occasioned by absence of *grosses réparations* which he had never been called upon by the tenant to make. I think, however, on reflection, that the landlord is liable. The obligations and rights of lessors are, by the nature of the contract, 1st, to deliver to the lessee the thing leased; 2nd, to maintain the thing in a fit condition for the use for which it had been leased; 3rd, to give peaceable enjoyment; 4th, the lessor must deliver the premises in a good state of repair in all respects, and he is obliged during the lease to make all necessary repairs, except those that the tenant is bound to make; and he is also obliged to warrant the lessee against all defects in the thing leased which prevent or diminish its use, whether known to him or not. These are the express provisions of the Civil Code from Art. 1612 to 1614 inclusive. Under the evidence, then, the plaintiff is entitled to damages, and the amount proved is $140, for which judgment is given with costs.

J. & W. A. Bates for plaintiff.
Doherty & Doherty for defendant.

Ross et al. v. Torrance es qual., The City of Montreal, claimant, and Plffs., contesting.

Powers of Local Legislature—Right to legislate on subject of Interest or Increase on unpaid Assessments.

Johnson, J. Under the Prothonotary's report of partial distribution, as drawn in this case, there is a sum of $995.08 given to the city for arrears of assessments on the property sold by the Sheriff; and the plaintiffs, who brought it to sale for the satisfaction of their hypothecary claim, contest this item in part: that is to say, as far as regards three sums of $79.43, $178.71, and $18.09, making together the sum of $276.23 asked by the city as a ten per cent. increase on overdue assessments, and these three charges for increase, as it is called, in the claim, or rather in the account which the Corporation are by law allowed to substitute for a regular demand or opposition (see art. 719 C. P.), are resisted on three separate grounds. First, the plaintiffs say that these charges, though made under the name of increase, are in reality charges for interest at ten per cent. for delay in paying overdue taxes; and that, as such, they are not authorized and cannot be authorized by Provincial legislation subsequent to the B. N. A. Act, 1867, which vested the power of legislating on this subject in the Federal Parliament. Secondly, they say that these charges are continued to be made up to February, 1879, while the property was sold in December, 1878; and thirdly, they say the proprietor assessed was not in default, the assessments having been reduced by the Corporation, and no default existing where the assessment is acknowledged to be wrong.

There are two by-laws of the corporation professing to authorize these charges: 1st, one of April, 1876, and 2nd, one of August, 1878; and the questions will be, first: is there anything having the force of law to empower the corporation to make them; and 2nd, whether there is any difference in law between *interest, eo nomine*, and *increase, addition* or *penalty* imposed for delay of payment. The 75th section of the 14 and 15 Vic. chap. 128—passed before confederation, clearly gave the right to impose an increase or penalty, and there it might have remained till this day, unless it had been repealed; but the 37 Vic. c. 51, instead of leaving well alone, repealed sixteen different statutes respecting the corporation of Montreal, and and consolidated the law generally; and on this particular subject it gave power to the corporation to remit by way of discount for prompt payment, or to charge "interest" (*eo nomine*) at ten per cent.; and under this statute the first by-law was passed. Among the statutes repealed by the 37 Vic., c. 51 (sec. 241) was the 14 and 15 Vic., c. 128, which by its 75th section had given the power; and this statute, I say, was absolutely repealed, with the exception of six sections and part of a seventh, the 75th section not being included in the excepted sections, and being therefore repealed also. The statute 37 Vic., c. 51, therefore, did two things; first, it absolutely repealed the 14 and 15 Vic., c. 128, sec. 75, which had authorized an imposition of increase or penalty; and second, it proceeded, after having repealed it, to substitute a new law on the subject, that is to say, by its 99th section, it authorized a by-law imposing *interest* at ten per cent. on arrears. This new legislation was in 1874 (seven years after Confederation), and the question would have been, if it had stopped there, whether, under the distribution of powers