assumption that it was conceded that there had been a breach within Ontario; so that we are really not reversing anything that he has determined.

APRIL 30TH, 1906.

DIVISIONAL COURT.

WAY v. CITY OF ST. THOMAS.

Statutes—Special Act—Repeal by Implication—Repugnancy to Subsequent General Act—Rule of Construction—Assessment and Taxes—Exemptions—Railway—By-law of Municipality—Commutation—School Rates.

Appeal by plaintiff from judgment of TEETZEL, J., ante 194, dismissing with costs an action brought by a ratepayer of the city of St. Thomas against the city corporation and the Michigan Central and Canada Southern Railway Companies to obtain a declaration of the invalidity of a by-law passed by the city corporation on 6th April, 1897, enacting that the annual sum of $3,750 should be accepted by the city for each of the succeeding 15 years in lieu of all municipal rates and assessments in respect of the lands of the railway companies in the city. Plaintiff asserted that the by-law was invalid as regarded school rates, by reason of the provisions of the Schools Act, 55 Vict. ch. 60, sec. 4. TEETZEL, J., held that the provisions of a special statute (48 Vict ch. 65, sec. 3), authorizing the by-law, were not repealed by the general Schools Act.

J. M. Glenn, K.C., for plaintiff

W. B. Doherty, St. Thomas, for defendant city corporation.

D. W. Saunders, for defendants railway companies.

The judgment of the Court (MEREDITH, C.J., BRITTON, J., MAGEE, J.), was delivered by

MEREDITH, C.J.:—We think it is impossible to interfere with the judgment pronounced by Mr. Justice Teetzel in this case. For myself, I agree with the judgment and the reasons which he has given for it. It addition to the reasons