

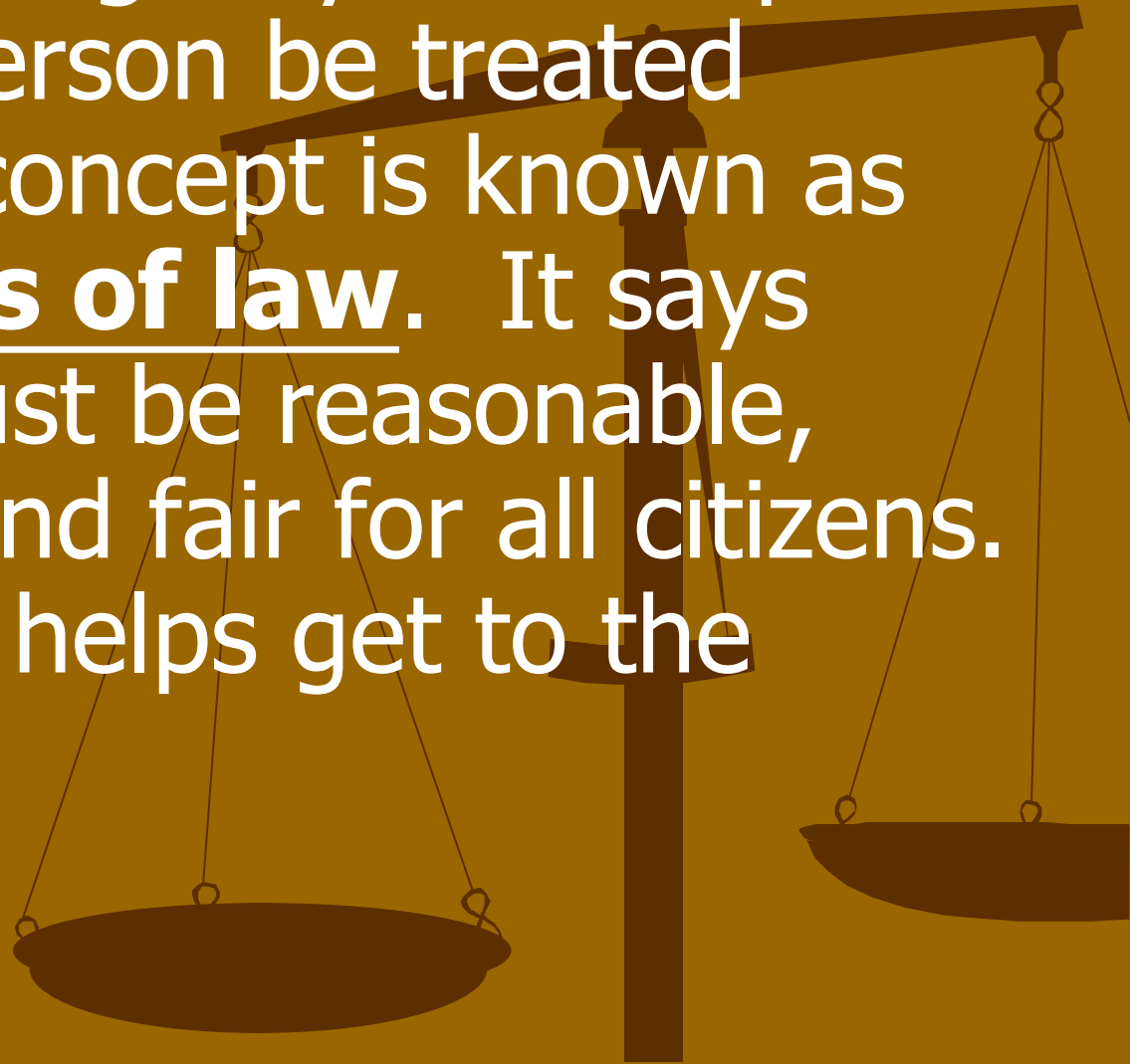


# DUE PROCESS

- 5<sup>th</sup> Grade Social Studies –GPS
  - By Carole Marsh

# Let's Be Fair!

The American legal system requires that every person be treated fairly. This concept is known as due process of law. It says that laws must be reasonable, consistent, and fair for all citizens. Due process helps get to the truth!

