Assessment of Private Park.

253—E. M.—At a meeting of our council a resolution was passed fixing the amount of taxes on a private park at $100. This park brings a great number of people to our village each year, who, after paying admission fees and spending part of the day therein, very often spend considerable money among the business men, and therefore are to some extent a financial benefit to the village.

1. Can the council legally pass such a resolution, or would it require a by-law ?

2. If not, can they fix the taxes at $100 for the present year by resolution, or would it require a by-law ?

3. How long can a council by by-law fix the rate of assessment on a private park ?

4. Is a park where an admission fee is charged assessed as a paddock, park, lawn, etc., as per clause 224, section 30, [R. O. S. ?

5. How is the business tax struck on such a park, which has a summer hotel, dancing pavilion, restaurant, cottages, stables, etc., in connection ?

1. No. Nor has it authority to pass a by-law for this purpose. Sub-section 12 of section 591 of The Consolidated Municipal Act, 1903, empowers councils to grant aid by way of bonus to manufacturing or industrial institutions by by-law which has received the assent of the electors of the municipality. By clause (g) of section 591a the word "bonus" includes "a total or partial exemption from taxes or the fixing of an assessment." A private park or pleasure resort does not fall within the purview of the above provisions, and it should be assessed at its actual value as provided in section 36 of The Assessment Act, 1904, the same as any other property in the municipality.

2. No, for the reasons given in our reply to question number one.

3. It has, as above stated, no authority at all to do so.

4. The section referred to is now section 41 of The Assessment Act, 1904. This is a park or pleasure ground used in connection with a building, and should be assessed as provided in section 41.

5. The business assessment should be calculated on the assessed value of the premises at the rate mentioned in clause (h) of sub-section 1 of section 10 of The Assessment Act, 1904.

Reeve May Move or Second Resolutions.

254—S.—Can a reeve of a municipality be the mover or seconder of resolutions or by-laws in a council consisting of five members in a township ?

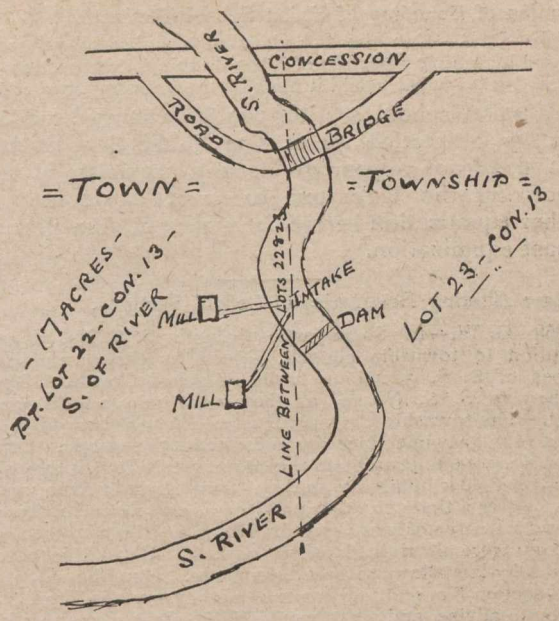
Yes.

Maintenance of Bridge Over River Between Town and Township in Districts.

255—A. O.—We have lately had a town formed out of a part of our township, and upon some matters we have not yet quite settled as to our respective rights and privileges. The first matter upon which I wish your opinion relates to the maintenance of a bridge upon one part of our boundary. See diagram. The description of the town boundary reads (at this point) "the 17 acres of lot 22, in the 13th concession, south of South River." You will observe that lot 22 line crosses the bridge near the east end, and what we wish to know in this matter is how much of the bridge should be maintained by each municipality, also if there is any provision in the statutes relating to the maintenance of a bridge in such a position ?

2. What would be the position of the power at this point ? Would it be in the town or township, as the dam and in-take for those two milns are on lot 23, in the 13th concession, as you will see on the diagram ?

3. Should not the power for those two miles be assessed by the township ? I believe that the mills are in the town, but the river must, from the description given be in the township, even where it s on lot 22 as well as lot 23, as description reads that 17 acres of ot 22, in the 13th concession, south of South River ?



1. We are of opinion that the river now forms the boundary line between the town and township. Since these municipalities are located in Territorial Districts in which there is no county organization, the provisions of section 617 of The Consolidated Municipal Act, 1903, are inapplicable, and the statutes contain no other provision defining the respective responsibilities of the two municipalities in regard to the maintenance of this bridge. One of the municipalities may grant aid to the other for the maintenance of the bridge under the authority of section 644 of the Act.

2. Since the river forms the boundary between the town aud township, it is located in neither municipality, neither is the dam nor in-take, nor any other structure erected or placed in the river.

3. We do not think the structures in or on the river can be assessed in either municipality, as the statute contains no provision applicable to a case of this kind similar to that contained in sub-section 9 of section 14 of The Assessment Act, 1904, relating to the assessment of the poles and wires of telegraph and telephone companies located on boundary lines.

Liability for Negligent Construction of Drain.

256—A. J.—The council of the Township of M. lets a contract of a large drain to be constructed under The Municipal Drainage Act, first end of the drain being on public road. They appointed a superintendent, the contract being described by plan and specification of engineer. The drain on road to be three feet at bottom and ten feet at top and 3½ deep, the dirt to be thrown on roadbed. The dredge being too large for this part of the drain, the superintendent allows the contractor to make the drain on the road sixteen feet wide, square, down close to the roadbed, making a dump of six or seven feet. If damage occurs, who is responsible, the council, their superintendent or the contractor ?

The municipality would likely be held liable in damages to any person injured by reason of the excavation who could show that it was dangerous, that its condition was due to negligence on the part of the municipal corporation, that the damage was sustained by reason of the dangerous condition of the road, and that his conduct did not contribute towards the happening of the accident. The dangerous condition appears to have been caused by the superintendent, who was a servant or agent of the municipal corporation, and therefore we do not think the municipality would have a remedy over against the contractor or anyone else for the amount of the damages recovered and costs, under the provisions of section 609 of The Consolidated Municipal Act, 1903.