**The Burden of Proof and the Evidential Burden**

To some degree, the burden of proof protects the defendant first from being unfairly charged. When the burden of proof is on the defense side, the innocence of the defendant is strongly upheld until such a time the prosecution will convince the court that the defendant is guilty beyond a reasonable doubt. If the prosecution fails to adduce evidence to prove its case, the defendant can be let scot-free. In *R v O'Keefe and Fien [1959]*, the conviction was quashed on the ground that the prosecution did not prove that the accused stole the goods in question. The case and many others affirm how BoP protects the defendant from possible conviction unless the evidence adduced in courts by the prosecution is strong enough to secure a conviction[[1]](#footnote-1). The evidence furnished should be proving beyond a reasonable doubt that the defendant committed a crime. However, when the BoP shifts to the defendant's side, he or she becomes exposed to possible infringement of his rights. In special circumstances, where the defendant has to provide evidence distancing him from incriminating facts, he becomes less or not protected[[2]](#footnote-2).

1. R v Lambert [2001] UKHL 37. [↑](#footnote-ref-1)
2. R v O'Keefe and Fien [1959] QWN 9. [↑](#footnote-ref-2)