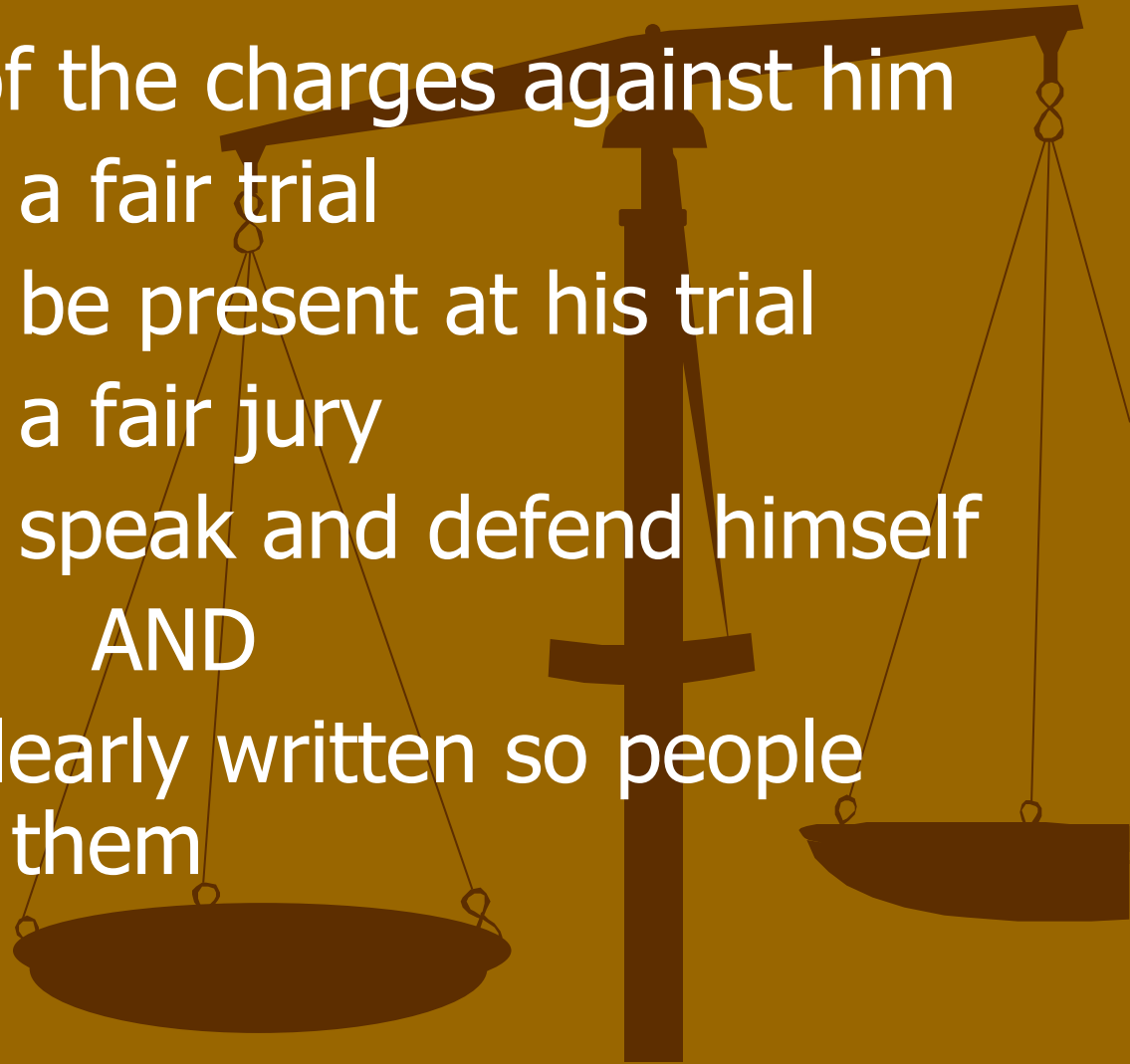


Over the years, the United States government has set up some basic rules for due process. They include: *Accused person*

- Has to be told of the charges against him
- Has the right to a fair trial
- Has the right to be present at his trial
- Has the right to a fair jury
- Has the right to speak and defend himself

