

shall resist, or flee from their Arrest, they shall not be in any danger to forfeit any Recognizance of the Peace, by any such assault or striking, but may well justifie such Act.

In defence  
of any per-  
son.

Also it is no breach of the Peace for any private Man to beat, strike or wound another in defence and safeguard of his own person from killing, wounding or beating, but it is a thing justifiable. And in Action of Trespas De assault & battery, the Defendant may plead, *De son assault demesne, &c. Que il fait ceo in defence luy mesme, enconter le assault del Plaintiff, &c.* And yet by others, if another shall assault me, if I may escape with my life, or without being wounded, maimed or hurt, it is not lawful for me to beat or wound the other who first made the assault, but I must first flee, or go from him so far as I can. 25 E. 3. 42. 2 H. 4. 8. 33 H. 6. 18. Br. Trn's 28. 71 Cro. 137. hic.

Lib. Incr.  
611.  
16 Ed. 4.  
11.  
12 Ed. 4. 5.

*Sed vim vi repellere licet, modo fiat moderamine inculpatæ tutelæ.*

*Non ad sumendam vindictam, sed ad propulsandam injuriam. Co. L. 162*

By the Civil Law he shall not be said to have done a wrong, who incontinently for his safeguard, after the same manner whereby he is assaulted, doth defend himself, as when a Man is assaulted by Weapons, he may resist with Weapons: But if he do exceed measure, in repelling an injury; as if being wronged in words, he shall resist with Weapons, and by such resistance do beat or wound the other party, he which is so beaten or grieved, may have his Action, and shall recover damages, &c.

And to prescribe some temper and moderation in the resisting of verbal, or actual injuries one hath these Verses:

*Res dare pro rebus, pro verbis verba solennis,*

*Pro busis busas, pro trufis reddere trufas.*

Things must be recompenc't with things, buffets with blows,

And words with words, and taunts with mocks and mows.

Or rather by the Law of God and Nature, we should practise this Lesson,

*Per te nulli unquam injuria fiat,*

*Sed verbis aliisque modis fuge ledere quemquam,*

*Quod nulli nolles, aliis fecisse caveto:*

*Quodque tibi velles, aliis præstare studeto.*

If one Trained Soldier hurt another by mischance, and not willingly, or by negligence, it is excusable in an Action of Trespas or Assault. *Hobarts Reports, Weavers Case, p. 189.*

If two, or more, do agree together to play at Barriers, Back-sword, Bucklers, Foot-ball, or such like, and one of them doth wound and hurt another, the Party hurt, shall not have an Action of Trespas therefore against the other; for that it was by consent, and to try their Valor, and not to break the Peace. *Fitz. Bar. 244.*

Yet if such a Man were before bound to the Peace, such Act seemeth to be a Forfeiture of his Recognizance. See *Br. Cro. 229.* For although such sports be suffered, yet they are not lawful. Lamb. 133

§. 5.  
In defence  
of others.

Also it is no breach of the Peace, for a Man to beat him that doth assault and would beat him, wound or evil intreat his Wife, Father, Mother or Master, but is justifiable.

So if the Wife shall beat him, that shall assault, and would beat or evil intreat her Husband.

So if the Father or Mother shall beat him that doth assault, and would beat or evil intreat their Child, being then within age, and not able to defend it self.

But