

Part I, Segregation Part II, Anti-Lynching

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

SECOND SESSION

ON

H. J. RES. 75; H. R. 259, 4123, and 11873

—
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—

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CONTENTS.

PART I.

	Page.
Mr. Moses Madden, St. Louis, Mo.....	3, 12
Mr. Neval H. Thomas, Washington, D. C.....	8
Dr. Wm. H. Wilson, Washington, D. C.....	11
Rev. R. D. Jones.....	11

PART II.

Hon. Frederick W. Dallinger, Member of Congress.....	13
Hon. Merrill Moores, Member of Congress.....	22
Mr. Arthur B. Spingarn, New York, N. Y.....	32
Miss Esther M. Smith, Philadelphia, Pa.....	37
Mr. William Trotter, Boston, Mass.....	37
Mr. James W. Johnson, New York, N. Y.....	45
Mr. Archibald H. Grimké, Washington, D. C.....	62
Dr. William H. Wilson, Washington, D. C.....	66
Mr. Neval H. Thomas, Washington, D. C.....	68
Prof. George William Cook, Washington, D. C.....	72
Miss Esther Morton Smith, Philadelphia, Pa.....	75

COMMITTEE ON THE JUDICIARY.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

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W. C. PREUS, *Clerk*.

SEGREGATION AND ANTILYNCHING.

(SEGREGATION, PART I; ANTILYNCHING, PART II.)

SERIAL 14.

PART I.

SEGREGATION.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 15, 1920.

The committee met at 10.30 o'clock a. m., Hon. A. J. Volstead (chairman), presiding.

The CHAIRMAN. Are you ready to be heard on the Mason resolution?

STATEMENT OF MR. MOSES MADDEN.

The CHAIRMAN. Give us your name and place of residence.

Mr. MADDEN. Moses Madden, St. Louis, Mo.

The CHAIRMAN. Give us a statement of anything you want to say in favor of or against this resolution.

Mr. MADDEN. Mr. Chairman and gentlemen of the Judiciary Committee, concerning this resolution I indorse it with some corrections. The resolution provides for a commission to be appointed to gather facts and information for the purpose of outlining a remedy to promote the well-being of the diverse races in the United States. I object to the expression "diverse races in the United States" as that could be taken to mean Chinamen, Japanese, and Mexicans and all other races in the United States. I think this should point more direct to the conditions that exist in the United States with reference

to white and black people. There is no race other that has the same to complain of as the Negro has. There are no race riots between any people but negroes and white people in the United States and I believe this ought to say "to promote the well-being of the Negro in the United States."

Another point here, it says that this commission shall consist of 9 persons; 2 to be appointed by the President of the United States; 2 to be appointed by the President of the Senate, and 5 to be appointed by the Speaker of the House of Representatives. I do not believe that the House of Representatives should have more power than the Senate. I do not believe that the House of Representatives should have more power than the President of the United States. I believe that the President of the United States should appoint 2, the Senate 2, the House of Representatives 2, and the commission itself the other 3. It says "who represent the most numerous branch of the population." I object to that as it would mean simply that this commission would consist of white men only, they being the most numerous branch of the population. I believe this commission should consist of 9 persons, 5 white and 4 colored to adjust this matter satisfactorily. I further believe that the scope of this investigation should be far reaching enough to take in the Republic of Liberia and to see what the possibilities are for the Negro to be returned back home. I further believe that there should be some limit to this report that is being made. Just to send a man out to make an investigation, without any limit to it, he might think he had a lifetime to make it in. With these exceptions I highly indorse that resolution.

I have in connection with that another proposition I would like to offer you. I have been speaking the United States over for the last two years; have been in every State in the Union and 90 per cent of the people, both white and colored, wherever I go highly favor the separation of the two races. It is a concentrated conclusion today that the only solution for the race problem is to separate the two races. In times past when a man got out and made a speech on separating the two races, he only made one. The next time there was nobody there to talk to but prophesy yesterday is history today and at every speech I make the crowd doubled itself. There have been many pamphlets written along this line and circulated among the people and as a result contain many errors both in facts and effect and tend to confuse rather than enlighten the people but from time to time have tended to give satisfaction. So many and varied has this subject been treated by predecessors in our long history that one would possibly have some difficulty in selecting a theme. I escape this, however, by breaking fresh ground and bringing to your attention the Negro in America. No other movement has the same interest. You are here dealing with eleven million people, double the population of Scotland, recently not men but slaves. In many parts of the South, where the Negro outnumbered the white men, he jumped from the cotton patch to Congress, but due to his shortcomings he was not able to get results and was not able to defend himself, and so was left without representation. It takes 1,000 years of hard labor to educate a child, so you should not hope to complete your labor with the Negro in one generation. The children of the liberated slaves met and married and the children borne under them

were a little more intelligent than their parents had a chance to be, and so with the succeeding generations as they have a chance for education. You white people have had 5,000 years of education while the Negro has had only 50 years and so can only hope to get his experience as the years come and go.

Due to the shortcomings in the education of the Negroes they are not able to interpret the language they are using, nor the prayers they are saying. The Negro to-day does not know the difference between law and the Constitution. In my judgment there is not a single clause in the Constitution that provides for the Negro. The thirteenth amendment set the Negro free. The fifteenth amendment guarantees the right of citizenship. The white man makes the law, interprets the law and enforces the law, and the Negro must obey the law. Going into the interpretation of the thirteenth, fourteenth, and fifteenth amendments to the Constitution. First, Constitution is not law; it is only the basis of the law. The thirteenth amendment was that no slavery should exist in the Union, which simply prohibits a man from owning slaves and when this was adopted, the Indians of a tribe known as "Creeks" adopted his slaves, after which they became citizens by virtue of adoption. There was also another tribe known as Choctaws who refused to adopt their slaves but under certain acts of the third and fourth articles of their treaty they gave them 40 acres of land, after which the slaves were known as Choctaw freedmen. The white men also failed to adopt his slaves, and while the foxes of the woods had holes and the birds of the air nests, they turned the Negro loose without any adoption and without any place to put his head. The Negro is known as an American freedman but not one Negro out of the 11,000,000 knew that with the passing of the fourteenth amendment all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside, but all Negroes born prior to 1868 were not born as persons but as property.

Anything that you can buy or sell is property and not a person. That it says, "subject to the jurisdiction thereof," which means that a man can be assessed taxes and must pay taxes. Could the Negro so be assessed prior to the adoption of this amendment? No. The question answers itself. Then here comes Oklahoma with the "grandfather law" which provides that any man whose grandfather was not a voter under some form of government can not be a voter in that State, thus disfranchising the Negro.

Mr. MORGAN. You know that law was held unconstitutional by the Supreme Court of the United States.

Mr. MADDEN. I only make mention of these things to show that the Negro has not gotten anything under the Constitution and I only make mention of this to show that we can not hope to work out his destiny without some guaranteed rights and the only solution is to separate the two races. The negro has got more to ask for than any other race. This country is made up of the vitality of other countries. Every man and woman that came to this country has come of their own free will and their own knowledge and consent. But the Negro did not come here of his own free will. They are the only people ever captured in their own country and forced to come to this country. If the Negro had voluntarily left his home, it would be a matter of choice, but to be captured and forced to come to this

country in the manner he was, is it not a fact beyond any reasonable doubt that this Government is responsible for him?

At the beginning of the late rebellion in this country it was unconstitutional to impose military service on any man not a citizen. If they could have done so, it is a fact beyond question that 4,000,000 Negroes would have had to go to war. Then, if it were unconstitutional to start with, was it not also unconstitutional to end with? But simply because it became a military necessity military service was imposed on that 4,000,000 Negroes and one and a half millions perished on the battlefields of this country, in violation of every law, for the liberty they enjoyed. That is not all they have got to ask if they can not work out their destiny in this country. This is a white man's country. Water and oil don't mix. Vinegar and soda will not mix, yet they are both harmless. Fairly or unfairly, the two races can not dwell harmoniously together. It is the Negro who is dependent on the white man for his work. There are his wife and children at home staring him in the face for a living, and the Negro can not properly serve his family because he is dependent on the other fellow. Take this railroad out here. It is a white man's road, owned by white men, and on this railroad the Negro can not stick his face in a car except the Jim Crow car, yet that same road could be owned and controlled by Negroes in a country of their own. It could be done by Negroes. Cars must be built and trains must be run and it could be done by Negroes. He must educate his boys as lawyers, doctors, bricklayers, and machinists. He must educate his girls as stenographers and school teachers, and this the Negro must do if he wishes the future to hold out any hope to him and if he wishes to rise above being a common laborer and not have his children become common laborers after him.

Now, his wife goes out washing, but when the avenues of life are open to him and he tries to get ahead his wife will be able to stay at home with her children. He will be better himself, will be happier, and the world at large will be better. If the same money had been spent to put the Negro in a country to himself that has been spent to educate him in this country and keep him satisfied, it would have been spent to better advantage. What we want to do is this: We want to form a State between the United States and Mexico, part in the United States and part in Mexico, and each Negro given what land he can attend to with Government assistance and as fast as the Negroes become dissatisfied in the United States, when he has run from the east to the west, he can run home.

Mr. HUSTED. There is nothing pending before this committee on which this speaker is addressing the committee; there is nothing in it on the separation of the races and no construction of it of that nature. I do not understand his purpose in taking up the time of this committee on something we can not consider.

Mr. MADDEN. I am only endorsing my resolution. I have a bill to introduce and am speaking in relation to it in amendment to Mr. Mason's resolution.

Mr. DYER. If there is anything pending before this committee.

Mr. MADDEN. You want me only to comment on the Mason resolution?

Mr. DYER. There is nothing pending before this committee providing for the separation of the races.

Mr. WALSH. It is within the scope of it.

Mr. GARD. I would suggest, Mr. Chairman, that you ascertain how many desire to speak on this resolution.

The CHAIRMAN. How many?

Mr. MADDEN. Just myself.

Mr. WHALEY. I think he should have all the latitude he wants.

The CHAIRMAN. Be as brief as you can as we have other matters to take up.

Mr. MADDEN. I simply want to form a State down there in which the citizens would take an oath to support the United States' doctrines and the two races would be friends forever. This State would serve as a buffer State between the United States and Mexico, and would also serve to eliminate the Negro from the list of problems that face the United States, for all time to come. That is what we want to do but when we can not do what we want to do we will do the next best thing. Whenever you send a man to the penitentiary, on his release he is given a suit of clothes and \$5; and the Negro, after 200 years of slavery, through no fault of his own, I think that \$3,000 in money and transportation back home is little enough to ask for. Whenever the time comes that the United States will make provision for the Negro to live and set aside a plot of ground for him, they would go there faster than molasses will draw flies.

Mr. SUMNER. Would it interrupt you to suggest that you make some statement to the committee as to why it is more colored people do not show a disposition to return to Liberia, and what, in your judgment, is the opinion of colored people on the segregation of their race?

Mr. MADDEN. Africa has been pictured to the Negro as a land of snakes; a land of monkeys, tigers, and lions, and that is the way it has been described to him, and it is a feasible thought to him and has tended to confuse rather than to enlighten him. Liberia was set apart at one time for the Negro to colonize, but there was no Government assistance for him to get there, so it was impossible for him to go.

Mr. CURRIE. Are there not communities in this country now practically governed by Negroes, where the banks are run by Negroes, and the business places owned by Negroes?

Mr. MADDEN. Bodey, Okla., a town of 6,000 inhabitants, which has three banks, postmaster, and the operator at the depot, all colored men, and they do anything in that town that they are doing in any other town of its size. The Negro has been trying many years to solve the race problem and to be the white man's equal in the white man's country, but has found that everything has proved a failure.

Mr. DYER. Who would do the work if the Negro were to go away?

Mr. MADDEN. I was in England, Germany, and France, and they get along nicely without the Negro, and you can do the same here.

Mr. DYER. Suppose there were 25 per cent of the Negroes who did not want to leave the United States, are you advocating force to compel them to go? Do you seriously think of such a thing as that?

Mr. MADDEN. This is to be a voluntary act.

Mr. DYER. Then would not three-fourths of the Negroes stay where they are?

Mr. MADDEN. There might be 25 per cent stay here, but there would not be enough to raise riots or support the Jim Crow car.

Mr. DYER. I am afraid that is just conjecture on your part.

Mr. MADDEN. I feel safe in saying that 90 per cent of the Negroes in the United States would be glad to go.

Mr. DYER. I am afraid you have no solid basis for that opinion.

Mr. GOODYKOONTZ. Your idea is to erect a nation to be run by the Negroes?

Mr. MADDEN. Yes, sir; I say that by virtue of the fact that this is a white man's country and should be conducted by the white people, and by virtue of the fact that I believe there have been enough white women and girls offered upon the bloody altar of African lust. I believe enough Negroes have died at the stake, tied there and coal oil poured upon them, with their groans going up to God and the earth swallowing up their blood as a protest of the highly civilized people. I believe that you will agree with me that the only solution is to separate the races.

The CHAIRMAN. You say you have a bill or resolution to offer?

Mr. MADDEN. Yes, sir.

The CHAIRMAN. Is there anyone who wishes to be heard in opposition?

STATEMENT OF MR. NEVAL H. THOMAS.

Mr. THOMAS. In the first place, I am representing the National Association for the Advancement of the Colored People. Locally we have 7,000 members whom I am representing, and nationally we have 100,000 members in 310 branches, which are organized to oppose just such a recommendation as has been presented here to-day. I do not know where this man comes from—

Mr. DYER. He says he comes from St. Louis. How long have you lived in St. Louis, Mr. Madden?

Mr. MADDEN. About two years; I came there from Oklahoma.

Mr. DYER. I thought so.

Mr. THOMAS. I am acquainted with the leaders of thought among colored people all over this country, and I never even heard of this man before. He represents nothing but himself. Beware of any Negro who comes recommending a segregation scheme to you; he is simply seeking to be head of the group if we are segregated. When Woodrow Wilson became President, there were some venal Negro politicians who asked him to segregate the colored clerks in one department, and at the same time everyone presented an application for the headship of that department; so pay no attention to them. The masses of the colored people are unalterably opposed to segregation. Civilization has been spread and prejudices softened by the contact of peoples with each other. Even President Wilson is on record as saying that you can not hate a man whom you know, although he has segregated men to keep them from knowing, so that they can hate.