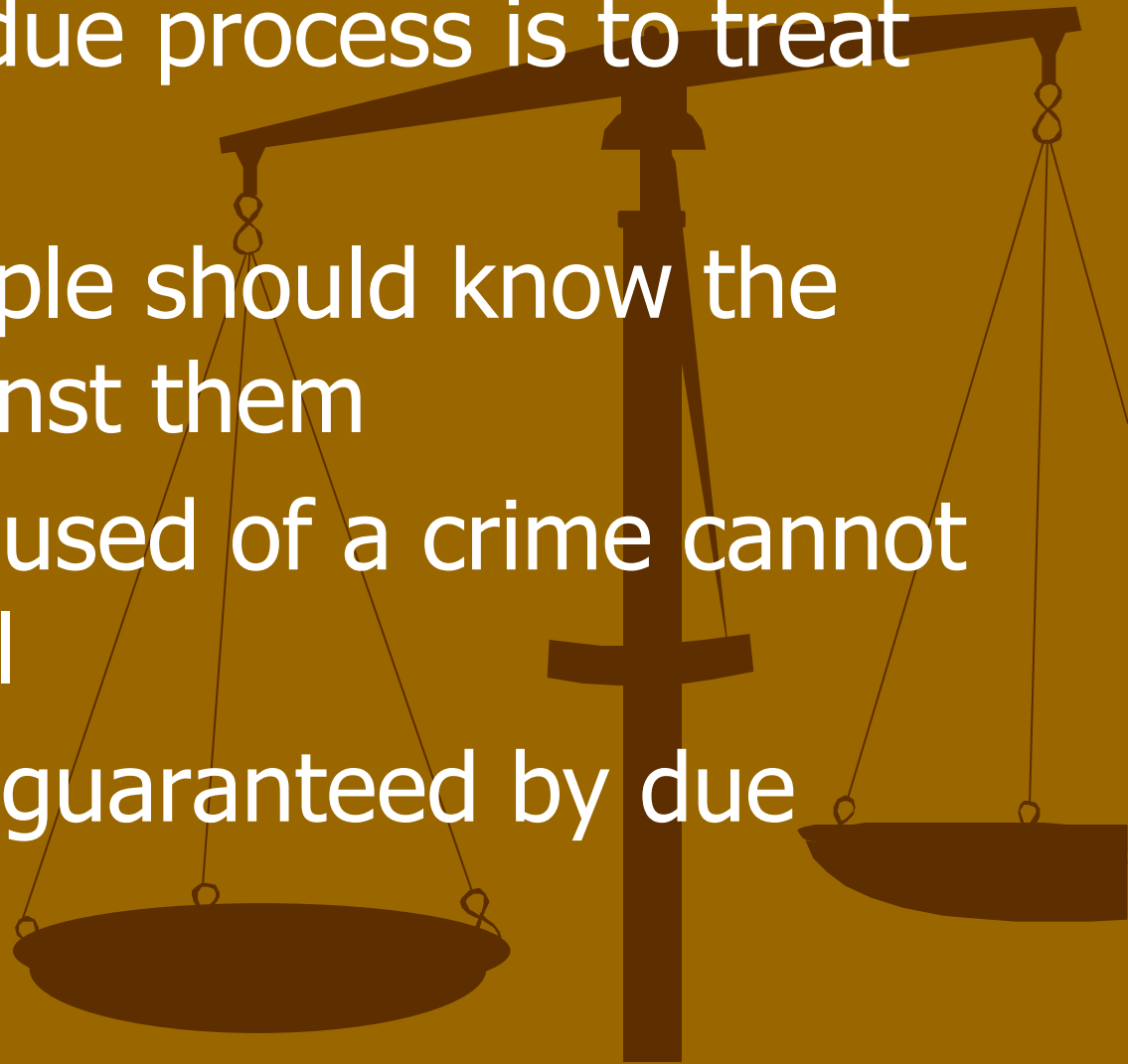
AND

- Laws must be clearly written so people can understand them



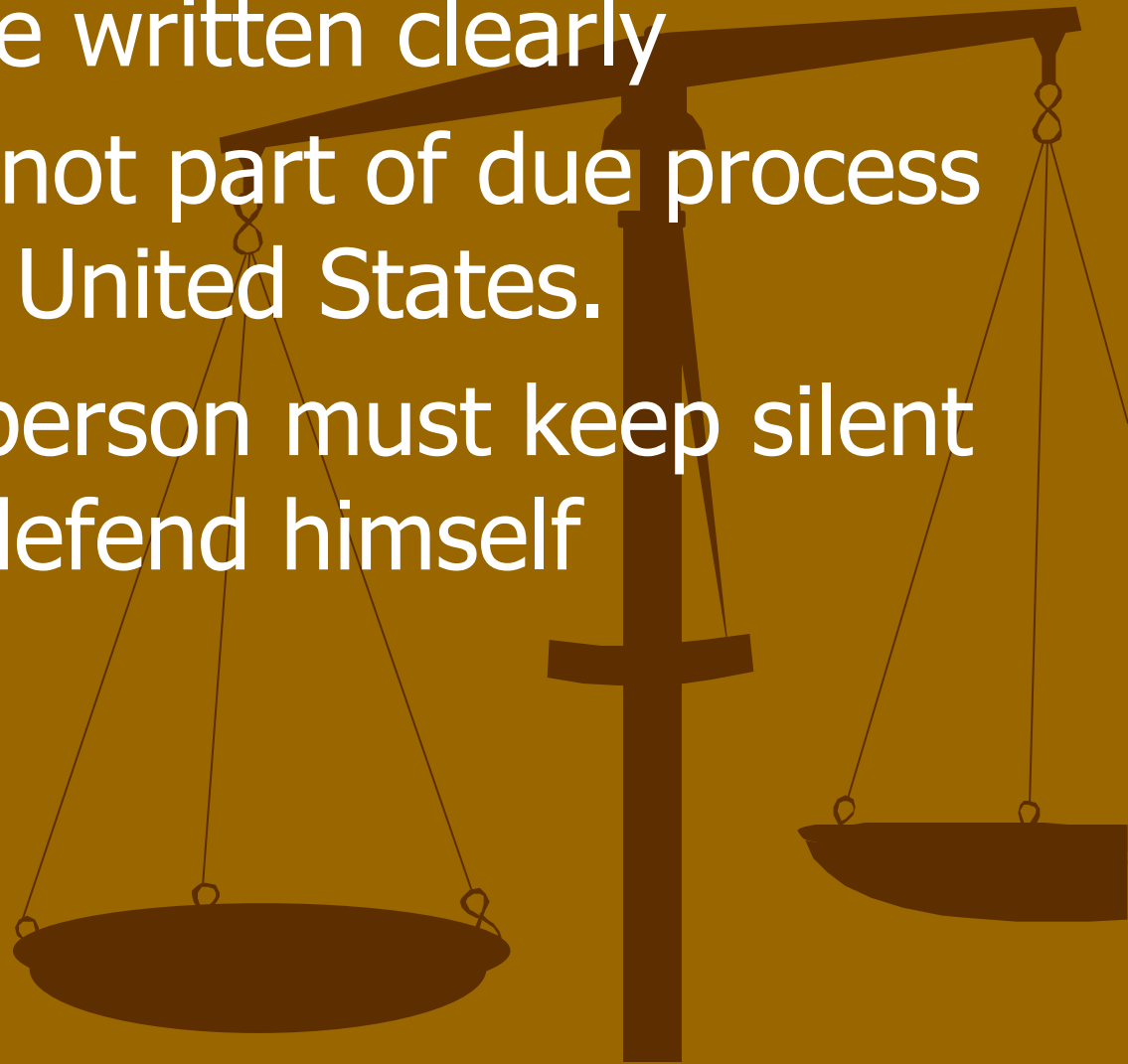
Decide if these statements about due process are true or false.

- The goal of due process is to treat people fairly
- Accused people should know the charges against them
- A person accused of a crime cannot go to his trial
- A fair jury is guaranteed by due process



