

saying that these valuations were made in bad faith or that they are erroneous, and I think they must be considered correct.

I therefore proceed to the consideration of the main question, whether the gas and water mains and pipes are taxable at all. This question has been argued with great ability by the learned counsel, and at first sight appeared to me to be one of considerable difficulty. The city is authorised by its charter (section 30) to levy taxes on all lands, city lots and parts of city lots, whether there be buildings erected thereon or not, with all buildings and erections thereon, a sum not exceeding two cents on the dollar on their whole value, as entered on the assessment roll of said city. By section 48 the provisions of the municipal code, when not inconsistent with the act of incorporation, apply to the city corporation, and whenever the latter is silent all the provisions of the code apply and are the law in relation to all municipal matters in said city. Article 719 of the code enacts that the actual value of the taxable real estate includes the value of all buildings, factories or machine shops erected thereon, and of any improvements which have been made thereto, save in so far as is set forth in the two following articles which refer to railway companies. This does not appear to me to add much to the words of the charter, which permits the levying of taxes on lands and all buildings and erections thereon. All property is either moveable or immoveable. The tax in question purports to be laid upon immoveables, the value of the gas and water mains and pipes having been included in the value of the lands and buildings. The question now to be decided is whether they really are part thereof, and liable to taxation as immovables. Art. 375 to 382 C. C., inclusive, deal with immoveables. We are told there are four kinds of immoveable property, and examples are given which are necessarily incomplete. These mains and pipes must be either immoveable by nature or by destination. Land and buildings and certain other things are mentioned as immoveable by their nature in articles 376, 377 and 378. Then art. 379 says: "Moveable things, which a proprietor has placed on his real property for a permanency, or which he has incorporated therewith, are immoveable by their destination so long as they remain there. Thus within these restrictions, the following and like objects are immoveable": Then follows a list, but of course it is not limitative. This is clear from the language of the article and the report of the commission who formally declare the enumeration incomplete, and all the commentators on the cor-