BRIDGES v. CALIFORNIA
SUPREME COURT OF THE UNITED STATES
314 U.S. 252
December 8, 1941
[5 - 4]

OPINION: Justice Black...All of the petitioners were adjudged guilty and fined for contempt of court by the Superior Court of Los Angeles County. Their conviction rested upon comments pertaining to pending litigation which were published in newspapers...[P]etitioners challenged the state's action as an abridgment...of freedom of speech and of the press; but the Superior Court overruled this contention, and the Supreme Court affirmed. The importance of the constitutional question prompted us to grant certiorari...

[T]he state courts asserted and exercised a power to punish petitioners for publishing their views concerning cases not in all respects finally determined, upon the following chain of reasoning: California is invested with the power and duty to provide an adequate administration of justice; by virtue of this power and duty, it can take appropriate measures for providing fair judicial trials free from coercion or intimidation; included among such appropriate measures is the common law procedure of punishing certain interferences and obstructions through contempt proceedings; this particular measure...includes the power to punish for publications made outside the court room if they tend to interfere with the fair and orderly administration of justice in a pending case; the trial court having found that the publications had such a tendency, and there being substantial evidence to support the finding, the punishments here imposed were an appropriate exercise of the state's power; **in so far as these punishments constitute a restriction on liberty of expression, the public interest in that liberty was properly subordinated to the public interest in judicial impartiality and decorum...**

It is to be noted...that we have no direction by the legislature of California that publications outside the court room which comment upon a pending case in a specified manner should be punishable. As we said in *Cantwell v. Connecticut*[1], such a "declaration of the State's policy would weigh heavily in any challenge of the law as infringing constitutional limitations." But as we also said there, the problem is different where "the judgment is based on a common law concept of the most general and undefined nature." For here the legislature of California has not appraised a particular kind of situation and found a specific danger sufficiently imminent to justify a restriction on a particular kind of utterance. The judgments below, therefore, do not come to us encased in the armor wrought by prior legislative deliberation. Under such circumstances, this Court has said that "it must necessarily be found, as an original question," that the specified publications involved created "such likelihood of bringing about the substantive evil as to deprive them of the constitutional protection." *Gitlow v. New York.*[2]

How much "likelihood" is another question, "a question of proximity and degree" that cannot be completely captured in a formula. In *Schenck* v. *United States*[3], however, this Court said that there must be a determination of whether or not "the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils." We recognize that this statement, however helpful, does not comprehend the whole problem. As Mr. Justice Brandeis said in his concurring opinion in *Whitney v. California*[4]*:* "This Court has not yet fixed the standard by which to determine when a danger shall be deemed clear; how remote the danger may be and yet be deemed present."

...**What finally emerges from the "clear and present danger" cases is a working principle that the substantive evil must be extremely serious and the degree of imminence extremely high before utterances can be punished...**[T]he Bill of Rights...must be taken as a command of the broadest scope that explicit language, read in the context of a liberty-loving society, will allow...

[T]he power of judges to punish by contempt out-of-court publications tending to obstruct the orderly and fair administration of justice in a pending case was deeply rooted in English common law at the time the Constitution was adopted. That this historical contention is dubious has been persuasively argued elsewhere. In any event it need not detain us, for to assume that English common law in this field became ours is to deny the generally accepted historical belief that "one of the objects of the Revolution was to get rid of the English common law on liberty of speech and of the press."

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[1]Case 1A-R-3 on this website.

[2]Case 1A-S-3 on this website.

[3]Case 1A-S-2 on this website.

[4]Case 1A-S-4 on this website.

More specifically, it is to forget the environment in which the First Amendment was ratified. In presenting the proposals which were later embodied in the Bill of Rights, James Madison said... "Although I know whenever the great rights, the trial by jury, freedom of the press, or liberty of conscience, come in question in that body [Parliament], the invasion of them is resisted by able advocates, yet their Magna Charta does not contain any one provision for the security of those rights, respecting which the people of America are most alarmed. **The freedom of the press and rights of conscience, those choicest privileges of the people, are unguarded in the British Constitution**."...

No purpose in ratifying the Bill of Rights was clearer than that of securing for the people of the United States much greater freedom of religion, expression, assembly, and petition than the people of Great Britain had ever enjoyed...Ratified as it was while the memory of many oppressive English restrictions on the enumerated liberties was still fresh, the First Amendment cannot reasonably be taken as approving prevalent English practices...

