all.[1111] The holding of the *Winship* case, however, left open the question as to whether appellate courts should weigh the sufficiency of trial evidence. Thus, in *Jackson v. Virginia*,[1112] the Court held that federal courts, on direct appeal of federal convictions or collateral review of state convictions, must satisfy themselves that the evidence on the record could reasonably support a finding of guilt beyond a reasonable doubt. The question the reviewing court is to ask itself is not whether *it* believes the evidence at the trial established guilt beyond a reasonable doubt, but whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.[1113]

Because due process requires the prosecution to prove beyond a reasonable doubt every fact necessary to constitute the crime charged,[1114] the Court held in *Mullaney v. Wilbur*[1115] that it was unconstitutional to require a defendant charged with murder to prove that he acted "in the heat of passion on sudden provocation" in order to reduce the homicide to manslaughter. The Court indicated that a balancing-of-interests test should be used to determine when the Due Process Clause required the prosecution to carry the burden of proof and when some part of the burden might be shifted to the defendant. The decision, however, called into question the practice in many states under which some burdens of persuasion[1116] were borne by the defense, and raised the prospect that the prosecution must bear all burdens of persuasion—a significant and weighty task given the large numbers of affirmative defenses.

[1111] Thompson v. City of Louisville, 362 U.S. 199 (1960); Garner v. Louisiana, 368 U.S. 157 (1961); Taylor v. Louisiana, 370 U.S. 154 (1962); Barr v. City of Columbia, 378 U.S. 146 (1964); Johnson v. Florida, 391 U.S. 596 (1968). *See also* Chessman v. Teets, 354 U.S. 156 (1957).

[1112] 443 U.S. 307 (1979).

[1113] 443 U.S. at 3116, 318–19. On a somewhat related point, the Court has ruled that a general guilty verdict on a multiple-object conspiracy need not be set aside if the evidence is inadequate to support conviction as to one of the objects of the conspiracy, but is adequate to support conviction as to another. Griffin v. United States, 112 U.S. 466 (1991).

[1114] Bunkley v. Florida, 538 U.S. 835 (2003); Fiore v. White, 528 U.S. 23 (1999). These cases both involved defendants convicted under state statutes that were subsequently interpreted in a way that would have precluded their conviction. The Court remanded the cases to determine if the new interpretation was in effect at the time of the previous convictions, in which case those convictions would violate due process.

[1115] 421 U.S. 684 (1975). *See also* Sandstrom v. Montana, 442 U.S. 510, 520–24 (1979).

[1116] The general notion of "burden of proof" can be divided into the "burden of production" (providing probative evidence on a particular issue) and a "burden of persuasion" (persuading the factfinder with respect to an issue by a standard such as proof beyond a reasonable doubt). *Mullaney*, 421 U.S. at 695 n.20.