We recognize, in the first place that every man is lord of his castle; complete master of his own home. We seek no association, but cooperation with the white people of this country in the up-building of the things which belong to us all. When we go upon a common carrier, we are not seeking contact with the other people, we simply want to travel from place to place; we do not even expect another passenger to say "Good morning" to us. That is an ordinary civil right. The common carrier, like all other institutions, belongs to all of us alike. They are supported by our taxes, protected by the

police power of our State, and every one is a taxpayer because the ultimate consumer is the taxpayer. The owner of property does not pay the taxes. He charges enough rent to make a profitable return on his investment, plus the insurance, water rent, and all other expenses, and the tenant pays it. The owner of the property is simply a messenger through whom the tenant sends his taxes to the taxgatherer. Therefore, we have equal right to all public places, such as the common carrier, the theaters, restaurants, and hotels, and we will never cease to clamor for our rights until we gain admission. What we want the Congress to do, and also the Department of Justice, is to enforce the thirteenth, the fourteenth, and the fifteenth amendments to the Constitution. Even the thirteenth amendment, forbidding slavery and involuntary servitude, is violated in the Southern States by the infamous system of peonage. We demand the ballot, for in a Government where men vote the voter is king, and the disfranchised man is the victim of the man who does vote. We demand the abolition of the infamous "Jim-Crow" car, which was simply made to insult us. We demand admission to all public places, in fact, we demand equality of treatment everywhere, and equality before the law. Again, I say that segregation keeps men apart and is opposed to all sound principles of Government. My own experience in this country and Europe with white people has taught me how segregation works against my people. I have met people in this country and in Europe who were surprised that I could write; that I knew history; that I knew what I was traveling for; could explain a painting or piece of sculpture or a great work of architecture. They had lived side by side with me for all these years, the segregation had kept them from knowing me. Suppose there were no prejudices in this country, the races would mingle and discover their common humanity, and learn that color is the least of differences among men, and we would have no resulting friction. There are people living right in Boston who have gone over Boston Common, the most historic park in this country, where there is a statue of Crispus Attucks, a Negro, the first to shed his blood in the American Revolution. Near by is the famous Robert Gould Shaw statue, dedicated to the Fifty-fourth and Fifty-fifth regiments of Negroes in the Civil War, who died like men at Fort Pillow for the preservation of the Union, and yet have never looked up to find how much the colored men of this country have done for it. The system of segregation prevents that mutual interest that should exist between the races; we are all opposed to segregation. The African Methodist Episcopal Church is the largest institution among the negroes, with 700,000 members. This church issued a declaration of 14 points, the number of which is in imitation of the President's 14 points, and the strongest point in it is a declaration against segregation. This church supports 24 institutions in the South and collects from the pockets of washerwomen \$350,000 every year for the education of the Negro youth, and this in addition to the expense to which colored people are put for education of their own in the South because all the people are taxpayers.

As this great church is against segregation, so are the Baptists and other denominations. The great organization for which I am talking to-day is opposed to it. We are all opposed to it, and this man is simply seeking his own personal gain. The gentleman from Oklahoma

asked if we were willing to leave this country and said he believed three-fourths of us would not leave. No. Nine hundred and ninety-nine out of every thousand would not leave. This man has falsely stated that this is a white man's country. He knows nothing of the history of his people. The Negro came here when the white man did, and he has contributed to the upbuilding of this country by his labor, by his suffering, by his sacrifices and blood. There are none of the highest callings he has not entered. In art, the highest calling of man, the greatest name is Henry O. Tanner, a Negro, whose paintings the French Government seeks and purchases and puts in her great art galleries as soon as they are painted. So it is foolish to talk about this being a white man's country; it is the country of all of us Americans, and we are not going to leave in spite of our sufferings, but are going to work out our destiny right here in our own land. We have almost enough law in this country. What we want is enforcement of the law. We have a Constitution with 19 amendments, and with its imperfections, it is the greatest political document that has ever come from the hand of man. What we want Congress to do is to enforce it. Think of it: even the House of Representatives has closed its public restaurant to Negroes, where we have been going for 50 years without friction. This was done at the very time that brave black boys were dying in the trenches in France. This is a new reward to give the returning black soldier for his heroic sacrifices in every part of far-off France.

In this town the theater, the great educational agency, supported by the black as well as the white, since it is a public institution, is closed to the black people, and I have to go to New York when I want the cultured entertainment of the opera. Is this right? No. We have done our full share of the dying for this country, and it is high time we were getting some of the living. This war, which was waged for world democracy, as President Wilson said, has meant no democracy for us. It has not only given us no relief for the thousand burning wrongs we were suffering before the war but it has increased discrimination against us. The black boy who left this country at the command of Woodrow Wilson to go to France to die for democracy comes home to find more obstacles placed in the way of those he fought to save. At this very hour there are thousands of brave black heroes who never knew what liberty was that are now sleeping on the hill slopes of France, and we, who are left behind, would be unworthy of the glorious tradition of sacrifice they left us, if we did not work to secure the democracy for which Mr. Wilson told them to die. We would be false to their sacred memories. We are determined to get democracy in this country. We expect the cooperation of our honorable Congress and all just white men, and we are going to urge it and continue until we set up here in this Western Hemisphere the first democracy the world has ever seen. Think nothing of segregation. We have difficulties in this country, it is true, but the solution is not surrender. We should face the problem with courage, with resolution, and with statesmanship. We should enforce the laws that are flagrantly violated in most of the States of this Union; admit all the citizenship, regardless of color, into all public places, and if there is friction punish the transgressor and not his innocent victim. That is justice; nothing else will we accept, and we ask nothing more.

STATEMENT OF DR. WM. H. WILSON.

DR. WILSON. I thought, Mr. Chairman, I might have something to say; it has been said for me and I feel that if I should make any effort to say anything I might detract from what has preceded me. I shall not use the whole 10 minutes allotted me, making reference to but three things and to them only in passing. The three things I would mention in part are these: In the first place the bill brought before you, as I understand, from its reading, has as its reason for being the assumption that the Negro has concluded there is no justice in America; that you will not do the right thing; will not live up to your laws and will not abide by the Constitution and its amendments. Thus the Negro must leave America because you do not intend to be just. I am unwilling to agree that you gentlemen have any such idea. I do not believe you mean to be hypocrites; that you intend to disavow the country's laws. I am sure, therefore, you will consider no such bill as this.

MR. DYER. You will understand that there is no such bill as that before us.

DR. WILSON. I thank you and am very glad to know it is not pending and hope it will never be, even prospective. I had three things to mention, but will now mention only two; that is, one other. Yesterday, before another Judiciary Committee, I heard a report from the Department of Justice on the cause of race riots and Negro unrest in America. It said that these riots had their origin largely in the fact that the I. W. W. was doing its utmost among the Negroes to make them a force against the white man in America. This is an immaterial factor in the Negroes' discontent. It arises from the fact that the laws and customs of America as applied to him, are different from those applied to other Americans. He resents being made less than an American, and enjoying less than the protection guaranteed by American laws. I feel that it is possible for the Negro to have Americanization in America as the law stands to-day, because I can not conceive that the white man will forever insist that Negroes pay taxes and have no representation; abide by the law but not profit by it, support the Nation, but not be protected by it, and give their all without receiving a commensurate return.

I am bound to believe that insofar as the Negro is concerned his only concern in race riots is the fact that he is being made to feel that he has no hope but that which is in himself. Governments too often offer him no protection and he is forced to the protection of himself and it is unwise to expect that he will not do so. You tell us that the man who will not protect himself is no man. We are putting your teaching into practice. There exists no reason for a consideration of this proposition. The Constitution and the laws which do not abrogate it when obeyed make it possible for all Americans to thrive in contentment in America.

STATEMENT OF REV. R. D. JONES.

REV. JONES. I represent the Ethiopians of Abyssinia. Until there is a consul established here I am the agent of the Ethiopians who are coming here. I saw that Congressman Mason was trying to gather facts. I have been there for 14 years and have some knowledge relative to Liberia, Africa, Ethiopia, and Abyssinia, but I can

not give them to you in three minutes. It is a question that this body should give time to consider. The Abyssinians are coming here next month. They are coming here in order that there may be better relations established between this country and Liberia. How many men are there that know that Jesus Christ came from the Hamitic family; that Solomon was married to the Queen of Sheba? I desire to give information to this committee so that when these Abyssinians come here you will have the facts, but I can not do so in the time at your disposal.

FURTHER STATEMENT OF MR. MADDEN.

Mr. MADDEN. I am astonished at the gentleman who got up here succeeding me. I have stated that when education was introduced among the Negroes and understood by him common sense would do away with race riots, but to take from the Negro his privileges and debar him from them and you are only putting flame to smoking flax. This is not an individual movement; it is a race movement, and I feel safe in saying that 90 per cent of the Negro people would join in it.

Mr. DYER. Will you submit with your statement to this committee the names of any colored people in this town who are in favor of your proposition? I represent a colored district in St. Louis and have had letters from many of them.

(The committee thereupon adjourned.)

SEGREGATION AND ANTILYNCHING.

PART II.

ANTILYNCHING.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Thursday, January 29, 1920.

The committee met at 10.30 o'clock a. m., Hon. Andrew J. Volstead (chairman) presiding.

Mr. DYER. Mr. Chairman, this hearing is called for the consideration of some bills before the committee touching the question of the enactment of a law to punish those who participate in lynchings or mob riots. There are three bills before the committee. One is by Mr. Moores of Indiana, which is H. R. 11873; there is one, H. R. 4123, introduced by Mr. Dallinger of Massachusetts, and one, H. R. 259, introduced by myself.

I do not care to take the time of the committee in calling attention to the features of my bill. Mr. Moores of Indiana is here and also Mr. Dallinger, and perhaps they would like to say a word about their bills before we take up the hearings generally.

The CHAIRMAN. Do you care to be heard at this time, Mr. Dallinger?

Mr. DALLINGER. Certainly; if it is agreeable, Mr. Chairman.

STATEMENT OF HON. FREDERICK W. DALLINGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS.

Mr. DALLINGER. I will state that the bill which I introduced is very similar, almost identical, to the one introduced by Mr. Dyer. I did not know Mr. Dyer had introduced his bill in this Congress. Both of these measures, H. R. 259 and 4123, are substantially the bill that was drafted by Hon. William H. Moody at the time he was a Member of Congress. Mr. Moody was one of the leading lawyers of the United States and was, as you know, Attorney General of the United States and later Associate Justice of the Supreme Court of the United States. He believed that this bill was constitutional. The first section reads:

That the putting to death within any State of any citizen of the United States by a mob or riotous assemblage of three or more persons openly acting in concert, in violation of law and in default of protection of such citizen by the officers thereof, shall be deemed a denial to such citizen by that State of the equal protection of the laws and a violation of the peace of the United States and an offense against the same.

In other words, it is based, as I understand, upon the provision of the fourteenth amendment of the Constitution, which guarantees to

every citizen of the United States the equal protection of the laws and denies or prohibits the passage of any law by any State denying the equal protection of the laws.

The CHAIRMAN. Simply the fact that a State did not take any action to protect him is supposed to be sufficient?

Mr. DALLINGER. Yes, Mr. Chairman, that is the ground on which it is made a Federal offense.

Mr. SUMNERS. Mr. Dallinger, does your bill go to the extent that this Federal law would be applicable in the event the State made no effort to protect? Would not the fact that the State did not protect, regardless of the question of whether an effort was made or not, give the Federal court jurisdiction under the bill?

Mr. DALLINGER. The section reads in default of protection.

Mr. SUMNERS. Do you consider default to mean the absence of an effort to protect, or in the absence of protection?

Mr. DALLINGER. I should say in the absence of protection.

Mr. SUMNERS. That is what I thought. That is the way I construe the bill; the fact that a man was lynched, the issue of whether or not an effort was made to protect would not be involved?

Mr. DALLINGER. Of course there might be some insincere efforts to protect.

Mr. SUMNERS. Yes, I understand. I was asking for information, purely; I was just trying to get at the legal status.

The CHAIRMAN. Take, for instance, where a sheriff tries to protect and fails, he is overawed; would this afford any protection?

Mr. SUMNERS. He may be shot and the prisoner taken away from him.

Mr. DALLINGER. I think it would; I do not think that would be protection. If a community where those things are occurring does not give to the sheriff and the officers of the law the protection which they should have for the enforcement of the law, I do not consider that there is the equal protection to which every citizen is entitled.

Mr. HUSTED. Does not default of protection mean the default of adequate protection?

Mr. DALLINGER. I think so, sir.

Mr. SUMNERS. Effective protection?

Mr. DALLINGER. Yes.

Mr. IGOE. Have you examined the authorities and decisions under the fourteenth amendment, Mr. Dallinger, as to the extent of the authority of the United States in the way of legislation under that amendment?

Mr. DALLINGER. I do not think this matter has ever come up or ever been passed upon—this particular phase of it.

Mr. IGOE. Yes, I recall one case; I can not put my hand on it now, but a case came up from Alabama. There was one case that arose; I think it came up in the Federal court for the District, perhaps in the Court of Appeals, which indicated that Congress might go pretty far, and subsequently there was a case that came up from Alabama. I can not recall just now what the case is, but it seemed to overrule that District case or to overrule at least the reasoning of that case. And I wondered if you had those authorities. I will find it after awhile.

Mr. HUSTED. There is a case in 184 U. S., holding that the guarantee of equal protection of the laws means no person or class of per-

sons shall be denied the same protection of the laws which is enjoyed by other citizens or other classes in the same places and under like circumstances. The equal protection of the laws is a pledge of the protection of the equal laws and does not subject the individual to the arbitrary exercise of the power of the Government.

Mr. IGOE. This case I have in mind was a case which came up from Alabama. I do not know just the point that was involved, but I will look it up and find it. I thought maybe you had it there.

Mr. DYER. I have made an investigation and have some authorities. I submit the following:

The early theory that the United States has no police power, so called, or power to protect life or punish crimes of violence within the States, is already superseded by judicial decision. It is now determined by the highest authority that the United States has such power, when a Federal right or duty is invaded or involved. This principle is neither new nor startling, though modern applications of it have attracted attention. For example, it is now held that the United States, by the hand of its marshal, may lawfully kill one who assaults a Federal judge traveling through a State in the course of his duty, and that the State can not hold the marshal to account for such killing (in re Neagle, 135 U. S., 1); and that the United States may punish, as for murder, one who kills a prisoner in the custody of a Federal officer within a State (Logan v. United States, 144 U. S., 263). The principle is that the persons so assailed are within the peace of the United States; that the United States owes them the duty of protection; and that the power of protection follows upon the duty.

