

J. A. Summing Up.

As Judge - Advocate it is my duty to sum up the evidence presented and advise the Court on the law.

The Court is however, the sole judge of the facts and anything I say now or may have previously said indicating my personal views as to the facts should be entirely disregarded. The Court as the Court alone is the sole judge of the facts.

There is not a great deal of difficulty with the evidence. A trap was set by Sgt. Wakelga. Then Sgt. Wakelga who placed a marked cigarette package in a binney which the accused along with another man was working. Some minutes afterwards he is found to have the package in question on his person, a fact which he freely admits. At that time there is one cigarette removed from the package.

The accused giving evidence says that he picked up the package from the binney believing that it was the property of another soldier who might have dropped it in there while working from it some time earlier. He says that all personnel in that department change from binney to binney as they are filled. Further, as there was no cellophane on the package he says he did not believe it to be from the mail and alleges he has never, during the two months working there seen a package without cellophane.

You will recollect the prosecution in that regard by Sgt. Wakelga and Sgt. Maj. Myler giving evidence of some packages due to the extensive and long handling of mail sometimes getting cigarettes without the cellophane wrapper.