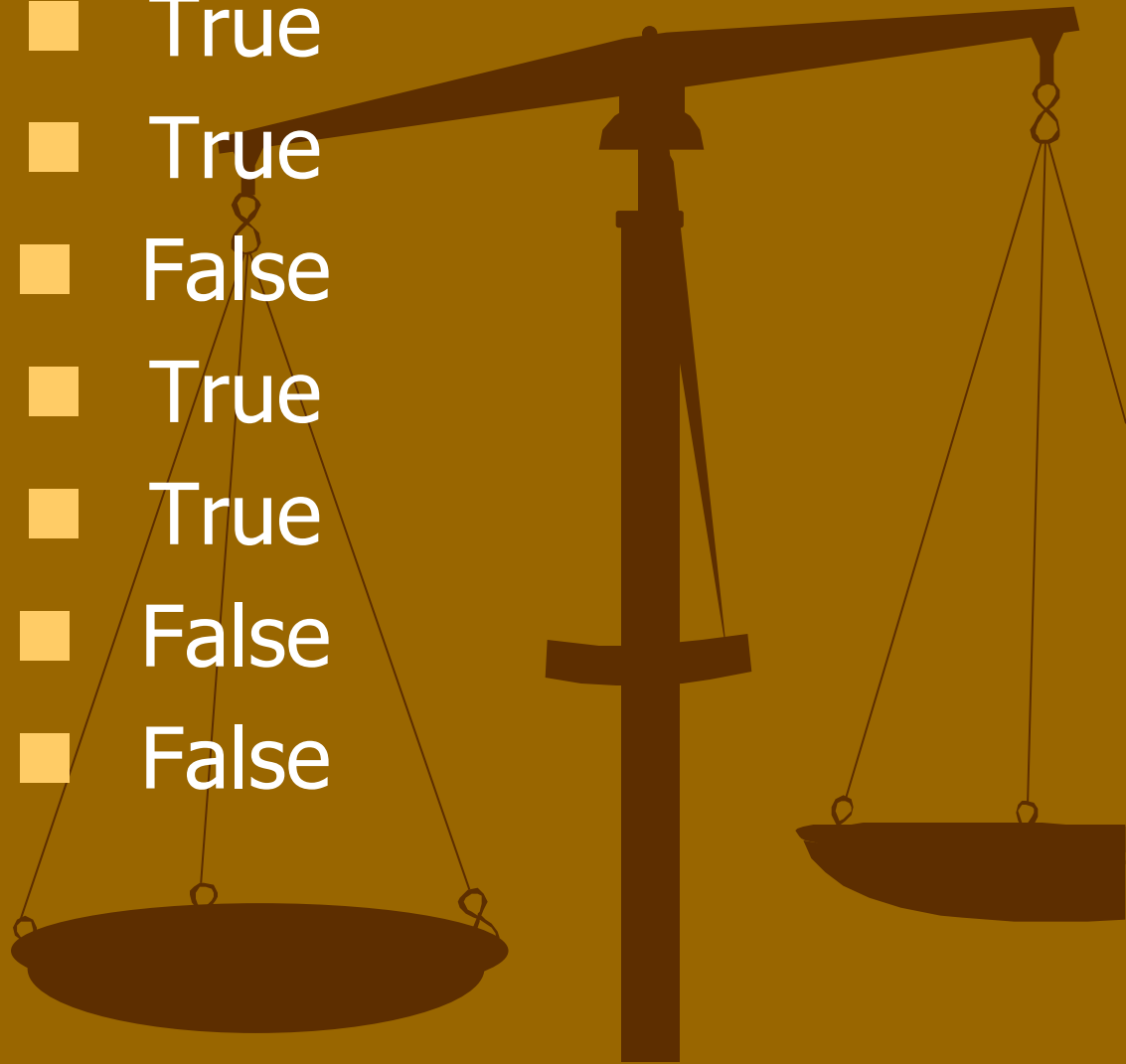
Decide if these statements about due process are true or false.

- Laws must be written clearly
- A fair trial is not part of due process of law in the United States.
- An accused person must keep silent and cannot defend himself



