

neither are they *malum in se*, they are in themselves neither evil nor unlawful, nor prohibited by the Common Law; though otherwise some of them are prohibited by Statute. See before *in Cardy v. Inland* &c.

But if any of the persons assembled together for any the Disorders above mentioned (or for the like) came with any intent or purpose to break or disturb the Peace, or to offer violence, or hurt to the persons of any, and shall make an affray or do other outrage. This is to be called a Riot, in so many as came together with such unlawful intent or purpose.

And if any of the persons assembled together (to drink or play) at an Ale-house, or for any the Disorders above mentioned, or the like, shall fall out suddenly (without any provocation of an affray) and in that their falling out, they shall be able themselves to sundry parts, and shall make an affray, it seemeth by the opinions of some, that this shall be adjudged a Riot in so many of both sides, as shall be Parties to the affray or quarrel. But *quere* hereof, for that it was without any such intent before their said Assembly, and done only upon the sudden, and upon a sudden occasion hapning after their said Meeting; and again, if their said Assembly was at the first lawful, or at least not prohibited by any of these Statutes, nor yet the Common Law. *Co. lit. 87. b. (5 bond of one) don. 1. m.*

But otherwise, if by agreement they shall meet again, and fight afterwards, that maketh it a Riot, as being a new Assembly upon the former quarrel; and so their second Meeting was upon an intent precedent to do an unlawful act.

Where a great number shall assemble themselves, or come into a house, and there detain Possession of the house with force, (though this is neither a publick Fact, or Force, done in the open sight of the People; yet) this is a Riot, and the Justices of Peace punishable, if they shall not remove such Force, and suppress such Riots. See the Case of *Drayton Basses* before, *in Fawcett's Entry*.

Lamb. 84. P.R. 25.

comp. 66 R. 25. amb. 18 comp. 67

comp. 61

amb. 11

old.

Concerning the lawfulness or unlawfulness of the Act. C. H. A. P. CXXXVII.

NOTE, That the lawfulness or unlawfulness of the thing done or intended, doth not always excuse or accuse the parties to a Riot, but so, that the manner and circumstances of the Act, must also be considered.

Lawfulness of the Act.

For every Man may assemble company to aid him in his house, against injury or violence. But if a Man be threatened, that if he come to such a place he shall be beaten. In this case, if he shall assemble any company to go thither with him (though it be to safeguard his person) it seemeth to be within the compass of these Statutes, and unlawful. *Br. Riots 1.*

13. Hen. 4. 10. Hen. 4.

Co. 5. 101. & 9. 55.

Every Man in peaceable manner may assemble a meet company (and may come) to do any lawful thing; or to remove, or cast down any common Nuisance done to them.

Every private Man, to whose House or Land any Nuisance shall be erected, made or done, may in peaceable manner assemble a meet company, with necessary Tools, and may remove, pull or cast down such Nuisance, (and that before any prejudice received thereby) and for that purpose, if need be, may also enter into the other Mans Ground. *Br. Nuisance, 14. & 33.*

36 Eliz. Comp. 66

A Man erects a Wear, cross a Common River (where people have a common passage with their Boats) and divers did assemble with Spades, Crow's