

“Where a known felony, is attempted upon the person, be it to rob, or murder, here the party assaulted may repel force with force, and even his own servant then attendant on him, or any other person present, may interpose for preventing mischief, and if death ensues, the party so interposing will be justified.—In this case nature and social duty co-operate.” Foster 274. Hawkins, P. C. Chap. xxviii, Sec. 25, towards the end, “Yet it seems that a private person, a *fortiori*, an officer of justice, who happens unavoidably to kill another in endeavoring to defend himself from, or suppress dangerous rioters, may justify the fact, inasmuch as he only does his duty in aid of the public justice.” Section 24. “And I can see no reason why a person, who without provocation is assaulted by another, in any place whatsoever, in such a manner as plainly shows an intent to murder him, as by discharging a pistol, or pushing at him with a drawn sword, etc., may not justify killing such an assailant, as much as if he had attempted to rob him: For is not he who attempts to murder me more injurious than he who barely attempts to rob me? And can it be more justifiable to fight for my goods than for my life; and it is not only highly agreeable to reason that a man in such circumstances, may lawfully kill another, but it seems also to be confirmed by the general tenor of our law books, which speaking of homicide *se defendendo*, suppose it done in some quarrel or affray.” “And so perhaps the killing of dangerous rioters, may be justified by any private persons, who cannot otherwise suppress them, or defend themselves from them; inasmuch as every private person seems to be authorized by the law, to arm himself for the purposes aforesaid.”—Hawkins, p. 71, Sec. 14. Here every private person is authorized to arm himself, and on the strength of this authority, I do not deny the inhabitants had a right to arm themselves at that time, for their defense, not for offense, that distinction is material and must be attended to. Hawkins, p. 75, Sec. 14. “And not only he who on an assault retreats to the wall or some such strait, beyond which he can go no further, before he kills the other, is judged by