

2 chairs paid for	\$25 00	
Overclaim for evidence, letters, etc. ..	90 00	
And general reduction	53 75	268 75
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Leaving amount in favour of plaintiff	\$ 900 00	
Add proceeds of sales not accounted for	84 75	
And overcharges conducting sale, \$45 plus \$36.65 not accounted for		81 65
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Making a total claim in favour of plaintiff of .. 1,066 40

The defendants in their statement of defence claim a balance of \$177.16. They have since been paid \$25, leaving a balance owing them of \$152.16. They abandoned this in their settlement with Davies, Turner & Co., agreeing to accept the \$600 they received in full. I do not think this should bind them as against the plaintiff. Certain interlocutory costs have been dealt with before trial, and my judgment is not to be read as conflicting with the orders made.

There will be judgment for the plaintiff against the defendants for the sum of \$1,066.40 with costs.

Judgment for the defendants against the third parties for \$1,066.40, and the costs they pay the plaintiff including the costs to be paid by the defendants to the plaintiff under order made herein on the 4th March, 1912, but not including the costs payable under the order of Mr. Justice Britton of the 13th of March, 1911, together with the defendants costs of defence.

Judgment for the defendants against the plaintiff for \$152.16 without costs, as between these parties, to be set off against the plaintiff's judgment against the defendants.

HON. MR. JUSTICE MIDDLETON.

FEBRUARY 27TH, 1913.

McFARLANE v. FITZGERALD.

4 O. W. N. 869.

Schools—Township Continuation School—Resolution of Township Council—Guarantee of School Board Debts—Ultra Vires—Injunction—Costs.

MIDDLETON, J., held, that a township council had no jurisdiction to pass a resolution guaranteeing the payment of all legal debts incurred by a school board in connection with certain litigation as the township had no right to divert moneys from the School Board or in any way interfere in its affairs and that the council would be restrained by injunction at the suit of a ratepayer from acting upon such illegal resolution.