ceptions,[177] the Court has consistently distinguished between criminal and civil contempt, the former being a vindication of the authority of the courts and latter being the preservation and enforcement of the rights of the parties. A civil contempt has been traditionally viewed as the refusal of a person in a civil case to obey a mandatory order. It is incomplete in nature, may be purged by obedience to the court order, and does not involve a sentence for a definite period of time. The classic criminal contempt is one where the act of contempt has been completed, punishment is imposed to vindicate the authority of the court, and a person cannot by subsequent action purge himself of such contempt.[178]

The issue of whether a certain contempt is civil or criminal can be of great importance. For instance, criminal contempt, unlike civil contempt, implicates procedural rights attendant to prosecutions.[179] Or, in *Ex parte Grossman*,[180] while holding that the President may pardon a criminal contempt, Chief Justice Taft noted in *dicta* that such pardon power did not extend to civil contempt. Notwithstanding the importance of distinguishing between the two, there have been instances where defendants have been charged with both civil and criminal contempt for the same act.[181]

Long-standing doctrine regarding how courts should distinguish between civil and criminal contempt remains influential. In *Shillitani v. United States*,[182] defendants were sentenced by their respective District Courts to two years imprisonment for contempt of court, but the sentences contained a purge clause providing for the unconditional release of the contemnors upon agreeing to tes-

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[177] *E.g.*, United States v. United Mine Workers, 330 U.S. 258 (1947).

[178] Gompers v. Bucks Stove & Range Co., 221 U.S. 418, 441–443 (1911); *Ex parte* Grossman, 267 U.S. 87 (1925). *See also* Bessette v. W.B. Conkey Co., 194 U.S. 324, 327–328 (1904).

[179] In Robertson v. United States ex rel. Watson, the Court had granted certiorari to consider a District of Columbia law that allowed a private individual to bring a criminal contempt action in the congressionally established D.C. courts based on a violation of a civil protective order. 560 U.S. ___, No. 08–6261, slip op. (2010). The Court subsequently issued a per curiam order dismissing the writ of certiorari as having been improvidently granted, but four Justices dissented. Writing in dissent, Chief Justice Roberts thought it imperative to make clear that "[t]he terrifying force of the criminal justice system may only be brought to bear against an individual by society as a whole, through a prosecution brought of behalf of the government." 560 U.S. ___, No. 08–6261, slip op. at 1 (2010) (Roberts, C.J., dissenting). Of particular concern was how various protections in the Bill of Rights against government action would play out in a privately brought action. Id. at 5–6.

[180] 267 U.S. 87, 119–120 (1925). In an analogous case, the Court was emphatic in a dictum that Congress cannot require a jury trial where the contemnor has failed to perform a positive act for the relief of private parties, Michaelson v. United States ex rel. Chicago, S.P., M. & Ry. Co., 266 U.S. 42, 65–66 (1924). *But see* Bloom v. Illinois, 391 U.S. 194, 202 (1968).

[181] *See* United States v. United Mine Workers, 330 U.S. 258, 299 (1947).

[182] 384 U.S. 364 (1966).