the owner who made the severance. Such is the condition of the land in question here, and I do not read the provisions of the Land Titles Act as operating to a different result.

Unity of tenure and seisin existed in 1891. The owner of the whole conveyed by transfer in 1894 to Wardell and Howard all the land, excepting out of said designation certain lots then on the plan filed—one of which lots was No. 4. On that lot stood the grist mill owned by plaintiff, and that lot, being retained by the owner of the whole after he had disposed of the rest of the tract, afterwards came to the hands of plaintiff. In the document of transfer, which excepts lot 4, there were no words to indicate that any right of way over the rest of the land conveyed is also excepted—failing which express reservation, I think the law forbids its implication. Section 26 of the Act does not carry the matter further, as I read it. True it is that there was on the land a road or means of access for waggons, etc., well defined on the ground, leading from the highway to the grist mill over the open space of land fronting the highway between lots 4 and 5, which had been formed, perhaps, before the issue of the patent, and was well defined thereafter down to the time of unity of ownership and subsequent thereto down to the present day. But this right of way, which existed when the grist mill and saw mill properties were in different holders before 1891, ceased to exist in that year, and became extinguished in law. When the transfer of 1899 was made, it was not a "subsisting" easement or right of way, though it was marked upon the ground as a former right of way, which continued to be used for the convenience of the owner of the whole property after he became such owner.

That is not, I think, an existing or subsisting easement such as the statute is intended to conserve, and which it deals with as an outstanding liability to which the registered land shall be subject.

The whole matter is in narrow compass, and I am unable so to apply the Land Titles Act as to give the plaintiff the right he claims over this disputed road.

I may note that it is not enough to raise an implied reservation that the way is highly convenient; if it falls short of being a way of absolute necessity, Wheeldon v. Burrows forbids any implication in plaintiff's favour. That seems