

As a public officer discharging a public duty a pound-keeper can claim the privileges and protection accruing to him from such a position, and is therefore entitled to notice of any action which may be brought against him for acts done in the execution of his office; he may give special matter in evidence under the general plea of not guilty, and the plaintiff must aver in his declaration that the alleged grievance was committed maliciously and without reasonable and probable cause, and must give proof accordingly.

But if a pound-keeper goes beyond the line of his duty, or becomes a party to the illegal act of another person, he loses the advantages of his position as a public officer and cannot claim the protection of the statute, and on this subject many of the remarks made in our last number with respect to magistrates apply equally to pound-keepers, as well as to other public officers.

What then are the duties of pound-keepers when animals are impounded? (1) As to the receipt of the animal; (2) As to the claim for damages done to the impounder; and particularly, (3) As to the sale of it, if such be necessary, and the preliminaries antecedent thereto.

(To be continued.)

PROVING DISPUTED ACCOUNTS.

Amongst the annoyances connected with a country merchant's business is to be put to proof of a long account, extending over two or three years. He may have changed his clerks several times during the period, or some of them may be dead, or have left the country. Under these circumstances, with an account containing perhaps one hundred or more items, it is very difficult, often impossible, to bring direct proof of all, when the whole account is denied by a defendant.

Our present object is to offer some suggestions as to the mode of proving such an account.

First—The plaintiff should bring all the direct proof he can obtain as to the particular items in his bill.

Second—He should shew by witnesses that the defendant was in the habit of dealing with him for his family supplies, and if such be the case, with him alone; that he or his family

were frequently seen in plaintiff's store, purchasing articles, &c.

Third—The merchant should bring his books, day-book and ledger, into court, and (after giving all the direct and general evidence he can furnish to shew the dealings by facts and circumstances) claim of the judge to be allowed his own oath in supplement of the partial proof given. If the judge be satisfied that some of the objected items have been proved, that there is evidence of the defendant having dealt with the plaintiff for his supplies, and that the plaintiff's books have been properly kept, and that the items of the account are regularly entered therein, the judge will be quite warranted in allowing the plaintiff to be examined to establish the account in detail.

As a general rule, it is not prudent to call the defendant: a man who dishonestly denies a claim will have little scruple in committing a graver offence against morals; and a sound discretion must be exercised in calling a member of the defendant's family.

It is always better, in cases of the kind referred to, that the account in detail should be sued on, rather than trust to being able to prove that a copy was rendered. But, it may be added, that the fact of an account being rendered yearly and not objected to till sued on, is a strong circumstance against the defendant, and one that would, no doubt, weigh with the judge. Therefore, when proof can be obtained that the account was rendered, it should always be supplied.

THE "JUDGMENT SUMMONS" POWERS.

Under the 165th sec. of the Division Court Act, amongst the grounds upon which a judgment debtor brought up for examination may be committed, is the following—"If it appear to the judge, &c., that the debtor incurred the debt or liability by means of fraud, &c." A recent case before the Court of Bankruptcy in Ireland (*Re S. B. Carpenter*, Irish Jurist Rep.) will be an authority in point, being upon an enactment analogous to our statute. A judgment debtor sought to take the benefit of the Insolvent Act. He was an attorney, and had brought a frivolous and unfounded action, by which he put the defendant to considerable cost, although the latter obtained a verdict. The defendant now as creditor opposed the insolvents' discharge,