algonquin language group. Although there were many dialects that had evolved, they were able to communicate among each other much, I suppose, as we can communicate with a true Alabama good ol' boy in the South.

When Long Island was first settled, thirteen tribes or groups of Indians inhabited it. On the east end of the Island there were the Shinnecock, Manhasset and the Montaukett.

I use the name “Montaukett” because it has appeared in older documents and the use of syllables is more consistent with other Algonquin words. I note also that “Montauk” was referred to as “Montaukut” in official correspondence from Easthampton to Governor Leisler on March 10, 1690.

The Montaukett are reputed to have been the most influential or “warlike” tribe on Long Island. Montaukut was very much a holy place among them and the most prized wampum (made of seashell beads) came from Montauk. Wyandanch, the sachem of the Montauks, was established (apparently by his friend Lion Gardener) as the grand sachem of the tribes on Long Island and his signature was somehow deemed to required on all deeds to land in addition to that of the local sachem. A deed to Smithtown conveyed by Wyandanch to Lion Gardiner was issued in 1659. It was at that time occupied by the Nesaquake Indians.

Wyandanch seems to have been the friend of the white men always and he made the relations with the Indians of Long Island peaceful and harmonious. Wyandanch refused to enter into any conspiracy with the hostile tribes from across the sound, and always maintained a friendly attitude towards the white settlers. His people are now gone, and his body rests sadly in an unmarked grave in Montauk.

I will digress a moment to discuss Wampum, an artifact known for its use as money in the first settlements – but was more than that. Wampum has highly prized by the Indians for more than its beauty, although that was prized too. What is little known is that wampum was used, by the Iroquois at least, as story beads used to keep oral histories. The women kept the history by using Wampum as story beads to teach their daughters across generations. Benjamin Franklin told how the Iroquois were able to give complete circumstantial and legal articulation of treaties and agreements that were almost a century old without a written language.

The Iroquois, however, were not Algonquins like the Montaukett. The Iroquois were a town dwelling confederation of tribes with extensive lands under cultivation. The Montaukett, on the other hand, were a more nomadic tribe living upon abundant hunting, fishing and shell fishing and, later at least, the cultivation of corn. While the Iroquois are more famous for the development of their civilization, it is said that the Montaukett were of equivalent stature and bearing.

They moved freely about Long Island both on foot and canoe. They were a tall long-legged people who could walk with great strides. Stephen Talkhouse, also known as Steven Pharaoh, is said to have walked to Brooklyn in a day. He was among the last legally recognized full-blood Montauketts, and I will talk more about him later in this lecture.

The first English settlers on Long Island arrived in what is now Southampton from Lynne, Massachusetts in 1640. Their right to acquire lands of the Indians was granted by a patent from James Farrett, the Deputy of the Earl of Sterling, Secretary of the Kingdom of Scotland. The Earl had previously received a charter for the entirety of Long Island. John Winthrop, the Governor of Massachusetts Bay, settled the patent for the Earl and Theophilous Eaton, the Governor of the colony of New Haven, witnessed it.

The Farrett Patent expressly reserved trade with the Indians to the Earle of Sterling and forbade trades for Wampum. It then established that the recipients were the only men capable of purchasing the lands laid out in the patent from the Indians. Shortly thereafter, on December 13th, 1640, the first purchase of the lands of Southampton was made of the Indians. In that document a reservation was established for the Indians to “break up ground for their own use” on the west side of “Shinecock plaine”.

Shortly after settlement was established, Southampton joined colony of Connecticut and was admitted to its General Court (legislature) in Hartford according to its 1639 Constitution, the Fundamental Orders of Connecticut. Thereafter, until 1664, it bi-annually sent deputies from its town meeting to Hartford for the making of laws and the benefits of confederation with other towns under Connecticut’s jurisdiction.

The colonies of Connecticut and New Haven purchased Easthampton from “Poggatacut, Sachem of Munhansett, Wayandanch, Sachem of Meuntacut, Momowetow, Sachem of Corchake, Nowedonah. Sachem of Shinecoke. and their asotyates” in 1648. The western boundary was the Southampton line and the eastern boundary was at Napeague (now the western boundary of Hither Hills State Park).

