Lesson 2  *Constitutional Rights at Trial*

**Review Questions**

**I. Presumption of Innocence**

A. The presumption of innocence means that the judge and the jury must regard the defendant as innocent until the government proves that he or she is guilty. This means that the government has the burden of proof in a criminal trial.

**II. Right to a Jury**

A. The Sixth Amendment guarantees defendants in felony criminal cases the right to a trial by an impartial jury from the location where the crime was committed.

B. Many cases are settled by plea bargains before trial. This is a process whereby the defendant pleads guilty to a lesser crime than the one with which the defendant was originally charged in order to avoid a trial.

**III. Right to an Attorney**

A. Until 1938, defendants in cases other than those involving the death penalty or life imprisonment could hire their own lawyer. If they were too poor to hire a lawyer, they had no legal counsel.

B. In 1938, the U.S. Supreme Court ruled that federal courts must appoint attorneys for indigent defendants in all federal felony cases.

C. In the case of *Gideon v. Wainwright* (1963), the Court extended this right to felony defendants in state courts.

**IV. Other Rights at Trial**

A. The Sixth Amendment provides a right to a speedy and public trial in all criminal cases.

B. The Sixth Amendment allows defendants the right to confront and question the witnesses against them, to call witnesses in their defense, and to get court orders requiring witnesses to testify.

C. The Fifth Amendment grants freedom from self-incrimination, meaning that a person cannot be forced to testify against himself or herself. The refusal of a witness or defendant to testify is referred to as “taking the Fifth.”

**V. The Juvenile Justice System**

A. The Supreme Court ruled that neither public nor jury trials are required in juvenile cases because they could destroy the privacy of juvenile hearings.

**Summary and Reflection**

The Fifth and Sixth Amendments provide a number of protections for defendants during the process of searching for the truth. The Sixth Amendment guarantees defendants the right to an attorney in felony cases, and Supreme Court rulings have expanded this right to include providing a public attorney if needed in federal and state trials in which a jail sentence could be imposed. The Sixth Amendment also provides for the rights of defendants to trial by an impartial jury, and a speedy and public trial with the confrontation of witnesses. The Fifth Amendment protects the defendant from being forced to incriminate himself or herself.