

13603

No. _____

Supreme Court of Illinois

Fitzgibbon

vs.

Lake

STATE OF ILLINOIS,

146 SUPREME COURT,

Third Grand Division.

273

No. 307.

273

Fitzgibbon

vs
Lafayette
1862

13603

Replevin
Filed

Superior Court of Chicago

Fitz Gibbon
vs
Lake et al

The sale in this case was void for the reason that it was not made at the time and place prescribed in the order

"The Court in such order shall direct the time & place of sale" Ill statutes Vol 11 (Scates Ed) p 512 Sec 10-. The order in this case directed the sale to be made on the 17 day of April 1848 but the sale was in fact made on the 22 day of April 1848. The sale was therefore void and passed no title. An order made without specifying the time of sale would be void & so would all proceedings under it, it is not an irregularity, an irregularity maybe defined to be the doing of an act which the party has a right to do, but doing it in an improper manner, but in this case the Court can only make the order in pursuance of, and according to, the direction of the statute, and the Guardian can only make the sale according to the direction of the order, not having done that his sale is void. Any other rule would overrule the statute; What did the Legislature mean by this provision? Did it mean anything? Can its express provisions be disregarded either by the Court or the Guardian? If so, where is the use of legislative enactments? and where is the security of infants whose estates need all the protection that Legislatures & Courts can throw around them

It will not do to say, that because a court
has had once obtained jurisdiction, therefore
every subsequent act is a mere irregularity and only
voidable; ~~where a statute~~, where a statute pre-
scribes what a court may do & how it shall be
done, the court can only act according to the
directions of the Statute, and if it goes beyond
the Statute power its acts are void.

"Where a statute limits a thing to be
done in a particular manner it includes in
itself a negative viz that it shall not be done
otherwise. Plowden 206.

As a general rule, the judgment or
decree of a court having jurisdiction can
not be collaterally impeached. But where the
authority of a court to act, depends upon the
statute, unless the proceedings conform to
the statute the proceedings are void and a
sale under such circumstances imparts title
to the purchaser.

This was held in Hunt vs. Sargood
4 Mass 117. That case involved the question of
the validity of a settlement made by the Judge of
Probates of certain premises under the Massachusetts
Statutes. The Judge of Probates had jurisdiction
but proceeded in a manner not authorized by
the statute, and the Court held the decree void
for that reason. on page 122 The Court say
"For me we all of opinion that the Judge has no
" authority to settle lands assigned for slaves
" after the widow's term has expired, or any one
" or more of the next of kin to the exclusion of the
" others, that for this reason the decree is void x x x
In Sumner vs. Parker, 4 Mass 79 the same

doctrine was held, That was a case for partition
and involved the validity of a Decree previously
made by the Judge of Probates distributing cer-
tain lands among the heirs of John Ruggles deceased
under the Statutes of Mass. The Judge of Probates
had jurisdiction but he had made distribution
in a manner not authorized by the Statutes & the
Court for that reason held the decree void

On page 85 the Court say "It does not
then appear from the statute that the Judge had
any power whatever at the time he made his
decree to settle the ^{reversion} in the widows
dower on Mrs Parker; but the contrary by necessary
and inevitable implication is apparent. The Decree
was then upon a subject not within the jurisdiction
of the Judge and consequently not voidable only
but absolutely void"

Rogers vs Will. C Will. Reports
[N.Y.] 415 was an action of ejectment. The defense
was that the land had been sold by virtue of
an order by the Chancellor on the application of
the Guardian of the Infant. The Plaintiff claimed
that the order of sale was void as having been made
contrary to the will of the Father of the infant. The
Court held the proceeding void. "The Court say
"The Court of Chancery has no inherent original
jurisdiction to direct the sale of the real estate
of an infant."

Again on page 417 "The jurisdiction of
Chancery therefore in cases ^{of this} kind rests altogether
upon the Statute. Independently of any authority
derived from the Legislature, that Court has no
legal right to entertain the question or direct a
sale"

" " This Order authorizing the sale was therefore
" utterly void and ^{no} title passed by the deed under
" It if therefore the Court can make an order
" except as the Statute directs then certainly a
" sale made by the Guardians contrary to the
" provisions of the order of the Court cannot
" be legal. It will be observed in each of these
" cases above cited the question comes up collat-
" erally—

In Taylor vs Phillips 2 Ves 28 Lord. Ch
" Wardwick said "There is no instance of this Court
" controlling the inheritance of an infant by any
" discretionary act of the Court; as to personal
" things, as in the composition of debts, it has been
" done, but never as to the inheritance; for that
" would be taking on the Court a Legislative
" Authority, doing that which is properly the
" subject of a private bill"
" See also Russell vs Russell 1 Molloy 522

In Baker vs Lorillard 4 Conn. 257 The question as to the validity of sale
made in pursuance of an order to sell infants
Land was involved. The Court held the same
doctrine and say (p 266) "The only jurisdiction
of the Court is derived from the Statute"

In Bloom vs Burdick 1 Hill 130 the Court
held the sale of infants land made by an order
of the surrogate void because no guardian
^{had been} ~~was~~ appointed for the infants as the Statute required.
In that case the sale had been confirmed.

The Court in that case say (p 141) "In every
" form in which the question has arisen it has
" been held that a statute authority by which
" a man may be deprived of his estate must be
" strictly pursued"

Strictly pursued

In *Wheaten vs Powell & Wheatons* R 119 The Court say "That no individual or public officer can sell and convey a good title to the land of another unless authorized to do so by express law is one of those self evident propositions to which the mind assents without hesitation, and that the person invested with such power must pursue with precision the course prescribed by law or his act is invalid, is a principle which has been repeatedly recognized in this Court.

In *Jackson vs Eddy & Wendell* 148 (151) ^{The Court say} it is a cardinal principle that a man shall not be divested of his interest in his property but by his own acts or the operation of law and where proceedings are instituted to change the title to Real Estate by operation of law, the requirements of the law under which the proceedings are had must be strictly pursued"

There is a class of cases in which the judgment cannot be impeached collaterally, but they are cases where the Court has jurisdiction, but has erred in judgment, as where in an application to sell infants land to pay debts the Court erroneously decides that there is not sufficient personal property to pay the debts, in that, he acts judicially and the error cannot be set up collaterally, or if he should decide erroneously or make mistakes in any ^{other} matter submitted to his decision the proceedings on that account would only be voidable and could not be impeached collaterally. Such was the case of *Young et al. vs Lorain et al* 11 SW R 624.

