

CA CRIMINAL LAW — Fraudulent Use of Electricity — Conviction.
whether evidence before Rescuer is sufficient
to base his findings.
Anheer dismissed "Nominid"

JAMAICA

IN THE COURT OF APPEAL

R.M. CRIMINAL APPEAL NO: 47/88

BEFORE: The Hon. Mr. Justice Rowe - President
The Hon. Mr. Justice Campbell, J.A.
The Hon. Mr. Justice Wright, J.A.

to case referred to

R. v. ASTON RODNEY

Mr. M. Saunders for Appellant

Miss J. Straw & L. Brown for Crown

25th May, 1988

CAMPBELL, J.A.

The appellant Mr. Rodney was convicted of the offence of Fraudulent use of Electricity and was sentenced to pay a fine of \$1,000.00 or four months imprisonment. The crown's case is very simple. It was given by one witness Mr. Bryan. He went to the home of Mr. Rodney and there he saw that the seal to the meter had been tampered with. He continued his investigations, he disconnected the meter, and he found that there had been a by-passing of current from Jamaica Public Service lines into the home of Mr. Rodney. He pointed out to Mr. Rodney that the seal to the meter had been tampered with, and the response from Mr. Rodney was that somebody from the Jamaica Public Service Company came there and did some work on the meter. He was asked who did the connection and electrical wiring into the home and he said that the same had been done by some electrician sometime before.

It was clear that electricity was being consumed in the home which was not passing through the meter. At his trial Mr. Rodney did not rely on his statements to Mr. Bryan, rather he resiled completely therefrom saying that he had never made these statements to Mr. Bryan.

and that in fact, he had purchased the home a few years before and it was in the same condition with respect to the electrical wiring as it was when Mr. Bryan came there. He accordingly knew nothing of any tampering with the meter or with the connections from the Jamaica Public Service lines which by-passed the meter. His case is one of innocence, absence of any knowledge as to how the tampering of the meter and the extraction of electricity through wiring which did not go through the meter could have occurred. The learned Resident Magistrate having heard the evidence of both parties intimated that he did not believe Mr. Rodney. He referred to his demeanour and the contradictions in his evidence and rejected his evidence. He said that he accepted the evidence of Mr. Bryan. It is true that he did not go on to highlight any particular facts which he found as regards Mr. Bryan's evidence, but he had the benefit of seeing the witness and also seeing the accused. It was within his province to accept the evidence of one and to reject the evidence of the other. This is what he did and despite the valiant effort of Mr. Saunders before us, he has not been able to demonstrate that the evidence before the learned Resident Magistrate was insufficient to base his finding.

We consider there is no merit in the many grounds of appeal argued by Mr. Saunders and we feel that the appeal ought to be dismissed. Accordingly it is dismissed.