By taking this deed the Governors again recognized the ownership of the land by the Indians. By not including Montauk in the deed, the Montaukett reserved their claim of ownership to themselves.

The deed goes on to include the reservation that:

Allsoe, we, the said Sachems, have Covenanted to have Libertie, freely to fish in any or all the cricks and ponds, and hunt up and downe in the woods without Molestation, they giving the English Inhabitants noe just offence, or Injurie to their goods and Chattells. Likewise, they are to have the fynns and tails of all such whales as shall be cast upp, to their proper right and desire they may bee dealt with in the other part. Allsoe, they reserve libertie to fish in all convenient places, for Shells to make wampum. Allsoe, if the Indyans, hunting of any deare, they should chase them into the water, and the English should kill them, the English shall have the body. and the Sachem the skin.

I note that this deeded reservation remains enforceable in favor of the still existing “Shinecoke” Indians today. Just imagine Indians showing up on the waterfront properties of the mansions of Easthampton today! (It’s for sure that they’d get handsome settlements to release their claims.)

Now, finally, we get to the rights, liberties and privileges of the Proprietors of Montauk as established by deeds of purchase, the royal letters-patent that confirmed them, and subsequent review and judgments of our courts.

I will at this point note that many of the legal records and original documents have either been destroyed or otherwise made unavailable, and that some that are available are falsified by conflicted or agitated persons or parties. The legal records from two huge legal cases involving Montauk – the 1851 case of the Proprietors of Montauk v. the Town of Easthampton (trustees) and the 1879 case of Robert M. Grinnell and his wife Sofie v. Edward M. Baker, and others, have been removed from the legal archives at the Suffolk County Center at Riverhead.

Furthermore, in 1997 I took action on behalf of the MFOP/Montauk Trustee Corporation took action in court to protect and recover its records – including the Indian deeds covered herein - after they were discovered to be in the hands of the “Brooklyn Historical Society” (formerly the Long Island Historical Society). Unfortunately, we received poor treatment by the court and the Historical Society closed and locked its doors and they remain closed to this day.

Clearly, the issues touched upon in these few lectures are very, very controversial.

The first purchase of lands at Montauk was made in 1660 by a group of men led by Lion Gardiner that included their minister, the most honorable Thomas James. It covered the entirety of Montaukut. The tribe had been decimated by small pox and had lost its Sachem Wiandance. His wife “the Old Sachem Squa” and her son Wiancombone together with a list of other Montauketts signed the deed. There was some form of “counter-bond” or agreement attached to this deed that I have not seen, but it is clear that this deed was not acted upon either to take or use Montaukett lands.

From that time until his death in 1698, minister James would negotiate all contracts with and for the Montaukett. He had befriended them and become conversant in their language shortly after his arrival in 1652 and clearly performed honorable service in protecting them from harm. The tribe was thoroughly and completely Christianized.

There are three documents that are considered to have completed the purchase of all Montauk lands. They were in 1661, 1670 and 1687. Also important are the so-called “confirmation deeds” of 1703 and 1704 that attempted renegotiation of the agreements.

The 1661 “ye deed of Guift” was for the Hither End / Hither Woods. It was granted to a select group of Easthampton men who had sheltered the Montaukett in Easthampton when they had had to flee Montauk for fear of attack by the Naragansetts.

The deed only granted the land to the Proprietors “to have and to hold as free commonage” and held that the “Indians of Montaukut shall have libertie if they see cause to sett their Houses upon Meantauk land, Westward of ye said pond (Fort Pond), and to have firewood from time to time from said land”.

The deed also established that a fenced division line would be set up to keep the cattle south and east of the Hither Woods. This fence was still in place and surveyed on the Guide Map of Montauk prepared for the Benson Estate by the firm of Olmsted Brothers in 1905 and that was used as the northern boundary of the filed subdivision plan of Hither Hills. The lands covered as commonage include the Hither Woods, Hither Hills State Park and all of the developed land around and west of Gurneys Inn.