The question in ~~that~~ case was whether the guardian had faithfully applied all the personal

In Smith vs Rice 11 Map 506 the ques-
tion arose as to the validity of a decree by
Judge of Probate in making partition.
proceedings were not according to the
his decree was held to be void. The book
p 572 "It was said in the argument
1. Defendant that as the Judge of Probate
4 jurisdiction of the cause his decree is
4 & that the only remedy is by appeal that is
4 true where the Probate Court is acting
16 jurisdiction and pursuing the course
by law." Again on p 573 "The decree
4 not confined to what may be considered
4 a want of jurisdiction of the cause but
4 inferior tribunal proceed in a manner
4 prohibited or not authorized by law
is void"

estate, that was a question for the Court to pass upon in deciding it acted judicially and it was held that the correctness of its decision could not be inquired into collaterally.

The Court say (p 637) "In another action the inquiry is not whether the Court acted properly, but had it a right to act at all? was the judgment rendered in the exercise of an assumed power or of a conferred Authority? if the former the whole proceeding is utterly void everywhere." That is the precisely the rule we contend for, if the Court erred in deciding any question of which it had jurisdiction its judgment ~~its judgment~~ cannot be questioned collaterally. The inquiry (say the Court) is not whether the proof was sufficient but was such a case presented to the Court as called upon it under the Statute to act, to deliberate, and to decide? was its aid properly invoked? if so then the Court acted within its jurisdiction and every presumption is in favor of its judgment.

Now in the case at bar there was no error of judgment upon a question within its jurisdiction but the sale was wholly unauthorized and therefore void.

So too in Jackson vs Robinson 4 New R 436 The only question was whether there remained any debts due from the estate. The Court held that the decision of that question was a judicial act, that in deciding it the Court acted within its proper jurisdiction. The same doctrine was held in Jackson vs Crawford 12 New R 533. In all these cases the decisions are put upon the ground that the Court acted judicially upon

questions within its jurisdiction While in the
case now before the Court the ^{sale} was made in
violation of the order of the Court and of the
Statute which requires the sale to be made
at the time and place mentioned in the order

It is therefore ~~me~~ think very clear that
the sale was void. It ^{is} ~~was~~ no answer to say
that it was made valid by the order of confir-
-mation. The Court could not give vitality to
a void act, it could ^{not} legalise a nullity. If
the Court had no discretionary power, it
could only act within ~~in~~ the pale of the
Statute, outside of it, it was as impotent as
the guardian. Suppose there had been no
sale, but the guardian had reported one,
would the order of confirmation legalise
it - or suppose the Court had omitted to
specify in the order the time and place
of sale, would the order not have been void?
if the ~~the~~ ^{sale} was void, would the order
confirming a void sale make it valid?
Can a Court vitalise a nullity & legalise
a void act? where does it get this Au-
-thority from - If it can, there is no need
of Legislation for Courts would be para-
-mount to legislative enactments it
can do, what the Court has said a Legis-
lature cannot do

If the Court should sit on Counsel at 15 Mt 228. The Court observed
that the Legislature cannot make a void act void. They say "It is not
consubstantial for the Legislature to make a void law selling land to whom have been
deem in this case, upon this question the Court has a much greater authority than in
they case no more must a binding officer upon a void proceeding than they
can take over, many two feet from him a year or so ago."

No Guardian ad litem
was appointed. no record of any
other not happened
Loyd at Malone 23 M 4)

146 273

Sup Court

Fitz Gibbons

By

Lake Mal

Trust of C. W. B. B. B.

upon Trust point

C. W. B. B. B.

Adly for C. W. B. B.

F. W. B. B. 30. 1862
L. W. B. B.
C. B.

In the Supreme Court
of Illinois - Third
Grand Division -
Of the April Term A.D. 1862

John Fitz Gibbon
William Fitz Gibbon }
an infant under the
age of twenty one year }
who by Evert Van }
Buren his next friend }
Evert Van Buren & }
Joseph E. Gary - }

Error to
Superior
Court of
Chicago

^{vs}
David J. Lake
Charles B. Brown
Eli L. Canfield &
William H. Brown }

I Evert Van Buren do
hereby acknowledge myself
bound for all the costs that
may accrue and legally
devolve upon the said William
Fitz Gibbon -

Witness my hand & seal this
22 day of ^{April} A.D. 1862
Evert Van Buren (Seal)

273

Fitzgibbon

Lake stars

Band of of nest
found -

Feb 24, 1862
Shelburne
Ct.

UNITED STATES OF AMERICA,
STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable, the Judges of the Superior Court of Chicago, within
and for the County of Cook and State of Illinois, at a regular Term of said Superior Court
of Chicago, begun and holden at the Court House, in the City of Chicago, in said County
and State, on the first Monday, being the Sixth day of
January in the year of our Lord One Thousand Eight Hundred
and Sixty two and of the Independence of the United States of America
the Eighty sixth.

Present, The Honorable

John M. Wilson Chief Justice of the
Superior Court of Chicago.

Wm. H. Higgins Judges.

Grant Goodrich

Charles Wagon Prosecuting Attorney.

Anthony Chasing Sheriff of Cook County.

Attest,

Thomas Baxter Clerk.

Be it remembered, that heretofore,
to wit: On the Ninth day of August
in the year of Our Lord One Thou-
sand Eight Hundred & sixty, there
was filed the office of the Clerk
of the Superior Court of Chicago
a certain Declaration in the
words and figures following, to
wit

State of Illinois
County of Cook 3 ss.

In the Superior Court
of Chicago August
Term A.D. 1860

John Fitz Gibbon by Van Buren &
Gay his attorneys William Fitz
Gibbon who is an infant under
the age of twenty one years and
who sued by Execut Van Buren his
next friends, and Execut Van
Buren & Joseph Elgus in their
own proper persons Plaintiffs Come
and Complain of David J. Drake
Charles B. Brown Eli A. Canfield
& William H. Brown defendants
who are notified by notice
and copy of declaration accor-
ding to the State in a plea of
Ejectment

1. For that whereas heretofore
to wit. on the first day of August
A.D. 1860 to wit. at said County
the said plaintiff John was
possessed of the undivided one
fourth part & the said plaintiff
William was possessed of the
undivided one half part, and
the said plaintiffs Execut & Joseph
were each possessed of the un-
divided one Eighth part of all
that certain lot or parcel of

