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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

COMMONWEALTH OF PUERTO RICO *v.* SANCHEZ VALLE ET AL.

CERTIORARI TO THE SUPREME COURT OF PUERTO RICO

No. 15–108. Argued January 13, 2016—Decided June 9, 2016

Respondents Luis Sánchez Valle and Jaime Gómez Vázquez each sold a gun to an undercover police officer. Puerto Rican prosecutors indicted them for illegally selling firearms in violation of the Puerto Rico Arms Act of 2000. While those charges were pending, federal grand juries also indicted them, based on the same transactions, for violations of analogous U. S. gun trafficking statutes. Both defendants pleaded guilty to the federal charges and moved to dismiss the pending Commonwealth charges on double jeopardy grounds. The trial court in each case dismissed the charges, rejecting prosecutors' arguments that Puerto Rico and the United States are separate sovereigns for double jeopardy purposes and so could bring successive prosecutions against each defendant. The Puerto Rico Court of Appeals consolidated the cases and reversed. The Supreme Court of Puerto Rico granted review and held, in line with the trial court, that Puerto Rico's gun sale prosecutions violated the Double Jeopardy Clause.

Held: The Double Jeopardy Clause bars Puerto Rico and the United States from successively prosecuting a single person for the same conduct under equivalent criminal laws. Pp. 5–18.

(a) Ordinarily, a person cannot be prosecuted twice for the same offense. But under the dual-sovereignty doctrine, the Double Jeopardy Clause does not bar successive prosecutions if they are brought by separate sovereigns. See, *e.g.*, *United States* v. *Lanza*, 260 U. S. 377, 382. Yet "sovereignty" in this context does not bear its ordinary meaning. This Court does not examine the extent of control that one prosecuting entity wields over the other, the degree to which an entity exercises self-governance, or a government's more particular ability to enact and enforce its own criminal laws. Rather, the test hinges

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on a single criterion: the "ultimate source" of the power undergirding the respective prosecutions. *United States* v. *Wheeler*, 435 U. S. 313, 320. If two entities derive their power to punish from independent sources, then they may bring successive prosecutions. Conversely, if those entities draw their power from the same ultimate source, then they may not.

Under that approach, the States are separate sovereigns from the Federal Government and from one another. Because States rely on "authority originally belonging to them before admission to the Union and preserved to them by the Tenth Amendment," state prosecutions have their roots in an "inherent sovereignty" unconnected to the U. S. Congress. *Heath* v. *Alabama*, 474 U. S. 82, 89. For similar reasons, Indian tribes also count as separate sovereigns. A tribe's power to punish pre-existed the Union, and so a tribal prosecution, like a State's, is "attributable in no way to any delegation . . . of federal authority." *Wheeler,* 435 U. S., at 328. Conversely, a municipality cannot count as a sovereign distinct from a State, because it receives its power, in the first instance, from the State. See, *e.g.*, *Waller* v. *Florida*, 397 U. S. 387, 395. And most pertinent here, this Court concluded in the early 20th century that U. S. territories—including an earlier incarnation of Puerto Rico itself—are not sovereigns distinct from the United States. *Grafton* v. *United States*, 206 U. S. 333. The Court reasoned that "the territorial and federal laws [were] creations emanating from the same sovereignty," *Puerto Rico* v. *Shell Co. (P. R.), Ltd.*, 302 U. S. 253, 264, and so federal and territorial prosecutors do not derive their powers from independent sources of authority. Pp. 5–11.

(b) The *Grafton* and *Shell Co.* decisions, in and of themselves, do not control here. In the mid-20th century, Puerto Rico became a new kind of political entity, still closely associated with the United States but governed in accordance with, and exercising self-rule through, a popularly-ratified constitution. The magnitude of that change requires consideration of the dual-sovereignty question anew. Yet the result reached, given the historical test applied, ends up the same. Going back as far as the doctrine demands—to the "ultimate source" of Puerto Rico's prosecutorial power—reveals, once again, the U. S. Congress. *Wheeler*, 435 U. S., at 320. Pp. 12–18.

(1) In 1950, Congress enacted Public Law 600, which authorized the people of Puerto Rico to organize a government pursuant to a constitution of their own adoption. The Puerto Rican people capitalized on that opportunity, calling a constitutional convention and overwhelmingly approving the charter it drafted. Once Congress approved that proposal—subject to several important conditions accepted by the convention—the Commonwealth of Puerto Rico, a new po-

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litical entity, came into being.

