States,[205] and the theory of constructive contempt based on the "reasonable tendency" rule was rejected. The defendants in the civil suit, by persuasion and the use of liquor, had induced a plaintiff feeble in mind and body to ask for dismissal of the suit he had brought against them. The events in the episode occurred more than 100 miles from where the court was sitting and were held not to put the persons responsible for them in contempt of court. Although *Nye v. United States* was exclusively a case of statutory construction, it was significant from a constitutional point of view because its reasoning was contrary to that of earlier cases narrowly construing the act of 1831 and asserting broad inherent powers of courts to punish contempts independently of, and contrary to, congressional regulation of this power. *Bridges v. California* [206] was noteworthy for the dictum of the majority that the contempt power of all courts, federal as well as state, is limited by the guaranty of the First Amendment against interference with freedom of speech or of the press.[207]

A series of cases involving highly publicized trials and much news media attention and exploitation,[208] however, caused the Court to suggest that the contempt and other powers of trial courts should be used to stem the flow of publicity before it can taint a trial. Thus, Justice Clark, speaking for the majority in *Sheppard v. Maxwell*,[209] wrote, "If publicity during the proceedings threatens the fairness of the trial, a new trial should be ordered. But we must remember that reversals are but palliatives; the cure lies in those remedial measures that will prevent the prejudice at its inception. . . . Neither prosecutors, counsel for defense, the accused, witness, court staff nor law enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function. Collaboration between counsel and the press as to information affecting the fairness of a criminal trial is not only subject to regulation, but is highly censurable and worthy of disciplinary measures." Though the regu-

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[205] 313 U.S. 33, 47–53 (1941).

[206] 314 U.S. 252, 260 (1941).

[207] *See also* Wood v. Georgia, 370 U.S. 375 (1962), further clarifying the limitations imposed by the First Amendment upon this judicial power and delineating the requisite serious degree of harm to the administration of law necessary to justify exercise of the contempt power to punish the publisher of an out-of-court statement attacking a charge to the grand jury, absent any showing of actual interference with the activities of the grand jury.

It is now clearly established that courtroom conduct to be punishable as contempt "must constitute an imminent, not merely a likely, threat to the administration of justice. The danger must not be remote or even probable; it must immediately imperil." Craig v. Harney, 331 U.S. 367, 376 (1947); *In re* Little, 404 U.S. 553, 555 (1972).

[208] *E.g.*, Estes v. Texas, 381 U.S. 532 (1965); Marshall v. United States, 360 U.S. 310 (1959); Sheppard v. Maxwell, 384 U.S. 333 (1966).

[209] 384 U.S. 333, 363 (1966).