4

land with the appurtenances situate in the City of Chicago in the County and State aforesaid designated and described as follows. Viz: Lot number twenty nine (29) of Block number four (4) of the East Dearborn Addition to Chicago - which said premises the said plaintiffs claim in fee in undivided shares and interests as aforesaid and the said plaintiffs, being so possessed thereof the said defendants afterwards to wit. on the day and year aforesaid to wit. at said County entered into said premises and ejected the said plaintiffs therefrom & unjustly withhold from the said plaintiffs the possession thereof -

2

And also for that whereas heretofore to wit. on the day & year aforesaid. to wit. at said County the said plaintiff John was possessed of the undivided one twelfth part and the said plaintiff William was possessed of the undivided one third part, and the said plaintiffs Everett & Joseph were each possessed of the undivided one eighth part of the said lot

5

or parcel of land before described, with the appurtenances, which said premises the said plaintiffs claim in fee in undivided shares and interests as last aforesaid and the said plaintiffs being so possessed thereof as last aforesaid, the said defendants afterwards to wit, on the day and year aforesaid, to wit, at said County entered into said premises and ejected the said plaintiffs therefrom, and unjustly withheld from the said plaintiffs the possession thereof

3

And for that whereas here before, to wit, on the day and year aforesaid, to wit, at said County, the said plaintiff John was possessed of the undivided one fourth part of the said lot or parcel of land before described with the appurtenances, which said one fourth part of said premises the said plaintiff John claims in fee, and the said plaintiff John being so possessed of said one fourth part of said premises the said defendants afterwards to wit, on the day and year aforesaid, to wit, at said County entered into one fourth part

6

of said premises and ejected the said plaintiff John therefrom and unjustly withhold from him the possession thereof.

4

And also for that whereas here tofore to wit. on the day and year aforesaid. to wit. at said County. the said plaintiff John was possessed of the undivided one twelfth part of the said lot or parcel of land before described with the appurtenance which said one twelfth part of said premises the said plaintiff John claims in fee. and the said plaintiff John being so possessed of the said one twelfth part of said premises. the said defendants afterwards to wit. on the day and year aforesaid to wit. at said County entered into one twelfth part of said premises and ejected the said plaintiff John therefrom and unjustly withholds from him the possession thereof.

5

And also for that whereas heretofore to wit. on the day & year aforesaid. to wit. at said County. the said plaintiff John was possessed of the undivided one half part of the said lot or parcel of land before des.

7 Enbided with the appurtenances,
which said one half part of
said premises the said plaintiff
John Clainus in fee, & the said
plaintiff John being so possessed
of the said one half part of the
said premises the said defen-
dants afterwards to wit, on the
day and year aforesaid, to wit,
at said County entered into
said one half part of said prem-
ises and ejected the said
plaintiff John therefrom and
unjustly withholds from him
the possession thereof —

6 And, also for that whereas,
heretofore, to wit, on the day &
year aforesaid, to wit, at said
County the said plaintiff John
was possessed of the undivided
one third part of the said lot
or parcel of land before des-
cribed with the appurtenances,
which said one third part, the
said plaintiff John Clainus
in fee, and the said plaintiff
John being so possessed of
the said one third part of the
said premises, the said de-
fendants afterwards, to wit, on
the day and year aforesaid,
to wit, at said County entered
into said one third part of
said premises & ejected the

said plaintiff John therefrom
and unjustly withholds from
him the possession thereof.

7 And also for that whereas
heretofore to wit. on the day
and year aforesaid. to wit. at
said County. the said plaintiff
William was possessed of the
undivided one half part of the
said lot or parcel of land before
described with the appurtenances,
which said one half part of said
premises the said plaintiff
William claims in fee - did the
said plaintiff William being so
possessed of the said one half
part of the said premises. the
said defendants afterwards. to
wit. on the day and year aforesaid
to wit. at said County
entered into said one half part
of said premises and ejected
the said plaintiff William
therefrom and unjustly with-
holds from him the possession
thereof.

8 And also for that whereas
heretofore. to wit. on the day and
year aforesaid to wit at said
County the said plaintiff Wil-
liam was possessed of the un-
divided one third part of said
lot or parcel of land before

9 described, with the appurtenances, which said one third part of said premises the said plaintiff William claims in fee. and the said plaintiff William being so possessed of the said one third part of said premises the said defendants afterward to wit. on the day and year aforesaid to wit. at said County. entered said one third part of said premises and ejected the said plaintiff William there from. and unjustly withhold from him the possession thereof.

9 And also for that whereas heretofore to wit. on the day and year aforesaid to wit. at said County. the said plaintiff Over was possessed of the undivided one eighth part of said lot or parcel of land before described with the appurtenances which said one eighth part of said premises the said plaintiff Over claims in fee - and the said plaintiff Over being so possessed of the said one eighth part of said premises. the said defendant afterward to wit. on the day and year aforesaid to wit. at said County

10 entered into said one eighth part of said premises & ejected the said plaintiff. Ever therefrom and unjustly withholds from him the possession thereof.

10 And also for that whereas heretofore to wit. on the day & year aforesaid to wit. at said County the said plaintiff Joseph was possessed of the one eighth part of said lot or parcel of land before described. with the appurtenances, which said one eighth part of said premises the said plaintiff Joseph claims in fee & the said plaintiff Joseph being so possessed of the said one eighth part of the said premises the said Defendants afterwards to wit. on the day and year aforesaid. to wit. at said County entered into said one eighth part of said premises and ejected the said plaintiff Joseph therefrom and unjustly withholds from him the possession thereof.

To the damage of the said plaintiffs of one Hundred Dollars and therefore they bring suit &c.
John Fitz Gibbons

11 By Evan Buren & Gany his attorney
William Fitz Gibbons by Evan
Buren his next friend
Evan Buren pro se.
Joseph Gany pro se.

And afterwards to wit. on the
thirteenth day of August in the
year aforesaid said day being
one of the days of the August
term of said Court. the following
among other proceedings were
had and entered of Record in
said Court, to wit:

John Fitz Gibbons
David I Lake Ejectment

This day comes
the said plaintiff by Evan Buren
and Gany his attorneys and file
herein their certain declaration
and Notice in Ejectment. and
it appearing to the satisfaction
of the Court. that the defendant
had been duly served with a
Copy of the plaintiffs said dec-
laration and Notice thereto
attached in conformity with

12 the Statute, on motion it is ordered that the defendant plead or demur to plaintiffs Declaration herein. within twenty days from the date of this rule.

