

"immeubles et font partie du fonds auquel ils sont attachés." The authors are divided as to whether these pipes should be regarded as immovable by nature or by destination (5, Dem. No. 149). Our codifiers did not frame a special article corresponding with art. 523 C.N. I should conclude that they must have considered that these pipes would fall under the general principles laid down in the articles they have given us respecting immoveables, and that a special article was therefore unnecessary. Mr. Laurent (vol. 5, No. 409) is one of the authors who profess the opinion that these pipes are immoveable by nature, and for the reason that they are an accessory of the building just as much as the doors and windows. He gives us the explanation respecting this article, made by the speaker for the government at its introduction, as follows: "Il est des objets immeubles par leur nature, comme les fonds de terre, les bâtimens. On ne peut pas se méprendre sur leur qualité, elle est sensible. On ne peut pas d'avantage méconnaître la qualité d'immeubles dans les usines qui font partie d'un bâtiment, dans les tuyaux qui y conduisent des eaux et dans d'autres objets de la même espèce qui s'indentifient avec l'immeuble et ne font qu'un seul tout avec lui."

Mr. Brown referred me to the commentary of Mr. Prudhon (vol. 1, No. 141), when commenting on art. 523, C. N., above cited, and especially on the words "auquel ils sont attachés," he says:—"C'est à dire dans lequel ou pour le service duquel ils conduisent les eaux; et ci cette conduite a lieu à travers un héritage étranger, ceux des tuyaux qui reposent sur cet héritage font également partie de l'immeuble dans lequel les eaux sont dirigées, parce que la servitude avec ses accessoires appartient au fonds pour l'usage duquel elle est constituée."

The principle here laid down is that pipes which conduct water into a house, over the land of another, by right of a servitude, are immovable even where they cross such land, and form part of the immovable to which they carry the water.

Mr. White suggested that this citation from Prudhon did not apply, because it did not refer to a commercial corporation laying pipes in the public streets under permission granted by a special act of the Legislature. I am unable to agree with that view. By their act of incorporation the appellants were granted the right to supply water and gas to the inhabitants of the city of Sherbrooke and neighboring municipalities, and were authorized to open the streets and use them to lay therein their mains and pipes to conduct the water and gas to the consumers within the