Those constitutional developments were of great significance—and, indeed, made Puerto Rico "sovereign" in one commonly understood sense of that term. At that point, Congress granted Puerto Rico a degree of autonomy comparable to that possessed by the States. If the dual-sovereignty doctrine hinged on measuring an entity's self-governance, the emergence of the Commonwealth would have resulted as well in the capacity to bring the kind of successive prosecutions attempted here. Pp. 13–14.

(2) But the dual-sovereignty test focuses not on the fact of self-rule, but on where it first came from. And in identifying a prosecuting entity's wellspring of authority, the Court has insisted on going all the way back—beyond the immediate, or even an intermediate, locus of power to what is termed the "ultimate source." On this settled approach, Puerto Rico cannot benefit from the dual-sovereignty doctrine. True enough, that the Commonwealth's power to enact and enforce criminal law now proceeds, just as petitioner says, from the Puerto Rico Constitution as "ordain[ed] and establish[ed]" by "the people." P. R. Const., Preamble. But back of the Puerto Rican people and their Constitution, the "ultimate" source of prosecutorial power remains the U. S. Congress. Congress, in Public Law 600, authorized Puerto Rico's constitution-making process in the first instance, and Congress, in later legislation, both amended the draft charter and gave it the indispensable stamp of approval. Put simply, Congress conferred the authority to create the Puerto Rico Constitution, which in turn confers the authority to bring criminal charges. That makes Congress the original source of power for Puerto Rico's prosecutors—as it is for the Federal Government's. The island's Constitution, significant though it is, does not break the chain. Pp. 14–18.

Affirmed.

KAGAN, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, GINSBURG, and ALITO, JJ., joined. GINSBURG, J., filed a concurring opinion, in which THOMAS, J., joined. THOMAS, J., filed an opinion concurring in part and concurring in the judgment. BREYER, J., filed a dissenting opinion, in which SOTOMAYOR, J., joined.

SUPREME COURT OF THE UNITED STATES

No. 15–108

COMMONWEALTH OF PUERTO RICO, PETITIONER *v.* LUIS M. SANCHEZ VALLE, ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF PUERTO RICO

[June 9, 2016]

JUSTICE KAGAN delivered the opinion of the Court.

The Double Jeopardy Clause of the Fifth Amendment prohibits more than one prosecution for the "same offence." But under what is known as the dual-sovereignty doctrine, a single act gives rise to distinct offenses—and thus may subject a person to successive prosecutions—if it violates the laws of separate sovereigns. To determine whether two prosecuting authorities are different sovereigns for double jeopardy purposes, this Court asks a narrow, historically focused question. The inquiry does not turn, as the term "sovereignty" sometimes suggests, on the degree to which the second entity is autonomous from the first or sets its own political course. Rather, the issue is only whether the prosecutorial powers of the two jurisdictions have independent origins—or, said conversely, whether those powers derive from the same "ultimate source." *United States* v. *Wheeler*, 435 U. S. 313, 320 (1978).

In this case, we must decide if, under that test, Puerto Rico and the United States may successively prosecute a single defendant for the same criminal conduct. We hold

they may not, because the oldest roots of Puerto Rico's power to prosecute lie in federal soil.

I

A

Puerto Rico became a territory of the United States in 1898, as a result of the Spanish-American War. The treaty concluding that conflict ceded the island, then a Spanish colony, to the United States, and tasked Congress with determining "[t]he civil rights and political status" of its inhabitants. Treaty of Paris, Art. 9, Dec. 10, 1898, 30 Stat. 1759. In the ensuing hundred-plus years, the United States and Puerto Rico have forged a unique political relationship, built on the island's evolution into a constitutional democracy exercising local self-rule.

Acting pursuant to the U. S. Constitution's Territory Clause, Congress initially established a "civil government" for Puerto Rico possessing significant authority over internal affairs. Organic Act of 1900, ch. 191, 31 Stat. 77; see U. S. Const., Art. IV, §3, cl. 2 (granting Congress the "Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States"). The U. S. President, with the advice and consent of the Senate, appointed the governor, supreme court, and upper house of the legislature; the Puerto Rican people elected the lower house themselves. See §§17–35, 31 Stat. 81–85. Federal statutes generally applied (as they still do) in Puerto Rico, but the newly constituted legislature could enact local laws in much the same way as the then-45 States. See §§14–15, 32, *id.*, at 80, 83–84; *Puerto Rico* v. *Shell Co. (P. R.), Ltd.*, 302 U. S. 253, 261 (1937).

Over time, Congress granted Puerto Rico additional autonomy. A federal statute passed in 1917, in addition to giving the island's inhabitants U. S. citizenship, replaced the upper house of the legislature with a popularly elected

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