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## Due Process

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## DUE PROCESS

*N.Y. CONST. art. I § 6:*

*No person shall be deprived of life, liberty or property without due process of law.*

*U.S. CONST. amend. V:*

*No person shall . . . be deprived of life, liberty, or property, without due process of law . . . .*

*U.S. CONST. amend. XIV: § 1*

*No state shall . . . deprive to any person of life, liberty, or property, without due process of law . . . .*

## COURT OF APPEALS

People v. Antommarchi<sup>54</sup>  
(decided October 27, 1992)

See case discussion under RIGHT TO BE PRESENT (*infra* page 964). The court found that the trial court's particular formulation of an *Allen* charge<sup>55</sup> violated the defendant's due process rights because it implicitly placed the burden of proving reasonable doubt on the defendant by requiring individual jurors to give "a fair, calm explanation for [his or her] position" thus reversing the "constitutionally required principle" that the prosecutor bear the burden of proving the defendant guilty beyond a reasonable doubt.<sup>56</sup>

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54. 80 N.Y.2d 247, 604 N.E.2d 95, 590 N.Y.S.2d 33 (1992).

55. *Allen v. United States*, 164 U.S. 492 (1896) (charge given to encourage deliberating jurors to explain and/or reconsider their positions in order to come to a determination).

56. *Antommarchi*, 80 N.Y.2d at 252, 604 N.E.2d at 98, 590 N.Y.S.2d at 360.