The deceased and
the prisoner had had
an altercation three
weeks before, and the
deceased had then
threatened the life of
Scott. The threat had
been repeated and
knowledge of it
conveyed to the pris-
oner — Scott had
then been forced in-
to a fight by the
deceased and had at
first retreated found
his assailant stooping
as if to pick up a
missile when Scott
stabbed & killed
him —

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A. J. Burns

Hamlin's Ch — good

Mrs H—'s Ch — good

Know gen. Ch — of Wm Pool
Not considered good for truth — Have heard him charged with dishonesty by his neighbors

Know Ch — of Dres sell — Wm R. good

Never heard anything against it

Pool's character is bad — so far as —

Have heard James Marsh say his character was bad for lying & stealing & carrying lies —

do Brooks ha — do

do Hamlin —

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The Solicitor proposes to ask the witness if he knows of a difficulty between Marsh + Pool ~~with~~ in speaking of which — it being a trial in which Pool had testified against Marsh — Marsh used this language about Pool & that it was in relation to s'd trial that he did so

Deft objects Objection overruled

Deft Excepts

Defendant Rests

John Stewart

Know character of Wm Pool — Good so far as I ever heard

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Visa Stuart

State closes its testimony

Deft Closes

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but chose to a-
bide the risks &
chances of a per-
sonal rencontre.
The law considers
him therefore as
consenting to such
rencontre, and
holds him responsi-
ble for his acts
therein, precisely
the same as if no
previous ~~threat~~
provocation or
knowledge of any
purpose of [illegible]
~~[illegible]~~
had been established
or attempted —
It is not only in-
[illegible] insufficient for
justification but
it ~~[illegible]~~ can have no
effect upon your
verdict — in any

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our law, designed
for the protection of
human life —

But this is not the
doctrine of the [illegible]
for case — admitting
that case was an
immense [illegible]
[illegible]
[illegible]
itself a great ex-
tension of the com-
mon law, doctrine.
The common law
doctrine applicable
to these cases was,
that, if from the na-
ture of the attack
there is reasonable
ground ~~to suppose~~
for a man
to believe that another
has a present in-
tent to destroy his

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real power of
instant execution
& to act it in a
little different form, the
law estimates that only
to be a killing in self-
defence - which results
from an unlawful
necessity on the part
of the deceased to
prevent the instant
& unlawful completion
of an act already com-
menced by the person
slain, and which
the deceased had the
apparent means and
opportunity instantly
to consummate, and which
if he thus consummated
would have resulted
in instant — at the
very instant in the
death or serious pain
& injury of the
deceased —

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Self defence has re-
cently been presented
to you by the laborious
efforts of learned coun-
sel — There is no doubt
in regard to the right
and even the duty of a
human being to defend
his own life from the
aggression of another
even by the taking of
the aggressor's life —
when the same shall
be necessary.

The only question of
delicacy or difficulty is,
when does one [illegible] —
by [illegible], or what con-
stitutes, such necessity?
In [illegible] this ques-
tion I shall endeavor
to avoid confusing
your mind by a too
diffuse discussion of
the general principle

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form some of an act
not yet begun, can
never justify killing
or change the charac-
ter of homicide from
felonious to justifiable
It is not a sudden
[illegible] [illegible], death
or serious bodily in=
jury [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible], the aggres=
[illegible] [illegible]
initiated
commenced [illegible]
[illegible]
[illegible] as [illegible] [illegible], which
renders the party justifiable
in taking the life of the
mother, and accounts
such homicide to be
in self defence—
A— may be fully
convinced upon entirely
reasonable and suffi-
cient grounds— that it
is the deliberate

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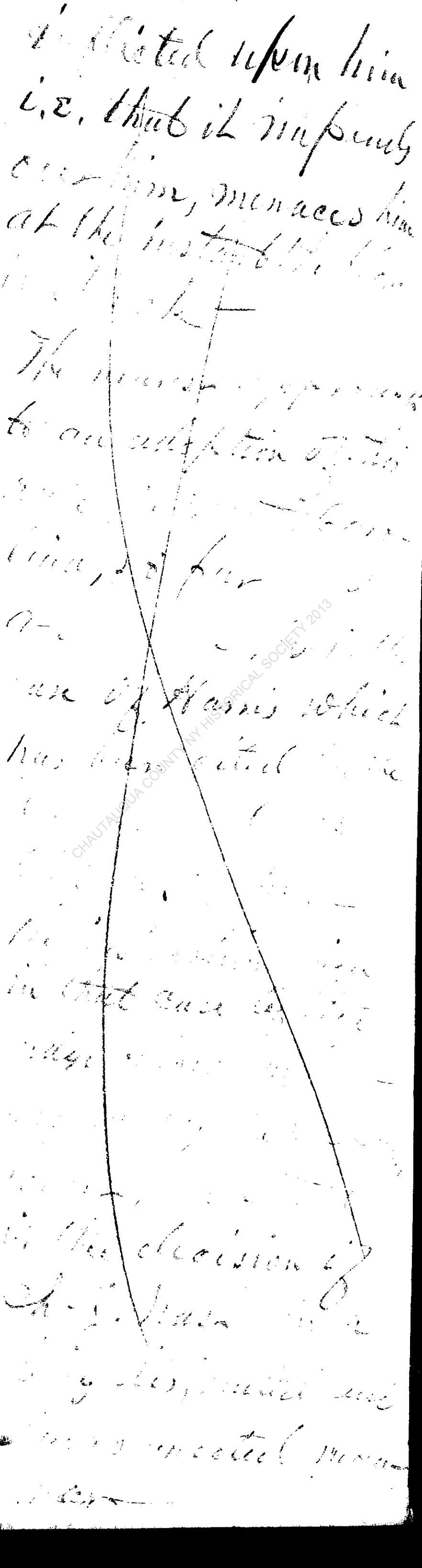

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Instructions
to Jury

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