

Trials of Actions—McMahon, J.]

[June 29.

POLSON v. TOWN OF OWEN SOUND.

*Municipal corporations—By-laws—Exemption from taxation—Manufacturing establishment.*

*Held*, that R.S.O., c. 184, s. 366, giving municipal councils power to exempt manufacturing establishments from taxation, could not authorize such exemption when such establishments cease under liquidation to carry on business, and a by-law authorizing exemption under the statute would thereupon cease to be operative.

*Moss*, for plaintiff. *Hatton*, for defendants.

Meredith, C.J., Rose, J.]

[July 7.

ANNIE BENNER v. EDMONDS.

*Libel—Privilege—Protection of interests—Excessive language—Evidence—Admissibility—Publication—Receipt of letter—Further publication—Non-direction—Damages.*

The defendant received a letter from the solicitor of the plaintiff's mother, complaining of statements circulated by the defendant which had caused the mother and her family, and particularly her daughter (the plaintiff), annoyance, and threatening to begin an action for slander unless a retraction were signed and costs paid. This letter was not answered by the defendant, but the threatened action having been brought, the defendant wrote a letter, not to the solicitors but to their client, with the avowed purpose of preventing her from proceeding with her action. In that letter he referred to the plaintiff and said he saw her drive her father out of the house and pelt him with sticks of wood, and asked the mother if she thought it would add to her daughter's character to have this and much more published in Court and in newspapers.

*Held*, in an action for libel based upon this letter, that it did not come within the rule, as to "statements necessary to protect the defendant's interests" so as to make the occasion privileged; and even if it did, the privilege was destroyed by the excess of the language.

Evidence was given by a woman who said that she saw the defendant's letter in the hands of the plaintiff's mother within twenty minutes after its receipt, and that she read it aloud in the presence of the plaintiff and her mother and several other persons. There was also evidence to show that the letter had been posted and given out by the postmaster to the plaintiff's mother.

*Held*, that had the evidence of the woman been offered in order to fix the defendant with liability for what was done as a further publication of the letter, it would not have been admissible, but it was admissible in order to prove publication by the defendant, which was denied, as it showed that the letter was in the possession of the person to whom it was addressed