

establish either, I think there is nothing in the statute or in any of the cases decided upon it which suggests that evidence to establish plaintiff's title would be "other and extrinsic evidence" in contemplation of the statute. The appeal should be dismissed with costs.

KELLY, J.:—The question for determination in this appeal is whether, under the circumstances, there was jurisdiction, under section 62 of The Division Courts Act, 10 Edw. VII., ch. 32, to try the action in the Division Court.

By that section jurisdiction is given to Division Courts in an action for the recovery of a debt or money demand, where the amount claimed exclusive of interest . . . does not exceed \$200, and the amount claimed is:

(i) Ascertained by the signature of the defendant, or of the person whom as executor or administrator he represents, or

(ii) The balance of an amount not exceeding \$200 which is so ascertained, etc.

The section also declares that an amount shall not be deemed to be so ascertained where it is necessary for the plaintiff to give other and extrinsic evidence beyond the production of the document and proof of the signature to it.

This, in my view, has reference to cases where the document being produced and the signature proven, something further is necessary to shew the liability of the defendant thereunder—such for instance as proving the fulfilment of a condition on which the document was to take effect—and does not apply to evidence necessary to establish the plaintiff's status with reference to the document.

If the document be produced, and if the signature of the defendant or of the person whom as executor or administrator he represents be proven, and if there be no further evidence necessary to shew the completion of the transaction, so far as the person signing it is concerned, then there is an ascertainment within the meaning and intention of section 62.

Giving this interpretation to that section, I am of opinion that the appellant cannot succeed, and that the appeal should therefore be dismissed with costs.

HON. SIR WM. MEREDITH, C.J.C.P.:—I agree in the conclusion to which my learned brothers have come.