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15th October, 1965.

J A M A I C A

IN THE COURT OF APPEAL

R. M. COURT CRIMINAL APPEAL No. 68/65

BEFORE: The Hon. Mr. Justice Duffus (President)
 The Hon. Mr. Justice Waddington
 The Hon. Mr. Justice Moody (Acting)

R. v. S A M U E L H A M I L T O N

Mr. E. G. Green appeared for the Crown
Mr. W. Hill appeared for the appellant.

DUFFUS, P.,

We do appreciate your argument on this matter, Mr. Hill, but it was essentially a question of fact for the learned Resident Magistrate and the Resident Magistrate's notes indicate that he found that more force was used than was necessary in the course of self-defence. The medical certificate indicates that this complainant received a fairly severe wound to his right shoulder which necessitated his being detained in the hospital for twelve days.

Assuming, however, that the Resident Magistrate believed that the defendant was attempting to defend himself, when he drew the cutlass and made the chop, it does seem clear that even if he were defending himself he used more force than was reasonably necessary in the circumstances. We agree with the proposition that it is not possible to measure the exact amount of force that one uses in self-defence with a micrometer or other instrument, but in all these cases it is essentially a matter of fact for the trial judge and we see no reason to interfere. The appeal is dismissed.

H.P.