

INDIANS CAN'T GET LANDS.

Court Rules They Cannot Reoccupy Acreage at Montauk Point.

The war between the Montauk Indians and the Narragansetts in 1660 figured in a decision handed down yesterday by Justice Blackmar in the Supreme Court of Suffolk County, confirming the purchase of Indian Field, at Montauk Point, by Arthur W. Benson from the Indians in 1879 and settling a dispute between the Indians or their descendants and Mr. Benson and his heirs and executors which had lasted nearly twenty years.

The suit was brought by this new chief, Wyandank Pharaoh, as head of the Montauks, against Jane Ann Benson and Mary Benson, as executrices of the will of Arthur W. Benson; John J. Pierrepont and Henry R. Hoyt, as executors and trustees under the will of Frank Sherman Benson; Mary Benson, the Montauk Company, the Montauk Dock and Improvement Company, Alfred W. Hoyt, the Montauk Extension Railroad Company, and the Long Island Railroad Company.

A valuable tract of 1,200 acres contiguous to the Long Island Railroad was in question, and both "King" Pharaoh and the Benson estate were represented by batteries of lawyers. Charles O. Maas was attorney for the Montauks, assisted by Lawrence W. Trowbridge, while the various defendants were represented by Daly, Hoyt & Mason, Austin & McLanahan, A. T. Mason, P. Tecumseh Sherman, and Joseph Keany.

In his opinion filed yesterday, Justice Blackmar recites that the Montauks and their descendants had lived at Indian Field for nearly 250 years. The inhabitants of East Hampton, the owners of the fee of the land subject to the Indians' rights, never disputed these rights, but, by a long course of dealing, recognized them.

Between 1885 and 1894 the Indians individually conveyed to Mr. Benson all their title and claim to any rights on the land for themselves and their heirs forever. They also agreed, the defendants' counsel asserted in court, not to set foot on Indian Field again as long as they lived. For all this Mr. Benson was to give them from \$100 to \$250 each for his rights of occupation at Indian Field, the only exception being the present Chief Pharaoh, who, being an infant, got only \$10 as his share.

Mr. Benson also agreed to give them from five to forty-five acres of land each at Freetown and East Hampton, to move them and their shacks from Indian Field to their new hunting grounds, and to settle upon them an annuity of \$240 in perpetuity, this sum to be divided per capita among the members of the tribe.

The Indians still own and are now occupying the land and houses at East Hampton, and are still receiving the \$240 a year set apart from Mr. Benson's estate. But about 1895 the Indians began to wake up to the conviction that they were carrying the heavy end of the bargain with Mr. Benson.

In their suit the Indians went so far as to allege criminal fraud in the manner in which they were induced to part with their lands. They asserted that their right to Indian Field was a tribal one, carved out of the original Indian title; that they were under a disability to part with their rights, and that up to the time their rights were purchased by Mr. Benson they preserved a tribal organization.

Fourteen Montauks appeared at the hearing as witnesses. These, they admitted, were the only Montauk men living except two.

Justice Blackmar based his decision that Mr. Benson's purchase was valid, and that the title to the land was legally passed to him, on the continuance in force of the famous patent granted in December, 1686, to the Freeholders of East Hampton by Gov. Thomas Dongan, giving to the inhabitants of East Hampton the exclusive privilege to purchase the occupation rights of the Indians in Indian Field and other Montauk tribal lands. Mr. Benson, the court says, had bought the fee of the land from the East Hampton inhabitants and the rights from the Indians themselves.]

TIMES SQUARE MUSIC HALL.

Plans Filed for the Follies Bergeres in Forty-sixth Street.

The new music hall to be erected on the South side of Forty-sixth Street, in the Times Square theatrical section, is to be known as the Follies Bergeres. It is being erected for Henry B. Harris and Jesse Lasky, and will be immediately in the rear of the Gaiety Theatre, having a frontage of 85.8 feet on Forty-sixth Street.

Herts & Tallant, the architects of the new theatre, filed their plans yesterday with the Building Department. The cost will be \$120,000. The building will be four stories high and will have a facade of terra cotta entirely devoid of windows, ornamented at the top with a massive panel of pressed cement extending across the entire front and which will be decorated with allegorical figures representing comedy, drama, tragedy and music. The orchestra and balconies will have a seating capacity of 672 and the interior will be attractively decorated.