

jury, and that the order for a new trial could be supported on that ground, although made on another ground, which might not have been sufficient.

DUBUC, J., concurred with RICHARDS, J.

Per KILLAM, C.J., as no objection was made to the judge's charge to the jury at the time, a new trial should not have been granted on the ground of the withdrawal from the jury of the claim for conversion and there was no other sufficient ground for ordering a new trial.

Order for new trial in the county court affirmed, the alternative claim for conversion to be re-instated and the appeal dismissed with costs.

Elliott, for plaintiffs. *Howell*, K.C., for defendants.

Province of British Columbia.

SUPREME COURT.

Full Court.] BELCHER ET AL V. McDONALD. [Nov 1, 1902.

Yukon appeal—Extension of time—Jurisdiction—Practice—Pleadings—Amendment at trial—Judgment, final and interlocutory—Appeal—Duty of party taking out order.

Appeal from the judgment of DUCAS, J., in the Territorial Court of the Yukon. By the Yukon Act (62 & 63 Vict., c. 11,) the Supreme Court of British Columbia sitting together as a Full Court is constituted a Court of Appeal from final judgments of the Territorial Court, and notice of appeal shall be given within twenty days after judgment. From interlocutory orders or judgments there is no appeal.

Held, by the Supreme Court of British Columbia, sitting as a Full Court, that it has no jurisdiction to extend the time for appealing.

In an action on an alleged promissory note in the Territorial Court of the Yukon, the plaintiff's counsel at the close of his case, asked leave to amend the claim by inserting counts on an account stated, and leave was refused. The trial proceeded and the claim on the note was dismissed and a reference was ordered for the purpose of taking accounts and an order to that effect was taken out on the 30th of May, without specifying the date from which the accounts were to be taken. On taking the accounts, the referee, at the direction of the judge and as to which it did not appear that plaintiff had notice, took the accounts as beginning at a date unsatisfactory to plaintiffs, and the referee's report was confirmed by the judge.

Held, on appeal, that as the plaintiff should have been allowed to amend his pleadings, and although the order of the 23rd of May, being final so far as the claim on the note was concerned, and an appeal from it