The equality clause of the fourteenth amendment forbids the States to deny to any person within their jurisdiction the equal protection of the laws. This clause is judicially held to confer immunity from any discrimination as a Federal right. The protection which the State extends to one person must be extended to all. It does not forbid discrimination merely in the making of laws, but in the equal protection which the laws are designed to afford. Forbidding the State to deny equal protection is equivalent to requiring the State to provide it. Equal protection is withheld if a State fails to provide it, and the guaranteed immunity is infringed. The constitutional requirement may be violated by acts of omission no less than by acts of commission. The omission of the proper officers of the State to furnish equal protection in any case is the omission of the State itself, since the State can act only by its officers. (Tenn. v. Davis, 100 U. S., 257, 266; Strauder v. W. Va., 100 U. S., 303, 306, 310; Va. v. Rives, 100 U. S., 313, 318; Ex parte Va., 100 U. S., 339, 345; U. S. v. Harris, 106 U. S., 629, 639; Civil Rights Cases, 109 U. S., 3, 13, 23; Ex parte Yarborough, 110 U. S., 651, 660 et seq.; Yick Wo v. Hopkins, 118 U. S., 356, 373; Baldwin v. Franks, 120 U. S., 683 and (Harlan, J.) 700; In re Coy, 127 U. S., 731; Carter v. Texas, 177 U. S., 442, 447.) It would seem to follow that when a citizen or other person is put to death by a lawless mob, in default of the protection which the State is bound to provide for all alike, there is a denial of equal protection by the State, in the sense of the equality clause, which Congress may prevent or punish by legislation applying to any individuals who participate in or contribute to it, directly or indirectly.

The United States has, as all governments have, a political and legal interest in the lives of its citizens. If it had not full power to protect them in their lives within the States as it has elsewhere, it can be, as already observed, only because that duty rests solely upon the States. If so, it is a duty owed to the United States as well as to individual citizens. It would seem that open and notorious neglect or omission of this duty on the part of the State, by suffering lawless mobs to murder citizens for want of legal protection, may be declared an offense against the United States, and if so, that the United States may punish all persons who contribute to it.

Section 5508 of the Revised Statutes, which is taken from the act of May 31, 1870, is as follows:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 and imprisoned not more than 10 years, and shall, moreover, be ineligible to any office or place of honor, profit, or trust created by the Constitution or laws of the United States."

A part of section 1980 of the Revised Statutes is as follows:

"If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the law; or of equal privileges and immunities under the law; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the law; or if two or more persons conspire to prevent by force, intimidation, or threat any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States, or to injure any citizen in person or property on account of such support or advocacy in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy whereby another is injured in person or property, or deprived of having or exercising any right or privilege of a citizen of the United States, said person so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation against any one or more of the conspirators."

This is taken from the acts of July 31, 1861.

These acts are construed to apply only to such rights as are granted by or dependent upon the Constitution, and valid and constitutional laws of the United States.

One of the matters which has been determined by the Supreme Court to be within the protection of these laws is the right of the Federal Government by penal laws to prevent discrimination against negroes serving on juries; and in *ex parte Virginia* (100 U. S., 339) the prosecution was maintained and conviction upheld, when the judge of a county court, whose duty it was to draw the juries for service, had discriminated against negroes in such jury service.

In *Neal v. Delaware* (103 U. S., 370) it was held that the exclusion because of their race and color of citizens of African descent from the grand jury that found and from the petit jury that was summoned to try the indictments, if made by the jury commissioners, without authority derived from the Constitution and laws of the State, was a violation of the prisoner's rights under the Constitution and laws of the United States, which the trial court was bound to redress, and the remedy for any failure in that respect is ultimately in this court upon writ of error. The court held that the exclusion of negroes from such grand and petit juries by officers charged with their selection, although such exclusion was no doubt by State constitution or laws, denies the equality of protection of law, denies the equality of protection secured by the Federal Constitution and law.

It has been more than once held that rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of protection will be such as Congress, in the legitimate exercise of its legislative discretion, shall provide. These may be varied to meet the necessities of the particular rights to be protected.

In the case of *Strauder v. West Virginia* (100 U. S., 303) a law which denied colored persons the right to sit on juries was declared void. The court said:

"It (the fourteenth amendment) was designed to assure to the colored race the enjoyment of all the civil rights that under the law are enjoyed by white persons and to give to that race the protection of the General Government in that enjoyment whenever it should be denied by the States."

The court also said:

"It is not easy to comprehend how it can be said that while every white man is entitled to a trial by a jury selected from persons of his own race, or color, or rather selected without discrimination against his color, and a negro is not, the latter is equally protected by the law with the former. Is not protection of life and liberty against race or color prejudice a right, a legal right, under the constitutional amendment?"

The act of Congress of March 1, 1875 (18 Stat., par. 3, p. 336), enacts that:

"No citizen, possessing all other qualifications which are or may be prescribed by law, shall be disqualified from service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors, who shall exclude or fail to summon any citizen for the cause aforesaid, shall, on conviction thereof, be deemed guilty of a misdemeanor and be fined not more than \$5,000."

This was held to be constitutional in the case of *Ex Parte Virginia*, supra. The court laid stress upon the provisions of the fourteenth amendment, especially:

"No State shall make or enforce a law which shall abridge the privileges or immunities of citizens of the United States. * * * Nor deny to any person within its jurisdiction the equal protection of the law."

And upon the last section, which gives Congress the power to enforce its provisions by appropriate legislation.

One of the privileges or rights granted the colored man by this amendment is citizenship; another is that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; another is, nor shall any State deprive any person of life, liberty, or property without due process of law; another is, nor deny to any person within its jurisdiction the equal protection of the laws.

If a county judge can be punished for refusing to draw his jury so as to include any of the negro race, and if exclusion of negroes from the jury list is sufficient to deny equal protection of the law to a defendant who is to be tried by a jury to be drawn therefrom, the question arises as to why may not the Federal authority protect one of its citizens while in confinement or custody awaiting trial by a jury with the composition of which it has exercised material power.

Why is not a refusal to put into operation the laws against lynching as much within the jurisdiction of Congress as is the refusal to obey a State law by a judge in drawing a jury?

If Congress can punish a judge for refusing to include any negroes in the jury list for the purpose of trying a negro, why can it not punish a sheriff for refusing to protect a negro while awaiting trial?

If Congress has the power to enforce, by appropriate legislation, the provisions which prevent a State from taking life and liberty or property of its citizens by due process of law, why may it not determine that in order to fulfill this guaranty it may make the sheriff directly amenable to its jurisdiction in such matters?

The Supreme Court has said:

"The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle if within its power. The duty was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. (*United States v. Cruikshank*, 92 U. S., 542, 555.)"

The power in the right of the Federal Government to see that the States do not deny any person the right to due process of law, and to see that they do not deny him the equal protection of the law will be construed to be equal to the task. No one of us dare say that the limit of this power has been reached. No person who genuinely believes in the necessity for the exercise of State rights in full vigor will desire to tempt the Federal Government to the full awakening of these latent powers. If the States fail to give adequate protection, how shall the Federal Government exercise its power to fulfill the guaranty of the fourteenth amendment?

The amendment itself says that this shall be done by appropriate legislation. Who shall determine what is appropriate legislation? Manifestly Congress in the first instance, finally the courts.

The States lagged in the making of adequate pure-food laws. The result is that this is now nearly entirely regulated by the Federal Government.

The States did not adequately meet the narcotic-drug nuisance; the result is that the Federal Government is now reaching down into the daily lives of the citizens in this respect to a degree which would have been thought impossible a few years ago.

Congress has exercised its rights in enacting legislation with reference to child labor in the various States. It has done likewise with reference to intoxicating liquors. If Congress has felt its duty to do these things, why should it not also assume jurisdiction and enact laws to protect the lives of citizens of the United States against lynch law and mob violence? Are the rights of property, or what a citizen shall drink, or the ages and conditions under which children shall work, any more important to the Nation than life itself? I believe that Congress has ample power to enact the legislation that I have recommended. I believe it would stand the test of the courts and be a great blessing, as well as aid in wiping out the greatest blot upon the honor of the American Nation.

Mr. DALLINGER. I believe, Mr. Chairman, that Congress ought to pass some such legislation as this and put it right up to the Supreme Court of the United States. I think there is a need for Congress to attempt at least to pass legislation, and of course if the Supreme Court of the United States sees fit when a specific suit is before them to declare it unconstitutional, why the responsibility is on them.

In regard to this question of constitutionality, I have a letter here from Hon. Moorfield Storey. I had hoped he would have been able

to be present at the hearing on this bill, but he has not been able to do so. He wrote me on August 25 last, and this is his letter. With your permission I will read it:

DEAR MR. DALLINGER: I have your letter of the 23d with the inclosed copy of your bill, and I am very sorry that the approaching meeting of the American Bar Association in Boston and my responsibility in the matter of entertainment will keep me in the city for at least two weeks, so that I can not attend the hearing.

Moreover, it has seemed to me a very doubtful question whether legislation by Congress against lynching in the States is constitutional, but I am very clearly of opinion that it ought to be tried. I think the South expects it, and many of our southern citizens who are opposed to lynching will welcome it. At the most, the country will be no worse off if the experiment fails than it is now.

I would suggest that your first section be altered a little, so as to make the putting to death of a citizen by a mob, if no attempt is made within a certain time by the authorities of the State to punish the offender, a denial of the equal protection of the laws, etc.

A murder, in the ordinary course of things, is an offense wholly within the jurisdiction of the State, and if the authorities of the State do their best to prevent such offenses or to punish the offenses the United States can not, in my judgment, interfere. If, however, the authorities do not prosecute the offenders in earnest, or if, like the governor of Mississippi the other day, when advised that a lynching was to take place, they profess absolute inability to act, then it would seem to me that the Government should step in. I hope your act will be reported favorably by the committee and that it may become a law, for I feel very sure that unless lynching of colored people is stopped we are drifting into what may well become civil war.

MR. HUSTED. Mr. Ballinger, may I ask you a question?

MR. BALLINGER. Certainly.

MR. HUSTED. On this constitutional question, so long as the laws of any State operate equally upon all individuals or classes of individuals in the State, is there any decision of the courts holding that the failure to enact legislation for the protection of individuals or classes of individuals, or the failure to execute statutes for the protection of individuals or the protection of any classes of individuals, is a denial of the equal protection of the laws within the Constitution?

MR. BALLINGER. In answer to that question, I would say that it seems to me self-evident that in certain sections of the country a certain class of citizens are denied the equal protection of the laws.

MR. HUSTED. My question, if you will permit me, was this: So long as the law itself operates equally—that is, within the contemplation of the law it will operate equally upon all individuals or all classes of individuals—has the court held that failure to enforce the provisions of that statute for the benefit of individuals or any particular class of individuals is a denial of the equal protection of the laws?

MR. BALLINGER. As I say, I do not know of any case where this particular question has been raised; but the decision which you read a few moments ago would seem to imply that, where the protection of the laws was denied to any class of persons, then Congress would have power to act under the Constitution. Now, it is a fact that one class of our citizens is denied the protection which other classes receive. In other words, there is practically no lynching of white people in the Southern States. There was, I believe, one case in the State of Georgia, I believe, where a white man was lynched; but as a rule in most of the States the white man is protected. If he is charged with a crime, the whole machinery of the Government is used to protect him so that he can have a fair trial, and he is protected by the courts down there the same as he is in other parts of the country; but the colored race is denied that protection.

Mr. HUSTED. But your bill does not provide, does it, against either class or race discrimination? Of course, if you provide against race discrimination, that would be clearly constitutional; but this bill does not, in its terms, provide against race discrimination; it is general.

Mr. BALLINGER. It certainly is general; but I believe that it is constitutional. At any rate, I certainly think it ought to be tried.

Mr. Chairman, in closing, I desire to have printed in the record the following article from the Boston Herald of December 1, containing facts which demonstrate the necessity for some legislation upon this very important subject if constitutional government is to continue to command the respect and confidence of all our citizens:

WHY CONGRESS SHOULD INVESTIGATE RACE RIOTS AND LYNCHING.

I. THE FACTS: RACE RIOTS AND LYNCHINGS, 1919.

A. *Race riots.*—Washington, D. C.: "Nation's Capital at Mercy of the Mob," headline on page 1 of Washington Post, Tuesday, July 22, 1919.

Rioting in main streets of the National Capital was unchecked during four nights, from Saturday, July 19, until Wednesday, July 23.

Six persons were killed outright, 50 seriously injured, and hundreds more or less severely wounded.

Chicago, Ill.: At least 36 persons were killed outright, by official report, hundreds according to unofficial reports, in race rioting which lasted from Sunday, July 27 to Friday, August 1. Houses were wrecked and burned, mobs roamed the streets, and it was necessary to put seven regiments of State militia under arms.

Omaha, Nebr.: Federal troops commanded by Gen. Leonard Wood were sent to maintain order in Omaha, after a mob on Sunday, September 28, had lynched a negro, hanged the mayor of Omaha until he was at the point of death, burned the county court house, wrecked and looted shops and seriously injured 50 or more citizens. Three persons were killed outright in the rioting.

Knoxville, Tenn.: On August 30 a mob of white persons stormed the Knox County jail, firing on officers of the law, liberating 16 white prisoners, of whom several were convicted murderers, looting the house of the sheriff, stealing stocks of confiscated whiskey. The mob then wrecked and looted shops and invaded the colored residence district. At least 7 persons were killed and 20 or more injured. A dispatch to the New York Sun of September 5, reported the mob's motive to be robbery, not lynching, as at first stated.

Longview, Tex.: Four or more men killed outright in a riot on the night of July 10, when a mob of white men invaded the negro residence district, shooting and burning houses.

Norfolk, Va.: Reception of home-coming negro troops had to be suspended because of riots July 21, in which six persons were shot, necessitating the calling out of Marines and sailors to assist the police.

Philadelphia, Pa.: A riot call was sent to all West Philadelphia stations July 7, eight arrests were made, and one man was taken to the hospital in consequence of a race riot at a carnival.

Charleston, S. C.: One or more men were killed and scores were shot or beaten in a race riot led by United States sailors May 10, the city being placed under martial law.

Bisbee, Ariz.: Clashes occurred on July 3 between local police and members of the Tenth United States Cavalry (colored), whose commander, Lieut. Col. F. S. Snyder, charged that local officials had deliberately sought to aggravate the negro troopers. Five persons were shot.

There were in addition race clashes in the following cities, with the dates, reported killed, and reported injured:

Tuscaloosa, Ala., July 9, 1 reported injured.

Hobson City, Ala., July 26, 1 reported injured.

New London, Conn., June 13, several reported injured.

Sylvester, Ga., May 10, 1 reported killed.

Putnam County, Ga., May 29.

Mullen, Ga., April 15, 7 reported killed.

Blakely, Ga., February 8, 4 reported killed, 7 injured.

