

danger that may happen thereby, in the night time, to the Owner, his Family and Goods, by Thieves and other Malefactors, *Co.* 11. 82.

4. If Thieves shall come to a Mans House, to rob or murder him, he may lawfully assemble company to defend his House by force; and if he or any of his company shall kill any of them in defence of Himself, his Family, his Goods or House, This is no Felony, neither shall they forfeit any thing therefore. *Co.* 5. 91. & 11. 82.

5. Also a Man that is in possession of a House peaceably, and doubteth that another (who indeed hath more right to the possession, and who may enter) will enter upon him, here he which is in possession, may defend and keep his possession of the House with his ordinary Company, and may justifie to beat the other, which shall attempt to enter upon him: But if he kill him, it is Felony, nay, he in possession (in this former case) may not hire any strangers to aid him, neither may he have his own ordinary Company in Armor, nor otherwise be provided with Bows or Guns to shoot at the other, as it seemeth, *Cromp.* 70. a. See after, *tit. Homicide, cap.* 98. *Crom.* 70.

§. 4. In defence of his person. Also, if a Man being in his House, do hear that another will come thither to beat him, he may lawfully assemble his Neighbours and Friends. To assist and aid him there in defence of his person. *21 H. 7. 39. Br. Riots 1. Co. 11. 82. & 5. 91.*

And yet if he, or any of his Company, shall kill the other (or any of the other Company) in such defence of himself, or his, this seemeth to be Felony in all of them which be in the House, and in that Action; so as they shall forfeit their Goods thereby. See hereof after, *tit. Homicide.*

But if a Man be threatned, that if he come to such a place, that then he shall be beaten. In this case he may not assemble any company to go thither to safeguard his person; for there is no necessity of his going thither; besides, he may have surety of the peace against such as threatned him. *21 H. 7. 39. Co. 11. 81. & 5. 91.*

And if another shall make any assault upon me, yet if I may escape with my life, it is not lawful for me by the Law to beat the other who made the assault, *per Markham. Quod. tota curia concessit. 2 Hen. 4. fol. 7. Fitz. Bar. 72. Vide hic before tit. Surety for the Peace, cap. 72.*

§. 5. In defence of others. If there be an attempt made to beat a Man, his Wife, Father, Mother or any of his Children (within age) he may lawfully use force to resist it, and may justifie the beating of the other in such case. *9 E. 4. 28. 16 E. 3. 17.*

Also the Servant may justifie to beat another in defence of his Master. *21 H. 7. 39. Br. Trn's 217. hic cap. 72.*

But yet by the opinion of *Eliot*, *21 H. 8. fol. 2. b.* it is not lawful forcibly to touch the person of a Man, except that there be so great peril, that another is like to perish, if he have not help. And there I may beat one Man (saith he) to save the life of another; so that where the life of another is in danger, there any Man (though a stranger) may lawfully resist it, and that with force and beating of the other. See *Chap. 72.*

§. 6. In defence of my Goods. Also a Man may justifie to beat another in defence of the possession of his Goods. And if another hath taken away my Goods, I may take them again from him with force. But a Man cannot justifie the wounding of another in defence of his Goods. And this was the opinion of *Wray* Chief Justice, *An. 25 El.* *Crom. 6. 69. Crom. 9.*

And note, That every one may take and detain with force his own Goods: And the Issue in an Action of Trespass brought therefore shall be, Whether the party hath interest or title to the Goods, or no; and not whether he used any force in getting them; and if it be found for the Defendant,