

212. In *Tutton v. Darke* and *Nixon v. Freeman*, 5 Hurl. & N. 647, it was explained that this rule meant not merely that the distress must not be taken in the dark, but that it must be between sunrise and sunset, and though it be difficult sometimes to determine what will be proper evidence of sunrise and sunset, yet ordinarily the time by the clock coupled with the almanac will be sufficient evidence if unanswered, and if it clearly appears thereby that, in any view, the distress was before the sun had risen or after it had set, the distress will be illegal. "Before sun-rising or after sun-set no man may distrain but for damage feasant," *Mirroure*, c. 2, s. 26.

CAP. XXIII.

A Remedy against Accomptants. Fermors shall make no Waste.

It is provided also, That if Bailiffs, which ought to make accompt to their Lords, do withdraw themselves, and have no Lands nor Tenements whereby they may be distrained; then they shall be attached by their Bodies, so that the Sheriff, in whose Bailiwick they be found, shall cause them to come to make their accompt.

II. Also Fermors, during their Terms, shall not make Waste, Sale or Exile of House, Woods, and Men, nor of any thing belonging to the Tenements, * that they have to ferm, without special License had by Writing of Covenant, making mention, that they may do it; which thing if they do, and thereof be convict, they shall yield full Damage, and shall be punished by Amercement grievously.

Provisum est etiam, quod si balivi, qui comptum suum dominis suis reddere tenentur, se subtraxerint, & terras vel tenementa non habuerint, per quæ distringi possunt; tunc per eorum corpora attachientur, ita quod vicecomes, in cujus baliva inveniantur, eos venire faciat ad comptum suum reddend.'

Item firmarii tempore firmarum suarum vastum, venditionem, vel exilium non facient de domibus, boscis, vel hominibus, nec de aliquibus, ad tenement', quæ ad firmam habent, spectantibus, nisi specialem inde habuerint concessionem, per scriptum conventionis, mentionem faciens quod hoc facere possunt: Quod si fecerint, & super hoc convincantur, dampna plena restituant, & per misericordiam graviter puniantur.