And afterwards to wit, on the Nineteenth day of September in the year aforesaid the defendants by their Attorney filed in the office of the Clerk aforesaid their certain plea in the words and figures following, to wit;

State of Illinois
Cook County *Es.* Superior Court
of Chicago
Charles B Brown et al *vs*
John Fitz Gibbons et al *vs* *Ex parte*

And now comes the said defendants and defend the wrong and injury when we auto say they are not guilty

13

in manner and form as the
 plaintiff has declared against
 them and of this they put
 themselves upon the Country.
 M J Waite.
 atty for defendants

And afterwards, to wit. on the
 Eighteenth day of January in
 the year of our Lord One thousand
 eight hundred & sixty two said
 day being one of the days
 of the January Term thereof
 the following among other
 proceedings were had, and
 entered of Record in said Court
 to wit.

John Fitz Gibbons William
 Fitz Gibbons Esqrs Van
 Buren & Joseph Elam

David J Lape Charles R Brown. ^{Esqrs}
 Eli L Gayfield & William A Brown

This day this cause being called
 for trial comes said plaintiff by Van
 Buren & Gay their attorneys and said
 defendants by Waite & Soune their attorneys
 also come and upon agreement of
 the parties made now here in open
 Court this cause is submitted to the
 Court for trial upon the issues joined
 therein without intervention of a jury

14 and the Court now here after hearing evidence and arguments of counsel, and being fully advised in the premises finds issues for said defendants.

And thereupon said plaintiff submit their motion herein, for a new trial in said Cause which motion of said plaintiffs for a new trial is, hereby overruled by the Court, whereunto said plaintiffs then and there except, & file their bill of Exceptions. Therefore it is considered that said defendants do have and recover of and from said plaintiffs their Costs and Charges about their defence in this behalf Expended and have execution therefor.

And afterwards to wit, on the same day and year, aforesaid the plaintiffs by their Attorneys filed in the office of the Clerk aforesaid this Certain Bill of Exceptions in the words and figures following. to wit.

In the Superior Court.
of Chicago January
Term A.D. 1862
John Fitzgibbon et al

David C. Lake et al

It is remembered that on the 18th day of January, A.D. 1862 being one of the days of the said Term, this Cause came on to be tried before said Court & was tried by the Hon. Van D. Higgins one of the Judges of said Court without a jury which was waived by the parties.

And thereupon to maintain the issue on their part the said plaintiffs read in evidence First - a stipulation between the parties to said suit by which it was admitted that the defendants were in possession of the premises in controversy at the time of the commencement of this suit - Second - A Patent from the United States government to Patrick Fitzgibbon in fee simple for the said premises dated November 1st A.D. 1839.

Third - The last will & testament of the said Patrick Fitzgibbon dated October 6th A.D. 1846 and admitted to Probate in the Probate Court of said County of Cook

on the 19th day of October A
D 1846 which said will and tes-
tament is in the words & figures
following, to wit:

Know all men by these presents
that I Patuck Fitz Gibbons of Chi-
cago Illinois being now of sound
mind memory & Judgment but
weak in body, and feeling the
approach of my last illness,
do make and ordain this my
last will and testament.

And first after the payment
of all my just debts & liabilities,
I do devise give and bequeath
as follows. — viz — To my beloved
wife Mary, I give the house &
Chimney whereon I now live to-
gether with all the household
and kitchen furniture and all
my personal effects except
the articles hereinafter men-
tioned —

Second — I give and bequeath
to my daughter Mary one feather
bed and the amount due from
Edward O'Neil on account of the
land heretofore sold him —

Thirdly — I give & bequeath to
my two sons John & William
jointly my house & lot in Fort
Dearborn Addition to Chicago —
and also I give to my Son

17 I give my silver watch and Chain &c.

And lastly, I give to my Brother Edward my Cutter, as a token of my regard for him - and direct that my Executors shall sell and dispose of my house and dray and apply the proceeds thereof towards the payment of my debts and funeral expenses, and also to take from the Ohio debt whatever may be further necessary to satisfy said debts & Expenses, and apply the residue to the use of my daughter Mary as above mentioned.

I do appoint Edward Fitz Gibbons & Rev Walter Quarters my executors to carry out my intentions as herein expressed and settle up my estate and to act as Guardians for my children until they are of age.

In Witness whereof I have hereto set my name this sixth day of October in the year of our Lord One thousand eight hundred & forty six

Patrick ^{his} Fitz Gibbons
Witnesses
N. L. Rucker.
William Kingswell

Fourth - A deed in fee simple from John Fitz Gibbons to Evert Van Buren and Joseph Elgar, for one undivided fourth of said premises -

And to further maintain the issue upon this part the said plaintiffs called as a witness John Ryan who testified as follows - I knew Patrick Fitz Gibbons in his lifetime - knew him for twenty four years - he lived and died in Cook County Illinois - know that he is dead - died about twelve years since - know Edmond Fitz Gibbons - He took the children of Patrick Fitz Gibbons after Patrick's death - Patrick left three children, John William & Mary - know John the eldest boy, he lives here in Chicago at the Matteson House - I reside on the next lot to the said premises - on lot 28 Block 4 Fort Dearborn addition to Chicago - Patrick Fitz Gibbons was on said premises in controversy since the same were sold by the United States - Since 1839 - Lot 29 is the next lot East of my lot - There is now a five story brick store on it - Chipman & Goodridge occupy it -

C. B. Brown or Lake & Brown occupied before they died - in 1839 Patrick Fitzgibbons moved a small frame house on lot 29 & moved on the lot. - the youngest boy and girl were born on that lot - the eldest was a small child then - Patrick Fitzgibbons did not reside on this lot at the time of his death - he moved from it about a year before his death -

On cross Examination he testified - I used to know all the children but have not seen them - except John of late years - all the children were and resided here in Cook County in 1848 & at the time of the sale & proceedings therefor of said premises by the guardian.

The plaintiffs here rested their case.

The defendants then read in evidence a stipulation by which it was agreed between the parties to this suit, that the foregoing title papers on the part of said plaintiffs, and title papers connecting the said defendants with whatever title was derived under the guardian's sale of said premises were to be read in

20 evidence from the Books of Records without other proof of execution &c. with the same effect as though the original were offered.