It is important to understand – and I have made this point with the court in trying to get an injunction against the town – that the deed was granted to a group of men and their successors and assigns. When the proprietors of Montauk conveyed all of their lands here in 1879 to the Arthur W. Benson, the deed clearly specified that it was subject to the rights of the Montauk tribe of Indians.

The bottom line is that as soon as Arthur Benson sold his first parcel of land in Montauk to a third party (the first being to Alfred M. Hoyt, “Shadmoor” parcel, Liber 322 p.592, 9/25/1889), the rights of common use to the Hither Woods / Hither End was conveyed as an appurtenance. This fact was clearly understood by the repeated affirmation of the right to all appurtenances. The Hoyt family would later play a significant role in attempting to defend Montauk’s rights both individually and as trustees of the Benson Estate, and I will go into their efforts in a minute.

The second deed of purchase was in 1670 for the “lands between the ponds.” It stretches from the IGA to Ditch Plains and from just north of State Parkway right-of-way (Lions Field) to the Ocean. I have not fully investigated this “purchase” but there are indications (particularly from deeds from 1702 and 1712) that rights over this land may be legally shaky.

The final purchase was made in 1687 for all of the lands at North Neck that comprises all land between Fort Pond Bay and Lake Montauk from the docks south to the Parkway right-of-way together with all lands east of Lake Montauk. Given the manner in which they were conveyed and their ownership historically maintained and managed, I do not believe that there is any clear title to any of these lands.

The Dongan Patent of December, 1686 granted that the Town of Easthampton (trustees) had the exclusive right to purchase all of the remaining un-purchased land in Montauk from the Indians. They then purchased these lands not for the town, but for a group of individuals that contributed the money to buy it.

Confirmation deeds pertaining to prior conveyances were entered in 1703 and 1704 after the death of minister Thomas James in 1698. . These were entered into to renegotiate the prior deeds and are the first deeds that hint at abuse, and the legal effect of some of the language – especially as it pertains to the Hither Woods – is highly questionable.

The central focus of the “confirmation deeds” was language in the 1687 deed to the effect that the Montaukett could plant corn any place they pleased. This put into question what the proprietors could do with any of the lands. What was confirmed was that the proprietors, their heirs and assigns (current property owners) had certain pasturage rights at North Neck and Indian Field and gave definition to those areas of land. Essentially everything on East Lake Drive and in the County Park is proprietors’ commonage, as is everything north of the State right-of-way at Lion’s Field.

Other agreements were an Indian bond to prevent strange Indians living at Montauk and a 1754 Agreement pertaining to strange Indians. These agreements established who could exercise or make claim as an Indian to the prior deeded reservations and established a requisite showing of unmixed patriarchal lineage.

Moving on from the deeds, we will now focus on the Proprietors of Montauk themselves.

The Proprietors of Montauk from the first purchase in 1660 until the court-ordered sale to Arthur W. Benson in 1879 were from and lived at Easthampton and Southampton. During the centuries leading up to the court ordered release of all claim of Montauk by the town of Easthampton, it remained governed in the New England style of town meeting. At each town meeting the proprietors of Montauk would hold a separate meeting. Often they would allow the town of Easthampton to manage their lands but at other times they would manage them themselves.

From the time of the first purchases until the court-ordered sale to Arthur W. Benson – a period of around 200 years - Montauk was used IN ITS ENTIRETY as a for-profit enterprise for cattle pasturage and fishing revenues.

In 1838 the Trustees of the Freeholders and Commonalty of the town of Easthampton began to use revenues taken from Montauk for use for general town purposes. This usurpation of the Proprietor's franchises was contested in the historic matter of Henry P. Hedges, et. al. (proprietors of Montauk) v. (the 1686 corporation of) the Trustees of the Freeholders and Commonalty of the Town of Easthampton and was brought to trial in 1851 before the honorable Nathan B. Morse, a justice of the New York State Supreme Court at Riverhead.

On June 27th, 1851, Judge Morse entered a preliminary injunction against the town to allow only such use of Montauk as was to the beneficial interest of the proprietors of Montauk “in the manner they have heretofore enjoyed for many years past” and to otherwise maintain any enforcement or other tasks to support that use.

