the easement taken into account with regard to either tenement, the dominant or the servient? Our law seems to be silent on the subject of taxing easements. In the United States the method of procedure is stated to be as follows: when they are appurtenant to the realty, they are to be taxed as part of the land to which they belong; but easements in gross must be valued and taxed separately from the land out of which they are granted: see Black on Tax Titles, 2nd ed. (1893), sec. 104.

Certainly it would be an extraordinary state of the law if, by the sale of the servient lot, the title to the easement could be extinguished, and that without any notice to the person who uses it, or any opportunity given for him to exonerate the land by the payment of taxes—with right of resort in cases where he is not the proper person to pay. An analogous protection is now given to incumbrancers by the late statute (1904) 4 Edw. VII. ch. 23, sec. 165.

However, no defence being established, the plaintiff's right to the enjoyment of the easement granted in the 10 feet should be declared and established by this judgment, with costs to be paid by the defendant.

FEBRUARY 1ST, 1909.

DIVISIONAL COURT.

SASKATCHEWAN LAND AND HOMESTEAD CO. v. LEADLAY.

Mortgage—Mortgagees' Account—Allowance to Mortgagees for Expenditures in and about Care and Sale of Lands—Agreements between Mortgagees and Agent.

Appeal by plaintiffs from order of TEETZEL, J., 12 O. W. R. 1198, varying a report of the Master in Ordinary, the reasons for which are reported, 12 O. W. R. 629.

A. B. Cunningham, for plaintiffs.

G. Kappele, K.C., for defendants the Leadlays.

A. J. Russell Snow, K.C., for defendant Moore.

THE COURT (FALCONBRIDGE, C.J., ANGLIN, J., CLUTE, J.), dismissed the appeal with costs.