a carriage-top made in folding sections, as described in the specifications, with posts arranged to turn down, the defendant (D.) present, appellant pleaded *inter alia* that there was no novelty, and that the invention was well known and had been in use for a considerable time. At the trial, after considerable evidence had been given for both parties, the judge appointed two experts to examine and compare the carriage-tops of four carriages made by D., and alleged by B. to be infringements on his patents; and also to examine the carriage-top of one carriage in the possession of one C. A. D., alleged to be made on the same principle as B.'s invention, and to have been in use long prior to B.'s patent. One of the experts, a solicitor of patents, reported in favor of B.'s invention, showing the difference between B.'s carriage and C. A. D.'s, and in what consists the improvement. The other, a carriage maker, reported that B.'s carriage was an improvement on C. A. D.'s carriage, but both agreed that D.'s carriages were infringements of B.'s patent. The judge awarded respondent $100 damages, and enjoined D. not to manufacture or sell carriages in infringement of B.'s patent.

On appeal to the Court of Queen's Bench (appeal side), that Court held that the patent for the infringement of which the respondent seeks by his action to recover damages from D. disclosed no new patentable invention or discovery.

On appeal to the Supreme Court of Canada, it was

*Held*, reversing the judgment of the Court below, RITCHIE, C.J., and GWYNNE, JJ., dissenting, that the combination was not previously in use and was a patentable invention.

Appeal allowed with costs.

*Geoffrion*, Q.C., for appellant.

*St. Pierre*, for respondent.

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GILBERT *v.* GILMAN.

*Appeal—Payments by instalments—Rights in future—Supreme and Exchequer Courts Act, s. 29, s.s. "b."*

A judgment of the Court of Queen's Bench for Lower Canada (appeal side), in an action for $1,339.36, being for the balance of one of the money payments which the defendant was to pay to the plaintiff every year so long as certain security given by the plaintiff for the defendant remained in the hands of the Government, is not appealable.

The words, "where the rights in future might be bound," in sub-sec. "b" of sec. 29 of the Supreme and Exchequer Courts Act, relate only to "such like matters" as are previously mentioned in said sub-section.

Appeal quashed with costs.

*C. Robinson*, Q.C., and *Archibald*, Q.C., for appellants.

*Irvine*, Q.C., for respondents.

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LEWIN *v.* HOWE.

[Nov. 17, 1888.

*Mortgagor and mortgagee—Foreclosure — Sale subject to lease—Lease of mortgaged lands without assent of mortgagee.*

In a foreclosure suit the Judge in Equity of New Brunswick directed the mortgaged premises to be sold, subject to a lease, to one of the defendants, made after the execution of the mortgage and without the consent of the mortgagee.

On appeal to the Supreme Court of Canada,

*Held*, that the decree was bad in directing the lands to be sold subject to said lease, and the case should be sent back to the Judge in Equity for a decree directing a sale of the mortgaged premises generally. Appeal allowed.

*Weldon*, Q.C., and *Gormully*, for appellants

*C. A. Palmer*, for respondents.

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[Dec. 22, 1888.

*In the matter of a question submitted by the Railway Committee of the Privy Council for Canada, under sec. 19 of the Railway Act* (51 *Vict.*, *c.* 29, 1888), *upon the following case:*

Under chap. 5 of the Statutes of Manitoba (passed on the 30th day of April, 1888) the Railway Commissioner of that Province is constructing a railway known as the Portage Extension of the Red River Valley Railway from Winnipeg to Portage la Prairie, both places being within the Province of Manitoba, and he has made application to the Railway Committee of the Privy Council of Canada, under sec. 173 of the Railway Act of 1888 (Canada), for the approval of the place at which, and the mode by which, it is proposed