Dublin, Ga., July 6, 2 reported killed, 1 injured.
 Ocmulgee, Ga., August 29, 1 reported killed.
 Bloomington, Ill., July 31.
 New Orleans, La., July 23.
 Annapolis, Md., June 27.
 Baltimore, Md., July 11.
 Monticello, Miss., May 31.
 Macon, Miss., June 7, 1 reported injured, several beaten.
 Hattiesburg, Miss., August 4.
 New York City, August 21, 2 reported injured.
 Syracuse, N. Y., July 31.
 Coatesville, Pa., July 8.
 Philadelphia, Pa., July 31.
 Scranton, Pa., July 5, 1 reported injured.
 Darby, Pa., July 23.
 Newberry, S. C., July 28.
 Bedford County, Tenn., January 22.
 Memphis, Tenn., March 14, 1 reported killed, 3 injured.
 Memphis, Tenn., May 27.
 Memphis, Tenn., June 13.
 Port Arthur, Tex., July 15, 2 reported injured, several less seriously.
 Texarkana, Tex., August 6.
 Morgan County, W. Va., April 10.

B. Lynching.—Forty-three Negroes, 4 white men lynched from January 1 to September 14, 1910.

Eight Negroes burned at stake.

One of the burnings was extensively announced beforehand in the newspapers of Louisiana and Mississippi, notably in the New Orleans States, the New Orleans Item and the Jackson, Miss., Daily News.

One of the victims was a 72-year-old man, lynched for defending two colored girls from attack at the hands of two drunken white men. Following are the names, dates, places, and manner of lynchings:

Henry Thomas, January 18, Grand Bayou, La.
 Bragg Williams, January 20, Hillsboro, Tex., burned.
 Sampson Smith, January 30, Monroe, La.
 John Daniels, February 6, New Bern, N. C., hanged.
 Will Fortner, February 14, Bossier, La.
 Eugene Greene, March 2, Belzoni, Miss.
 Cicero Cage, March 13, Tuscaloosa, Ala., cut to pieces.
 Joe Walker, March 13, Greenville, Fla., shot.
 Bud Johnson, March 14, Castleberry, Fla., burned.
 —, April 14, Millen, Ga.
 Sam McIntyre, April 23, Forrest City, Ark., hanged.
 George Holden, April 20, Monroe, La., shot.
 Benny Richards, April 2, Warrentown, Ga., hanged (burned after death).
 Discharged soldier, April 6, Pickens, Miss.; woman, April 9, Pickens, Miss. (report unconfirmed).
 Lloyd Clay, April 14, Vicksburg, Miss., burned.
 —, April 15, Scott, Ga.
 Will Moore, May 20, Ten Mile, Miss., hanged.
 Frank Livingston, May 21, Eldorado, Ariz., burned.
 Jay Lynch (white), May 28, Lamar, Mo., hanged.
 —, May 28, Mineral Wells, Miss.
 Berry Washington, May 30, Milan, Ga., hanged.
 James E. Lewis, June 6, Prichard, Ala., shot.
 —, June 12, Furth, Ark.
 Clyde Ellison, June 15, Star City, Ark., hanged.
 Jim McMillan, June 18, Woodstock, Ala., shot.
 Frank Foukel (white), June 22, Bay Minette, Ala., shot.
 John Hatfield, June 26, Ellsville, Miss., hanged (burned after death).
 Lije Blake, June 26, Tillman, S. C., shot.
 —, June 28, Richton, Miss., hanged.
 Lemuel Walters, June 17, Long View, Tex., hanged.
 Robert Truett (soldier), July 15, Louisa, Miss.
 Chilton Jennings, July 24, Gilmer, Tex., hanged.
 Charles Kelly, August —, Fayette County, Ga., shot.
 —, August 5, Cochran, Ga., hanged.

Jim Grant (soldier), August 14, Pope City, Ga.
 Walter Elliott, August 20, Louisburg, N. C.
 Eli Cooper, August 28, Ocmulgee, Ga., shot.
 Lucius McCarty, August 2, Bogalusa, La. (burned after death).
 Flinton Briggs (soldier), August 3, Star City, Ark., shot.

—, August 6, Monroe, La., shot.
 Bowman Cook, August 8, Jacksonville, Fla., hanged and shot.

John Morine, August 8, Jacksonville, Fla., hanged and shot.

Obe Cox, September 10, Oglethorpe County, Ga., burned.

Arbie M. Robinson, August 1, Clarke County, Ala.

Salvador Ortez (Mexican), September 14, Pueblo, Colo., hanged.

Jose Gonzales (Mexican), September 14, Pueblo, Colo., hanged.

From 1889 to 1918, inclusive, 2,472 colored men, 50 colored women, 691 white men and 11 white women lynched; total number lynched, 3,224.

In only 523 of these cases was rape alleged and in only 250 cases attacks upon women; less than 24 per cent of these lynchings, therefore, were ascribed to attacks upon women.

In 1918 5 Negro women, 58 Negro men, 4 white men lynched.

No member of any mob was convicted.

In only two cases were trials held.

II. The failure of the States.—The States have proven themselves unable or unwilling to stop lynching, as the figures show. Even attempts to prosecute are so rare as to be exceptional.

Before the burning at stake of John Hartfield at Hillsville, Miss., on June 26, 1919, Gov. Bilbo of Mississippi said:

"I am utterly powerless. The State has no troops, and if the civil authorities at Ellisville are helpless, the State is equally so. Furthermore, excitement is at such a high pitch throughout south Mississippi that any armed attempt to interfere with the mob would doubtless result in the death of hundreds of persons. The negro has confessed, says he is ready to die, and nobody can keep the inevitable from happening.

The Houston Post, Texas, in a widely quoted editorial has said:

"The Post believes * * * that the half-century old lynching problem is about to pass from the jurisdiction of State authority into the domain of Federal action. Surely, in the light of a half century of lynching, in which the victims have numbered thousands, the failure of the States must be confessed."

III. A national problem.—Lynching and mob violence have become a national problem. President Wilson was aroused by the danger of mob violence to make a statement on July 26, 1918, in which he called the subject one which "vitality affects the honor of the nation and the very character and integrity of our institutions. * * * There have been lynchings," he said, "and every one of them has been a blow at the heart of ordered law and humane justice. * * * I say plainly that every American who takes part in the action of a mob or gives any sort of countenance is no true son of this great democracy, but its betrayer, and does more to discredit her by that single disloyalty to her standards of law and right than the words of her statesmen or sacrifices of her heroic soldiers in the trenches can do to make a suffering people believe in her, their savior."

The extension of lynching to Northern States and to white men as victims shows it is idle to suppose mob murder can be confined to one section of the country or to one race. The sending of Federal troops to maintain order and civilization against mobbiats and lynchers in Omaha, Nebr., after local authorities had failed to restrain rioters, shows that race rioting and lynching constitute a national problem.

IV. Consequences of lynching.—1. Race riots: Persistence of unpunished lynchings of Negroes fosters lawlessness among white mobbiats and creates a spirit of bitterness and resistance among Negroes. In such a state of the public mind a trivial incident can precipitate a riot.

2. Industrial: Property values and productivity are lessened and business is disturbed in districts from which people are forced to migrate to escape mob violence.

3. Psychological: Brutalization of men, women, and children, who take part in and witness hangings, burnings at stake, and the horrors of lynching. Dr. A. A. Brill, neurologist, formerly chief of clinic in psychiatry, Columbia University, lecturer at New York University, assistant professor of psychiatry at post-graduate medical school, says:

"The torture which is an accompaniment of modern lynching shows that it is an act of perversion only found in those suffering from extreme forms of sexual perversion. Of course, not all lynchings are conducted in that way, but it is not uncommon to read accounts telling that the victim was tortured with hot irons, that his eyes were burned out, and that other monstrous cruelties were inflicted upon him. Such bes

tiality can be recognized only as a form of perversion. Lynching is a distinct menace to the community. It allows primitive brutality to assert itself and thus destroys the strongest fabric of civilization. Anyone taking part in or witnessing a lynching can not remain a civilized person."

4. Political: The position of the United States before the world is impaired by its failure to accord protection and trial by law to its own citizens within its own borders.

V. *The danger.*—1. Disregard of law and legal process will inevitably lead to more frequent clashes and bloody encounters between white men and Negroes and a condition of potential race war in many cities of the United States. The Memphis Commercial Appeal of May 27, 1919, said editorially:

"There was a powder train all over Memphis, Saturday. That there was no explosion was due to sheer luck. Several days ago someone started a story that there was to be an outbreak of Negroes on Saturday. Others started the story that certain white people were going after the Negroes on the same day. * * * If a drunken white man or a drunken Negro had fired a shot Saturday in a crowded quarter there is no telling what would have resulted. * * * Somehow we have drifted into a tense racial relation. * * * There were probably more people armed in violation of the law and ready to break the law last Saturday in the city of Memphis than for many years before."

2. Unchecked mob violence creates hatred and intolerance, making impossible free and dispassionate discussion not only of race problems, but of all political problems on which the races and sections of the country differ.

3. It is impossible to assume that the Negro race, unlike all other races, will never include a small criminal minority. If mobs are permitted to punish the whole race for every crime of this minority, an eternal state of race warfare will exist in the United States.

Mr. DYER. Mr. Moores, have you given the question of constitutionality consideration?

STATEMENT OF HON. MERRILL MOORES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA.

Mr. MOORES. I really wanted to brief that question for the committee, but I have not been able to do it. I did not know anything about this hearing this morning until I got to my office, because I was sick all day yesterday and I am hardly able to present my case.

Mr. DYER. But you have given it study?

Mr. MOORES. I have given it a good deal of study, yes. I think your bill is probably constitutional; I have nothing but approval of the measure. My bill goes a little bit further than yours, but I have only approval of your bill and also of Mr. Dallinger's.

The CHAIRMAN. Would it not be better to have the subject of constitutionality looked into and a brief on the subject filed by somebody?

Mr. DALLINGER. There is a brief that has been filed with the chairman.

The CHAIRMAN. There is a brief here from the former attorney general of the State of Massachusetts that has been filed with me.

Mr. DYER. Mr. Moores, will you prepare a brief and put it in the hearings, touching the constitutionality of these bills?

Mr. MOORES. I shall be glad to do so. I should like to explain to the committee the respect in which my bill goes a little bit further than yours. I would not have put in a bill unless I thought it could be sustained and I will be very glad to brief it. Your bill and Mr. Dallinger's bill simply punish, as I understand it, lynching. My idea was to go further than that and to save the life of the man, if possible, who was threatened with lynching, and my bill provides that whenever any criminal prosecution shall have been instituted or any warrant of arrest shall have been made, or attempted, with

the purpose and intent of criminal prosecution in any State court against any person within the jurisdiction of the State, whether he be a citizen of the United States or not, "and such person shall appeal, as hereinafter provided, for the protection of the Government of the United States upon the ground that he has reasonable cause to apprehend that he will be denied the equal protection of the laws by the State within whose jurisdiction he is, or by any officer or inhabitant of such State," such person shall be entitled to the protection of the courts and officers of the United States to the end that the protection guaranteed by the Constitution of the United States may be given.

In brief, it provides that wherever a man has reason to apprehend that, because of his race, color, nationality, or religion, he is in danger of being lynched, he can transfer the case or remove it to the Federal court and secure the protection of the Federal officers and the Federal courts in that district. And I really believe, if constitutional, and I think it is, and I will brief it for you, that this provision for saving lives is worth trying. I do not care whether it is in my own State—there have been lynchings in my own county—or in any other State, it makes me bitterly ashamed to be an American citizen when the law is so outrageously violated as it is.

This bill provides a method of getting the question before the courts, and also provides that a man can be tried in the Federal court; it confers jurisdiction for the purpose of trial on the Federal court. There is already in force an analogous provision which I shall brief for you. The unfortunate man is taken before the court and given a summary hearing and if he shows that others of his race or color or nationality or religion have been lynched in that State, and that he has reason to apprehend he is in danger of being lynched, the Federal court will take jurisdiction of the prosecution against him and, under the rules of the State court, try the case. There are various provisions in the bill. It contains the same provision which is in Mr. Dyer's bill, and I think in Mr. Dallinger's bill, which I have not read.

Mr. DALLINGER. They are practically the same, Mr. Moores.

Mr. MOORES. Yes, making the putting to death of any person in any State within the jurisdiction of the State, under such circumstances, punishable in the Federal court. And it contains this provision further, making the county liable. I think that is in both of your bills.

Mr. DYER. Yes, sir.

Mr. MOORES. With a penalty. One great beauty about that is, I think every Congress I have known anything of has had a claim for an Italian, or a Greek, or a Japanese, or sometimes a dozen Italians, lynched; and we have to pay for it. It seems to me that we ought to make the people who do or permit the lynching pay for it, and I believe that if we could bring it home by making the taxpayers of the community interested in not lynching men, white, black, or yellow, it will be more wholesome for the whole country.

Then I have put in as the last section of this bill, section 15, the section which President Harrison asked Congress to pass, the section which Grover Cleveland, following Harrison, urged Congress to pass; a section which Roosevelt, when he was President, impressed

upon the Congress; which Taft not only impressed upon the Congress, but wrote a great message about, and which Mr. Wilson, less than two years ago, impressed upon Congress and asked that it be passed. That is section 15 of my bill.

Whatever bill you adopt in this committee, I should urge by all means section 15 of my bill be added to the Dyer or Dallinger bill. That is the one to which every President for 30 years has been committed—the protection of treaty rights of foreigners in this country. It is germane to any lynching bill and it ought to be in the law.

The CHAIRMAN. Have we the power to say that a law passed by a State, and which the State can change from time to time, is also a law of the United States?

Mr. MOORES. The courts have so held.

The CHAIRMAN. Have they?

Mr. MOORES. Indeed they have.

Mr. YATES. That is also a law of the United States.

The CHAIRMAN. Can we by an act of Congress declare that the laws of a State shall also be held and construed to be laws of the United States, excepting in so far as we may reenact existing laws? But suppose that they go on and change and modify those laws hereafter?

Mr. MOORES. I have in my room, by good fortune, a brief prepared by President Taft, who is one of the best lawyers I know.

As I say, I am tired and sick, and do not want to talk any more; but I want to say I have nothing but approval for the bills that Dyer and Dallinger have introduced; and all I have to say of my own bill is it goes a little further in the direction of saving life and protecting the treaty rights of foreigners.

(The brief submitted by Mr. Moores is as follows:)

ALIENS AND THEIR TREATY RIGHTS.

By WILLIAM H. TAFT.

With almost every nation we have a treaty in which each contracting party agrees that the nationals of the other party may reside within its jurisdiction and, complying with the laws, may legally pursue their vocations or business and enjoy the same protection to life, liberty, and property that the citizens of the contracting country enjoy. This is, perhaps, the most common clause in the many treaties of amity and commerce that now control the relations between the nations of the world.

