

The indictment or formal charge against a defendant is not evidence of guilt. Indeed, a defendant is presumed by the law to be innocent. The law does not require a defendant in a criminal case to prove the defendant's innocence or to testify or to produce any evidence at all. A defendant has an absolute right not to testify and may not be compelled to testify. No inference of any kind should be drawn from the election of a defendant not to testify, and that fact should not be considered by you in any way or even discussed in your deliberations. The government has the burden of proving a defendant guilty beyond a reasonable doubt, and if it fails to do so you must acquit the defendant.

Thus, while the government's burden of proof is a strict or heavy burden, it is not necessary that the defendant's guilt be proved beyond all possible doubt. It is only required that the government's proof exclude any "reasonable doubt" concerning the defendant's guilt. A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that a person would not hesitate to rely and act upon it in the most important of affairs.