had not been brought in time, yet as an amendment had been improperly refused, and the judge in giving his judgment of the 23rd of May, had not made it clear to the plaintiff what his judgment really decided, the case should be examined on the merits.

Held, on the merits, that the judgment of DUGAS, J., must be affirmed.

Per HUNTER, C. J., and DRAKE, J.: In an action embracing several causes of action there may be a judgment or order which is final as to one cause of action and interlocutory as to others, and a party dissatisfied with the part which is final must appeal within the time limited for appealing from final orders and cannot question its correctness in an appeal from the judgment at the conclusion of the whole action.

Per HUNTER, C.J.: It is incumbent on a successful party to take care that an order or judgment in his favour is drawn up in clear and unmistakable language, otherwise the benefit of any doubt as to its scope which cannot be resolved by reference to any prior or contemporaneous record or other competent document, should be given to the party aggrieved.

A man is not bound to say yes or no at once when confronted with a demand for the payment of money about which there may be doubt as to his liability to pay, but he is entitled to a reasonable time according to the circumstances of the case, to consider the position and to make up his mind whether he really owes the money or not, and as to what course he will take

Sir C. H. Tupper, K.C., and *Peters*, K.C., for appellants. *E.P. Davis*, K.C., and *A. Noel* (of the Yukon bar) for respondents.

Martin, J.] LEVER *v.* MCARTHUR. [Dec. 16, 1902.

Master and servant—Employers' Liability Act—Notice of injury—Want of—Reasonable excuse—Defendant prejudiced by want of notice—Evidence of—When to be given.

In an action for damages under the Employers' Liability Act for injuries sustained by plaintiff it was shewn that the plaintiff was without means and for some weeks after the accident was unable to transact any business; and that the defendant's business manager and representative saw the accident and arranged for plaintiff's admission into the hospital where a few days later he discussed with him the cause of the accident.

Held, the circumstances excused the want of notice of injury.

At the close of the plaintiff's case a non-suit was moved for on the ground that plaintiff had not proved notice of injury, and plaintiff then adduced evidence which the judge held shewed a reasonable excuse for the want of notice and the trial proceeded. Before closing his case defendants' counsel tendered evidence of being prejudiced by want of notice.

Held, excluding the evidence, that the proper time to shew prejudice was while the question of reasonable excuse was still open.

Taylor, K.C., for plaintiff. *Macdonald*, K.C., for defendants.