

teaching; the law's use of the term "seditious" was unconstitutionally vague. Other parts of the law were invalid because they prohibited *mere* knowing membership in the Communist party without the specific intent required by *ELFBRANDT V. RUSSELL* (1966). *Keyishian* confirmed the Court's previous decisions rejecting the doctrine that public employment is a privilege to which government may attach whatever conditions it pleases.

MARTIN SHAPIRO

KIDD v. PEARSON
128 U.S. 1 (1888)

A unanimous Court distinguished manufacturing and all forms of PRODUCTION from INTERSTATE COMMERCE, holding that a state act prohibiting the manufacture of intoxicants did not conflict with the national power to regulate interstate commerce and that the manufacture of a product for export to other states did not make it an article of interstate commerce.

LEONARD W. LEVY

KILBOURN v. THOMPSON
103 U.S. 168 (1881)

Until this case Congress believed that its power of conducting investigations was unlimited and that its judicial authority to punish contumacious witnesses for contempt was unquestionable. After this case both the investigatory and CONTEMPT POWERS of Congress were distinctly limited and subject to JUDICIAL REVIEW. Not until *MCGRAIN v. DAUGHERTY* (1927) did the Court firmly establish the constitutional basis for oversight and investigatory powers. The decision in *Kilbourn* was so negative in character that the legitimate area of LEGISLATIVE INVESTIGATIONS seemed murky.

Kilbourn developed out of the House's investigation, by a select committee, into the activities of a bankrupt banking firm that owed money to the United States. The committee subpoenaed Kilbourn's records, which he refused to produce, and interrogated him, but he refused to answer on the ground that the questions concerned private matters. The House cited him for contempt and jailed him. He in turn sued for false arrest, and on a writ of HABEAS CORPUS he obtained a review of his case before the Supreme Court.

Unanimously, in an opinion by Justice SAMUEL F. MILLER, the Court held that neither house of Con-

gress can punish a witness for contumacy unless his testimony is required on a matter concerning which "the House has jurisdiction to inquire," and, Miller added, neither house has "the general power of making inquiry into the private affairs of the citizen." The subject of this inquiry, Miller said, was judicial in nature, not legislative, and a case was pending in a lower federal court. The investigation was fruitless also because "it could result in no valid legislation" on the subject of the inquiry. Thus, the courts hold final power to decide what constitutes a contempt of Congress, and Congress cannot compel a witness to testify in an investigation that cannot assist remedial legislation.

LEONARD W. LEVY

KING, MARTIN LUTHER, JR.
(1929-1968)

Martin Luther King, Jr., preeminent leader of the black freedom movement of the 1950s and 1960s, repeatedly challenged America to live up to the egalitarian principles set forth in the three Reconstruction era amendments. "If we are wrong, the Constitution of the United States is wrong," King told his Alabama colleagues in an unpublished speech on December 5, 1955, the day that Montgomery's black citizens began a year-long campaign against discriminatory seating practices on city buses. Victory in that struggle catapulted King to national prominence as an exponent of nonviolent protest against racial oppression, and throughout the twelve remaining years of his life King pursued and expanded his challenge to injustice and exploitation internationally as well as domestically.

Pointing out in his 1964 book, *Why We Can't Wait*, that the United States was "a society where the supreme law of the land, the Constitution, is rendered inoperative in vast areas of the nation" because of explicit RACIAL DISCRIMINATION, King described the CIVIL RIGHTS struggle as a resumption "of that noble journey toward the goals reflected in the PREAMBLE to the Constitution, the Constitution itself, the BILL OF RIGHTS and the THIRTEENTH, FOURTEENTH, and FIFTEENTH AMENDMENTS." Protest campaigns in segregationist strongholds such as Birmingham and Selma, Alabama, stimulated national support for landmark legislative achievements such as the CIVIL RIGHTS ACT OF 1964 and the VOTING RIGHTS ACT of 1965, and produced an all-but-complete victory over de jure segregation by the middle of that decade.

Recognizing that other evils more subtle than seg-

regation also tangibly afflicted the daily lives of millions of black people, King broadened his attack to include all forms of poverty and economic injustice, saying that the movement had to go beyond civil rights to human rights. That progression, coupled with King's outspoken condemnations of America's militaristic foreign policy, particularly its participation in the VIETNAM WAR, led King to advocate basic changes in American society reaching far beyond his previous attacks on racial discrimination.

Identified as a prominent advocate of CIVIL DISOBEDIENCE against immoral segregation statutes even before his influential 1963 "Letter from Birmingham Jail," King defended his position by reference to the long tradition of NATURAL RIGHTS thinking. In his early years of civil rights activism King said that peaceful, willing violation of such statutes forced courts to void unconstitutional provisions, but toward the end of his life King expanded his argument, contending that the weightier moral demands of social justice sometimes required that nondiscriminatory laws also be violated. If any laws blocked the oppressed from confronting the nation with moral issues of human rights and economic justice, then such laws rightfully could be breached. Although King until 1966 had believed that depicting the brutalities of racism best attracted national support for civil rights, in his final years King repeatedly suggested that protesters might have to coerce concessions from unwilling federal officials by obstructing the orderly functioning of society until the desired policy changes were made.

King's challenge to American racism helped to close the gap between constitutional principles and discriminatory practices; his broader struggle against other forms of human injustice left a legacy that will stimulate future generations for years to come.

DAVID J. GARROW

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KING, RUFUS (1755-1827)

Rufus King, a Harvard-educated lawyer who had been an officer in the Revolutionary War, represented Massachusetts in the Congress of the Confedera-

tion from 1784 to 1787. He was a principal author of the NORTHWEST ORDINANCE, and wrote its provisions prohibiting SLAVERY and protecting the OBLIGATION OF CONTRACTS against legislative impairment.

Although he originally opposed either calling a convention or radically altering the ARTICLES OF CONFEDERATION, he represented Massachusetts at the CONSTITUTIONAL CONVENTION OF 1787. King soon became a spokesman for those who favored a strong national government and for the interests of the large northern states. Very early in the debates he advocated consolidation rather than confederation: although he recognized that it was impossible to annihilate the states, he thought they should be stripped of much of their power. He argued against equal representation of the states in the Senate, and he favored popular election of the President. King proposed the CONTRACT CLAUSE, and, although it was voted down in the Committee of the Whole, he saw that it was inserted into the Constitution by the Committee on Style, of which he was a member. In opposition to GOUVERNEUR MORRIS, he supported the admission of new states on terms of equality with the old. King was also one of the first to recognize publicly that the politically important division of the country was not between large and small states, but between North and South.

Almost immediately after attending the Massachusetts ratifying convention, he moved to New York and was elected one of its original United States senators. King served in the Senate from 1789 to 1796, and was a leading spokesman for ALEXANDER HAMILTON (his political patron) and the Federalist administration.

King returned to the Senate in 1813. Although an opponent of the War of 1812, he refused to attend the HARTFORD CONVENTION, denounced New England's threat of SECESSION, and supported the government financially. Serving in the Senate until 1825, King participated in the debates over the MISSOURI COMPROMISE. Although not an abolitionist, King opposed the extension of SLAVERY, and he contended that it was within the power of Congress to make permanent abolition of slavery a condition of Missouri's admission as a state. He insisted upon constitutional guarantees of the rights of black Missourians.

In his public career, King was the Federalist candidate for vice-president (1804, 1808) and President (1816), and was twice minister to Great Britain (1796-1803, 1825-1826).

DENNIS J. MAHONEY