

2. Under the authority of section 353 of the above Act to entitle a freeholder to vote on a by-law, he must be actually a freeholder at the time of tendering his vote. Owners who have disposed of their property and moved away from the municipality, are therefore not entitled to vote on the by-law, and should not be considered in arriving at the proportionate part of the ratepayers who have voted in its favor.

#### Granting or Refusing Licenses to Pool or Billiard Rooms.

177—D. R.—Referring to your answer to 105, A. B. C. in February number of the WORLD you say a municipal council has no right to refuse a license to any person who is willing to pay the license fee for keeping a pool room.

I would like to ask if you have taken section 486 A. of The Municipal Amendment Act of 1903, into consideration in forming your answer to A. B. C. I, with many other municipal councillors, am of the opinion that this section 486a, page 303, Statutes Ontario 1903, gives councils power to refuse a license. If this section does not do so, kindly state what sections over ride it?

See our reply to question number 174 in this issue.

#### Application of Truancy Act.

178—W. G. B.—Does The Truancy Act apply to all children up to the age of 14?

Section 2 of The Truancy Act (chapter 296, R. S. O., 1897) requires all children between the ages of 8 and 14 years to attend school subject to the exceptions mentioned in section 4 of the Act, and section 5 prohibits the employment of children under fourteen years of age during school hours.

#### Liability for Maintenance of Deviating Town Line.

179—P. S. E.—There is a road running parallel with a boundary line between two townships owing to the boundary line being impracticable for a road. Many of the old residents state that said road has always been considered a substitute for and in lieu of a road on said boundary line, and moneys have been granted and expended by both of said municipalities on said road as a deviation of the said boundary line and statute labor also, and both municipalities passed by-laws assuming same.

Now one of the townships has rescinded its by-law and is trying to compel the other township to assume and maintain all that part of said road that deviates from the said boundary line. Said deviation of road, however, does not return to the boundary line only by running on a concession line for the width of a lot when it again strikes the boundary line proper, said deviation is only for a good line of road. What action can the one township take to compel the other township to resume their just right and responsibility in the matter?

I have given you a correct statement of the circumstances. There is a bridge over a stream, on said deviation of road, 80 feet long, and if the said boundary line could be opened it would be necessary to build a bridge nearly a  $\frac{1}{4}$  of a mile long.

The county council a few years ago gave a grant of \$450 to assist in building the said 80 foot bridge across the stream on said deviation of road, said money was divided in equal portions between the two said townships and was duly expended by them in construction of said bridge.

The deviating road appears to have been regularly assumed by by-laws of the adjoining municipalities respectively as a portion of the town line between them, and always dealt with and considered as such both by the adjoining townships and the county. We are therefore of opinion that under section 623 of The Consolidated Municipal Act, 1903, the by-law referred to cannot have the desired effect until a by-law in similar terms has been passed by the council of the other township. If the latter for six months after notice of the former's by-law omits to pass a by-law in similar terms, the duty and liabilities of each township in respect to the road will have to be referred to arbitration under the provisions of the Act as provided in section 624.

#### Liability for Accident on Highway.

180—RATEPAYER—During the fall of 1906 the G. W. Telegraph Company removed a line of their poles through this township. They

left several holes open. During the present winter, while the highway was not good on the centre, a farmer and ratepayer was driving his team with sleigh along the side of the road where the sleighing was better. One of his horses, a valuable mare, got a leg into one of these holes which is 4 or 5 feet deep and 8 or 10 inches in circumference; the mare was hurt and lamed, also caused her to cast her foal. Who would be liable for damages (\$50 being claimed) the township or telegraph company, or will the ratepayer have to suffer the loss?

It is difficult to give a definite opinion in a case of this kind, so much depends on the actual facts of the case. In order to succeed the claimant must show that the highway was out of repair, that this non-repair was due to negligence on the part of the municipal corporation and that the damage was sustained by reason of the non-repair. There must be direct evidence of the neglect of some duty on the part of the corporation which is sued. In this case, however, the holes had existed in the highway, rendering it dangerous ever since last fall, and the township should have seen that they were filled in. If the owner of the horse was not guilty of contributory negligence in driving along a portion of the highway which he knew to be dangerous, he would likely recover against the municipality, and the municipality obtain judgment over against the Telegraph Co. who made the dangerous excavations, under the authority of section 609 of The Consolidated Municipal Act, 1903. If a reasonable settlement can be effected with the claimant, we think the corporation had better arrange it.

#### Advertising Municipal Purchase of Land at Tax Sale.

181—J. R. M.—Is it necessary if the township wishes to buy a lot that is to be sold by the Sheriff for taxes, to advertise the same in the same paper that the sale was advertised in, or will any paper do?

The notice of the council's intention to purchase the lot should be published by the treasurer in the local newspaper or in one of the local newspapers in which the original sale was advertised, as required by sub-section 3 of section 148 of The Assessment Act, 1904.

#### Finality of Assessment Roll.

182—B. S. D.—For 1906, I was assessed for 100 acres of land of which I own only half, i. e., I own only fifty acres and my brother owns the other fifty. I did not receive any notice of the assessment and when I heard what the amount of the taxes was I considered it far too high an assessment, but the Court of Revision was over so I had no chance to appeal from assessment.

1. Can the assessor make me pay taxes on the 100 when I only own 50 acres?

2. Can he enter suit against me and make me pay what I considered an exorbitant rate?

3. What recourse have I, can I compel township to reconsider my assessment?

4. Will I in any case have to pay the tax on the fifty acres which I own?

1, 2, 3 and 4. We do not see that you have any redress, so far as the municipality is concerned, but that you will have to pay the taxes. Section 66 of The Assessment Act, 1904, provides that an assessment roll shall be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 46 of the Act, or the omission to deliver or transmit such notice." We do not think that sub-section 1 of section 112 of the Act applies to this case, as it is not an over charge which the Court of Revision can remit.

#### Assessment of Interest of Private Owner in Lands Leased to Crown.

183—B. S. D.—In the township of X the Crown leases 50 acres of land from A for a rifle range. A reserves the right to cultivate the balance of the land not used by the Crown for the rifle ranges which would be about 40 acres.