

Old sec. 44,  
final  
judgment.

Province of Quebec, or originally instituted in a Superior Court in any of the provinces of Canada other than the Province of Quebec."

This section, although retained in the revision of 1906 in view of its origin, was really unnecessary as section 38 of the old Act had already expressed the only cases in which an appeal to the Supreme Court could be taken from an interlocutory judgment. The present jurisprudence by virtue of the new Statute has already been discussed under old section 38. (*Ante*, p. 24).

### JUDGMENTS IN EXERCISE OF JUDICIAL DISCRETION.

OLD SECTION 45: "No appeal shall lie from an order made in any action, suit, cause, matter or other judicial proceeding made in the exercise of the judicial discretion of the Court or Judge making the same; but this exception shall not include decrees and decretal orders in actions, suits, causes, matters or other judicial proceedings in equity or in actions or suits, causes, matters or other judicial proceedings in the nature of suits or proceedings in equity instituted in any Superior Court."

This section is substantially reproduced in new section 38. This section itself would preclude an appeal to the Supreme Court from a judgment refusing leave to appeal.

NEW TRIALS: The subject of judicial discretion in judgments upon motions for new trial are discussed, *ante*, p. 24).

### QUEBEC—LIMITATIONS ON RIGHT OF APPEAL.

It has been pointed out, *ante*, p. 5, that the only limitation on appeals to the Supreme Court, from the judgment of the highest Court of final resort in a province contained in the original Supreme and Exchequer Court Act (38 V. c. II.), was to be found in section 17, and only applied to the Province of Quebec, where it was required that the value of the matter in dispute should amount to \$2,000. A few years later (42 V. c. 39, s. 8), this language was amended, by giving an appeal also in certain cases which at that time formed the basis of a right of appeal from the Court of Appeals in Quebec to the Judicial Committee of the Privy Council. These added conditions were substantively those found in old section 46 (a), (b). These limitations, at first only applicable to Quebec, were substantially made applicable to Ontario by (60-61 V. c. 34), old section 48, and were extended to the Yukon by 2 Ed. VII. c. 35 (old section 49), and finally extended to all the other provinces of Canada by 8-9 Geo. V. c. 71, by an amendment to old section 48.