to punish a person summarily and a multiplying of the due process requirements that must otherwise be met when finding an individual to be in contempt.[189]

The Act of 1789.—The summary power of the courts of the United States to punish contempts of their authority had its origin in the law and practice of England where disobedience of court orders was regarded as contempt of the King himself and attachment was a prerogative process derived from presumed contempt of the sovereign.[190] By the latter part of the eighteenth century, summary power to punish was extended to all contempts whether committed in or out of court.[191] In the United States, the Judiciary Act of 1789[192] conferred power on all courts of the United States "to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same." The only limitation placed on this power was that summary attachment was made a negation of all other modes of punishment. The abuse of this extensive power led, following the unsuccessful impeachment of Judge James H. Peck of the Federal District Court of Missouri, to the passage of the Act of 1831 limiting the power of the federal courts to punish contempts to misbehavior in the presence of the courts, "or so near thereto as to obstruct the administration of justice," to the misbehavior of officers of courts in their official capacity, and to disobedience or resistance to any lawful writ, process or order of the court.[193]

An Inherent Power.—The nature of the contempt power was described Justice Field, writing for the Court in *Ex parte Robinson*,[194] sustaining the act of 1831: "The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the

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[189] Many of the limitations placed on the inferior federal courts have been issued on the basis of the Supreme Court's supervisory power over them rather than upon a constitutional foundation, while, of course, the limitations imposed on state courts necessarily are on constitutional dimensions. Indeed, it is often the case that a limitation, which is applied to an inferior federal court as a superintending measure, is then transformed into a constitutional limitation and applied to state courts. *Compare* Cheff v. Schnackenberg, 384 U.S. 373 (1966), *with* Bloom v. Illinois, 391 U.S. 194 (1968). In the latter stage, the limitations then bind both federal and state courts alike. Therefore, in this section, Supreme Court constitutional limitations on state court contempt powers are cited without restriction for equal application to federal courts.

[190] Fox, *The King v. Almon*, 24 L.Q. REV. 184, 194–195 (1908).

[191] Fox, *The Summary Power to Punish Contempt*, 25 L.Q. REV. 238, 252 (1909).

[192] 1 Stat. 83, § 17 (1789).

[193] 18 U.S.C. § 401. For a summary of the Peck impeachment and the background of the act of 1831, *see* Frankfurter and Landis, *Power of Congress Over Procedure in Criminal Contempts in 'Inferior' Federal Courts: A Study in Separation of Powers*, 37 HARV. L. REV. 1010, 1024–1028 (1924).

[194] 86 U.S. (19 Wall.) 505 (1874).