

In 2 Geo. IV., c. 2, the words are "liquidated or ascertained either by the act of the parties, or the nature of the transaction."

In 8 Vict., c. 13, the words are, "Where the amount is ascertained by the signature of the defendant."

In 13 & 14 Vict., the words are the same as in 8 Vict., c. 13.

In 19 & 20 Vict., c. 90, the words are, "Where the amount is liquidated or ascertained by the act of the parties or the signature of the defendant," and these are the words used in R.S.O., c. 47, the Act at present in force.

No doubt the words in 2 Geo. IV., "the nature of the transaction," were found to be too uncertain in their meaning, and so were omitted from the amending Act (8 Vict., c. 13), but that was no reason for substituting "the signature of the defendant" for "the act of the parties."

The next change was made by 19 & 20 Vict., c. 90, where the words "the act of the parties" were prefixed to "the signature of the defendant," thus restoring the words used in the original Act (2 Geo. IV.). It would almost appear as if the retention of these last words was unnecessary, for, though the "signature of the defendant" was not the act of the *parties*, it was the act of one of them, and that the one sought to be made liable. Would not any act of the defendant showing a clear admission of anything that amounted to an account stated be a sufficient compliance with the words of the statute? This seems to have been the view taken by Mr. Justice John Wilson in *Furnival v. Saunders*, 2 L.J.N.S. 145, where an entry made by the defendant against himself was held to be a sufficient requirement with the words, "the act of the parties."

This, however, is not the view taken by Osler, J.A., in *Kobb v. Murray*, 16 A.R. 503, where he says: "Whether it be by the signature of the defendant, or by the act of the parties, *which means the act of both parties*, the essential thing to give jurisdiction is that the amount shall be *liquidated or ascertained*" (the italics are ours). We cannot but think that when the learned judge used these words, he was speaking with reference to the case then under consideration. The defendant had himself fixed and stated the sum the plaintiff was suing for, but he denied his liability altogether. Had he made the entries of the moneys in question in, say, a ledger account, kept between himself and the plaintiff, to his own debit, although at the time without the knowl-