After a trial held before him, on September 6th, 1851 Judge Morse entered final judgment in favor of the proprietors and against the town of Easthampton. He held that:

[The proprietors of Montauk] are entitled to the possession thereof and are the true and lawful owners thereof according to their several and respective proportions as tenants in common in fee simple and that the defendants are not entitled against the will of the said plaintiffs and other tenants in common as aforesaid to the possession or management of the said lands or any parts thereof... And also draw up the form of a release and surrender of all and singular the said lands to the parties so showing title as aforesaid... and that said defendants do on request execute such a release and surrender under their corporate seal. (Henry P. Hedges, et. al. v. Trustees of the Freeholders and Commonalty of the Town of Easthampton, N. Y. Supreme (Riverhead), 1851)

My source for this order is from a book entitled “Montauk” that was published by the Town of “East Hampton” in 1924 that is full of sharp pencil changes to the documents that it presents. I do, therefore, challenge that the court ordered the deed to Montauk to be conveyed in “fee simple” because that is not the type of the fee held by the trustees and would have left jurisdiction over Montauk with them. That would have been completely contrary to the other clear and unambiguous language of the order. The tenure held by the Trustees and granted through the Dongan patent was that of a township – and that is what was conveyed. It is on this basis that we assert that Montauk is a township.

[Addendum note/correction: the individual proprietors would “indeed” hold their deeds in fee simple. In the papers that I have seen the honorable Nathan B Morse does not mention the void of jurisdiction caused pertaining to the lord of the fee, although this certainly would have come up. The legislature very quickly fixed that problem with their act recorded at chapter 139 of the laws of 1852. ***The Montauk Trustee Corporation is the lord of the fee and the government of the township.*** – Bob]

In any event, pursuant to the above order on March 9th, 1852, the town of Easthampton released all corporate claim to Montauk whatsoever to the proprietors of Montauk. Less than one month later, on April 2nd 1852, the proprietors of Montauk were incorporated, the Montauk Trustee Corporation established, and their power to “govern” affirmed by an act of the legislature recorded at Chapter 139 of the Laws of 1852.

The township of Montauk as established in law in 1852 was to remain uninhabited or settled until after the historic sale to Arthur W. Benson at a court-ordered auction in 1879. The proprietors had for centuries owned the lands and waters of Montauk as tenants in common, but did not live there. The only inhabitants were employee herdsmen at the proprietors' First, Second and Third houses and the keeper of the Lighthouse on the federal land at Turtle Hill. The powers of a township may have been exercised as such, but they still considered themselves a part of the towns of Easthampton or Southampton.

The matter of Grinnell v. Baker was decided in July of 1878 by the court of the Honorable J. O. Dykman, a Justice of the Supreme Court at Riverhead, upon an action in partition brought by new shareholders in the corporation of the Proprietors of Montauk (Town of Montauk).

In his finding of facts he reviewed the deeds with the Montaukett Indians and found that:

“The said tribe consists of David Pharaoh, Stephen Pharaoh and William Fowler, and their respective wives and children, and of other persons not now residing upon the said lands of Montauk. The tribal organization is still maintained, and the said tribe now enjoys and is entitled to the privileges set forth in the foregoing paragraph.[the 1703 and 1704 agreements pertaining to North Neck and Indian Field]” Grinnell v. Baker, N.Y. Supreme (Riverhead), 1878

He further found that the Mr. Grinnell and his wife Sofie were

“... entitled to have and maintain an action for the partition and division of the said land of Montauk, or a sale thereof, if partition cannot be made without great prejudice to the owners... To that end the plaintiffs are entitled to an interlocutory judgment, referring it to Everett A. Carpenter Esquire, counselor at law, of Sag Harbor, ... to inquire and report whether the whole premises, or any lot or parcel thereof, is so circumstanced that an actual partition cannot be made. And if said referee arrives at the conclusion of that a sale of the premises, or any lot or parcel thereof, will be necessary to specify the same in his report, together with reasons which

render a sale necessary, and also whether such sale should be in bulk or in parcel...’ Grinnell v. Baker, N.Y. Supreme (Riverhead), 1878

