

CIRCUIT COURT—DISTRICT OF ST. FRANCIS.

SHERBROOKE, Dec. 23, 1891.

Before TAIT, J.

SHERBROOKE GAS & WATER Co., appellant, and CORPORATION OF
THE CITY OF SHERBROOKE, respondent.

Immovable—Gas and water pipes.

HELD :—*That pipes and mains laid throughout the streets of a city by a gas and water company, under the authority of an Act of the legislature, for the purpose of supplying gas and water to the inhabitants of the city, form part of the realty of the company and are taxable as real estate.*

TAIT, J.—This is an appeal from a decision of the municipal council of the city of Sherbrooke, homologating the valuation roll of said city for the present year, in which, in pursuance of two resolutions passed by the said council previous to such homologation, the valuations previously placed on two parcels of land belonging to appellants, one known as part of official lot 1239 in the South ward, and the other as part of official lot 571 of the North ward of said city, were increased from \$6,000 and \$8,000 to \$36,000 and \$78,000 respectively. The Gas works of appellants are erected on the first mentioned lot and the Water works on the other. The resolutions show, and it is admitted, that the \$30,000 increase represents the value of the gas mains and pipes, while the increase of \$70,000 represents the value put upon the water mains and pipes running through the streets of the city. The pretention of the appellants is that the gas mains and pipes are not placed upon lot 1239, nor the water mains and pipes upon lot 571; that they form no part of these respective lots, but have been placed throughout the streets of the city by the special permission and authority of the Legislature of this province for the purpose of supplying gas and water to the inhabitants of the city, and that they form no part of the real estate of the city, and are not taxable property. It is also said that the council arbitrarily valued these mains and pipes without any notice to the appellants, and without any action ever having been taken by the council or by the valuers to ascertain the value thereof.

The respondents deny the truth of the allegations set forth in the *moyens* of appeal, and, further, say that the gas mains and pipes and water mains and pipes which run through said streets, respectively attached to the gas and water works of appellants,