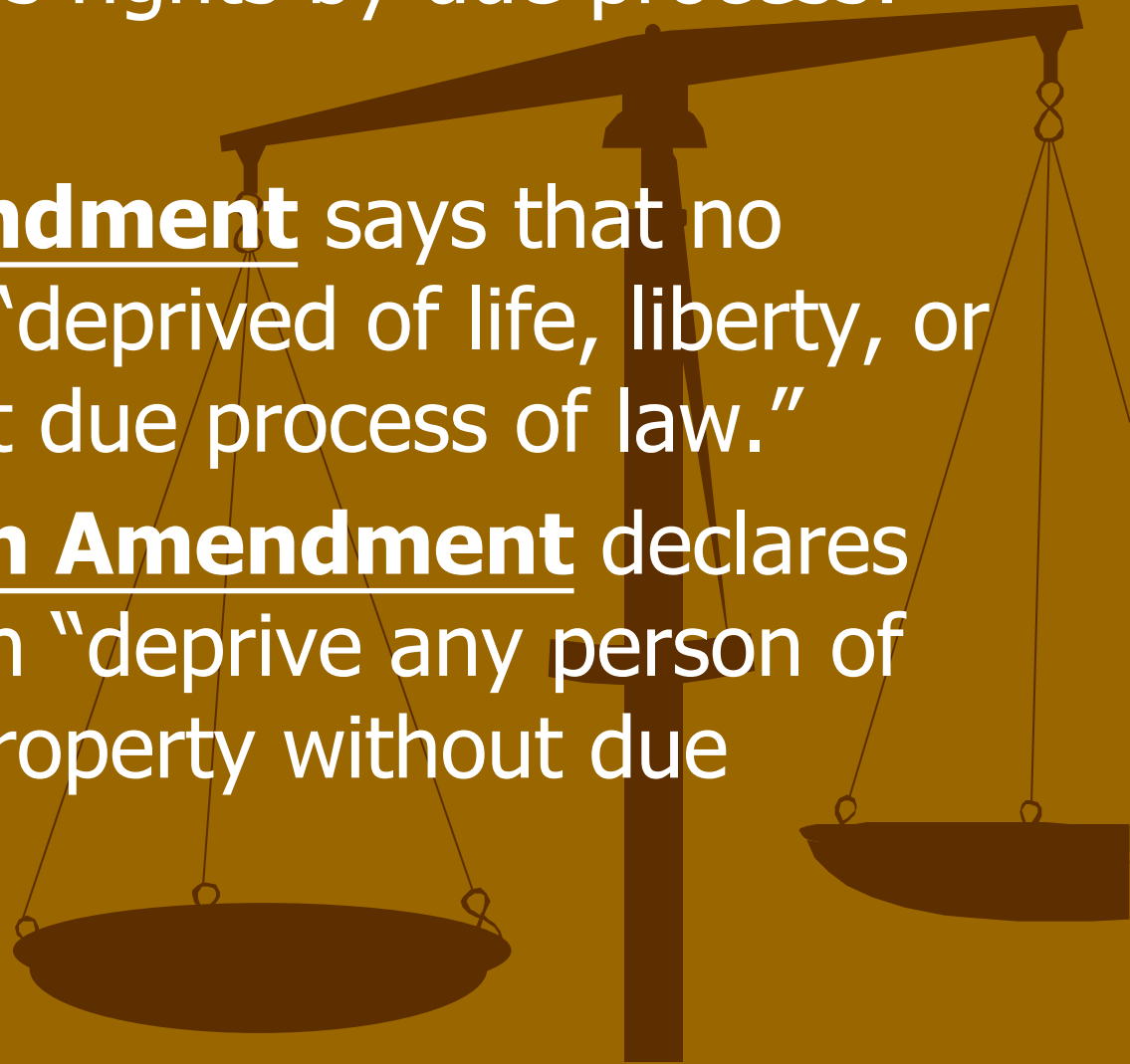
# Answers

- True
- True
- False
- True
- True
- False
- False



Due process is an important concept in the U.S. Constitution. Several amendments protect a citizen's rights by due process:

- The **Fifth Amendment** says that no person shall be "deprived of life, liberty, or property without due process of law."
- The **Fourteenth Amendment** declares that no state can "deprive any person of life, liberty, or property without due process of law."



Read the situation below. Decide if the person experienced due process of law.

- Charles Wright was accused of murder. He went to trial and was found guilty. Later, his family learned that one of the jurors knew Charles in school and never liked him.

NO





Read the situation below. Decide if the person experienced due process of law.

- Susan Taylor was accused of bank robbery. She went to trial and was found guilty. Her lawyer told her she could not speak in the courtroom to defend herself.

