able, irrespective of its truth.[485] In *Bridges v. California*,[486] however, in which contempt citations had been brought against a newspaper and a labor leader for statements made about pending judicial proceedings, Justice Black, for a five-to-four majority, began by applying the clear and present danger test, which he interpreted to require that "the substantive evil must be extremely serious and the degree of imminence extremely high before utterances can be punished."[487] He noted that "[t]he substantive evil here sought to be averted . . . appears to be double: disrespect for the judiciary; and disorderly and unfair administration of justice." As for the first evil, Justice Black rejected "[t]he assumption that respect for the judiciary can be won by shielding judges from published criticism . . . ."[488] As for "[t]he other evil feared, disorderly and unfair administration of justice, [it] is more plausibly associated with restricting publications which touch upon pending litigation." But the "degree of likelihood" of the evil being accomplished was not "sufficient to justify summary punishment."[489] In dissent, Justice Frankfurter accepted the application of the clear and present danger, but he interpreted it as meaning no more than a "reasonable tendency" test. "Comment however forthright is one thing. Intimidation with respect to specific matters still in judicial suspense, quite another. . . . A publication intended to teach the judge a lesson, or to vent spleen, or to discredit him, or to influence him in his future conduct, would not justify exercise of the contempt power. . . . It must refer to a matter under consideration and constitute in effect a threat to its impartial disposition. It must be calculated to create an atmospheric pressure incompatible with rational, impartial adjudication. But to interfere with justice it need not succeed. As with other offenses, the state should be able to proscribe attempts that fail because of the danger that attempts may succeed."[490]

A unanimous Court next struck down the contempt conviction arising out of newspaper criticism of judicial action already taken, although one case was pending after a second indictment. Specifically alluding to clear and present danger, while seeming to regard it as stringent a test as Justice Black had in the prior case, Justice Reed wrote that the danger sought to be averted, a "threat to the impartial and orderly administration of justice," "has not the clearness and immediacy necessary to close the door of permissible pub-

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[485] Patterson v. Colorado, 205 U.S. 454 (1907); Toledo Newspaper Co. v. United States, 247 U.S. 402 (1918).

[486] 314 U.S. 252 (1941).

[487] 314 U.S. at 263.

[488] 314 U.S. at 270.

[489] 314 U.S. at 271.

[490] 314 U.S. at 291.