

Province of Manitoba.

KING'S BENCH.

Macdonald, J.]

[Oct. 8.]

DEVITT v. CITY OF WINNIPEG.

Municipality—Expropriation—Prohibition—Winnipeg charter, 1902, ss. 783, 788, 789, 796—Appointment of arbitrator.

This was a motion for an order to prohibit the City of Winnipeg and Robert Young, an arbitrator appointed by it, from proceeding in the matter of a proposed arbitration for compensation for certain lots desired to be acquired by the city for a market site.

Held, that the order should go on the following grounds:—

1. Under s. 796 of the city charter, the appointment of an arbitrator must be signed in the same manner as a by-law, that is, it must be under seal and signed by the mayor or acting mayor and the clerk or acting clerk, whereas the appointment in this case, though signed by the mayor under the seal of the city, was not signed by the clerk or acting clerk. That a regularly signed by-law had been passed authorizing the mayor to appoint Robert Young as its arbitrator was not sufficient.

2. The city charter contains no sufficient provisions enabling the city to carry on arbitration proceedings to enforce the expropriation of land for a market site when the amount claimed by the land owner exceeds one thousand dollars. See ss. 783, 788, and 789.

O'Connor, for applicant. *Hunt*, for the city.

Mathers, J.]

KRUGER v. HARWOOD.

[Oct. 16.]

Company—Application for shares—Withdrawal before notice of allotment—Notice of withdrawal, to whom it may be given.

Defendant was sued upon a note for \$500 given to the gen-