The defendant then to maintain the issue upon their part called Edmond Fitz Gibbons as a witness who testified as follows - Patrick Fitz Gibbons was my brother - he had another brother John - I was the person who proved the will & took upon myself the execution of the will. He had no relation or friend named Edward Fitz Gibbons - I did not know any person of that name - I was frequently called Edward and my name was written Edward very often - I was the person who acted as Executor and Guardian under the will - I gave bond and qualified as Guardian - I filed a Petition for a sale of the premises in Controversy - I had a Conversation with the Rev Mr Quarters about qualifying to act as Guardian & Executor and he said that he would see that it was carried out properly, but never acted as guardian

21 I objected at the time to having anything to do with it. but Mr Luantens told me to go on & get out letters & he would see that it was duly carried out. He was Clergyman for Chicago - John is now about 22 years of age - William about 19 - Mary is younger - I am the only one that has acted as guardian or executor of the estate - The premises were sold for their fair value at that time - property was then very low - there was no sale for it.

The defendants offered to prove by this witness that the whole of the proceeds of the lot had been expended for the support & education of the sons John and William. to which the plaintiffs objected, & the Court sustained the objection and the defendants excepted.

The defendants then called as a witness Henry A. Rucker who testified as follows. I drafted the will - I knew the testator & his brother Edmund - I was directed to name his brother Edward & did & I supposed that Edmund's name was Edward - he was generally called

Edward - he was the person intended to be Guardian -

The defendants then called a witness Thomas Hynes who testified as follows - I was Probate Judge of Cook County in 1847 & until November 1848 & recollect about the estate of Patrick Fitz Gibbons - Edward Fitz Gibbons was appointed executor before I came into office I think, but a question arose after that as to the issuing of letters of Guardianship - I found two names in the will designating Edward and Mr Quarters as Guardians - Edward said Quarters had declined to act as Guardian, but I insisted on his furnishing evidence of the declaration - My impression is that I received a written note from Rev Mr Quarters who was Vicar General of the diocese in place of his brother the Bishop who was then dead. He was acting as administrator of the Bishop in his diocese. From this letter or note of declaration I am very certain that he stated that he could

23

not act and that he had declined to act from the beginning & I think letters of Guardianship in form were issued to Edward alone. We were in the habit of issuing letters & I think the object of getting the declination was to issue letters, to get an account as Guardian & to take charge of the Estate. This declination was received by me long before the filing of the petition to sell by Edward. The letter ought to have been filed, but there was general looseness in the mode of keeping the records at that time and I don't know what became of it - it would not surprise me if it could not be found. My impression is that I spoke to Mr Quarters about it, but I am not certain of that.

On Cross examination he testified - There may have been some entry of the issuing of letters in the Records - I think they would have been issued at the date of the bond, according to the practice of the Court, unless the first bond was found to be insufficient.

24 or informal - I think the question as to the guardianship of the wards arose before & at the time the petition was filed - it was a question whether one or both of the parties were guardian and for that reason a letter or note of declination was obtained - I was well acquainted with Mr Quartiers handwriting - I have no recollection of but one bond -

The defendants then called as a witness Charles B. Hoerner who testified as follows - I have searched through the papers of the Estate of Patrick Fitz Gibbons in the Probate Court - all the papers I could find in the case - all that I could find, or the Clerk of the Court could find, and there was no such note or paper on file or to be found or any letter of declination -

On cross examination, he testified - I found no letter of guardianship - found no entry of appointment of guardian -

The defendants then read in evidence a bond executed

25 by the said Edmond Fitz Gibbons
as Guardian of the said John,
William & Mary Fitz Gibbons
dated the 29th day of April 1848
seven days after the sale, and
five days before the date of
the Guardian's bond -

Also the letters testamentary
issued to the said Edmond Fitz
Gibbons, and the Record of the
Probate of the will, showing
that the said Edmond proved
the will - Also the Record of the
allowance of the accounts of
said Edmond as Guardian by
the Probate Court of Cook County -

The said defendants then offered
in evidence the record of the
Cook County Court of Common Pleas
of the proceedings had in said
Court on the application of
the said Edmond Fitz Gibbons
to sell the premises in Contro-
versy which record is in the
words and figures following,
that is to say -

27 State of Illinois
County of Cook S.S.

I appear before the Honorable
John M. Wilson Judge of the Cook County Court
of Common Pleas, within and for the County of
Cook and State of Illinois at a vacation
of said Cook County Court of Common Pleas begun
and holden at the Court House in the City of
Chicago in said County and State on the first
Monday being the fourth day of June in the
year of our Lord One thousand Eight hundred
and fifty five, and of the Independence of
the United States the Seventy ninth.

I present the Honorable John M. Wilson Judge
James Marcus Sheriff
Attest Walter Kimball Clerk.

Do hereby remember that Benetford. to wit, on the
4th day of January in the year of our Lord one
thousand eight hundred and forty eight Edward
J. Gibbons by his attorneys filed his certain
petition, in the office of the Clerk of the Cook County
Court of Common Pleas in the words and figures following,

To the Honorable Hugh J. Dickel
Judge of the, Cork County Court in Chancery
sitting.

The Petition of Edmund Fitzgibbon
would respectfully show that he is the legally ap-
pointed guardian of John Fitzgibbon, Mary
Fitzgibbon and William Fitzgibbon, minors
having been duly invested with the tuition
and custody of said minors by the Last Will
& Testament of Patrick Fitzgibbon deceased
which will was duly proved and admitted to
probate on the 19th day of October A.D. 1866
in the Court of Probate of Cork County, State
of Illinois as by reference to the records of said
court now remaining of record in the office of said
Court will more fully and at large appear.
to which reference is hereby made and the
same made a part of this Bill.

And your Petitioner further shows
that he has faithfully applied all the personal
estate of the said minors, and that there is
not personal estate sufficient in his hands
for their education and support, but that
there is Real Estate now owned by and belong-
ing to said minors, to wit:

Lot number twenty nine (29) in Block
Number four (4) of the Fort Dearborn Add

29 town to Chicago in Cook County, Illinois, and
therefore prays that authority may be given him
to sell said Real Estate under the order & direc-
tion of this Honorable Court for the support
and education of said Minors, or so much
thereof as shall be necessary for that purpose,
and that said Court may make such further
order in the premises as shall seem to it rea-
sonable & Just.

Edmond Fitz Gibbon
Skinner & Hoynes
Solicitors for Complainant

State of Illinois
Cook County

Edmond Fitz Gibbons being
by me duly sworn deposes & says that the above
Petition by him subscribed is true to the best
of his knowledge & belief.

H. Hoynes
Probate Justice
of the Peace
Cook County.

Guardian's Notice

Notice is hereby given to all persons concerned that I will apply to the Cook County Court at the next term thereof, to be holden in the City of Chicago, on the first Monday of January next A.D. 1848. for an order to sell the following described Real Estate belonging to John Fitzgibbon, Mary Fitzgibbon and William Fitzgibbon, minors. to wit: Lot No. thirty nine (39) in Block No. four (4) in Fort Dearborn addition to Chicago. for the support and education of said minors, when and where they may show cause if any they have, why such Real Estate should not be sold for the purposes aforesaid.

