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If two men fight upon a sudden quarrel, and one of them after awhile endeavor to avoid any further struggle and retreat as far as he can, until at length no means of escaping his assailant remain to him, and he then turn round and kill his assailant in order to avoid destruction; this homicide is excusable, as being committed in self-defence; Post 277; and, malice apart, it is little matter, in such a case, which struck the first blow at the beginning of the contest. Id.; 1 Hale, 482; but see 1 Hawk c. 29 s. 17.

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KILLING UPON PROVOCATION;— No provocation whatever can render homicide justifiable, or even excusable; the least it can amount to is manslaughter. If a man kill another suddenly, without any, or, indeed, without a considerable provocation, the law implies malice, and the homicide is murder; but if the provocation were great, and such as must have greatly excited him, the killing is manslaughter only Kel. 135; 1 Hale 465; Post 290. In considering however, whether the killing upon provocation amount to murder or manslaughter, the instrument where-with the homicide was effected must also be taken into consideration; for if it were effected with a deadly weapon, the provocation must be great indeed to extenuate the offence to manslaughter; if with a weapon or other means not likely or intended to produce death, a less degree of provocation will be sufficient; in fact, the mode of resentment must bear a reasonable proportion to the provocation to reduce the offence to manslaughter.

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If a man pull another's nose, or offer him any other great personal indignity, and the other thereupon immediately kill him, it is manslaughter only. Kel. 135; 4 Bl. Com. 191.

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