Since 1811 there have been many cases of mob violence against aliens, in which they have been killed or grievously injured. And while in all these cases we denied any liability, Congress has generally made payments to those who were injured and to the families of those who were killed. In some cases the amount paid was recited in the act of appropriation to be a gratuity without admission or liability. In other cases the amount was paid without such reservation. In no case that I have been able to discover have the perpetrators of these outrages been punished. In all the cases the local authorities have evidently sympathized with the mob spirit and purpose or have been so terrorized by it as to avoid making a judicial investigation of real thoroughness. The results have thus been, first, the mob; second, the felonious assault, or murder, and destruction of property; third, the farce of a State investigation; fourth, the indemnity to the injured and the family of the dead; and, fifth, the complete immunity of the guilty. Such a list of outrages, reaching clear from 1811 down to 1910, without punishment, is not a record in which we can take pride.

I propose to consider here whether anything can be done to change this state of affairs so long continued that recurring incidents of the same kind constitute it a custom. I feel confident that something effective can be done to this end through valid Federal legislation conferring on the Federal Government and courts executive and judicial jurisdiction to prevent and punish these crimes against aliens in violation of their treaty rights.

In some of such cases the feeling between the countries involved has run high, and with the increased popular control of foreign policies we may expect these incidents to become more dangerous to our peace. In letters of our secretaries of state, in answer to complaints of foreign governments in such cases, attention is called to the fact that our general government has no jurisdiction to direct the prosecution under Federal law of the perpetrators of these outrages, and the secretaries have been content with the statement that the persons killed or injured have had the same protection that citizens of this country have had, which, I may add, in all the instances under examination, was no protection at all. The secretaries have pointed out that if protection was needed or punishment was to be inflicted, it was the duty of the State authorities to give it, as would have been the case had the persons killed or feloniously assaulted been American citizens. We make a promise and then we let somebody else attempt to perform it, and when it is not performed and it never is, we say: "We are not responsible for this. It is somebody else's failure, and, besides, you are not suffering any worse than our own citizens in this matter, because they enjoy the same absence of protection extended to your people. However, say no more about it. We'll save your feelings by a little money, the amount of which we'll fix." Now, we know the fact to be from this history that in such cases generally there is not the slightest hope through the State courts of having proper punishment inflicted, or even attempted. In such cases the juries are generally drawn from the immediate neighborhood of the county and town in which the outrage is committed, and the case ultimately reduces itself to the result that the grand jury, or, if an indictment is found, which is almost as rare as a conviction, the petit jury, will be composed of either the criminals themselves or of their relatives and neighbors and sympathizers, and the prosecution is a farce.

It does not soothe one's pride of country to note the number of lynchings of our own citizens that go unwhipped of justice and that are properly held up to us with scorn whenever we assume, as we too frequently do, a morality higher than, and a government better than, that of other peoples. Nor is our feeling in this regard rendered less acute by hearing from the governors of some of our States expressions brazenly defending and approving such lynchings. Still more embarrassing is our situation, when we are called upon to explain to a government with which we have made a solemn covenant to protect its citizens or subjects in their right of peaceable residence here and in the enjoyment of business and happiness under the aegis of the United States, that, while we did make a covenant, it ought to have known that under our system we as a government had no means of performing that covenant or of punishing those who, as our citizens, had grossly violated it.

For lynchings of our own citizens within the jurisdiction of the State we can say to ourselves for we have no other plea, that under the form of our government such crimes are a State matter, and if the people of a State will not provide, for their own protection, a machinery in the administration of justice that will prevent such lawless violence, and a public opinion to make it effective, then it is for them to bear the ignominy of such a condition. But when, in the case of lynchings of aliens, whom we have pledged our national faith to protect, the fact is that the Federal Government has the power to enact legislation to set its own administration of justice going by its own prosecuting officers and through its own courts, and has not done so, we may well hang our heads in the face of adverse criticism.

Such legislation need not find its only reason in our pride of country and our commendable desire to be considered in the first rank of civilized nations, observant of treaty obligations and earnest in the protection of the rights of our own citizens and our foreign guests. A much stronger reason for such legislation is in the Federal Government's taking over the right to protect itself and all the people against the danger of war that may be thrust on us by the lawless, cruel, prejudiced action of the people of a town, a city, or a county in dealing with subjects of other countries. It might be well that the race prejudice of such a community would carry us into war, and thus sacrifice thousands of valuable citizens drawn from the whole country, and consume hundreds of millions of treasure, to be met by taxation upon all the people of the United States. Ought not the Government, therefore, to insist, should not all the people of the United States require, that their Executive at Washington, with a full knowledge of our delicate relations to the foreign sovereign whose subjects have been murdered, should have power enough to set the whole prosecuting and detective machinery of the Government at work to bring the ringleaders of such mobs to trial before juries summoned from a wider vicinage than that of the local community in which the outrage was committed, and free from the sympathy and terrorism there likely to exist?

But it is said that the dead are not protected or restored to life by punishment of the malefactors; that those who are injured have no right to criminal prosecutions,

which are matters of State concern only; and that, as the injury has been done, if pecuniary indemnity is granted by the general Government all that the victims can properly demand is given them. I am not discussing this from the standpoint of the victims at all. I am discussing it from the standpoint of our own governmental self-respect, safety, and freedom from international offense. It is true that the only punishment of perpetrators to such an outrage must come after the outrage, but if the ringleaders of one mob in a United States court were hanged for murder the number of future lynchings of foreigners would be reduced in direct ratio to the certainty of a repetition of that kind of justice. I have had occasion to say before, and I say again, that the manner of trial in the Federal courts, in which the judge has the same control of the trial that he has at common law, can assist the jury in its investigation of facts and can take charge of the trial out of the hands of the counsel for the defense is a terror to evildoers. While in the eastern State courts justice in crimes of violence is generally meted out with even hand, in the western and southern State courts this is not true, and the difference between the administration in the Federal courts and in the State courts in such States is well known to those who are likely to become criminals. The certainty with which mail robbers have been brought to justice makes every man who thinks of robbing the mail consider the chances of escape from Uncle Sam. Indeed, cases have occurred in which train robbers have religiously refrained from sacking the mail car in order to avoid the Federal jurisdiction. Moreover, in cases of mob violence against aliens, the direct, energetic action of the National Government under the eye of the complaining foreign ambassador at Washington would itself take the sting out of the incident and minimize its danger as a cause for bad feeling between the two countries.

Of course, every one recognizes that the Government of the United States can not guarantee the detection and arrest of the criminals in such cases, or contract that when they are caught and tried conviction will necessarily follow. In no civilized country can this be assured, and this circumstance is an implied term of every treaty promise of this sort. But that uncertainty does not prevent courage, promptness, and energy on the part of the marshals and detective agents of the Government in efforts to identify and arrest the offenders and to find the evidence against them or efficiency on the part of the prosecuting officers in properly preparing the case for the grand and petit juries. It is the utter absence of any sincere effort of the local authorities in such cases to bring the criminals to justice that naturally angers foreign peoples when they are asking reparation for the awful results of mob violence. It is our actual helplessness and our hopelessness of any remedial measures to prevent a recurrence of such outrages that give the futile negotiation such a deplorable color in the eyes of the injured nation.

We can all remember the deep feeling aroused in our whole people over the massacre of the Jews in parts of Russia, and the intense indignation that manifested itself among their coreligionists in this country, and how skeptical all our people were concerning official denials of governmental responsibility for such outrages. Let us try to look at lynchings of aliens in this country from the standpoint of their fellow-countryman at home. In the utter absence of protection or attempted punishment of the murderers, can we wonder that there should be a deep-seated suspicion on their part that the bloody riots have been with either the connivance or acquiescence of our authorities?

Federal legislation which would remedy the present great defect in the powers of the National Government to protect aliens in their treaty rights has been proposed to Congress a number of times and has encountered serious opposition. The question was submitted to a committee of the American Bar Association that made a report in 1892, in which the constitutionality of such legislation was doubted and its wisdom was vigorously denied. We must assume that the reasons stated by the committee in that report are those which have moved Congress to withhold the action for which, in my judgment, there is a crying need. It is greater now than ever it was. It can not be said that respect for the law or constituted authority has increased in this country. Especially has it been weakened in those communities where class or race feeling seeks expression. Nor is the administration of criminal justice in the States in such cases likely to be more prompt or certain in the future than in the past. It is in such jurisdictions that the innovation of recall of executive officers is in vogue—a device which is not calculated to make governors or sheriffs or prosecuting attorneys more active in their arrest and prosecution of mob leaders, who are too often only exponents of local feeling and have the sympathy of the vicinage. When we add, as we may, that in many such States the recall of judges also has just come into use, we can understand how utterly futile it is to expect that there will be any improvement in making good the Government's promise to aliens through such official agencies.

In order to meet the arguments of those who oppose the legislation, I shall run over the objections that were presented by the committee of the American Bar Association to whose report I have referred. I ought to say in advance, with respect to the committee, that it was evidently composed of strict constructionists of the Constitution, that their report was not adopted by the American Bar Association, but that instead they were discharged from the consideration of the subject, and, because of divided views in the association a resolution was adopted declaring it inexpedient for the association to make any recommendation to Congress on the subject. The reference of the subject to the committee was prompted by the then recent lynching of nine Italians confined in a New Orleans jail. A bill had been introduced into Congress to confer on Federal courts jurisdiction to try and punish perpetrators of such outrages.

The first reason given as against such legislation was that outrages equally shocking as that at New Orleans had occurred in the past without suggesting any necessity for interfering with the powers of the States to punish crime. It might have been added that no one had ever been brought to justice for the commission of any of the outrages of a similar character that had been committed since 1811. Just because a glaring defect has been allowed to exist for a century, is that any reason why we should not now take steps to remedy it?

The second objection was that in more than a century only seven cases have occurred to which by any possibility this legislation could apply.

In answer to this, I can only set out an official list of the outrages committed in recent years.

At Rock Springs, Wyo., on November 30, 1885, there was an armed attack by 100 men on a Chinese settlement in a mining town, in which all the houses were burnt, and in which 28 Chinamen lost their lives, 16 were wounded, and all their property was destroyed.

In a similar attack in Squak Valley, Wash., three Chinamen were killed and 4 wounded.

At Orofino, in Idaho, five Chinese were killed.

At Anaconda, in Montana, four Chinamen were killed.

At Snake River, Oreg., 10 Chinamen were killed.

In Juneau, Alaska, 100 Chinese were expelled by lawless violence from their homes and the Territory.

In an official note of February 15, 1886, riots were reported at Bloomfield, Redding, Boulder Creek, Eureka, and other towns in California, involving murder, arson, and robbery, and it was added that thousands of Chinese had been driven from their homes.

Nine Italians were lynched in New Orleans in 1891.

In August, 1895, one Mexican was lynched in California.

In October, 1895, one Mexican was lynched in Texas.

In 1895 three Italians were lynched at Walsenberg, Colo.

In 1896 three Italians were lynched at Mahanville, Ia.

In 1899 three Italians were lynched at Tallulah, Ia.

In 1901 three Italians were lynched at Erin, Miss.

In 1910 one Italian was lynched in Florida.

This list, it seems to me, is a sufficient answer to the suggestion made by the committee that such events do not occur with sufficient frequency to require reform, especially when we consider in connection with these cases the recent very acute feeling over the treatment of Japanese subjects in California.

The third objection by the committee to Federal control of such prosecutions was that two of the outrages against aliens were in Territories in control of the Federal Government, and no better enforcement of the law was shown there than in State jurisdiction. They were in Territories under the control of Territorial governments, with the same weaknesses that a State government has, with prosecutions in a county, with the jury drawn from the immediate vicinago and under the terrorism of a small locality, which is a very different thing from prosecutions in the regular Federal courts.

The committee's fourth objection was that the suggestion of this legislation has not come in any case from a foreign power with whom we are in treaty relations, and that the demands pressed upon the United States Government have been almost uniformly not so much for punishment of the assailants as for pecuniary indemnity, which the injured parties had already the right to seek in the United States courts.

This statement is inaccurate. In many of the instances in which extended correspondence was had with our State Department by the diplomatic representatives of the foreign governments whose subjects had been killed or injured there were demands for punishment, and there were suggestions that the promise of protection was made by the United States in the treaty and that the foreign countries looked

to the United States and not to the subordinate States for compliance with treaty obligations.

The fifth objection was that our secretaries of State, in their correspondence with complaining foreign representatives, have uniformly insisted upon the common-law principle that the punishment of crime must be left to the ordinary and orderly administration of justice by the State courts in like manner as in similar cases affecting our own citizens.

Of course, our Government has taken that position. The Secretary of State found themselves in such a position that they had to. It is not to be expected that they would have made prominent our failure to legislate when we might have legislated to give us the proper means of discharging our obligations.

In his annual message of December 6, 1899, President McKinley used these words: "For the fourth time in the present decade, question has arisen with the Government of Italy in regard to the lynching of Italian subjects. The latest of these deplorable events occurred at Tallulah, La., whereby five unfortunates of Italian origin were taken from jail and hanged. * * * The recurrence of these distressing manifestations of blind mob fury directed at dependents or natives of a foreign country suggests that the contingency has arisen for action by Congress in the direction of conferring upon the Federal courts jurisdiction in this class of international cases where the ultimate responsibility of the Federal Government may be involved."

And he refers to a recommendation of President Harrison made in this matter in 1891, just after the Mafia case, in which President Harrison said:

"It would, I believe, be entirely competent for Congress to make offenses against the treaty rights of foreigners domiciled in the United States cognizable in the Federal courts. This has not, however, been done, and the Federal officers and courts have no power in such cases to intervene, either for the protection of a foreign citizen or for the punishment of his slayers."

President McKinley then said:

"I earnestly recommend that the subject be taken up anew and acted upon during the present session. The necessity for some such provision abundantly appears."

In his message of 1900 the same President made another urgent recommendation of the same kind.

President Roosevelt, in his annual message of December, 1906, in dealing with our relations with Japan, which were then of much public concern, said:

"One of the great embarrassments attending the performance of our international obligations is the fact that the statutes of the United States are entirely inadequate. They fail to give the National Government sufficiently ample power, through the United States courts and by the use of the Army and Navy, to protect the aliens in the rights secured to them under solemn treaties which are the law of the land. I, therefore, earnestly recommend that the criminal and civil statutes of the United States be so amended and added to as to enable the President, acting for the United States Government, which is responsible in our international relations, to enforce the rights of aliens under treaties. There should be no particle of doubt as to the power of the National Government completely to perform and enforce its own obligations to other nations. The mob of a single city may at any time perform acts of lawless violence against some class of foreigners which would plunge us into war. That city by itself would be powerless to make defense against the foreign power thus assaulted, and if independent of this Government it would never venture to perform or permit the performance of the acts complained of. The entire power and the whole duty to protect the offending city or the offending community lies in the hands of the United States Government. It is unthinkable that we should continue a policy under which a given locality may be allowed to commit a crime against a friendly nation, and the United States Government limited, not to preventing the commission of the crime, but, in the last resort, to defending the people who have committed it against the consequences of their own wrong-doing."

