

Fair trial. A hearing by an impartial and disinterested tribunal; a proceeding which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial consideration of evidence and facts as a whole. A basic constitutional guarantee contained implicitly in the Due Process Clause of Fourteenth Amendment, U.S. Constitution.

A legal trial or one conducted in all material things in substantial conformity to law. *Stacey v. State*, 79 Okl. Cr. 417, 155 P.2d 736, 739. A trial which insures substantial justice. A trial without prejudice to the accused. An orderly trial before an impartial jury and judge whose neutrality is indifferent to every factor in trial but that of administering justice. One conducted according to due course of law. A trial before an impartial judge, an impartial jury, and in an atmosphere of judicial calm. In such trial the judge may and should direct and control the proceedings, and may exercise his right to comment on the evidence, yet he may not extend his activities so far as to become in effect either an assisting prosecutor or a thirteenth juror. *Goldstein v. U. S.*, C.C.A. Mo., 63 F.2d 609, 613. An adequate hearing and an impartial tribunal, free from any interest, bias, or prejudice. *The Reno*, C.C.A. N.Y., 61 F.2d 966, 968. See also Fair and impartial trial.

Fair and impartial trial. One where accused's legal rights are safeguarded and respected. *Raney v. Commonwealth*, 287 Ky. 492, 153 S.W.2d 935, 937, 938. A fair and impartial trial by a jury of one's peers contemplates counsel to look after one's defense, compulsory attendance of witnesses, if need be, and a reasonable time in the light of all prevailing circumstances to investigate, properly prepare, and present the defense. One wherein defendant is permitted to be represented by counsel and neither witnesses nor counsel are intimidated. One wherein no undue advantage is taken by the district attorney or any one else. *People v. Nationwide News Service*, 172 Misc. 752, 16 N.Y.S.2d 277, 279. One wherein witnesses of litigants are permitted to testify under rules of court within proper bounds of judicial discretion, and under law governing testimony of witnesses with right in parties to testify, if qualified, and of counsel to be heard. It requires that the jury chosen to sit in judgment shall have no fixed opinion concerning the guilt or innocence of one on trial. *Baker v. Hudspeth*, C.C.A. Kan., 129 F.2d 779, 782, 783. There must not only be fair and impartial jury, and learned and upright judge, but there should be atmosphere of calm in which witnesses can deliver their testimony without fear and intimidation, in which attorneys can assert accused's rights freely and fully, and in which the truth may be received and given credence without fear of violence. *Raney v. Commonwealth*, 287 Ky. 492, 153 S.W.2d 935, 937, 938. See also Fair trial; Impartial jury.