The defendant's contention here is, that the easement which was enjoyed by the plaintiff over the 10 feet sold was extinguished by the tax sale as being included in the word "privilege" used in the statute. And, no doubt, in Ramsay v. Blair, 1 App. Cas. 701, the words "privilege, servitude, or easement" were used as synonymous terms: see pp. 703, 706. Against the status of the defendant it was urged comprehensively that the Municipal Act of 1892 defined "land" and "real property" as including any estate or interest therein or right or easement affecting the same: 55 Vict. ch. 42, sec. 2 (7). This is carried into the present Act of 1903, 3 Edw. VII. ch. 19, sec. 2 (8). And by R. S. O. 1887 ch. 100, sec. 12, the conveyance of a lot includes all privileges, easements, and appurtenances to the lands in any wise appertaining thereto or used and enjoyed therewith. This was in force during the period of assessment herein before the sale. The argument is, that when taxes were imposed on the land owned by the plaintiff it must be taken that such taxes were imposed in right of this easement, which was expressly attached to the lot by prior conveyances running from the common owner of this and the defendant's lot, and that there could be no sale as for arrears, because all these taxes have been paid.

It was also urged that easements as such cannot be taxed, citing Chelsea Waterworks Co. v. Bowley, 17 Q. B. 358.

It is not necessary for me to pass upon these different arguments, for the fatal objection to the defence is, that the onus of proving a valid sale for taxes has not been met. The production of the tax deed is not enough—it is a mere starting point: further evidence must be given going to the foundation on which the deed rests, in order that the validity of the assessment and all subsequent proceedings may be exhibited: Jones v. Bank of Upper Canada, 13 Gr. 74; Stevenson v. Traynor, 12 O. R. 804.

This line of evidence is all the more necessary in this case because the purchaser appears to have been the mortgagee of the servient tenement, over whose soil the easement ran, and whose duty it was to pay the taxes. It would be a piece of strategy not to be encouraged if he let the taxes go into arrear and bought for the purpose of extinguishing the easement subject to which he acquired his mortgage. But, again, it would be interesting to know upon what principle the taxation was based of this particular 10 feet. Was the soil alone taxed, or was regard had to the easement? Or was