And in my inaugural address, March 4, 1909, I brought the subject to the attention of Congress as strongly as I could, as follows:

"By proper legislation we may, and ought to, place in the hands of the Federal executive the means of enforcing the treaty rights of such aliens in the courts of the Federal Government. It puts our Government in a pusillanimous position to make definite engagements to protect aliens and then to excuse the failure to perform those engagements by an explanation that the duty to keep them is in the States or cities, not within our control. If we would promise we must put ourselves in a position to perform our promise. We can not permit the possible failure of justice, due to local prejudice in any State or municipal government, to expose us to the risk of a war which might be avoided if Federal jurisdiction was asserted by suitable legislation

by Congress and carried out by proper proceedings instituted by the executive in the courts of the National Government."

These citations would seem to refute any suggestion that those having official responsibility for our foreign relations have not realized the crying need for such legislation.

The committee's sixth objection is that upon this basis all complaints arising out of such cases have been settled through the ordinary diplomatic channels and without any loss of self-respect to our Government.

That is a matter of opinion. If one can judge from the communications from some of the Secretaries of State to Congress and the messages of the Presidents just quoted, they feel very deeply the loss of self-respect that their enforced attitude and their inability to take action involves. Indeed, it is impossible to explain the payment by the Congress of the United States, on the recommendation by the Executive, of an indemnity in every case of these international outrages unless there has been a real feeling on the part of the authorities of this Government that we are at fault and that we intend to do something to save as much as possible the blame that is properly chargeable to us and our Government. The position of the Government usually is that we do not owe anything as a matter of right. If so, and if it is sound doctrine that we must treat equally the citizens of our own country and citizens of a foreign country, why should we discriminate and pay an indemnity to the foreign citizens or subjects who are injured or killed and not pay a similar indemnity in cases of lynchings of our own citizens? Our position and our actions are not consistent, and the reason why they are not consistent is because we have made the promise and are not in a position to perform it, and therefore we do the next best thing and try to save the wounds of our sister nations by money payments.

The committee's seventh objection was that the method of dealing with such cases in England, the other great common-law country, is precisely analogous to our own.

This is inaccurate, because in England the initiation of the administration of justice, the detection of criminals, and the control of their prosecution is with the law officers of the Crown.

Then the learned committeemen went into a consideration of the possible anomalies that would arise were felonious assaults upon foreign subjects or citizens made a Federal offense. It was said that it might involve double jeopardy. Well, there are a great many instances in which just such double jeopardy, if it can be called such, occurs in respect of acts that constitute an offense against both State and Federal sovereignties. In view of the fact that such offenses are never brought to trial in a State, much less to conviction, the practical danger of double jeopardy, if it be such, is most remote.

Then it is said that it will produce great confusion because there are so many aliens in this country that the assaults upon whom would crowd the Federal courts and introduce a deplorable delay.

Even if there were some delay in finally disposing of such cases, their energetic initiation is much to be preferred to that kind of despatch of the business in State courts which results in a report of the coroner and grand jury that the perpetrators are unknown. Nor is it true that such cases would clog the Federal courts. Those courts can take care of many more criminal cases to-day than in 1891, and the discretion of the attorney-general or the prosecuting officer of the Federal Government can well be trusted to leave to the jurisdiction of the State courts those crimes of violence against aliens that are in ordinary course and do not really involve race or national feeling or international complications. There are many classes of offences cognizable in both Federal and State jurisdictions in which such comity of arrangement exists and is satisfactory in its operation.

But it is suggested that in some way or other we are putting the foreigners into a privileged class by providing for their protection by the United States courts and United States officers. Don't we do so by paying indemnities? But, more than this, the suggestion is beside the mark. Criminals have no vested rights to trial in a jurisdiction where conviction is impossible, or to object to a jurisdiction which is likely to convict them when they assault those whom the plighted hospitality of the nation ought to protect. We are not putting the victims in a privileged class solely or chiefly for the purpose of giving them any benefit, but rather for the purpose of protecting the Federal Government from just complaint by a sister nation and from being possibly involved in war by the lawlessness and selfishness of local communities.

The reasons of legislative policy advanced by the committee against the bill were thus, in the highest degree, technical and entirely without weight, and the lamentable occurrences since their report emphasize their error.

Finally, the committee intimated that such legislation as proposed would be in violation of the Constitution. They do not argue this out. They only suggest that

it would be an invasion of the police power of the States, and they assume a construction of the Constitution that would have done in the days of Chief Justice Taney and the strict construction period of the Supreme Court before the war. They ignore a specific declaration by the Supreme Court that such legislation would be valid and a long series of cases by that tribunal which by analogy leave not the slightest doubt of the power of the Government not only to assume such judicial jurisdiction after the offence, but also to take preventive executive measures before the offence to stop such outrages.

The bill proposed to give jurisdiction of such cases to the Federal courts is as follows: "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any act committed in any State or Territory of the United States in violation of the rights of a citizen or subject of a foreign country secured to such citizen or subject by treaty between the United States and such foreign country, which act constitutes a crime under the law, of such State or Territory, shall constitute a like crime against the peace and dignity of the United States, punishable in like manner as in the courts of said State or Territory, and within the period limited by the laws of such State or Territory, and may be prosecuted in the courts of the United States, and, upon conviction, the sentence executed in like manner as sentences upon convictions for crimes under the laws of the United States.*"

The question of the validity of this proposed legislation under the Constitution involves a consideration of the treaty-making power of the Federal Government and the powers necessarily resultant from that and incident to it.

The treaty-making power of the United States is the widest power that it has. The executive power in our domestic field of government is divided between the General Government and the State governments, between the President and other executive officers of the United States, on the one hand, and the State governors and other executive officers of the States on the other. The legislative power is divided between Congress and the legislatures of the States. The judicial power is divided between the Federal courts that exercise the jurisdiction extended to them by the Federal Constitution and laws and the courts of the States. But all governmental power exercised by the country in dealing with foreign governments is exercised by the Federal Government alone, and the only limitation upon that power is that in treaty making the President and the Senate shall not violate any prohibition of the Constitution and shall exercise that power within the limits which international practice normally imposes as to the subjects to be included in a treaty. This wide and exclusive power of the central government in treaty making is easily to be inferred from the fact that by the Constitution the States are expressly forbidden to enter into any treaty, alliance, or confederation, to grant letters of marque and reprisal, unless Congress consents, to lay any duty of tonnage, to keep troops or ships of war, in time of peace, to enter into any agreement or compact with another State or with a foreign power, or to engage in war unless invaded; while the General Government is expressly empowered to make treaties, to regulate commerce with foreign nations, to establish a uniform rule of naturalization, to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations, to declare war, grant letters of marque and reprisal, and make rules concerning captures on land or water, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the land and naval forces, to provide for the calling forth the militia to repel invasions, to appoint ambassadors and other public ministers and consuls, to adjudicate causes arising under treaties and all cases affecting ambassadors, other public ministers, and consuls, causes of admiralty and maritime jurisdiction, and cases between a State or the citizens thereof, and foreign States, citizens, and subjects. And, further than this, the treaties made by the authority of the United States are expressly declared to be the supreme law of the land and the judges in every State are to be bound thereby, anything in the Constitution or the laws of any State to the contrary notwithstanding.

It would be difficult to make clearer the intention of the framers of the Constitution and the people who ratified it to give over to the general government the executive power to control foreign affairs and to give to the treaty-making power as wide a scope as treaties between independent governments are wont to have. As already said, one of the most common provisions in treaties between civilized countries is that which reciprocally binds each of the parties to give an opportunity for peaceful residence and pursuit of business in its territory to the citizens or subjects of the other.

Unlike treaties in most countries, a treaty made by the United States has a double aspect. It is not only a contract between the two countries, as it is in England and in other jurisdictions. It is that and more, because in so far as its provisions in their

nature can have operation in the United States as municipal law, they are statutes. They are equivalent to a law passed by Congress, and as such they repeal a previous inconsistent law of Congress, on the one hand, and can be repealed by a subsequent inconsistent law of Congress on the other. It follows, therefore, that aliens living in this country, whose sovereign has made a treaty with the United States in which the United States guarantees protection to life and property of such aliens during their residence within the jurisdiction of the United States, have a right under the Federal Constitution and law to be secure against any invasion of their peaceable residence and the holding of property. Under the 18th clause of section 8 of Article I of the Constitution, Congress has power to make all laws which shall be necessary and proper for carrying into execution all powers vested by this Constitution in the Government of the United States. It needs no straining of logic, but only the use of the reasoning pursued by the Supreme Court in hundreds of similar cases, to deduce the power of Congress under that clause to enact legislation to carry out and execute such an agreement by the United States to protect aliens from lawless violence. Therefore, it would be entirely competent for Congress to pass the bill I have quoted above.

Now, if the committee of the bar association, to which I have referred, had not expressed some doubts as to the power of Congress to pass such a law, I would not have thought it necessary to argue it. The power has been expressly affirmed by the Supreme Court. The case of *Baldwin v. Franks* (120 U. S., 678) involved the punishment of a man for using lawless violence against Chinese aliens resident in California, driving them from their residence and depriving them of their legitimate business, contrary to a treaty made between the United States and China in 1881.

The Supreme Court said:

"That the treaty-making power has been surrendered by the States and given to the United States is unquestionable. It is true, also, that the treaties made by the United States and in force are part of the supreme law of the land, and that they are as binding within the territorial limits of the States as they are elsewhere throughout the dominion of the United States."

The court then recites the clause of the treaty and continues:

"That the United States have power under the Constitution to provide for the punishment of those who are guilty of depriving Chinese subjects of any of the rights, privileges, immunities, or exemptions guaranteed to them by this treaty, we do not doubt. What we have to decide, under the questions certified here from the court below, is whether this has been done by the sections of the revised statutes specially referred to."

But they found no law on the statute book with language which embraced such offenses.

This decision was rendered in 1887 and the report of the bar association committee was in 1891, and the report, so far as I can find, does not mention the decision of the court in *Baldwin v. Franks*. As the committee of the bar association had no jurisdiction to reverse the views of the Supreme Court, I assume that we can treat the constitutional construction declared by the Supreme Court as still in force.

But such punishment of crime in the Federal courts and by the authority of the United States against those who violate the treaty rights of aliens is not the only thing that can be done. One of the ideas that it took a long time to get into the heads of strict constructionists of the Constitution was that there is not only the peace of a State, but there is also, on the same soil, the peace of the United States; that while the breach of State law by violence is a breach of the peace of the State, breach of Federal law by violence is a breach of the peace of the United States.

In the case of *ex parte Siebold* (100 U. S., 371-394), the court was considering an objection, very similar to the one made here, against a law providing for the protection of a citizen of a State in his rights under the Federal Constitution against assault. They said:

"It is argued that the preservation of peace and good order in society is not within the powers confided to the Government of the United States, but belongs exclusively to the States. Here again we are met with the theory that the Government of the United States does not rest upon the soil and territory of the country. We think that this theory is founded on an entire misconception of the nature and powers of that Government. We hold it to be an incontrovertible principle that the Government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its law, and hence the power to keep the peace to that extent."

In the Debs case, reported in 158 U. S., 564, Mr. Justice Brewer said:

"The entire strength of the Nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the Constitution to its care. * * * If the emergency arises, the Army of the Nation, and all its militia, are at the service of the Nation to compel obedience to its laws."

This language has exact application to the protection of the treaty rights of aliens. Therefore, not only ought the bill to be passed which I have read above, providing for a punishment of lawless violence directed against the rights and welfare of aliens guaranteed in a treaty of the United States, but express statutory provision ought also to be made enabling the President, in his discretion, to act directly, and without reference to State action, in protection of such aliens when their safety and peaceable residence are threatened. Such executive power would doubtless be implied if Federal court jurisdiction were given, but it would be greatly better to make it express. Then the President could move at once to the protection of aliens living in settlements where mobs threaten attack, and practical results might be expected, making the protection of the United States a real thing. Then the Secretary of State could look in the face of the ambassador of the country whose subjects or citizens are threatened with a gross violation of their treaty rights, and point to the effective measures of protection taken to vindicate the honor and the plighted faith of the United States.

Now, if such legislation is so plainly needed, why has it not been enacted? This is a hard question for me to answer except by suggesting that aliens are not voters and their rights are not a political issue. Both parties are at fault in this matter. When I was President, as quoted above, I urged the adoption of such legislation, and then took such steps as I could in other ways to secure its enactment. At my suggestion, Mr. Swager Sherley, a leading Democratic member of the House, from Louisville, Ky., attempted to introduce such legislation into the revision of the judicial code, but objection was made on the ground that it would introduce new legislation into a code that should be only a revision of existing legislation. The separate bill for the purpose which was introduced, I could not, in the pressure of other legislation, induce either House to take up. There seemed to be the strong opposition not only of Democrats from the South but of Republicans from the far West, and this prevented its consideration.

May we, therefore, not ask from this administration, in the course of which there has been exhibited, under the admirable leadership of the President, such wonderful party discipline in the passage of legislation, that action be taken on this important matter? The negotiations with Japan would, I am sure, be greatly assisted by giving such an earnest of the sincerity of our Government in protecting her people in the rights we assure them. If it be said that the party in power is traditionally opposed to giving the Federal Government more functions and to concentration of power in Washington, we may well urge that when the party in power has swallowed camels in the passage of a law giving the largest Government control of banking and currency known in our history, and in projecting a law vesting the widest Federal power in respect to corporations doing interstate business, and another looking to Federal regulation of presidential primaries, the party leaders should not strain at the gnat of Federal performance of Federal promises, even if it may involve the transfer to the jurisdiction of Federal courts of a comparatively few cases which are now in theory triable in State courts but in fact are never tried there.

STATEMENT OF MR. ARTHUR B. SPINGARN, OF NEW YORK, N. Y., APPEARING ON BEHALF OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE.

Mr. SPINGARN. I am speaking here as director and one of the vice presidents of the National Association for the Advancement of Colored People. The greatest blot on American civilization to-day is its record for lynching, a crime which is unknown in any civilized country of the world other than America, and a crime which has been accompanied by brutalities and excesses not known even in barbarous Mexico or in Turkey during its worst Armenian massacres.

The records will show, in the last 30 years, that there have been over 3,500 recorded cases of lynchings in the United States. There

probably are a large number of lynchings in the United States in addition to that number which have not been recorded. There has been no attempt, no serious attempt, to check this crime. There have been practically no convictions; there have been practically even no attempts to indict and punish the offenders. The States have either been powerless or indifferent.

Mr. YATES. Now, let me interrupt you. You are applying that to all the States?

