

III. Of the pleadings before justices of the peace.

By the same statute, in all civil actions triable before a justice of the peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person, under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate, the defendant shall be entitled to all evidence under the general issue, which by law he might avail himself of under any special plea in excuse or justification; any law, usage or custom to the contrary notwithstanding. (4)

IV. Of the general power and jurisdiction of justices of the peace in criminal cases.

By statute it is enacted, that it shall be within the power, and be the duty of every justice of the peace within his county, to punish by such fine as is by the statute law of the commonwealth provided, all assaults and batteries that are not of a high and aggravated nature, and to cause to be stayed and arrested all affrayers, rioters, disturbers and breakers of the peace, and to bind them by recognizance, to appear at the next supreme judicial court, or court of general sessions of the peace, (5) to be held within or for the same county, at the discretion of the justice; and also to require such persons to find sureties for their keeping the peace, and being of good behaviour until the sitting of the court they are to appear before, and to commit such persons as shall refuse so to recognize and find such surety or sureties. (6)

Ibid. s. 7.

Stat. 1783, c. 51, s. 1

Assaults and batteries.

Affrayers, etc.

The offenders to be bound to the peace, and for their appearance at a higher court.

On refusal to find sureties, the offender to be committed.

(4) Proceedings before justices of the peace where the title of real estate is brought into question, will be noticed under the titles of TRESPASS and REPLEVIN.

(5) By a late statute, the party must recognize to appear at the common pleas.

(6) When one is brought before a justice of the peace, on articles of the peace exhibited against him, the justice, if satisfied