[T]he power of courts to protect themselves <u>from disturbances and disorder in the court room</u> by use of contempt proceedings [<u>is not] seriously challenged</u> as conflicting with constitutionally secured guarantees of liberty... But attempts to expand it in the post-Ratification years evoked popular reactions that bespeak a feeling of jealous solicitude for freedom of the press. In Pennsylvania and New York, for example, heated controversies arose over alleged abuses in the exercise of the contempt power, which in both places culminated in legislation practically forbidding summary punishment for publications.

In the federal courts, there was the celebrated case of Judge Peck...The impeachment proceedings against him, it should be noted, and the strong feelings they engendered, were set in motion by his summary punishment of a lawyer for publishing comment on a case which was on appeal at the time of publication and which raised the identical issue of several other cases then pending before him. Here again legislation was the outcome, Congress proclaiming..."that the power of federal courts to inflict summary punishment for contempt shall not be construed to extend to any cases except the misbehaviour of...persons **in the presence of the said courts**, **or so near thereto as to obstruct the administration of justice**..." Here,...we do find in the enactment viewed in its historical context, a respect for the prohibitions of the First Amendment, not as mere guides to the formulation of policy, but as commands the breach of which cannot be tolerated...

Not until 1925, with the decision in *Gitlow v. New York,* did this Court recognize in the Fourteenth Amendment the application to the states of the same standards of freedom of expression as, under the First Amendment, are applicable to the federal government. And this is the first time since 1925 that we have been called upon to determine the constitutionality of a state's exercise of the contempt power in this kind of situation...History affords no support for the contention that the criteria applicable under the Constitution to other types of utterances are not applicable, in contempt proceedings, to out-of-court publications pertaining to a pending case.

We may appropriately begin our discussion of the judgments below by considering how much, as

a practical matter, they would affect liberty of expression. **It must be recognized that public interest is much more likely to be kindled by a controversial event of the day than by a generalization, however penetrating, of the historian or scientist.**

> And, therefore, if the media "spins" dull truth into heated controversy, newspaper sales go up. Sorry...irrelevant, but I just couldn't help myself.

Since they punish utterances made during the pendency of a case, the judgments below therefore produce their restrictive results at the precise time when public interest in the matters discussed would naturally be at its height. Moreover, the ban is likely to fall not only at a crucial time but upon the most important topics of discussion. Here, for example, labor controversies were the topics of some of the publications. Experience shows that the more acute labor controversies are, the more likely it is that in some aspect they will get into court. It is therefore the controversies that command most interest that the decisions below would remove from the arena of public discussion.

No suggestion can be found in the Constitution that the freedom there guaranteed for speech and the press bears an inverse ratio to the timeliness and importance of the ideas seeking expression. Yet, it would follow as a practical result of the decisions below that anyone who might wish to give public expression to his views on a pending case involving no matter what problem of public interest, just at the time his audience would be most receptive, would be as effectively discouraged as if a deliberate statutory scheme of censorship had been adopted. Indeed, perhaps more so, because under a legislative specification of the particular kinds of expressions prohibited and the circumstances under which the prohibitions are to operate, the speaker or publisher might at least have an authoritative guide to the permissible scope of comment, instead of being compelled to act at the peril that judges might find in the utterance a "reasonable tendency" to obstruct justice in a pending case.

This unfocussed threat is, to be sure, limited in time, terminating as it does upon final disposition of the case. But this does not change its censorial quality. An endless series of moratoria on public discussion, even if each were very short, could hardly be dismissed as an insignificant abridgment of freedom of expression. And to assume that each would be short is to overlook the fact that the "pendency" of a case is frequently a matter of months or even years rather than days or weeks.

For these reasons we are convinced that the judgments below result in a curtailment of expression that cannot be dismissed as insignificant. If they can be justified at all, it must be in terms of some serious substantive evil which they are designed to avert. The substantive evil here sought to be averted...appears to be [twofold]: **disrespect for the judiciary; and disorderly and unfair administration of justice**.

I understand "respect for the office" and the common decency type of respect. But, the best quality I believe judges should have is humility; i.e., the wise knowledge that, although they must make decisions, they can at least acknowledge that they are not "all knowing" and can make mistakes. But, isn't it great that the 1st Amendment permits this discussion at all!