I manage to discover Mr. Carpenter’s order in the record on appeal in the Matter of Pharaoh v. Benson. In pertinent part it read:

The nature of said rights of the Montauk Tribe of Indians is such that it would be impossible to enjoy any portion of the land which is subject to such rights if set off in severalty. The whole of the tracts affected by said rights or liens is however, of great value while undivided and owned in connection with adjacent parcels, and the existence of Indian rights now diminishes but very little the annual yield or profits of the land. If the whole land of Montauk were sold as a unit, the existence of Indian rights would but slightly affect the value over the portions over which the rights extend. Small parcels with the said portions, if owned in severalty would by reason of the existence of said rights be rendered nearly valueless.

“In case any division of the premises in question [Montauk] was made whether among the present owners or for the purpose of offering for sale in parcels, it would be necessary to fence each of said parcels in such a manner as to keep them in stock.” Interlocutory judgment of Everett A. Carpenter, Esq., as referee in Grinnell v. Baker, N.Y. Supreme (Riverhead), 1879. Found in the record on appeal of Pharaoh, et. al. v. Benson, et al., p. 309-310 69 Misc. Rep 241, Supreme Court, Suffolk County, 1910, affd. 164 App. Div. 51 affd. 222 N.Y. 665,

The importance of Mr. Carpenter’s judgment to us today is huge because Montauk was sold to Arthur W. Benson – and his heirs, successors and assign in 1879 subject to the rights of the Montauk Tribe of Indians. If you own property in Montauk you are an interested successor under these agreements.

Arthur Benson knew that whoever he sold a lot or parcel of land in Montauk had a share in the Indian reservation lands, that they would be unavailable for division, and that they would have to be kept in stock as lands held by the body of proprietors as tenants in common. These were the terms of his purchase.

Understanding all of this, Arthur W. Benson, Esq., son of the famous Judge Benson after whom Bensonhurst in Brooklyn is named, established the plan of the Montauk Association in 1882. The vast majority of the land within that plan was held in common by its members, but their rights over other Montauk lands were expressly limited.

That all changed with the sale by Arthur W. Benson to Alfred M. Hoyt of the 97 acre “Shadmoor” parcel on September 25th, 1889 (Liber 322 p.592). The deed for the Hoyt property contains not less than five (5) appurtenances clauses! The rights over the Indian lands, of course, come to any successor proprietor of land in Montauk as an appurtenance.

(If you are wondering how the Hoyt parcel – 97 acres of prime ocean-front property one-half mile from town - happened to remain undeveloped, well, it was no accident. I’ll talk about that in a minute.)

At that point the properties burdened by Indian rights could be claimed by two parties, and the more people that bought the more that could claim. Due to the nature of the underlying Dongan patent and the nature of the claim, I am of the opinion and have made known to the court that these properties are effectively the property of the Township of Montauk.

Arthur Benson made his will in 1887 and died in or around 1891 leaving the hugely major part of Montauk to his son and daughter Frank Sherman Benson and Mary Benson with a dower right to their mother, Jane Ann Benson.

In 1891 Frank Sherman Benson retained the firm of Frederick Law Olmsted – the creator of Central Park and Prospect Parks, in New York City and Brooklyn respectively, to create a park system in Montauk for their township. In 1896 he granted the rights-of-way across his lands to Austin Corbin and Charles Pratt – the owners of the Long Island Railroad – to bring the railroad to Montauk.

F.S. Benson then entered into negotiations to sell the middle part of Montauk (the 1670 and 1687 purchases) to Corbin and Pratt's Montauk Co. for the development of a railway terminus and recreation Mecca with plans that included becoming a port of entry. The area at the railway station at the bottom of Fort Pond Bay was prominently shown on their development plan as "Town of Montauk" and it was similarly noted on contemporaneous Gazettes.

