but care must be taken that the resistance does not exceed the bounds of mere defence and prevention; for then the defender would himself become the aggressor.' In Book IV., pp. 184-5, he says: 'The law requires that the person who kills another in his own defence should have retreated as far as he conveniently or safely can, to avoid the violence of the assault, before he turns upon his assailant; and that not factitiously or in order to watch his opportunity, but from a real tenderness of shedding his brother's blood. . . . The party assaulted must, therefore, flee as far as he conveniently can, either by reason of some wall, ditch or other impediment, or as far as the fierceness of the assault will permit him, for it may be so fierce as not to allow him to yield a step without manifest danger of his life or enormous bodily harm, and then in his defence he may kill his assailant instantly.'

"In Blackstone's time nearly every offence triable in the oyer and terminer was punishable by death. There seemed to be more solicitude for the life of the brawler than for his victim, who was told that he must use no more force than is necessary, instead of the better phrase, that a person assaulted may use as much force as is necessary to repel the assault, and he should not be punished for an excess in the heat of passion, when reason is silent and has lost her sway. But a gradual change has been going on, and now it may be said that persons who are assaulted will not be treated as criminals if they follow a natural impulse and defend themselves as soon as they are assaulted, instead of running away. The German proverb, 'If I choose to become a sheep I will be devoured by the wolf,' is suggestive of the law of self-defence.

"In Wharton's Criminal Law, 10th ed., § 486*a*, it is said that the phrase retreating to the wall is used in a figurative sense, indicating a retreat to the limits of personal safety; that a person assaulted is not bound to wait until a blow is received, § 485; that the party attacked may follow his adversary until he himself is secure, § 486, note 2; and that a person about to be assaulted with a deadly weapon may anticipate the blow. The opinions of Judge Conyngham, of Luzerne county, in *Com.* v. *Seibert*, reported in Wharton on Homicide, 2nd ed., 1875, § 507, and of Judge Parker, of Massachusetts, in *Selfridge's Case*, reported in Wharton on Homicide, § 509, note 4, are emphatic de-