The assumption that respect for the judiciary can be won by shielding judges from published criticism wrongly appraises the character of American public opinion. For it is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions. **And an enforced silence, however limited, solely in the name of preserving the dignity of the bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect.**

The other evil feared, disorderly and unfair administration of justice, is more plausibly associated with restricting publications which touch upon pending litigation. The very word "trial" connotes decisions on the evidence and arguments properly advanced in open court. Legal trials are not like elections, to be won through the use of the meeting-hall, the radio, and the newspaper. But we cannot start with the assumption that publications of the kind here involved actually do threaten to change the nature of legal trials, and that to preserve judicial impartiality, it is necessary for judges to have a contempt power by which they can close all channels of public expression to all matters which touch upon pending cases. We must therefore turn to the particular utterances here in question and the circumstances of their publication to determine to what extent the substantive evil of unfair administration of justice was a likely consequence...

The Los Angeles Times Editorials. The Times-Mirror Company, publisher of the Los Angeles Times, and L. D. Hotchkiss, its managing editor, were cited for contempt for the publication of three editorials...[and fines were issued].

[One of the editorials] was entitled **"Probation for Gorillas?"** After vigorously denouncing two members of a labor union who had previously been found guilty of assaulting nonunion truck drivers, it closes with the observation: **"Judge A. A. Scott will make a serious mistake if he grants probation to Matthew Shannon and Kennan Holmes. This community needs the example of their assignment to the jute mill."** Judge Scott had previously set a day (about a month after the publication) for passing upon the application of Shannon and Holmes for probation and for pronouncing sentence. The [trial court's] basis for punishing the publication as contempt was its "inherent tendency"...to interfere with the orderly administration of justice in an action then before a court for consideration. In accordance with what we have said on the "clear and present danger" cases, neither "inherent tendency" nor "reasonable tendency" is enough to justify a restriction of free expression. But even if they were appropriate measures, we should find exaggeration in the use of those phrases to describe the facts here.

From the indications in the record of the position taken by the Los Angeles Times on labor controversies in the past, there could have been little doubt of its attitude toward the probation of

Shannon and Holmes. In view of the paper's long-continued militancy in this field, it is inconceivable that any judge in Los Angeles would expect anything but adverse criticism from it in the event probation were granted. Yet **such criticism <u>after</u> final disposition of the proceedings would clearly have been privileged. Hence, this editorial, given the most intimidating construction it will bear, did no more than threaten future adverse criticism which was reasonably to be expected anyway in the event of a lenient disposition of the pending case. To regard it, therefore, as in itself of substantial influence upon the course of justice would be to impute to judges a lack of firmness, <u>wisdom, or honor</u>, -- <u>which we cannot accept as a major premise</u>.**

The truth of the matter (as far as I am concerned) is that all judges lack at least some wisdom and honor because they are all human beings, none of whom administer perfect justice. In other words, the High Court should be willing to accept **<u>as a major premise</u>** the undeniable fact that **<u>all judges are fallible</u>** (even them) to one degree or another. The Supreme Court falls prey to ignorance when they fail to acknowledge this fundamental truth. Human beings — yes, even judges — <u>could well be influenced by public criticism in advance of making a decision</u>. I will go one step further. Many judges will make rulings, not based upon the law, but rather, based upon public criticism if they think it will get them re-elected. Who's kidding who? I do not suggest this decision was wrongly decided; however, I do suggest that this premise is false!

...***<u>The Bridges Telegram</u>.*** While a motion for a new trial was pending in a case involving a dispute between an AF of L union and a CIO union of which Bridges was an officer, he either caused to be published or acquiesced in the publication of a telegram which he had sent to the Secretary of Labor. The telegram referred to the judge's decision as "**outrageous**"; said that attempted enforcement of it would tie up the port of Los Angeles and involve the entire Pacific Coast; and concluded with the announcement that the CIO union, representing some twelve thousand members, **did "not intend to allow state courts to override the majority vote of members in choosing its officers and representatives and to override the National Labor Relations Board.**"

Apparently Bridges' conviction is not rested at all upon his use of the word "outrageous." The remainder of the telegram...appears to be a statement that if the court's decree should be enforced there would be a strike. It is not claimed that such a strike would have been in violation of the terms of the decree, nor that in any other way it would have run afoul of the law of California. On no construction, therefore, can the telegram be taken as a threat either by Bridges or the union to follow an illegal course of action.