Edmund Fitzgibbon
Guardian of John, Mary and William Fitzgibbon.

This certifies that the appended has been published in the Chicago Democrat, a newspaper printed in the City of Chicago, County of Cook and State of Illinois four weeks commencing with the 1st day of January 1848. and that I have received two dollars in full for publishing the same.

C. M. Bradley
Publisher for the Proprietor.

2
31

Canada Fitzgibbons Guardian

In Age with John. Mary & William
Fitzgibbons. Minor heirs of P. Fitzgibbons. Deceased.

1847 Nov 3

Dr.

I Amount we have this day from
Estate of P. Fitzgibbons Dec'd. unapplied \$35.46.

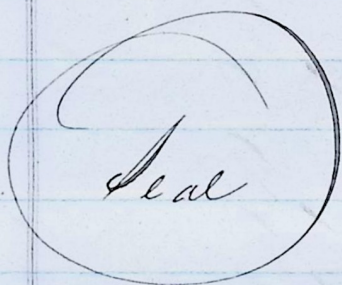
1847 Nov 3. Account of money expended on account
of Taxes & necessaries for said heirs
as follows. to wit:

By amount of Bill of McDonald & Labor. do Bill	11.87
By amt. paid for Sinking House	1.57
By Amt. of Taxes paid on sq. Block 4 Fort Dearborn Addition for year 1846	3.50
By Amt. of Taxes paid on S. W. 1/4 Sec 35 T. 40. R. 13. for year 1846.	3.00
By State & County Taxes on Lot 29. Block 4 Fort Dearborn Addition - 1846.	6.76
By Amt. of Bill of the Melvin for Thos	2.11
	\$28.46

Service as Guardian of said minors 4.00
35.46

Receipt see my A/c as Executor
Edmon Fitzgibbons
Guardian of said minors.

32 I Thomas Hogue Probate Justice of the Peace
of Cook County and State of Illinois. do hereby
attify the above foregoing account of Edward
Fitzgibbons Guardian of John. Mary & William
Fitzgibbons (minors) to be a true & correct copy
of the account of said Guardian, filed, approved
& allowed by the Probate Court of Cook County
on the 3^d day of November A.D. 1847 & now on
file & remaining of record in said County in my
office.



Witness my hand and the seal
of the Probate Court of Cook
County this 11th day of March
A.D. 1848.

Th. Hogue
Probate Justice
Cook County

And afterwards to wit, on the 11th day of March
in the year aforesaid, said day being one of the days
of the February Term of the Cook County
Court. the following among other proceedings
were had & entered of record in said Court. to wit

In the matter of the Application *In Chancery*
 of
 Edmund Fitzgibbon Guardian of the Person and Estate
 John. Mary and William Fitzgibbon

And now comes the said Petitioner
 Edmund Fitzgibbon by Skinner & Hogan his solic-
 itors. And the Petition of ^{the said} Edmund Fitzgibbon
 as such guardian as aforesaid came on to be
 heard. And the Court being satisfied that due
 notice of the presentation of the Petition in the
 matter to all persons concerned has been given
 in the *newspaper*
 published in said County and State, more
 than three weeks before the sitting of this term
 of the Court. And that the said Edmund
 Fitzgibbon hath been by the last will and
 testament of Patrick Fitzgibbon appointed
 guardian of the said John, Mary and
 William Fitzgibbon the children of said Patrick
 which will hath been duly admitted to Probate.

And that the said Guardian hath faithfully
 applied all the Personal Estate of said Ward.
 and that it is necessary for the support and
 education of said Ward that the real estate
 owned by them should be sold. and that they
 own the following described real estate to wit:
 Lot number twenty nine (29) in Block number

Item (4) of the Fort Dearborn addition to Chicago in the said County and State.

Our order adjudged and decreed that the said real estate above described be sold by the said guardian, and that the proceeds of such sale be applied towards the support and education of said Wards. That the said sale be made at the Court House in the City of Chicago on Monday the seventeenth day of April next. And that notice of the time and place of such sale containing a description of the lands to be sold and the terms thereof be published once a week for three consecutive weeks previously to such sale. And that the said sale be upon a credit of six & twelve months - that the purchaser execute to said Guardian a bond with good personal security and a mortgage upon the premises sold to secure the payment of the purchase money. And that the said Guardian execute to the purchaser upon each sale a deed conveying to him the said Lands sold. And that the said Guardian return on oath to the Probate Court of said County an account of all moneys received on such sale by him. And that the money so received from said sale as aforesaid shall be invested by said Guardian under the direction of said Court of Probate & shall further render from time to time to said Court of Probate

an account of said moneys as he shall be by law and by said Court of probate required.

And that he return to the Court at its next term his doings and doings in the premises, to which term this cause stands continued.

And afterwards to wit: on the 22nd day of November in the year of our Lord one thousand eight hundred and fifty three, said day being one of the days of the November Vacation term of the York County Court of Common Pleas, the following among other proceedings were had and entered of Record in said Court. to wit:

In the Matter of the Application
of Edmund Fitzgibbons Guardian
of John Fitzgibbons, Mary Fitzgibbons
William Fitzgibbons Minors. to
sell Real Estate.

Petitioner in
Chancery

This day comes the said Petitioner by
Thomas Hoggan his Solicitor and on his motion
it is ordered that this cause be dismissed at
the cost of said petitioner.

And afterwards to wit, on the 9th day of June in the year of our Lord one thousand eight hundred and fifty five. there was filed in the office of the Clerk of the Cook County Court of Common Pleas aforesaid certain affidavits & motion in the words & figures following, to wit:

State of Illinois
Cook County 3rd Sec In the Cook County Court
of Common Pleas.

Camena Fitzgibbons being sworn comes & says. that at the February Term of the said Court in the year 1848. in pursuance of a petition therein filed by him as the Guardian of William. Mary & John Fitzgibbons, minors, by the decree of said Court he was authorized & empowered to sell Lot No 29. in Block No. 4. Fort Dearborn Addition to Chicago. Illinois. for the support & education of them the said minors, the sale to be at Auction at the Court House door after due notice by publication, and upon a credit with Bond & Mortgage from the purchaser to secure the payment of the purchase money: that accordingly as by said decree directed on the 22nd day of April 1848 according to the notice given, he offered said Lot for sale at Auction at the Court House in said City, and that at

37

said sale Daniel Green became the purchaser at the price of \$840.00 he being the highest bidder therefor. That on the 2nd day of May 1848. he executed a deed to the said Daniel Green for said Lot taking back from him the mortgage & security required by the decree. That as Green has received in full all money due by said mortgage, and a confirmation of said sale is now demanded of him. That the said William. May & John Fitzgibbon are still minors and under his guardianship. But that at the Term of the said Court in the year to which term the suit upon said petition & the matters thereon pending had been continued, by mistake, and against the rights of the said purchaser. The said suit on motion of the attorney of this affiant made to the best of his belief inadvertently, was dismissed & farther he says not.

