LOSES CHILD WILLED TO HIM.

Court's Reasons for Deciding Contrary to Dying Mother's Wishes.

Gabriel L. Chevalier has failed in his efforts to get possesion of five-year-old Richard Westerman. The child was practically willed to Mr. Chevalier by its mother, Mrs. Mabel Westerman, who was engaged to be married to Mr. Chevalier. Mrs. Isadria Manwaring, the grandmother of Richard, refused to give him up, and Mr. Chevalier obtained a writ of habeas corpus.

In denying this writ yesterday Justice Lawrence, in the Supreme Court, said that the child was incapable of deciding who should be his guardian, therefore, it was necessary for the Court to ascertain what would be best for his interests.

The Justice mentions the fact that the wife of Mr. Chevalier had obtained a divorce from him, and that he had been forbidden by the courts to marry another woman whose husband had obtained a divorce at the same time.

The Justice concluded that under these circumstances it was better to leave the child with his grandmother, although it was the rule to respect the rights of testamentary guardians. This decision was rendered without prejudice to any future action Mr. Chevalier might institute.

Mrs. Westerman, who was still young, met Chevalier in 1896, just after her husband's death. He was very attentive to her and three days before she died in June, 1898, she executed a will leaving her entire property in trust to him. A condition attached to this bequest read, 'That Gabriel L. Chevalier, to whom I am now engaged to be married, shall adopt my beloved son Richard, rear, provide for, train, and educate my said son as fully, carefully, and lovingly as if my said son Richard was his own."

The boy's grandmother contested the will after she had been appointed his guardian. The will was admitted to probate, but she retained the child. Ever since then Mr. Chevalier has been trying to get possession of the boy.

Mr. Chevalier was formerly in the United States Assay Office and was at one time a candidate for the Assembly.

LEGAL NOTES.

RIGHTS OF INDIAN TRIBES.—The Montauk tribe of Indians, in Suffolk County, L. I., two years ago brought an ejectment action in the Supreme Court, by Wyandank Pharaoh, their Chief and King, to recover from the Long Island Railroad Company certain lands claimed to belong to the tribe. The Appellate Division of the Second Department affirmed judgment of the Suffolk Special Term, sustaining demurrer to the complaint, on the ground that a tribe of Indians has no corporate name by which it could institute such a suit. Justice Cullen, who gave the opinion, said the Indians were not without redress, as they might apply to the Legislature for authority to maintain an action, or, possibly, an action might be instituted by one of their number on his own behalf, and on behalf of all the other Indians of his tribe. A similar suit was then brought by Eugene A. Johnson, a citizen of the United States, of Indian blood and lineage, and member of the tribe by right of birth and affiliation, on behalf of himself and others interested. An order sustaining demurrer at Special Term was reversed by the Appellate Division, with a divided court, expressing the opinion that the plaintiff's right to bring the action was not free from doubt. The Court of Appeals has now reversed the Appellate Division, and affirmed the Special Term. Judge Bartlett, giving the opinion, Judges Vann and Landon dissenting, held that Johnson, as a member of the tribe, had no legal capacity to bring such an action. The Indians, the Court said, are the wards of the State, and, generally speaking, possess only such rights to appear and litigate in courts of justice as are conferred upon them by statute. In the absence of any statute permitting the tribe to maintain ejectment, their redress, it was said, must be first sought in legislative action authorizing it.

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INTEREST UPON ADVANCES BY PARTNER TO FIRM.—A partnership was entered into some years ago, without writing, between John C. Rodgers and Frank H. Clement for the purpose of obtaining and executing contracts for the construction of public works. Such contracts were procured by the firm in this and other States, and were executed. Differences having arisen with respect to division of the firm assets and settlement of the partnership affairs, an action for an accounting was brought by Rodgers against his partner. The referee before whom the case was tried found a balance due to Clement, the defendant, including interest to April, 1896, amounting to $4,928.66. The Appellate Division of the Second Department held that the judgment was excessive in the sum of $897.25. The judgment, by defendant's stipulation, was reduced to that amount. On plaintiff's appeal, the only question presented was the plaintiff's right to be credited with an item of $5,997.66, which represented interest on moneys advanced by him for the use of the firm. The Court of Appeals has now ordered a reversal, holding that Rodgers was entitled to interest on the advances made by him, although there was no express agreement respecting interest, when these advances were in fact loans. With respect to these it was held that he was creditor of the firm; but he was not entitled, without special agreement, to interest on his contributions to the capital.

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PRIVILEGES OF EXCHANGES OR BOARDS OF TRADE.—James Reynolds, in 1896, purchased a quantity of plumbing materials of one of the members of the Plumbers' Material Protective Association, incorporated under the act of 1886, providing for the formation of Exchanges or Boards of Trade. A controversy having arisen as to the amount which Reynolds owed, he refused to pay the bill or submit the matter to arbitration. A by-law of the association provided that unless a member who was indebted to another member settled, excused his failure to do so, or consented to arbitrate the corporation might send to each member a statement that the debtor's name had been entered on its books, and that they were prohibited by the by-laws from selling to him, except for cash before delivery, until he had settled. Reynolds, claiming that the publication was libelous, brought suit in the Supreme Court in Monroe County for damages. Judge Davy, before whom the case was tried, granted a non-suit, holding that the act referred to did not violate public policy and was Constitutional. He also held that the action of the association in reference to Reynolds was not an illegal act; that a communication of such a tenor, sent in good faith by the corporation to other members, was privileged, and afforded the indebted member no ground for an action of libel.

Books of Postage Stamps for Sale.

Postmaster Van Cott announces that the books of two-cent postage stamps which were recently issued by the Post Office Department, and which are now on sale at the General Post Office, will be placed on sale at all branch stations thereof on Tuesday. Three different quantities will be furnished—one book of twelve two-cent stamps, one book of twenty-four two-cent stamps, and one book of forty-eight two-cent stamps, the price of which will be 25, 49, and 97 cents, respectively.

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