In moving to quash a by-law the practice having been adopted of applying to a judge sitting alone, an objection that the application should have been to the Divisional Court was not entertained. Such an appliction, if required to be made to the Divisional Court, must be to the common law Divisional Courts, and not to the Chancery Divisional Court.

Pegley (of Chatham), for the applicant.

Moss, Q.C., contra.

O'Connor, J.]

Re Dunn and Corporation of Peterborough.

Municipal law—Manufactories—Exemption—Public policy—Municipal Act, 1883, sec. 368, 47 Vict. ch. 34, sec. 8 (O.)

The Municipal Act of 1883, sec. 368, as amended by 47 Vict. ch. 32, sec. 8 (O.), authorized a municipal council to exempt any manufacturing establishment, in whole or in part, from taxation for any period, not longer than ten years.

A by-law of the town of Peterborough recited that a company had acquired several water privileges on the river Otonabee, and intended developing same by erecting thereon factories of different descriptions; and it was advisable, in the interests of the town, that the privileges, immunities and exemptions thereinafter mentioned should be granted. It further recited that the total assessment of the said water privileges and the lands in connection therewith amounted to $50,000. The by-law then enacted that the aggregate assessment of the said properties should be and remain for ten years, at the sum of $50,000; and the assessors from time to time were required to assess same at said sum, notwithstanding the erection of any buildings, etc., thereon.

Held, not a by-law within the said section as amended; and also that it was opposed to public policy and morality in directing the assessors from time to time to limit their assessment.

Shepley, for the applicant.

Robinson, Q.C., and *Edwards* (of Peterborough), for the defendants.

O'Connor, J.]

Goring v. London Mutual Insurance Company.

Insurance—Variation of statutory conditions—Fire Insurance Policy Act—Dominion Act—Mutual Insurance Co.—Attorney-General—Minister of Justice.

The defendants, a mutual insurance company, were incorporated by an Act of the Dominion Parliament, 41 Vict. ch. 40, by sec. 28, of which it is provided that "any fraudulent misrepresentation contained in the application therefor, or any false statement respecting the title or the ownership of the applicant, or his circumstances, or the concealment of any incumbrance on the insured property, or the failure to notify the company of any change in the title or ownership of the insured property, and to obtain the written consent of the company thereto, shall render the policy void."

Held, on demurrer, that the matters provided for by the above section were subject matters of the Fire Insurance Policy Act of Ontario, and over which the Province has exclusive jurisdiction; and although they might be proper subjects of legal contract, they would have no force or vitality through the Dominion Act *per se*, but only by being used as required or modified by said Ontario Act, namely, in the manner provided for variations to the conditions therein contained.

Citizens' Insurance Co. v. *Parsons*, and *Queen's Insurance Co.* v. *Parsons*, 7 App. Cases 96, commented upon.

The 28th section of the Mutual Fire Insurance Companies' Act, 1881, makes the Fire Insurance Policy Act applicable thereto, "except where the provisions of the Act respecting Mutual Fire Insurance Companies are expressly inconsistent with, or supplementary, and in addition, to the provisions of the Fire Insurance Policy Act."

Held, this includes all Mutual Insurance Companies doing business in the Province; and it was not alleged in the pleadings herein that there was anything in the defendants' Act "expressly inconsistent with" the Fire Insurance Policy Act, but merely that the matters were variations, etc., of the statutory conditions.