Moreover, this statement of Bridges was made to the Secretary of Labor, who is charged with official duties in connection with the prevention of strikes. Whatever the cause might be if a strike was threatened or possible the Secretary was entitled to receive all available information. Indeed, the Supreme Court of California recognized that, publication in the newspapers aside, in sending the message to the Secretary, Bridges was exercising the right of petition to a duly accredited representative of the United States Government, a right protected by the First Amendment.

It must be recognized that Bridges was a prominent labor leader speaking at a time when public interest in the particular labor controversy was at its height. The observations we have previously made here upon the timeliness and importance of utterances as emphasizing rather than diminishing the value of constitutional protection, and upon the breadth and seriousness of the censorial effects of punishing publications in the manner followed below, are certainly no less applicable to a leading spokesman for labor than to a powerful newspaper taking another point of view.

In looking at the reason advanced in support of the judgment of contempt, we find that here, too, the possibility of causing unfair disposition of a pending case is the major justification asserted. And here again the gist of the offense, according to the court below, is intimidation.

Let us assume that the telegram could be construed as an announcement of Bridges' intention to call a strike, something which, it is admitted, neither the general law of California nor the court's decree prohibited. With an eye on the realities of the situation, we cannot assume that Judge Schmidt was unaware of the possibility of a strike as a consequence of his decision. If he was not intimidated by the facts themselves, we do not believe that the most explicit statement of them could have sidetracked the course of justice. Again, we find exaggeration in the conclusion that the utterance even "tended" to interfere with justice. If there was electricity in the atmosphere, it was generated by the facts; the charge added by the Bridges telegram can be dismissed as negligible. The words of Mr. Justice Holmes, spoken in reference to very different facts, seem entirely applicable here: "I confess that I cannot find in all this or in the evidence in the case anything that would have affected a mind of reasonable fortitude, and still less can I find there anything that obstructed the administration of justice in any sense that I possibly can give to those words." *Toledo Newspaper Co*. v. *United States.* **Reversed**.

DISSENT: Justice Frankurter/Stone/Roberts/Byrnes...Our whole history repels the view that it is an exercise of one of the civil liberties secured by the Bill of Rights for a leader of a large following or for a powerful metropolitan newspaper to **attempt to overawe a judge** in a matter immediately pending before him. The view of the majority deprives California of means for securing to its citizens justice according to law -- means which, since the Union was founded, have been the possession, hitherto unchallenged, of all the states...To find justification for such deprivation of the historic powers of the states is to misconceive the idea of freedom of thought and speech as guaranteed by the Constitution...

While the immediate question is that of determining the power of the courts of California to deal with attempts to coerce their judgments in litigation immediately before them, the consequence of the Court's ruling today is a denial to the people of the forty-eight states of a right which they have always regarded as essential for the effective exercise of the judicial process, as well as a denial to the Congress of powers which were exercised from the very beginning even by the framers of the Constitution themselves. To be sure, the majority do not in so many words hold that trial by newspapers has constitutional sanctity. But the atmosphere of their opinion and several of its phrases mean that or they mean nothing. Certainly, the opinion is devoid of any frank recognition of the right of courts to deal with utterances calculated to intimidate the fair course of justice -- a right which

hitherto all the states have from time to time seen fit to confer upon their courts and which Congress conferred upon the federal courts in the Judiciary Act of 1789. If all that is decided today is that the majority deem the specific interferences with the administration of justice in California so tenuously related to the right of California to keep its courts free from coercion as to constitute a check upon free speech rather than upon impartial justice, it would be well to say so. Matters that involve so deeply the powers of the states, and that put to the test the professions by this Court of self-restraint in nullifying the political powers of state and nation, should not be left clouded...

The administration of justice by an impartial judiciary has been basic to our conception of freedom ever since Magna Carta...[I]t is protected by the liberty guaranteed by the Fourteenth Amendment. That is why this Court has outlawed mob domination of a courtroom, mental coercion of a defendant, a judicial system which does not provide disinterested judges and discriminatory selection of jurors.

