

Summing-up by J.A.

Functions

1. of J.A. -

- (a) Advises on the law - it is not bound to accept advice as to law but should do so except for very weighty reasons.
- (b) Assist in Summing up of Evidence.

Court

- (a) Sole judges as to facts.
- (b) Disregard any opinion of JA.
- (c) Decide on the evidence you have heard here - not on what might have happened. The evidence produced only must be considered.
- (d) Decide what weight you are going to give to each witness. Credibility of witness - believe all of one or disbelieve all of one - or believe part of one and disbelieve the rest of one.
- (e) Under RP 74 the court may take judicial notice of all matters of notoriety.

2. Accused is presumed to be innocent until proven guilty i.e. pros. offr. must satisfy you beyond reasonable doubt that the accused committed the offence. The accused does not need to prove that he is innocent. By reasonable doubt is not meant a foolish doubt nor imaginary doubt, it is an honest doubt which remains in the mind of a reasonable man after he considered all the evidence admitted to the trial.

3. The pros. must prove that the accused used the vehicle improperly and that said improper use if any was conduct to the prejudice of both good order and military discipline.

4. Examine the evidence and ask yourself "Has the prosecution proved to my satisfaction beyond a reasonable doubt that this accused committed this offence?"

5. In conclusion the onus is on the prosecution to satisfy you beyond a reasonable doubt. If there is a reasonable doubt it must be resolved in favour of the accused.