Mr. SPINGARN. To the States in which lynchings have occurred; yes, sir.

Mr. YATES. It is not true, though, of Illinois. During the four years of my experience as governor there were seven attempts at lynchings, and I got the troops there every time. No man was lynched in Illinois when I was governor, and I want that in the record.

Mr. SPINGARN. I am very glad to know that.

Mr. DYER. But, Governor, since you have ended your distinguished service as governor, and others have come in, lynchings have occurred, to the shame and disgrace of Illinois.

Mr. YATES. That is true: there was a lynching in Springfield since then.

Mr. DYER. And in East St. Louis.

Mr. YATES. And in East St. Louis.

Mr. DYER. The worst thing about it is they that blame it on Missouri.

Mr. YATES. I am not joking about the matter. I am referring to the statement that no attempt has been made to punish the offenders; and that is not correct.

Mr. SPINGARN. That is not quite correct. I mean no serious attempt has been made to punish the perpetrators of lynchings. It has gone so far as to have one of our governors publicly state, when a lynching was announced in the public press to take place the next day, that he was powerless to prevent it. There are numerous cases where executive officers have approved of lynchings and, even in this very body, a Member of this honorable body has declared, and put his name in the Congressional Record, that he is in favor of lynching.

Mr. YATES. Who was that?

Mr. SPINGARN. Representative Thomas, of Kentucky, at the hearing on the antilynching bill sponsored by the Military Intelligence Department of New York. He stated that he approved of lynching for rape.

The proclamation of the President against lynching has failed to check this in any way at all. In fact, lynching has increased since the proclamation. There were 67 lynchings in 1918 as against 50 in 1917; and in 1919, the past year, there were 82 lynchings. And of those 82 lynchings, 14 of the persons lynched were burned at the stake; 12 of them before death and 2 of them after death. And among those lynched, there were at least two women who were pregnant.

Not only our civilization, but our good faith, is at stake in this matter. What answer can we give to Mexico when we make charges against them, when they can point to the fact that, in 1917, 25

Mexican citizens were lynched in one State in this Union and not one of the persons who lynched them was ever indicted?

Mr. HUSTED. Has there been a lynching case or an attempt at lynching in the State of New York in the past 30 years, so far as you know?

Mr. SPINGARN. There have been attempts at lynching in the State of New York.

Mr. HUSTED. In the State of New York?

Mr. SPINGARN. Yes; in the State of New York.

Mr. HUSTED. I have never heard of a case.

Mr. SPINGARN. It depends, sir, on what you mean by an attempt at lynching. There have been numerous cases where groups of rioters have attempted to visit direct action on the colored people but the police have always interfered and no such lynchings have been perpetrated. Lynchings can be prevented when the executives honestly desire to do so.

Mr. HUSTED. As a matter of fact, there has not been a lynching, so far as you know, in the State of New York, for which I speak?

Mr. SPINGARN. I know of none since Civil War days.

That lynching is a wrong, no one can possibly deny, and it is the proud boast of our law that wherever there is a wrong there is a remedy. It is quite evident the States either can not or will not remedy; the executive power has been unable to remedy. The only power left to act is the legislative power, this body. The only power that is capable of stopping lynching is the Congress of the United States. No question has ever been raised as to the propriety of attaining the objects that appear in the Dyer bill or the Moores bill or the Dallinger bill. The only question that has ever been raised is as to their constitutionality. Personally, I believe they are constitutional, and a brief has been submitted to that effect.

But I am not concerned with the fact as to whether they are constitutional or not. Here is the greatest cancer eating at the vitals of American civilization, which makes America sneered at all over the world. Personally, I have myself seen our civilization sneered at in Europe, in South America, in Mexico, and even in Turkey. In Turkey, I heard a lecture delivered by a Turk, and he showed pictures of American lynchings to show that America was not a civilized nation.

Not only the civilization, but the good faith of republican government is at stake, as to whether you gentlemen pass a law. It is absolutely immaterial whether this thing is constitutional or is not constitutional. If this is not the best law, then let us have a better one; but here is a wrong and we must have a remedy.

Mr. LOOE. Do you mean to say that if this committee or the Congress thought the thing was unconstitutional, they ought to pass it anyhow?

Mr. SPINGARN. No; not if they were certain it was unconstitutional. But if you had a bill on which you had a difference of opinion, where lawyers of the standing of Mr. Pillsbury and similar lawyers believe it is constitutional, it is quite proper, in my belief, for Congress to pass such an act. The Government of this country is very wisely divided into the executive, the judicial, and the legislative body and it is not for the legislative body to determine, ultimately, whether a bill is constitutional or not. If it is probably

constitutional, there is one proper way of finding it out by putting it up to the body whose business it is to find out whether it is constitutional.

One of the principal evils we have to-day is the feeling of unrest, the feeling among a great many people which has taken different forms but which many of us fear may possibly take the form of direct action. You gentlemen realize there is not one single thing in the United States that is so apt to breed discontent, to breed a belief that the present laws are incapable of taking care of the evils, as quibbling about such a proposition as this, as to whether a law, which is necessary, can be passed because it is constitutional or is not constitutional. If the law should be passed, let us pass one we think is the best law and, if it is not constitutional, then for Heaven's sake let us change the Constitution. The American people are not afraid to change the Constitution; we have changed the Constitution three times in the last few years and there is another change pending which will probably go through.

If the American people can stop long enough to change the Constitution to decide whether the American people shall drink, or not, or 6,000,000 people shall vote, they can at least stop long enough to change the Constitution to say whether 12,000,000 people can live in safety.

Further than that, how can you expect to breed an orderly, law-abiding citizenry when 12,000,000 of its people live continually in fear of bodily violence, when they see yearly from 75 to 100 of their own people burned and murdered by mobs—mobs often led by the whole community—and no organized effort on the part of the body politic to correct it. And the effect is not only on those 12,000,000 people, but the effect is as bad and worse on the mobbists. You can not train people for 30 years, unrestrained, to take the law in their own hands and then expect them to wait the orderly processes of the law.

And I beg you, gentlemen, not as a friend of the Negro, but as a friend and lover of democracy in America, to prove to our people and the world that there is no wrong that we won't remedy and we are not going to quibble about little things in correcting one of the greatest evils of our times.

Mr. HUSTED. Do your statistics show that lynchings in the United States are on the decrease or increase, or practically stationary?

Mr. SPINGARN. Mr. Johnson knows more about that than myself. I believe it was on the decrease for a certain period, but for the last five or six years it has been decidedly on the increase. We have had during the last year, as I have said, 82 lynchings, 14 where they were burned at the stake. And among those 82 lynchings there have been nine Negro soldiers who have been lynched, some of them for the crime of wearing the American uniform.

Mr. DYER. How many lynchings did you say there have been in the last few years?

Mr. SPINGARN. Since 1889 there have been 3,224 lynchings recorded and we have the name and address, so to speak, of the person lynched. We have a pamphlet giving their actual names and addresses and the crime or alleged crime or absence of crime for which they were lynched. In addition to that, there doubtless were probably a number of other persons lynched. In fact, one of the persons

who kept track of the lynchings says there were two or three hundred more.

Mr. BOIES. Where were these negroes lynched for wearing the uniform?

Mr. SPINGARN. One in Georgia, I believe. It is in this pamphlet.

Mr. TROTTER. I remember one in Missouri when I was over in Paris.

Mr. SPINGARN. There was one in Georgia and one in Mississippi.

Mr. DYER. I think the gentleman is mistaken about any lynchings in Missouri for wearing the uniform. I think it was in some other State.

Mr. TROTTER. I do not say for wearing the uniform, but he had the uniform on.

Mr. SPINGARN. I have not the 1919 list. It is in the 1919 list.

Mr. THOMAS. I might answer that question personally and say the first soldier was lynched just a few weeks after signing the armistice, and it was because he resisted the attack of some officer or deputy sheriff who was sent to arrest him.

Mr. BOIES. If this statement is going into the record that several negroes were lynched for wearing uniforms, we ought to know where it was done.

Mr. IGOE. Do I understand you to say that these men were lynched because they wore the uniform?

Mr. SPINGARN. Because they wore the uniform. It has been repeatedly said in editorials and by public officials that the great menace to the South to-day is the uniform-wearing colored soldier. And a great deal of un bitterness and animosity has been directed to the Negro soldier. I speak of my own knowledge of that. In the A. E. F. I had charge of a large group of colored soldiers and of one of the problems connected with the colored troops, and I hate to say again and again, not once, but hundreds of thousands of times, it was said that the South was going to show the negro who had been in the Army a lesson.

Mr. SUMNERS. Let me ask you a question. Is the prejudice due to the fact that the soldier has the uniform on, or do they mean by that statement, if the statement is made, that the reason underlying is that the soldier who now wears the uniform has been in Europe, and, under the conditions that obtain in France, associated with white women there?

Mr. SPINGARN. No, sir; I think not. I think it simply means that they fear that the soldier, when he put on the uniform, put on the dignity of an American citizen and realized it when he put on that uniform, and he realized, when he served his country, the country owed something to him. And I think the South realized that must be the inevitable consequence and resented it for that reason.

Mr. NEVAL H. THOMAS. There was one camp devoted to the training of negro officers, the camp at Des Moines. One black soldier from Mississippi won his spurs, came home to Mississippi right after the camp as a first lieutenant, waiting to go overseas, and while he was waiting to go overseas, before he had ever had this contact with people who are above colored caste, he was ordered to leave his community immediately. The New York Herald had editorials upon it. The South simply hated him because at camp he won the dignity of an American citizen and had won honor of dying for all Americans.

Mr. SUMNERS. What is his name?
Mr. THOMAS. I will get the editorial.

STATEMENT OF MISS ESTHER M. SMITH, OF PHILADELPHIA, PA., REPRESENTING THE RELIGIOUS SOCIETY OF FRIENDS.

Miss SMITH. I want to say but a very few words, but I want to say with great vehemence that my society is deeply interested in the welfare of our whole beloved country, black and white, and in her good name, and that we stand for and encourage any wise legislation which is preventive of mob violence and which is for the upholding of law and order the country over. I thank you.

STATEMENT OF MR. WILLIAM TROTTER, BOSTON, MASS., SECRETARY OF THE NATIONAL EQUAL RIGHTS LEAGUE.

Mr. TROTTER. Mr. Chairman, I am glad I am here to-day. Mr. Spingarn said he did not speak as a friend of the colored American, and of course he could not speak as a colored American. I came all the way here that you might hear on this question from the colored people themselves. I am the executive secretary of the National Equal Rights League, which is an organization of the colored people and for the colored people and led by the colored people.

We colored people too, like Mr. Spingarn, who are second to no one in our loyalty and patriotism, are opposed to lynching, because it is a discredit to our country. But we are the victims, and I came here to tell you the colored people feel their National Government owes it to them to protect them after all these years of mob murder from a continuance of this evil and intolerable outrage, especially at the close of a world war for world democracy, where everybody was promised humanity and protection of their lives if the victory was won over the German forces of autocracy.

The colored American people claim that they have done enough ever since they have been in this country—and they have been in it from the very beginning—that they have shown themselves willing to sacrifice enough, shown themselves loyal enough and peaceable enough to have this mob murdering of their race, done to them simply because of their race, stopped by the Federal Government—because no one else has been able or seems able to stop it. All we know is that we are the victims of mob murdering, mob murdering to a terrible extent, and mob murdering carried to such an extent that truly it is a disgrace to our country before the civilized world.

Now, gentlemen of the committee, whenever the outraging of citizens is carried on to such an extent that it becomes a disgrace even to the citizens of the race who are guilty of the outrage, you can realize how intolerable the condition must be for those people who are the victims of the outrage. And that is our position.

I came here to reiterate the position taken on this matter by the Rev. J. G. Robinson, organizer of the National Equal Rights League, before the subcommittee of the Senate Committee on the Judiciary of which Senator Dillingham was chairman, when he said—and our white friend has said the same thing—since there are some competent

authorities who believe that a law for this purpose is constitutional, can be framed so that it is constitutional, we object to our Government and our Congress refusing to make any effort to have this thing cured by Federal action because of a difference of opinion among lawyers as to the constitutionality of a law for this purpose. And our plea and our demand is that our Congress shall frame a bill for this purpose, a bill framed as well as possible for the purpose of overcoming the objections of those who say such a bill is unconstitutional, and that it be enacted and that it be put into operation—a bill that is going to be effective to stop the outrage. And then, when you have that kind of a bill, let it be up to those who want this country to be disgraced by lynchings and who want the colored people to be the victims of lynchings, to raise the question as to the constitutionality of such a law, and then let it be fought out.

And we colored people take the position, that Mr. Robinson took, that then is the time when the whole question will come to a head. And, gentlemen of the committee, it must come to a head. Our country can not exist among the civilized nations of the world if, as time goes on and progress and civilization and christianity goes on, this lynching of citizens, because of their race, is to be carried on from everlasting to everlasting. And there is no better time for it to come to a head than when the Congress of the United States says this thing shall stop and the Federal Government by law shall stop it, and then arises the question as to whether this Congress has the power to stop it and it is carried before the Supreme Court, and it is found that there is no constitutional way to stop the mob murdering of loyal citizens, numbering into the millions merely because of the race and color that God gave them. And if that time comes, then we are in favor of an amendment to the Constitution, because our Constitution is based upon the theory and the principle of equal protection of the law and protection of life, anyway. If you can not have protection at least of life we colored people are thrown back. We are not satisfied simply to have our lives safe; we want our equal rights safe.

But we have a big battle: we have a battle even here in the Capitol of the Nation and the battle has begun for the equality of the civil rights according to the civil rights bill of Charles Sumner. We are stopped in the fight we more reasonably could be engaged about, to secure equality of rights, by having to fight for the basic right of life itself. And that very fact is something intolerable, something that is a disgrace to our country.

As my time is limited, I want to say that it is the order of the day for nations or a group of nations to take up these matters of gross inhumanity. That has been proved by the world democracy war, and by the peace treaties made by the world peace conference. Our friends of the Jewish American race went to Europe and they were allowed to go, they were given passports to go, and when they got over there they got at the business of stopping the European pogrom, not only by national but by international action and decree. Naturally, we feel we can come back home, since they did not put into any of the peace documents the stopping of American pogroms, and ask our own country, our own national Government, to stop the American pogrom because of race or color.

This is the way they did it when they came to the insecure nations in the peace treaty, or the weaker nations being formed. They put them on the basis which they thought was proper for every nation to be and they said "Austria, you must agree to this, that all Austrian nationals, without distinction of race, shall be equal before the law and Austria must assure complete protection of the life and liberties of all its inhabitants, without distinction of birth or race."

They said to Poland: "Poland, you must undertake to assure a complete protection of life and liberty to all the inhabitants of Poland without distinction of birth nationality, race, or religion."

