the case that each statute requires proof of a fact that the other does not, and no indication existed in the statutes and the legislative history that Congress wanted the separate offenses punished.[154] In this as in other areas, a guilty plea ordinarily precludes collateral attack.[155]

Successive Prosecutions for "the Same Offense".—Successive prosecutions raise fundamental double jeopardy concerns extending beyond those raised by enhanced and multiple punishments. It is more burdensome for a defendant to face charges in separate proceedings, and if those proceedings are strung out over a lengthy period the defendant is forced to live in a continuing state of uncertainty. At the same time, multiple prosecutions allow the state to hone its trial strategies through successive attempts at conviction.[156] In *Brown v. Ohio*,[157] the Court, apparently for the first time, applied the same evidence test to bar successive prosecutions in state court for different statutory offenses involving the same conduct. The defendant had been convicted of "joyriding," defined as operating a motor vehicle without the owner's consent, and was then prosecuted and convicted of stealing the same automobile. Because the state courts had conceded that joyriding was a lesser included offense of auto theft, the Court observed that each offense required the same proof and for double jeopardy purposes met the *Blockburger* test. The second conviction was overturned.[158] Application of the same principles resulted in a holding that a prior conviction of failing to reduce speed to avoid an accident did not preclude a second trial for involuntary manslaughter, because failing to reduce speed was not a necessary element of the statutory offense of manslaughter,

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[154] The Court reasoned that a conviction for killing in the course of rape could not be had without providing all of the elements of the offense of rape. *See also* Jeffers v. United States, 432 U.S. 137 (1977) (no indication in legislative history Congress intended defendant to be prosecuted both for conspiring to distribute drugs and for distributing drugs in concert with five or more persons); Simpson v. United States, 435 U.S. 6 (1978) (defendant improperly prosecuted both for committing bank robbery with a firearm and for using a firearm to commit a felony); Bell v. United States, 349 U.S. 81 (1955) (simultaneous transportation of two women across state lines for immoral purposes one violation of Mann Act rather than two).

[155] United States v. Broce, 488 U.S. 563 (1989) (defendant who pled guilty to two separate conspiracy counts is barred from collateral attack alleging that in fact there was only one conspiracy and that double jeopardy applied).

[156] *See* Grady v. Corbin, 495 U.S. 508, 518–19 (1990).

[157] 432 U.S. 161 (1977). *Cf. In re* Nielsen, 131 U.S. 176 (1889) (prosecution of Mormon for adultery held impermissible following his conviction for cohabiting with more than one woman, even though second prosecution required proof of an additional fact—that he was married to another woman).

[158] *See also* Harris v. Oklahoma, 433 U.S. 682 (1977) (defendant who had been convicted of felony murder for participating in a store robbery with another person who shot a store clerk could not be prosecuted for robbing the store, since store robbery was a lesser-included crime in the offense of felony murder).