

returned; therefore, I cannot make returns. How shall I proceed, or what am I to do? Will the Council be unable to further collect the taxes remaining unpaid? Can I afterwards transmit list, being after date? Could council appoint a collector to collect the balance now, and same collector collect this year's taxes? The law says collector shall be appointed from year to year. This collection would all be within the year. A. L.

On the 7th April a return from the *local treasurer* to the *county treasurer* of lands in arrears is required. The clerk has no return to make at that date. If the collector has not made a return of the roll to the treasurer, of course the latter would be unable to comply with the law until such a return is made to him, but "better late than never" is a good rule in any case. If the collector has absconded his sureties would be liable for the taxes uncollected. If the roll is forthcoming, probably the sureties could make some arrangement to collect the balance due on it, but as to the best method of proceeding we would require more full particulars before forming an opinion. No doubt as soon as the council became aware of the default of the collector, they would consult a solicitor, and be guided by his instructions. This is what should be done in such a case.

Are streets in villages not incorporated, but which have been properly surveyed and registered, to be treated the same as government allowance for road? When such streets are occupied by private parties, how should council proceed to open said streets? On page 2 of last issue you speak of passing by-law to open road allowance when in possession of private party by reason of another road being used in lieu thereof, which is very clear; but to open Government road allowance where no other road is used in lieu, would council need to pass by-law at all, or what steps would be necessary? How should council proceed to close up or divert a road through private property which has been used as a public highway for a number of years?

G. A. A., Sutherland's Corners.

It would, we think, be necessary to pass a by-law to open the streets spoken of to the public, if they have not been so used already. It certainly would appear from sub-section 24 of section 489, and sub-sections 17, 27, 28 and other sub-sections of section 496 of the Municipal Act to require by-laws to prevent obstructions such as fences, etc., and then if the terms of the by-law are not complied with an indictment for nuisance would follow. We cannot find any law giving councils such a summary method as tearing down a fence would be. We have seen it done, however, thus throwing the onus of an action against the corporation on the individual, and it worked satisfactorily in so far that no action was brought. The definition given in the Municipal Act to the word "highway" is a public highway, but one that has never been used even though surveyed and laid down as a road allowance can hardly be called a public highway, and our opinion is that it would require a by-law of the council to give them possession and to open it for public use. It is necessary to pass a by-law to close up a travelled road on which work has been done or money expended or which has been in general use by the public, and the latter by-law must be advertised before being passed and must afterwards obtain the assent of the county council. See section 546 and sub-sections for procedure.

Piles of logs and lumber have been placed on the public road allowance, and the owner was notified by the pathmaster to remove the same within a reasonable time. The time expires and the owner neglects and refuses to remove them. What is the legal course for the pathmaster to pursue in the matter? Would he be justified in selling the stuff, or in removing it at the cost of the owner and holding the lumber in security until the cost be paid? A. McL.

The editor regrets that he is unable to reply to his correspondent's enquiry as explicitly as he could wish. Not finding any decisions bearing directly on the point, and not having any experience in such a matter he will be very glad if some of his readers would give what information they can. To an ordinary reader the question would seem but a simple one, and one that any person might answer off hand, but as a matter of fact the question involves some nice legal points, and only those who have gone through the "ordeal" can instruct as to the proper course to pursue. We incline to the opinion that a by-law would first be necessary in order to give the council a legal possession of the road allowance and to prohibit obstruction, and the next step would be to notify the owner, giving him a reasonable time to remove the obstructions, and then if not complied with that the owner be indicted before the grand jury of the Quarter Sessions. The obstruction is in the nature of a public nuisance, and as such could not be dealt with summarily before a magistrate. We may be wrong, and hope we are, as if our view is correct it is a very roundabout and expensive method of rectifying what should be but a simple matter.

Our assessor has assessed church buildings and land with other assessments, also parsonages and land?

1. Have such church building and lands the right to be so assessed subject to all the county, township and school rates usually imposed? My opinion is that they are only to be rated for some improvement in the immediate vicinity of such property, by which said property is benefitted, and not for ordinary purposes. See Vic. 53, chap. 55, sec. 1, act 1890.

2. The assessor assesses the father as Freeholder and the sons also as F., including them in brackets; should those sons be designated by F. or by F. S. when they are the sons of farmers? By farmers' sons being assessed as joint owners we lose so much statute labor more than if they were marked as farmers' sons. Again, lawyers and merchants have their sons marked F. on roll; is that the proper marking?

3. Suppose the assessment is not handed in to clerk until say 10th May, no resolution of council fixing any date different to statutes, would the term for appeal be also extended?

C. P.

1. We agree with our correspondent's interpretation. In fact it is clearly stated that the assessments of land on which a place of worship is erected and land used in connection with a place of worship are to be assessed for local improvements, and no authority has been given to assess them for other purposes. 2. The assessor, if he has reason to believe that the farmer's son is not a joint owner or that the others are not freeholders, is highly culpable in assessing them as such. An official should only carry out the laws; he has no authority to make laws to suit the wishes of any body. Members of Parliament are elected for the purpose of making laws. 3. Yes. If roll not returned until 10th May the time for appeal would be fourteen days from 10th May instead of count-