

T060

Should we have a 'not proven' verdict?

Professor Zander (article 30 August 1994) dismisses Lord Donaldson's suggestion that a 'not proved' verdict should replace the present 'not guilty' verdict because it would leave a cloud over all acquitted defendants. There is a simple answer. In civil actions the law sets the balance of probabilities as the standard of proof, whereas in criminal cases the standard is the stricter one demanding absence of reasonable doubt. Juries should in future be instructed that if there is reasonable doubt, so that a 'guilty' verdict is ruled out, they should go on to consider the balance of probabilities. If the jury then find that on the balance of probabilities the accused is guilty, they should return a verdict of 'not proved beyond reasonable doubt'. Only if they find guilt not established even to this lower standard should they say 'not guilty'.¹

© F A R Bennion

www.francisbennion.com

¹ *The Times*, 6 September 1994.