A trial is not a "free trade in ideas," nor is the best test of truth in a courtroom "the power of the thought to get itself accepted in the competition of the market." A court is a forum with strictly defined limits for discussion. It is circumscribed in the range of its inquiry and in its methods by the Constitution, by laws, and by age-old traditions. Its judges are restrained in their freedom of expression by historic compulsions resting on no other officials of government. They are so circumscribed precisely because judges have in their keeping the enforcement of rights and the protection of liberties which, according to the wisdom of the ages, can only be enforced and protected by observing such methods and traditions.

The dependence of society upon an unswerved judiciary...is perhaps best expressed in the Massachusetts Declaration of Rights:

> "It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent **as the lot of humanity will admit**."

At least the judge that wrote the foregoing acknowledges that no judge is **totally** impartial and independent. We are all influenced by our environment to some degree.

...We cannot read into the Fourteenth Amendment the freedom of speech and of the press protected by the First Amendment and at the same time read out age-old means employed by states for securing the calm course of justice. The Fourteenth Amendment does not forbid a state to continue the historic process of prohibiting expressions calculated to subvert a specific exercise of judicial power. So to assure the impartial accomplishment of justice is not an abridgment of freedom of speech or freedom of the press, as these phases of liberty have heretofore been conceived even by the stoutest libertarians. In fact, these liberties themselves depend upon an untrammeled judiciary whose passions **are not even unconsciously aroused** and whose minds are not distorted by extra-

judicial considerations...Freedom of expression can hardly carry implications that nullify the guarantees of impartial trials. And since courts are the ultimate resorts for vindicating the Bill of Rights, a state may surely authorize appropriate historic means to assure that the process for such vindication be not wrenched from its rational tracks into the more primitive melee of passion and pressure. **The need is great that courts be criticized, but just as great that they be allowed to do their duty...**

That a state may, under appropriate circumstances, prevent interference with specific exercises of the process of impartial adjudication does not mean that its people lose the right to condemn decisions or the judges who render them. Judges as persons, or courts as institutions, are entitled to no greater immunity from criticism than other persons or institutions. Just because the holders of judicial office are identified with the interests of justice they may forget their common human frailties and fallibilities. There have sometimes been martinets upon the bench as there have also been pompous wielders of authority who have used the paraphernalia of power in support of what they called their dignity. Therefore judges must be kept mindful of their limitations and of their ultimate public responsibility by a vigorous stream of criticism expressed with candor however blunt... But that the conventional power to punish for contempt is not a censorship in advance but a punishment for past conduct and, as such, like prosecution for a criminal libel, is not offensive either to the First or to the Fourteenth Amendments, has never been doubted throughout this Court's history...

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...The purpose is to protect immediate litigants and the public from the mischievous danger of an unfree or coerced tribunal. The power should be invoked only where the adjudicatory process may be hampered or hindered in its calm, detached, and fearless discharge of its duty on the basis of what has been submitted in court. The belief that decisions are so reached is the source of the confidence on which law ultimately rests.**

...Presidents and governors and legislators are political officials traditionally subject to political influence and the rough and tumble of the hustings, who have open to them traditional means of self-defense. In a very immediate sense, legislators and executives express the popular will. But judges do not express the popular will in any ordinary meaning of the term. The limited power to punish for contempt which is here involved wholly rejects any assumption that judges are superior to other officials. They merely exercise a function historically and intrinsically different...

We turn to the specific cases before us:

The..."Sit-strikers Convicted" [editorial] commented upon a case **the day after a jury had returned a verdict and the day before the trial judge was to pronounce sentence and hear motions for a new trial and applications for probation.** On its face the editorial merely expressed exulting approval of the verdict, a completed action of the court, and there is nothing in the record to give it additional significance. The same is true of the second editorial, "Fall of an Ex-Queen," which luridly draws a moral from a verdict of guilty in a sordid trial and which was published **eight days prior to the day set for imposing sentence.** In both instances imposition of sentences was immediately pending at the time of publication, but in neither case was there any declaration, direct or sly, in regard to this. As the special guardian of the Bill of Rights, this Court is under the heaviest responsibility to safeguard the liberties guaranteed from any encroachment, however astutely disguised. **The Due Process Clause of the Fourteenth Amendment protects the right to comment on a judicial proceeding, so long as this is not done in a manner interfering with the impartial disposition of a litigation.** There is no indication that more was done in these editorials; they were not close threats to the judicial function which a state should be able to restrain. We agree that the judgment of the state court in this regard should not stand.

