

Before proceeding to a sale, which in the case of pigs and poultry must not be till after four clear days, nor in the case of horses or other cattle till after eight clear days from the time of the impounding, the pound-keeper must prove by affidavit, to the satisfaction of a justice of the peace, that proper notice of the intended sale has been given; upon which it is the duty of such justice of the peace to determine the amount (if not otherwise fixed by law, and adhering, so far as applicable, to the tariff of fees for pound-keepers that may be established by by-law of the municipality) to be awarded to the pound-keeper for his expenses and trouble. And if the owner does not, within forty-eight hours from the time of the impounding, dispute the amount claimed for damages, according to the duplicate statements given to the pound-keeper, the latter is to consider the amount there claimed as the amount of damages actually sustained (under twenty dollars), which the owner is entitled to receive from him, out of the proceeds of the sale.

These preliminaries having been observed, the pound-keeper shall, on the day and at the time named in the notices (if not replevied or redeemed), sell the animal for cash to the highest bidder. With the proceeds he is to pay all expenses, and the balance (if any) is to be handed to the person (if any) to whom the damage has been done, so far as it goes, or if there is a balance after paying expenses or damages, the surplus (if any) shall be paid to the original owner of the animal, or if not claimed by him within three months after the sale, must be handed over to the treasurer or chamberlain for the use of the municipality.

The pound-keeper may, however, if he prefer it, use the summary remedy prescribed by sub-sections 14 and 15, for recovering by the judgment of a justice of the peace from the owner the value of the food and shelter given to the animal, together with a reasonable allowance for his time and trouble.

The most important questions that arise under the law relating to pound-keepers are those where cattle are impounded for damages done to neighbouring crops and pastures, &c., and here comes up the all important question of "lawful fences." Every farmer knows what is meant by these words in his own locality, but he may not know how far he may, as it were, take the law into his own hands when suffering damage from *breachy*

cattle, or, on the other hand, what remedies he is entitled to, to recover possession of his cattle, if they happen to be impounded.

When speaking on this subject Lord Mansfield says:—"Distraint cattle doing damage is a summary execution in the first instance. The distrainer must take care to be formally correct; he must seize them in the act, upon the spot." Although a particular by-law may obviate the necessity for such strictness as this, still the words quoted are useful in shewing the necessity of the greatest caution for fear of mistakes. The questions as to whether fences are sufficient, and as to what damage has been sustained by the distrainer, are to be decided by three arbitrators, who are to be fence-viewers of the township, one to be appointed by the owner, one by the person suffering damage, and one by the pound-keeper. Their award (which should be in writing) should shew: 1. That they have viewed the fences and found them lawful or unlawful (as the case might be), according to the statutes or by-laws of the township in that behalf at the time of the trespass; and, 2. If the fence was a lawful one, what amount of damages have been done to the distrainer's property. They should then deliver this award to the pound keeper with a statement of their fees and charges. Any omission, however, of any necessary statement in the award cannot affect the position of the pound-keeper, so long as he does his duty.

Lord Mansfield continues by stating the remedies that the proprietor of the cattle has to recover possession of them: 1st. He may replevy. 2nd. If he does not choose to replevy, but is desirous of having his cattle immediately re-delivered, he may make amends (under protest, we presume) and pay all lawful fees and charges, and then bring an action of trespass for taking his cattle, and particularly charge the money so paid by way of amends, as an aggravation of the damage occasioned by the trespass. He has no remedy against the pound-keeper, unless, as we said before, the latter goes out of the line of his duty, or becomes a party to some illegal act of the distrainer.

SERVICES IN FOREIGN DIVISIONS.

We hear many complaints of neglect regarding the service and return of summonses sent to "Foreign Divisions." In some cases