



Pervear v. Commonwealth (1867). Pervear was sentenced to pay a \$50 fine and to be confined at **hard labor for three months** for violating a **Massachusetts** law of keeping and maintaining a tenement for the illegal sale of intoxicating liquors without a license.

- Held: (1) The Eighth Amendment does not apply to the States, only to National legislation.
- (2) But, even if it did, the sentence was not “excessive, or cruel or unusual.” The object of the law was to protect the community against the manifold evils of intemperance. The sentence is the usual mode adopted in many or all of the States and is wholly within the discretion of State legislatures.

Wilkerson v. Utah (1878). Wilkerson was found guilty of murder in the **Territory** of Utah. **Death by shooting is not cruel and unusual.**

In re Kemmler (1890). Punishments are cruel when they involve torture or a lingering death; but **the punishment of death is not cruel within the meaning of that word as used in the Constitution.** [The word “cruel”] implies...inhuman and barbarous, something more than the mere extinguishment of life.
