dated or ascertained as being due by the act of the parties or by the signature of the defendant. The act of the parties, no doubt, has reduced the actionable part of the contract (as to amount) to $300, but there is no ascertainment of that balance by the signature of the defendant. On the contrary, this very attitude of the parties in this action indicates in the strongest way that the amount claimed is not ascertained or liquidated, but contested by the defendant. It looks very much as if the last amendment has confined the jurisdiction of the County Court to cases where the claim has been admitted by the signature of the defendant, or where something has been done between the parties which amounts to an account stated.

In this case I cannot accept the registrar's conclusion, and think the record must go back to have costs taxed as usual on the High Court scale. No costs of appeal.

It would be well, I think, in cases of small recovery, where the question of jurisdiction may be mooted, that the Judge who tries the case should also express his views as to the scale of taxation. He can better judge than any other what is the proper way to dispose of the costs, and in this way appeals from the rulings of the taxing officers are avoided.

FALCONBRIDGE, C.J. FEBRUARY 8TH, 1909.

TRIAL.

RAMSAY v. NEW YORK CENTRAL AND HUDSON RIVER R. R. CO.

Sale of Goods—Action for Price—Inspection—Place of Delivery—Acceptance of Part—Subsequent Return—Defects in Quality—Evidence—Breakages in Transit.

Action for the price of goods sold and delivered.

R. A. Pringle, K.C., for plaintiff.

R. Smith, K.C., and A. Langlois, Cornwall, for defendants.

FALCONBRIDGE, C.J.:—The contract is contained in exhibits 1 and 2. The goods were deliverable and were delivered at Cornwall, and billed as directed by defendants.