William Fitzgibbon

Subscribed & sworn
to before me this
day of June 1853
W Kimball
Clerk

Cook Co. Court of Common Pleas

In the matter of the application
of Edward Fitzgibbon Guardian
of William, Mary and John
Fitzgibbon Minors, to sell Real Estate

State of Illinois
Cook County

Thomas Hoyle being duly sworn
deposes & says that he was the attorney of Petition-
er in said suit and that he was ignorant of
the dismissal of said suit from the docket until
a few days since, and that he knew all the
proceedings had been taken by the guardian
necessary to perform the Decree of said Court
herein honestly and in good faith so far
as he believes & knows & that he supported a report
had been made and confirmed of such proceed-
ings accordingly

T. Hoyle

Subscribed & sworn to
before me this 9th day
of June A.D. 1855

H. Kimball

Clerk.

4.
39

In the matter of the application
of Edmund Fitzgibbon Guardian
of William, Mary & John
Fitzgibbon Minors to sell Real Estate

And now comes the Petition
In re: Moore that said suit be reinstated
upon the Docket and that the sale made of
the premises herein be confirmed, and the rep.
of said Guardian be filed and the same ap-
proved & confirmed.

J. Hoyn
Atty for Petitioner

And afterwards to wit: on the day and year
last aforesaid, the said Edmund Fitzgibbon
Guardian &c. filed in the office of the Clerk
of said Court, his certain Report, in the words
figures following to wit:

In the Cook County Court of Common Pleas
In the matter of the application
of
Ed. Fitzgibbon Guardian of
William, Mary & John Fitzgibbon
to sell Real Estate

Edmund Fitzgibbons, Esquire
 as aforesaid. Comes and makes the following re-
 port. That in pursuance of the order of this Court,
 made in this suit, at the February Term thereof
 in the year 1848. I advertised the sale of said lot
 No 29. in Block No. 4. mentioned in said order
 for the space of three consecutive weeks in the
 Chicago Daily Democrat. a newspaper printed
 & published in the City of Chicago, & State of
 Illinois, the said published notice stating that
 the said lot would be offered by me for sale
 at public Vendue, at the Court House in said
 City on the seventeenth day of April in the year
 1848. upon which day, at the Court House
 in said City, I did accordingly offer said
 lot for sale at public Vendue, but there being
 no bidder thereon, the sale was by me continued
 & adjourned until the 22nd day of April in
 the year aforesaid. of which time & place of
 adjourned sale due notice was given in said
 newspaper. whereupon, afterwards, on said 22nd
 day of April in said year according to the
 notice given, I again offered said lot for
 sale at public Vendue, at which sale Daniel
 Green bid therefor the sum of Eight hundred
 & forty dollars (\$840.00) which being the highest
 bid for said lot, the same was struck
 off to the said Daniel Green, and afterwards.

41 to wit, upon the 2^d day of May 1845. I as guardian aforesaid, executed a deed for said Lot to the said Green, & took in return from him a Bond for said purchase money to be paid by him to me in six & twelve months, & a mortgage executed by him on said Lot for the payment thereof. And which now has been fully paid to me, and said bond & mortgage fully satisfied.

Emma Fitzgibbon
Guardian of William, Mary
and John Fitzgibbon Minors.
Chicago June 1855.

And afterwards, to wit, on the day and year aforesaid, said day being one of the days of the same vacation term, ^{of said Court} the following among other proceedings were had and entered of Record in said Court to wit:

In the matter of the application of St. Chancery
Emma Fitzgibbon Guardian of
William, Mary and John Fitzgibbon
Minors, to sell Real Estate

And now upon this day comes the said Edmund Fitzgibbon Guardian of William, Mary and John Fitzgibbon Minors, by Thomas Hays his Solicitor, and on his motion founded upon affidavits filed herein it is ordered, that this cause be reinstated on the docket of this Court.

And thereupon on this day comes the said Guardian, and files herein his report of the sale of the premises described in the petition filed in this cause, and by which report it appears to the Court that the said Guardian after having first given due notice of the time and place of selling said premises by printing the same in the Chicago Daily Democrat a newspaper printed and published in the City of Chicago and State of Illinois, and that on the twenty second day of April in the year eighteen hundred and forty eight the said Guardian offered for sale the Lot described in said petition as Lot Number Twenty Nine (29) in Block Number Four (4) of Fort Dearborn Addition to Chicago, in the County of Cook and State of Illinois in pursuance of said notice, at public vendue, at which sale Daniel Green bid therefor the sum of Eight Thousand and forty dollars (\$840) and which being the highest bid for

143 said Lot the same was struck off and sold to said Daniel Green, and that after wards to wit: upon the second day of May in the year aforesaid said Guardian executed a deed for said Lot to the said Green and took in return from him a Bond for said purchase money to be paid by said Green to said Guardian in six months, and a Mortgage executed by said Green on said Lot for the payment thereof, and which Bond has now been fully paid to said Guardian and said bond and Mortgage fully satisfied.

And on motion of Thomas Coyne Solicitor for said Guardian it is Ordered, adjudged and Decreed by the Court that the said Report of sale of said premises by said Guardian be and the same is hereby ratified and confirmed and that the sale of said premises, and the deed given for the same by said Guardian be declared valid and effectual to convey the interest of said ~~Heir~~ in said premises to the purchaser thereof, his heirs and assigns forever.

And it is further Ordered that said Guardian pay the costs of this proceeding.

State of Illinois
Cook County J. I. Walter Kimball
Clerk of the Superior Court of Chicago, within
and for the County of Cook State of Illinois, do
hereby certify the foregoing to be a full, true
& complete transcript of all the papers on file
in my office & the proceedings of Court entered
of Record in said Court, in the matter of the
application of Edmund Fitzgibbons Guardian
of William, Mary & John Fitzgibbons, to sell
Real Estate.



