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# Crime and Punishment 2019

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A fundamental of US jurisprudence is maintaining proportionality between crime and punishment. On Wednesday morning February 20, 2019, the United States Supreme Court unanimously affirmed that principle and decreed that it must govern State actions as well as Federal ones.

In the State court case of *Timbs v Indiana*, the defendant had been found guilty in a drug related case and was ordered to forfeit an expensive Land Rover vehicle worth many times more than the value of the drugs he sold. The trial court judge overruled the State, asserting that the fine was excessive. On appeal to the Supreme Court of Indiana, that Court reversed and said the 8th Amendment did not apply in State court actions.

Many Americans will remember from Civics lessons in high school that soon after the the Constitution of the United States was ratified, an additional list of basic rights was adopted. Among those is the 8th Amendment which bans three similar evils: (a) cruel and unusual punishment; (b) excessive bail: and (c) excessive fines.

The first two of these three had previously been found to govern State court actions and today the Court applied the third to State actions as well as Federal actions. As the nation has matured over nearly 250 years, so has the law evolved. This decision may be seen as one more step forward on a path toward ensuring that constitutional protections under national law reach the citizens of each state as well.

Superficially, this decision may appear to have particular relevance as a criminal law decision but it goes beyond that as an important decision obligating States to provide the same protections afforded by the federal government.

Secondly, the Court's unanimous decision underscores a deep commitment to rein in government and stop it from using fines and penalties as a way of attacking free speech and dissent. In our day when we often see a deeply divided Court reflecting a similar divide in public opinion, this decision indicates there is little or no division when it comes to protecting citizens from a potentially punitive government.

But thirdly, for commercial clients faced with contractual liquidated damages as well as fines and penalties arising out of their business operations, this ruling should help buttress that "an eye for an eye" is the law of the land in each state as it also governs our federal government.

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