Around 1903 Corbin and Pratt's Montauk Co. closed on their vast purchase of central Montauk. The liber books of deeds to real property at Riverhead reveal, however, that they did not sell one parcel of land until some very interesting deeds hedging liability were later conveyed to Carl Fisher. They never filed their subdivision plan.

The subdivision plan of Wompenanit at Montauk Point was filed in 1898 with the County Clerk as map no. 34, but no plots of land were immediately granted. Frank Sherman Benson went to any potential claimant Montauk Indians attempting to get signed releases of any claims. The first covenanted transfer of lots or parcels of real property establishing the rights of common use of the Benson Reservations on the Map of Wompenanit were issued in April, 1904.

At the same time, 1904, the Olmsted firm (now Olmsted Brothers) commenced the subdivision plan of Hither Hills. It was filed and the first covenanted conveyances granted in 1906.

Frank Sherman Benson had become a director of the Long Island Historical Society in 1892 and remained in that position until his untimely death in 1907. Long Island, of course, has the very special history that I covered in my prior lectures. It is certain that they knew that all of its towns had rights through Dongan patents that effectively place them outside of the jurisdiction of the legislatures at Albany and the District of Columbia. Around 1905 the Albany legislature (then under the control of the

Tammany organization) undertook an intensive review of the Long Island Historical Society.

In 1906 Albany passed a law (at chapter 199?) that enabled the Montauk Indians to commence an action to recover their rights over lands in Montauk. Frank Sherman died in 1907 and wasn't around when the matter went to trial as Pharoah, et. al. v. Benson, et. al. in 1910.

In 1909 the Assembly passed the "Town Law" – a body of law that dictates how a town will be governed according to their rules. I do not believe that it is a coincidence that they had recently discovered that they were constitutionally barred from imposing it on the towns of Long Island due to the Dongan patents. When this was subsequently done, it was done secretly. It was and must still be considered to have been an unlawful act of conquest. We are being governed as if we lost a war.

People always think of the 1910 decision in Pharoah v. Benson as a miscarriage of justice that the Indians lost. What they fail to recognize was that if the decision had favored the Indians that the ownership of the lands burdened by their rights would have been affirmed to the proprietors as tenants in common, subject to liens by the Indians. It would also have effectively recognized Montauk as a Township.

The Hoyt family owned land both inside and outside of the Indian reservations and were, therefore, both plaintiffs and defendants (although I'm not sure that the matter was captioned that way). It is clear that they became excited about what they discovered during that proceeding.

Perhaps too excited, because when Justice Abel Blackmar looked out over a courtroom full of Montauk Indians and declared them extinct, there was a clear political agenda.

In 1911 the Hoyts and other proprietors began to take action to develop the port at Fort Pond Bay utilizing a Benson Reservation there. At the same time, however, the library of the Assembly at Albany burned to the ground and many of the records upon which they were reliant were burned. It is also clear that Mary Benson was hostile to their cause.

The book entitled “Montauk” published in 1924 by the Office of the Clerk of the Town of East Hampton states in its introduction that:

“About 1910 the then owners of Montauk lands forbid East Hampton men, descendants of the Proprietors of Montauk, and freeholders of the town of East Hampton going on their private lands to hunt and fish. The decision of the Supreme Court, made sixty years before taking away all of the rights of the town in Montauk lands, appears to have been forgotten. There was dissension between private owners of Montauk and townsmen. That continued about fourteen years.” Town of East Hampton, MONTAUK, 1924, p. 9.

Mary Benson died in 1918 and left no protection in her last will and testament for Montauk’s trust lands, including the Benson Reservations. Henry R. Hoyt immediately renounced his assignment as executor and trustee of her estate, and John J. Pierrepont quickly followed suit.

Montauk’s trust lands were then put under the administration of the Brooklyn Trust Company who sold the lands with a large Mortgage to a Florida gangster named Carl Fisher who shortly thereafter chased the proprietors out, brought the government of Easthampton now reorganized under the 1909 “Town Law” into Montauk, and trashed the place breaking their hearts.

The last effort by the Hoyt family was to ensure that nobody could ever claim to own their lands. ***They knew that leaving their properties without heirs would force them to escheat – to the Township of Montauk!!!***