Witness my hand and the
seal of said Court at the
City of Chicago in said
County this 16th day of
August A.D. 1860.
Walter Kimball

In the matter of the appli-
cation of Edmund Fitzgerald
or

Transcript

Am J. S. C. Paid by

Van Buren, J. S.

W. B. Smith, Jr.

49. To the admission of said record
in evidence the said plaintiffs
objected on the ground that the
said proceedings were void,
as against the plaintiffs - for
the reasons that the said Court
had no jurisdiction of said
proceedings - that the said
John and William Fitz Gibbons,
were not parties thereto - that
the said Edmund Fitz Gibbons
alone - without his Co-Guardian
could not institute such
proceedings - that the sale was
not in compliance with the
order of the Court - that the
proceedings having been dis-
missed the Confirmation was
void - And that the lands of
John and William could not
be applied in whole or in part
for the benefit of Mary. —

Which objection the said Court
then and there overruled and
admitted the said Record last
mentioned in evidence to which
decision of the Court in over-
ruling said objection and
admitting said last mentioned
Record in evidence the said
plaintiffs then and there ex-
cepted. The said defendants
then read in evidence a prop-

Guardians deed duly executed and acknowledged from the said Edmond Fitzhobbs as guardian to the said Daniel Green in said last mentioned record mentioned and deeds duly executed and acknowledged designing and showing the title acquired under the sale mentioned in said last mentioned record to some of themselves to all of which several last mentioned deeds the plaintiffs objected on the grounds that the title which they purported to convey was void as against the plaintiffs but the Court overruled said objection and permitted said deeds to be read in evidence, to which decision of the Court in overruling said objection and permitting said deeds to be read in evidence, the said plaintiffs then and there Excepted.

The foregoing is all the evidence introduced on the trial of said Cause.

And thereupon the Court found the issues in favor of the defendants to which decision of the Court in finding the issues

57 between said parties in favor of said defendants. the said plaintiffs then and there excepted -

And the said plaintiffs then and there moved the said Court for a new trial of said Cause for two reasons. that the Court erred in admitting the said last mentioned Record and deeds founded thereon in evidence, and also in finding the said issue in favor of the defendants. which motion the Court then and there overruled and rendered judgment in favor of said defendant. to which decision of the Court in overruling said Motion for a new trial. and in rendering judgment for said defendant. the said plaintiffs then and there excepted -

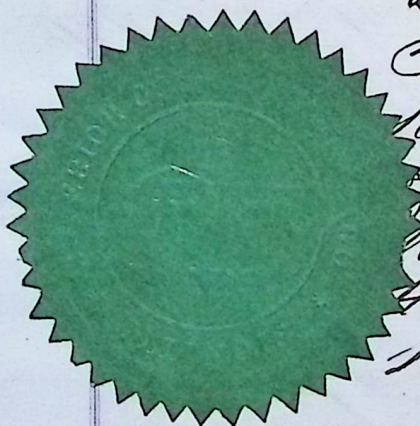
And forasmuch as the several matters aforesaid do not appear of record in said Cause the said plaintiffs pray that this their Bill of Exceptions may be signed and sealed by the Court, and enrolled, and made a part of the record in this Cause which is accordingly done this day and year first hereinbefore written.

Van H. Higgins Esq.
Judge of the Superior Court of Chicago.

State of Illinois
Cook County 3 ss.

I Thomas
B Carter Clerk of the Superior
Court of Chicago. in and for
said County and State aforesaid
Do hereby Certify. that the above
and foregoing is a complete
transcript of all the pleadings
on file. together with the orders
entered of record and the bill
of Exceptions in the case where
John Fitz Gibbons et al are
plaintiffs and David Lake
et al Defendants.

On testimony whereof
I hereunto set my
hand and affix the seal
of said Court at Chicago
in said County this
4th day of March 1880
Thos B Carter
Clerk



Supreme Court of Illinois
Third Grand Division
of the April Term A.D. 1862

John Fitz Gibbon
William Fitz Gibbon
Evert Van Buren
Joseph E. Gary

David J. Lake
Charles B. Brown
Eli L. Canfield
William H. Brown

Afterwards to wit on the First
Tuesday after the Third Monday in April
A.D. 1862 in this same term before the
Judges of the Supreme Court of the
State of Illinois came the said
John Fitz Gibbon by Van Buren & Gary
his attorneys, William Fitz Gibbon who is
an infant under the age of twenty
one years and who sues by Evert
Van Buren his next friend, Evert
Van Buren and Joseph E. Gary in their
own proper persons and say that in the
record and proceedings aforesaid and
also in rendering the judgment aforesaid
there is manifest error in this
to wit: That the said Superior Court
of Chicago erred in admitting in
evidence on the trial of said Cause
on the part of the said David J. Lake
Charles B. Brown, Eli L. Canfield
and William H. Brown, the said Record
of the said Cook County Court of Common Pleas

Pleas of the proceedings, had in said Court on the Application of the said Edmund Fitz Gibbon to sell the premises in Controversy -

And in like manner admitting in evidence the said Guardian's Deed from the said Edmund Fitz Gibbon to the said Daniel Green - and the deeds conveying title from said Daniel Green to some of the said Defendants -

And in finding the issue as aforesaid joined between the said plaintiffs and the said Defendants in favor of the said Defendants -

And in overruling the said plaintiffs Motion for a new trial in said Cause -

And also there is error in this that the judgment aforesaid by the record aforesaid appears to have been given for the said Defendants against the said plaintiffs whereas by the law of the land the said judgment ought to have been given for the said plaintiffs against the said Defendants -

And the said plaintiffs pray that the judgment aforesaid for the errors aforesaid and for other errors in the said record and proceedings being may be reversed annulled and altogether holden for naught & that they may be

restored to all things which they
have lost by occasions of the said
judgment &c

Van Buren & Gary
Atty. for John Fitz Gibbon
William Fitz Gibbon
by E. Van Buren
his next friend
E. Van Buren pro se.
Joseph E. Gary pro se.

And now comes the defendant
and joins in mov. in the
above entitled case and
says there is no error in said
verdict and proceedings and
prays the affirmance &
said judgment with costs

~~Edw. J. Beck~~
+ Mark Forman
Atty. for defendant

The grounds in mov. is not to
infer with any suggestion of
amendment & the court
H. F. Davis - Judge

140

273

Fitzgibbon stls.

vs

Lake stls.

Record & Envs &
found -Filed Apr. 24, 1862
L. Deland
clerk\$6.50 paid by
Joseph E. Lang.
mch 4 1862
Thos. B. Easton
clerk