

Sec. 1—Judicial Power, Courts, Judges

tempt, however, such bodies must be acting within the authority that has been lawfully delegated to them.²⁴²

Sanctions Other Than Contempt

Long recognized by the courts as inherent powers are those authorities that are necessary to the administration of the judicial system itself, of which the contempt power just discussed is only the most controversial.²⁴³ Courts, as elements of an independent and coequal branch of government, once they are created and their jurisdiction established, have the authority to do what courts have traditionally done in order to accomplish their assigned tasks.²⁴⁴ Of course, these inherent powers may be limited by statutes and by rules,²⁴⁵ but, just as noted above in the discussion of the same issue with respect to contempt, the Court asserts both the power to act in areas not covered by statutes and rules and the power to act unless Congress has not only provided regulation of the exercise of the power, but also has unmistakably enunciated its intention to limit the courts' inherent powers.²⁴⁶

Thus, in *Chambers v. NASCO, Inc.*, the Court upheld the imposition of monetary sanctions against a litigant and his attorney for bad-faith litigation conduct in a diversity case. Some of the conduct was covered by a federal statute and several sanction provisions of the Federal Rules of Civil Procedure, but some was not, and the Court held that, absent a showing that Congress had intended to limit the courts, they could use their inherent powers to impose sanctions for the entire course of conduct, including shifting attorneys' fees, which is ordinarily against the common-law American rule.²⁴⁷ In another case, a party failed to comply with discovery orders and a court order concerning a schedule for filing briefs. The Supreme Court held that the attorneys' fees statute did not allow assess-

²⁴² *Gojack v. United States*, 384 U.S. 702 (1966). See also *Sanctions of the Investigatory Power: Contempt*, supra, for a discussion of Congress's power to cite an individual for contempt by virtue of its investigatory duties, which is applicable, at least by analogy, to administrative agencies.

²⁴³ "Certain implied powers must necessarily result to our courts of justice, from the nature of their institution. . . . To fine for contempt, imprison for contumacy, enforce the observance of order, &c., are powers which cannot be dispensed with in a court, because they are necessary to the exercise of all others: and so far our courts, no doubt, possess powers not immediately derived from statute" *United States v. Hudson & Goodwin*, 11 U.S. (7 Cr.) 32, 34 (1812).

²⁴⁴ See *Anderson v. Dunn*, 19 U.S. (6 Wheat.) 204, 227 (1821); *Ex parte Robinson*, 86 U.S. (19 Wall.) 505, 510 (1874); *Link v. Wabash R.R.*, 370 U.S. 626, 630–631 (1962); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–46 (1991); and *id.* at 58 (Justice Scalia dissenting), 60, 62–67 (Justice Kennedy dissenting).

²⁴⁵ *Chambers v. NASCO, Inc.*, 501 U.S. at 47.

²⁴⁶ 501 U.S. at 46–51. But see *id.* at 62–67 (Justice Kennedy dissenting).

²⁴⁷ 501 U.S. at 49–51. On the implications of the fact that this was a diversity case, see *id.* at 51–55.