NO

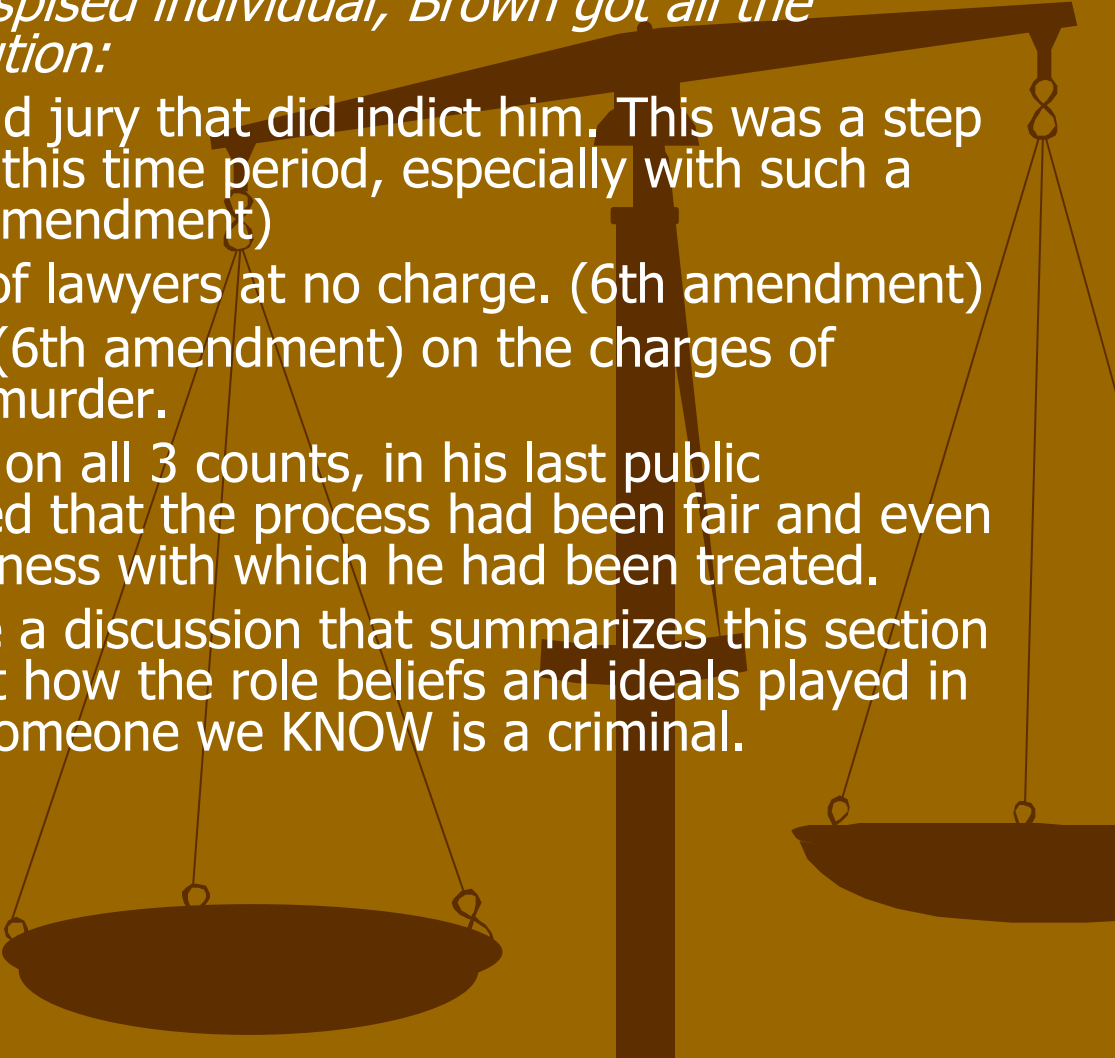


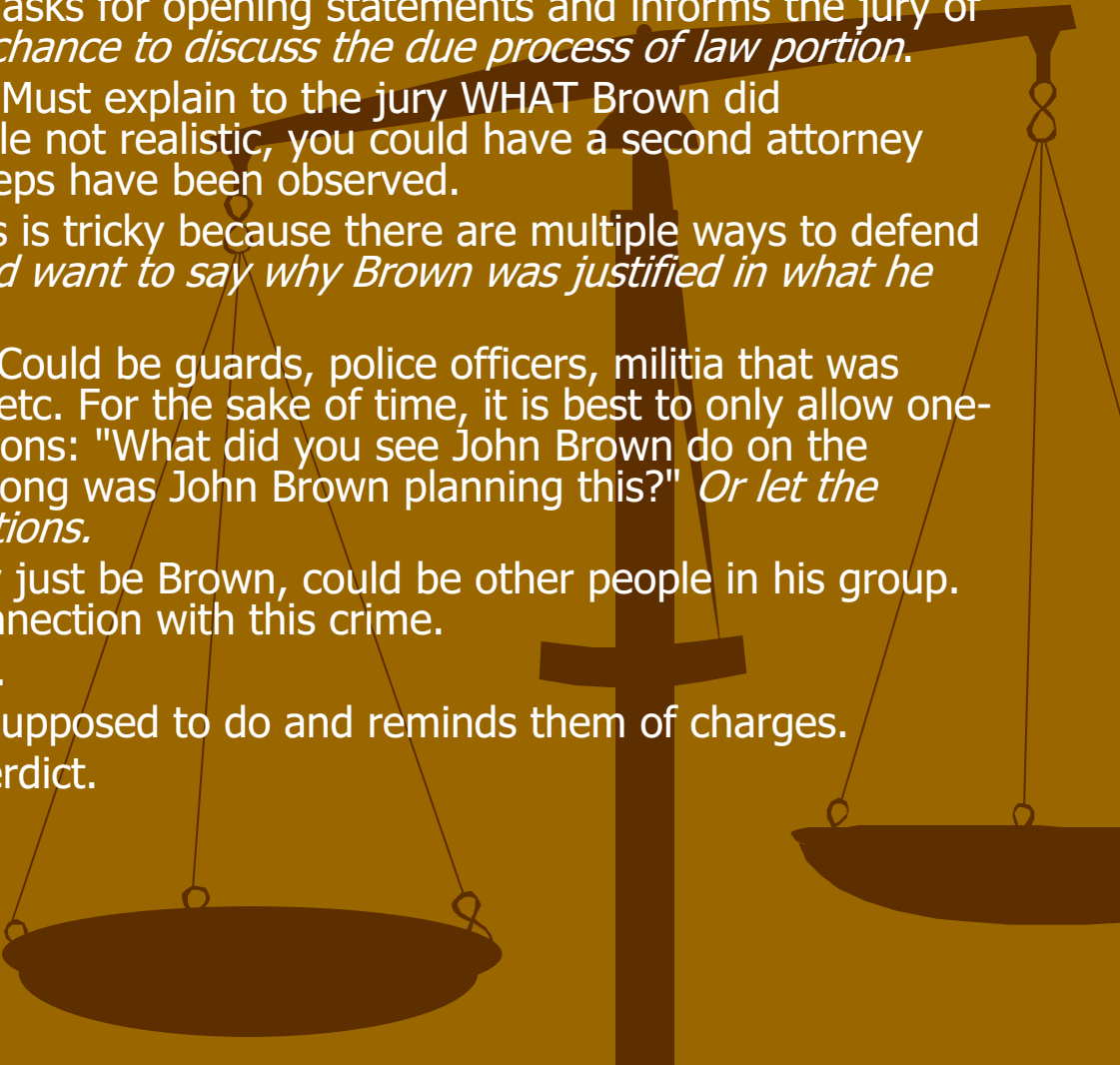
Read the situation below. Decide if the person experienced due process of law.

- Ryan Harper was accused of taking money from his employer. He was not told of the charges against him before he went to trial. He went to trial and was found innocent.

NO



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- Review John Brown's raid on Harpers Ferry. Discuss how due process of law protected Brown's rights. Discuss how the Constitution protects a citizen's rights by due process. To help guide discussion, here are some key points for students to know:
  - *Despite being a pretty despised individual, Brown got all the safeguards in the constitution:*
  - 1. He was taken to a grand jury that did indict him. This was a step that was often skipped in this time period, especially with such a public crime as his. (5th amendment)
  - 2. He was given a group of lawyers at no charge. (6th amendment)
  - 3. He was tried by a jury (6th amendment) on the charges of treason, conspiracy, and murder.
  - 4. After he was convicted on all 3 counts, in his last public statement, Brown admitted that the process had been fair and even said he "admired" the fairness with which he had been treated.
  - o Teachers should include a discussion that summarizes this section in some way by looking at how the role beliefs and ideals played in this process - even with someone we KNOW is a criminal.

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- After students have had a chance to discuss the actions of John Brown, conduct a mock trial for Brown with a focus on the elements of a fair trial.
  - *The following outline of how to conduct the mock trial should last no more than 1-2 class periods and will involve most of the students in your class.*
  - 1. Bailiff calls the case and introduces the judge
  - 2. Judge announces the case and asks for opening statements and informs the jury of what will go on. *This is a perfect chance to discuss the due process of law portion.*
  - 3. Opening from the prosecution: Must explain to the jury WHAT Brown did **specifically** that was wrong. While not realistic, you could have a second attorney that explains what due process steps have been observed.
  - 4. Opening from the defense: This is tricky because there are multiple ways to defend someone. *For this trial, they would want to say why Brown was justified in what he did, not that he didn't do it.*
  - 5. Witnesses for the prosecution: Could be guards, police officers, militia that was brought in at the end of the raid, etc. For the sake of time, it is best to only allow one-two questions each. Simple questions: "What did you see John Brown do on the morning of October 17th?" "How long was John Brown planning this?" *Or let the students make up their own questions.*
  - 6. Witnesses for the defense: May just be Brown, could be other people in his group. Other individuals were tried in connection with this crime.
  - 7. Closing argument for each side.
  - 8. Judge tells jury what they are supposed to do and reminds them of charges.
  - 9. Jury deliberates and delivers verdict.
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