

Court may be exercised where the claim can be established by the production of one or more documents and the proof of the signatures to them.

Production of a promissory note and proof of the signature of the defendant as an endorser, and production of the protest setting out the facts of presentment and notice of dishonour make out a *prima facie* case within the jurisdiction of the Division Court.

Judgment of MAGEE, J., reversed.

Middleton, for appellants. Russell Snow, for respondent.

Province of Manitoba.

KING'S BENCH.

Perdue, J.]

[April 8.

SMITH v. PUBLIC PARKS BOARD OF PORTAGE LA PRAIRIE.

Entry by Parks Board on land prior to expropriation—Power of Parks Board under Act—Right of action—Arbitration—Injunction.

The defendants, assuming to act under the powers conferred upon them by s. 39 of the Public Parks Act, R.S.M. 1902 c. 141, by the erection of a dam, caused the flooding of a large portion of the plaintiff's property during the summer of 1904 and damage to his hay and crops.

They had taken no steps towards expropriating the land under the powers conferred on them by that Act and the Municipal Act, and the plaintiff brought this action for damages and for an injunction, instead of asking for an arbitration under the expropriation and arbitration clauses of the Municipal Act. Section 43 of the Public Parks Act only enables the Board to enter upon lands with the consent of the owner, but the defendants relied upon s. 44, which provides that: "The Board may exercise all the powers of the council under the Municipal Act in regard to all expropriations of lands and property deemed necessary to be taken or entered upon for the purposes of a park, but the council is not hereby divested of any right or power in regard to the same."

The powers of the municipal council of a city to expropriate land for a park are found in s. 755 of the Municipal Act, and s. 769 of the same Act provides that, upon payment of the amount awarded for compensation to the County