

the amount in controversy in the appeal which hereafter governs, Old secs. 40, 48, 49, not the amount demanded, when they are different. amount in controversy.

AMOUNT MAY BE ESTABLISHED BY AFFIDAVIT.

It is pointed out later in dealing with section 49 (a) of the old Act that the amount in controversy may be established by affidavit. This provision is repeated in new section 40.

INTEREST AND COSTS NOT INCLUDED.

Section 40 also specifically provides that interest and costs are not to be included in determining the amount in controversy.

SPECIAL LEAVE TO APPEAL EXCEPT IN QUEBEC.

48 (e) is not reproduced so far as it gives power to grant leave to appeal in all cases to the Supreme Court of Canada. A prominent feature of the new legislation is the increased importance attached to the judgments of the Provincial Courts of appeal, in that they alone, subject to a comparatively slight exception, are empowered to grant leave to appeal to the Supreme Court.

YUKON APPEAL.

Old section 49 was adopted from the Ontario section 48 with respect to the Yukon by 2 Ed. VII. c. 35, s. 4. The extent to which it differs from the parent section is no longer of importance, as the Yukon is now in the same position as to appeals as the other provinces of Canada.

AMOUNT IN CONTROVERSY—HOW DETERMINED.

49 (a): "Where the right to appeal depends upon the amount or value of the matter in controversy, and no specific sum is claimed, the amount or value of the matter in controversy may be proved by affidavit or affidavits."

This sub-section was added to the old Act by 3-4 Geo. V. c. 51, s. 5, and applied not only to section 49, but to 46 and 48 as well. Its effect is continued by new section 40.