"Probation for Gorillas?"...is a different matter. On April 22, 1938, a Los Angeles jury found two defendants guilty of assault with a deadly weapon and of a conspiracy to violate another section of the penal code. On May 2nd, the defendants applied for probation and the trial judge on the same day set June 7th as the day for disposing of this application and for sentencing the defendants. In the Los Angeles Times for May 5th appeared the following editorial entitled "Probation for Gorillas?":

> "Two members of Dave Beck's wrecking crew, entertainment committee, goon squad or gorillas, having been convicted in Superior Court of assaulting nonunion truck drivers, have asked for probation. Presumably they will say they are 'first offenders,' or plead that they were merely indulging a playful exuberance when, with slingshots, they fired steel missiles at men whose only offense was wishing to work for a living without paying tribute to the erstwhile boss of Seattle.
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> "Sluggers for pay, like murderers for profit, are in a slightly different category from ordinary criminals...
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> "**It will teach no lesson to other thugs to put these men on good behavior for a limited time. Their 'duty' would simply be taken over by others like them. If Beck's thugs, however, are made to realize that they face San Quentin when they are caught, it will tend to make their disreputable occupation unpopular. Judge A. A. Scott will make a serious mistake if he grants probation to Matthew Shannon and Kennan Holmes. This community needs the example of their assignment to the jute mill."**

This editorial was published **three days after the trial judge had fixed the time for sentencing and for passing on an application for probation, and a month prior to the date set.** It consisted

of a sustained attack on the defendants, with an explicit demand of the judge that they be denied probation and be sent "to the jute mill." This meant, in California idiom, that in the exercise of his discretion the judge should treat the offense as a felony, with all its dire consequences, and not as a misdemeanor. Under the California Penal Code the trial judge had wide discretion in sentencing the defendants: he could sentence them to the county jail for one year or less, or to the state penitentiary for two years. The editorial demanded that he take the latter alternative and send the defendants to the "jute mill" of the state penitentiary. **A powerful newspaper admonished a judge, who within a year would have to secure popular approval if he desired continuance in office, that failure to comply with its demands would be "a serious mistake." Clearly, the state court was justified in treating this as a threat to impartial adjudication**.

How would the dissenters view a group of citizens saying the same thing as the editorial while they picket in front of the judge's home? Just wondering?!?

It is too naive to suggest that the editorial was written with a feeling of impotence and an intention to utter idle words. The publication of the editorial was hardly an exercise in futility. If it is true of juries it is not wholly untrue of judges that **they too may be "impregnated by the environing atmosphere."** California should not be denied the right to free its courts from such coercive, extraneous influences; it can thus assure its citizens of their constitutional right of a fair trial. Here there was a real and substantial manifestation of an endeavor to exert outside influence. A powerful newspaper brought its full coercive power to bear in demanding a particular sentence. If such sentence had been imposed, readers might assume that the court had been influenced in its action; if lesser punishment had been imposed, at least a portion of the community might be stirred to resentment. **It cannot be denied that even a judge may be affected by such a quandary.** We cannot say that the state court was out of bounds in concluding that such conduct offends the free course of justice. Comment **after** the imposition of sentence -- criticism, however unrestrained, of its severity or lenience or disparity,...is an exercise of the right of free discussion. **But to deny the states power to check a serious attempt at dictating, from without, the sentence to be imposed in a pending case, is to deny the right to impartial justice as it was cherished by the founders of the Republic and by the framers of the Fourteenth Amendment**. It would erect into a constitutional right, opportunities for abuse of utterance interfering with the dispassionate exercise of the judicial function...

In my estimation, the dissenters (specifically, Justice Frankfurter) just cannot stand criticism of judges. I say that for two reasons: (1) The "pretended concern" is how such speech may affect a judge's subsequent ruling. However, they never discuss how that judge's act of imposing contempt may affect his subsequent ruling. (2) Jurors are routinely admonished by judges not to read anything or view anything in the media about the case they are deciding until after the trial is over. It would seem **all can be resolved** if judges applied such admonitions to themselves.

THINK ABOUT IT!!!