

On the 13th of December, 1988 this appellant was ordered to account by what lawful means he came into possession of certain items of property. He elected on that day to proceed to account for the aforesaid items without opting for an adjournment. The basis for his being called upon to account was that on the 1st of June, 1986, acting under a search warrant, his home at Hilcrest Avenue was searched and certain items of property including video and television sets were found. The circumstances in which they were found and the places in which for example the video and television set were secreted created reasonable suspicion on the part of the police officer. It is not necessary to elaborate on the evidence which was adduced by the police officer in respect of the items discovered. It is sufficient to say that in respect of some of these items, he said that the video and television set were found in speaker boxes, when asked why they were placed there, the appellant said they were in a state of disrepair. This answer turned out to be untrue because the police officer having plugged in the video and television found that they were in working condition. The appellant when asked to explain how he came by these items gave a statement that they

were given to him by one Currie whose address was given as somewhere in Mountain View, when the police went there, it was found to be an abandoned premises. The appellant later said that the items were given to him by one Mr. Sang at his work place, Mr. Sang denied having given him these things and went on to state that many of the other items discovered like gloves and tubes appeared to have been taken from the store at the workplace. As a result of this evidence, the learned Resident Magistrate called on the appellant to account. He gave evidence which was diametrically opposed to his explanation to the police officer as to how he came into possession. At the end of the day the learned Resident Magistrate concluded that the appellant had not accounted to his satisfaction as to how he came into possession of the articles and he accordingly found him guilty of unlawful possession.

Before us Mr. Ramsay made submissions on the grounds of appeal which he has filed, but in the end and save for the ground of appeal relative to sentence, he properly in our view conceded that there was really no basis of merit on which he could impugn the conviction as being wrong either as to the jurisdictional aspect or as to the merit of the case. We agreed entirely with him and confirm that as regards to liability the learned Resident Magistrate was quite correct in coming to the conclusion to which he came. With respect to the sentence, Mr. Ramsay submitted that the appellant had a very unique and remarkable vocation, he was a Millwright, very few of whom we have today, there is always a demand for his expertise, he is relatively young, since he is still under 40 years. Though he had a previous conviction, candidly stated in the court below, it was in respect of possession of a small amount of ganja for which he was fined. Mr. Ramsay has asked us to consider in the circumstance whether it was not a severe sentence for this appellant to be subjected to a custodial term of imprisonment. We are inclined to the view of Mr. Ramsay, we feel that inasmuch as there was no violence displayed and even though we consider that the stealing or otherwise dishonest appropriation and secretion of property is a serious offence nonetheless a non-custodial term would have satisfied the ends of justice

in this case, we accordingly allow the appeal as to sentence. In conclusion we dismiss the appeal as to liability but in respect of the appeal against sentence we allow the same and substitute for the custodial term a fine of \$1000.00 or six months imprisonment in default.