Sect. 2.

Of Assaults, Batteries, affrays, or Frays, and Riots.

An assaull is an Attempt or offer with force and Violence to do a Corporal hurt to Another, as by Striking at him with or without a Weapon, or by presenting a Gun at him at such a Distance to which the Gun will carry, or pointing at one standing within the Reach of it, or by one lifting up his fist at Another, or the like Yet done in an Angry threatning Manner. But no Words, what soever can Amount to an assaull How kind pl. Cr. lib. 1 Ch. cap. 62 §1.

Any Injury, the Never so small, actually done to the person of a Man in an angry or Revengeful, or Rudder Insolent Manner, as by Spitting in his face, or any way touching him in Anger, or violently thrusting him out of the Way, is a Battery in the eye of the law, Hawkins ibid. sect. 2. And when a Man in his own Defence beats Another who first assaults him &c. he may take an advantage thereof upon an Indictment Hawkins ibid. sect. 3 and may plead it in Defence.

The Wrongdoer in an assaull or battery is liable for Damages to the party Injured and to a Fine according to the Circumstances of the offence Hawkins ibid. §4.

An affray (from the French Frayer to terrify) is a publick offence to the Terror of the people, and so differs from an assaull which is a particular Injury to a single person Hawkins pl. Cr. lib. 1 Ch. cap. 63 sect. 1. Quarrelsome or Threatening words do not in the Judgement of law amount to an affray Hale pl. Cr. 1 3.5. But an affray may be without a word spoken or a Blow struck, as when a Man shews himself Unusually Armed, or Brandishes a Weapon, and thereby strikes a fear into those Unarmed Hawkins ibid. sect. 4. All affrays in General are punishable by fine and Imprisonment, the Measure of the fine is to be regulated by the Discretion of the Judges according to the Circumstances of the case, which very Much Vary the Nature of this Crime, Hawkins ibid.

Ibid. §20. Raisers of any fray in the Church or Church Yard the time of Divine service are punished with the forfeiture of all their Moveables to the King Act 27 Parl. 11 J. 6. Such as disturb Episcopal Congregations of Religious Worship tolerated by law, may by two Justices of peace be put to find Sureties under the penalty of 100 pounds sterling to appear at the Next General or quarter Sessions, or before the Court of Justiciary, or other Judges Competent, or committed to prison, and upon Conviction thereof the Offender shall forfeit 100 pounds Sterling, half to the Informer and half to the poor of the parish where the Offence was Committed. And Magistrates of the place, who under those of the Episcopal persuasion to be tried by law, for meeting together for Divine Worship, are upon proof thereof before the Board of Justiciary by Oath or Word of Witnesses, to forfeit 100 pounds sterling to be Distributed as aforesaid 10. Act. cap. 1 §9. Concerning the suppressing by Rabbling, tumult, or Violence any Minister of the Established Church of Scotland, Vide supra pag. 254

A Riot (Derived from the French Riotes to quarrel, and both perhaps from the Latin Ariotare to Batter Knock against Another like a Ram) is the forcible executing some Enterprize of a private Nature, to the Disturbance of the peace by several persons assembled together for that purpose of their own Authority. If a person going Thro' Engaged in a Riot, do join himself Unto them and assist them therein, he is as much a Rioter as if he had first assembled with them for that purpose, insomuch as he has no pretence that he came Innocently into the Company but appears to have joined himself Unto them with an Intention to second them in the Execution of their Unlawful Enterprize, and it would be Endless as well as Superfluous, to Examine whether Every particular person Engaged in a Riot were in truth one of the first assembly, or actually had a previous Knowledge of