Now, we are simply asking that this country get upon the basis that an international tribunal and conference decreed and required of Austria and Poland, Roumania, Bulgaria, Czechoslovakia, and other nations that they should get upon and that was to be carried out by the agreement of all the nations that were fighting Germany under what they call the covenant of the league of nations.

Now, really, since this world peace treaty did not provide any measures or did not even require the enunciation or have the enunciation of the principle that is in conformity with the policies of democracy for the world, certainly it is in order for our country that saved the world for democracy, as our leaders said, to put itself in line with the idealistic pronouncements and with the noble promises made by all the responsible leaders of our country, at a time when they were calling upon all the citizens, regardless of race or color, to make their sacrifice, and even to offer their lives upon the altar of this great purpose. And what was one of the purposes then announced by our leader, and we must respect him as our leader regardless of politics, was "America, in coming into this war thought that all the world would now become conscious that there was a single cause of justice and liberty for men of every kind and of every place."

We are simply asking that that practice, that notorious practice, that almost characteristic practice of our country, which is entirely in violation and entirely out of accord with all those promises and all those purposes enunciated for this terrible world conflict, shall be opposed by the Federal Government. The State governments do not even arrest or indict the offenders. We do not need to quibble over it; we know it. We colored people, even whose women in a pregnant state, as in the case of Mary Turner—and you ought to know the facts—this woman, advanced in pregnancy, who simply said in regard to a lynching of five colored men on one limb that day, one of them her husband, that if she knew who did it, she would have them arrested, was taken by that mob, taken down the street, and she was hung to that limb by her heels; kerosene was thrown over her clothing and fire set to it and was burned off to her body, and then her body was opened by a great knife and when the infant fell to the ground, crying, it was crushed under the heels of the lynchers. That was done to Mary Turner, of Georgia, Mary Turner of noble memory, in the last year of the World War by the United States of America.

Gentlemen of the committee, as a protest against that treatment of my race, as a protest by you against the continuation of that practice in your country, I appeal to you to make from these bills here a law. I have not had a chance to examine them, but I want this law like Mr. Moores says.

Mr. YATES. Can you give the date and place of that outrage?

Mr. TROTTER. Yes, sir.

Mr. DYER. I think Mr. Johnson has the data on this.

Mr. TROTTER. I will leave the data to be furnished by the other gentlemen.

Mr. SPINGARN. It was May 17, 1919, in Banks County, Ga.

Mr. TROTTER. I like this bill. It says because of race, nationality, or religion. That is the new order of the day, that is the world order, that is the European order. Why should we be behind Europe? That is what they required. They did not require it of themselves, their allies, but they required it of all those whom they could force and, what is more, in saying so, they said that was the only proper practice and that all constituted subjects of government must have it—because of race, nationality, or religion.

I want to thank you gentlemen for this opportunity to be heard and to say that this is our position which is in a petition to the new league of nations in these words:

The peace of the world has not been made secure unless and until the union of civilized governments declares for identity of public rights and protection of life without distinction of race and color.

Mr. Chairman, I ask that I be permitted to enter into the record the anti-lynching petition which was presented to President Wilson in Paris while he was over there exercising the powers of "the President from the other side."

The CHAIRMAN. That may be inserted.

(The petition referred to is as follows:)

HEADQUARTERS OF DELEGATE TO PARIS
OF NATIONAL EQUAL RIGHTS LEAGUE,
Paris, May 31, 1919.

HON. WOODROW WILSON,

President of the United States of America,

Maison Blanche, 11, Place des Etats Unis, Paris.

SIR: Lawless and mob murder against citizens of color continue to take place in our common country, the United States of America. This was so while the world peace agreement was being written. Day before yesterday, while the entente allies are waiting for the peace treaty to be signed by Germany, a man of color was taken by the mob from the courthouse itself, in the State of Missouri, and lynched in the courthouse yard, after the court had decided that life imprisonment was the punishment due the victim for killing officers when arrested.

Yesterday here in France in your Memorial Day address at the graves of American soldiers you declared: "I stand consecrated to the lads sent here to die." Many of them were lads of color, gallant and loyal, fighting for France, for civilization, and for world democracy. Will you therefore for their sakes and that they shall not have died in vain, grant to their kin and race at home protection of rights and of life in the world peace agreement. And will you not at once send a special message to Congress recommending that lynching be made a crime against the Federal Government?

This request is made in the name of the National Equal Rights League, whose elected delegate to Paris I am.

Yours for world democracy,

WILLIAM TROTTER,
*Delegate to Paris and Secretary of
Race Petitioners to Peace Conference.*

Mr. TROTTER. I would also like to ask the privilege of inserting the petition that was presented for an amendment to the league of nations in behalf of democracy for the colored Americans, and as it refers to this country, I would feel it was the fair thing for me to to have this in this record that the Congress of the United States might know what the National Equal Rights League was saying to

the league of nations about the treatment in this country of the negro, if we want to be above board about it. I would like to have it entered in the record for that reason.

The CHAIRMAN. It may be inserted.

(The petition referred to is as follows:)

PETITION FOR AN AMENDMENT TO THE LEAGUE OF NATIONS.

[By the delegation of race petitioners of the National Colored World Democracy Congress conducted by the National Equal Rights League of the United States of America, in behalf of 14,000,000 colored Americans of African extraction, 10, Place de la Bourse, Paris, July 3, 1919.]

TO THE COUNCIL OF THE LEAGUE OF NATIONS AND TO THE
SECRETARY GENERAL THEREOF, HON. SIR ERIC DRUMMOND,
Hotel Majestic, 19, Avenue Kléber, Paris.

PREAMBLE.

Whereas during the world war against the Teutonic Allies, incarnating the spirit of autocracy, a war of terrible blood and devastation, the most sanguinary and destructive in history, and after the surrender of said forces, the avowed and heralded object of fighting was, on the part of the Entente Allies and associated nations, that of establishing liberty, humanity, and democracy for the world and for all persons therein; (see Annex A,) and

Whereas incidentally colored Americans participated (as did the colored nationals of all the Entente Allies and associated nations) in the fighting and in all the various modes of combatting by work and sacrifice the said armies of autocracy, in full proportion to their numbers (see Annex B); and

Whereas notoriously and indisputably colored Americans are deprived of and denied, either in law or in fact, or in both, full liberty, democracy and humanity in much of the domain of the United States of America and by such influence to some extent in fact in Canada and Cuba (see Annex C); and

Whereas neither in the covenant of the League of Nations, nor in the treaty of peace itself, that with Germany, nor in the treaty with Austria, nor in any of the conventions of the conference of world peace is there any word or clause giving or designed to give full liberty, democracy, or humanity to the colored citizens of the allied or associated nations, or which operates to abolish any of the abridgements or deprivations of liberty, democracy, and humanity notoriously suffered by colored Americans, or to change in any of these respects their pre-World-War condition; and

Whereas there has been no action of the conference of world peace to the end of protecting these millions of colored Americans in the assurance in fact of the full privileges of citizenship and against any discrimination against them because of race, of assuring them full protection of life and liberty without distinction of race or the enjoyment by all citizens of the associated American powers of same civil and political rights without distinction as to race or religion; and such absence of action constitutes a failure by default to execute and fulfill the proclaimed purpose of the World War and the solemn promises of the accredited spokesmen of the Entente Allies; and

Whereas said above-mentioned nonaction leaves unabated the dissatisfaction and unrest of said colored Americans, in fact, increases their resentment, and by shutting forever the door of hope for the attainment of respect and equality of treatment, turning despair into desperation, creates a condition calculated to disturb the peace of nations, which peace is the chief object of the peace conference; the National Equal Rights League and the National Colored World Democracy Congress, assembled by said league, representing the 14,000,000 colored Americans, more or less, who furnished nearly half a million brave soldiers for the Allies and associated nations, soldiers who never faltered or flinched, who freely offered their lives for democracy for all, herewith petitions the League of Nations to insert in its covenant a clause designed to vouchsafe to this and other like racial minorities among the citizens of the allied and associated nations full democracy.

To this end we submit for consideration and adoption either (a) the clause sent by cable to the League of Nations commission in March, 1919, and on record with the secretary of that commission in the following form: "Real democracy for world being avowed aim of nations establishing League of Nations, the high contracting parties agree to grant their citizens, respectively, full liberty, rights of democracy, and protection of life without distinction based on race, color, or previous condition"; or (b) add the following words to section B of article 23 of the covenant of the League of

Nations: "And for all citizens of the members of the league in fact full protection of life and liberty and the full privileges of citizenship without distinction for race or religion"; or (c), by the addition of the following clause to said covenant: The members of the league undertake to assure full and complete protection of life and liberty to all their inhabitants without distinction of birth, nationality, language, race, or religion, and agree that all their citizens, respectively, shall be equal before the law, and shall enjoy the same civil and political rights without distinction as to race, language, or religion, and all citizens of the members of the league who belong to racial or religious minorities differing in race or religion from the majority of the population shall enjoy the same treatment and same security in law and in fact as all persons of the majority race or religion."

SUPPORTING ARGUMENTS.

The National Equal Rights League submits the following supporting considerations.

This amendment preserves the harmony between the reiterated declarations and promises made during the war as a spur to enlistment, to civilian support and to gallantry in battle. President Wilson, who was accepted by the Entente Allies as the official spokesman, specifically promised equality of manhood suffrage by logical inference when he said in 1918:

"We are fighting for the right of those who submit to authority to have a voice in their own government."

It is an undisputed fact that 90 per cent of the colored males of adult age in the Southern States of the United States of America are effectively prevented from exercising a choice for at least the nomination of public officials and also for their election.

The exclusion of the colored ethnical minority from public inns in Cuba, Canada, and much of the United States, the prescription by either exclusion or segregation in the use of places of public accommodation, resort, health or recreation visited upon the colored ethnical minority in the United States, also in public carriers, which are now operated by the Federal Government, are practices flagrantly at variance with the comparatively recent declaration of the war spokesman of the allied nations:

"America in coming into this war thought that all the world had now become conscious that there was a single cause of justice and liberty for men of every kind and of every place."

The adoption of the proposed amendment is in the interests of public world policy for the Allies, for it removes the public scandal, which the Huns would proclaim, involved in the steady practice of fiendishly lynching members of the American ethnical minority all during the war and the armistice, even women and soldiers in the very uniforms in which they had fought for the Allies while the chairman of Great Britain's peace delegation was speaking of "cooperation at the peace conference to promote liberty and true democracy throughout the world;" and while the president of the peace conference was saying in honor of the memory of soldiers, some of them of this same minority race:

"These sons of America who succumbed in our common battle for justice and for right repose in our fields where the liberty of the world was won."

Words which should not stand before a record of 4,000 mob lynchings in 40 years in the chief associated Nation:

The amendment is in conformity with the precedents established by this peace conference.

(A) The new precedent of international treatment for individual nationals in the labor clauses of the League of Nations Covenant and of the Peace Treaty. It is as fitting to protect the elementary rights, the civil and political liberty and the life of individuals as their hours, wages and conditions of work, formerly domestic questions, measures of like genus.

For protection of working conditions the peace treaty sets up an elaborate machinery providing for punitive enforcement of the decrees of the legislative agency created.

(B) In spirit the amendment agrees with the new precedents of international control of the well-being of women and children and of the public health, elements of the public welfare, as is the protection of life and liberty for all individuals.

(C) The amendment agrees with the spirit of the labor principles for equality of pay of women with men, a matter put under international control now the first time.

(D) The amendment conforms to the principle adopted in the peace treaty as to plebiscites in the Basin of the Saar, Schleswig, and elsewhere, in that the treaty prescribes free elections with universal suffrage for adults and an equal right to vote for women.

(E) Amendment conforms to the principle established in the peace treaty as to the specific requirement of protection of minorities of race in Czechoslovakia and Poland.

(F) The amendment conforms exactly to the precedent established by the peace conference in the treaty with Austria, both with reference to Czechoslovakia, which concedes the rights of the Allies to provide for the protection of its ethnical minorities, and with reference to Austria, which is required to agree that:

"The obligations for the protection of ethnical minorities are matters of international concern over which the League of Nations has jurisdiction."

Austria is required by the principal allied and associated powers of the peace conference to "Assure complete protection of life and liberty to all inhabitants without distinction of birth and race."

Also to agree that—

"All Austrian nationals, without distinction of race, are to be equal before the law," says the official summary. All of which is a new precedent with which this amendment is in exact conformity.

These promises "are to be embodied in Austria in her fundamental law as a bill of rights" and "are to be under the protection of the League of Nations."

(G) The amendment conforms to the same precedent set up by the peace conference for Poland, and, according to President Clemenceau in his "covering letter" to President Paderewski, to be required of other States over whose fate the Allies have power. Poland is required as a condition of recognition to:

"Undertake to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race, or religion." (Art. 1 of treaty with Poland.)

Poland is required to agree that—

"All Polish Nationals shall be equal before the law and shall enjoy the same civil and political rights without regard to race, language, or religion." (Art. 7.)

Also to agree that—

"Polish Nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the Polish nationals." (Article 8.)

Indeed, Poland is interfered with to the extent of being required to not only vouchsafe these equal rights to Jews, together with the right to teach their children the Jewish language in public schools and have a share of public moneys therefor, but to give Jews special privileges, first, for separate schools, disbursing public moneys and, second, to make Poland respect their Sabbath, exempting them from certain duties and not to hold elections thereon. All of this Poland is required to agree shall:

"Constitute obligations of international concern and shall be placed under the guarantee of the League of Nations."

And Poland must agree to "formal jurisdiction by the league" over all these provisions:

Surely no further argument should be necessary to establish the identity of principle and practice with our amendment.

If there be any doubt it is cleared away by the words of president Clemenceau of the conference in the letter which accompanies the treaty. Says the letter:

"Article 2 guarantees to all inhabitants those elementary rights, which are, as a matter of fact, secured in every civilized state. Clauses 3 to 6 are designed to insure that all genuine residents in the territories now transferred to Polish authority shall in fact be assured of the full privileges of citizenship. Articles 7 and 8 provide against any discrimination against those Polish citizens who by their language, or their race, differ from the large mass of the Polish population."

Mr. Clemenceau continues:

"The following articles provide more special privileges to certain groups of these minorities."

He then says that—

"The principal and allied powers have come to the conclusion that in view of the historical development of the Jewish question and the great animosity aroused by it, special protection is necessary for the Jews in Poland."

As it happens these last words apply with exactness to the question of the colored American and hence the official utterance of the president of the conference of peace commits the conference to an amendment at least as strong as those here proposed, for the colored American. (See covering letter with Polish treaty, pp. 2 and 3.)

It can not be successfully argued that these precedents do not apply to similar conditions in the allied and associated nations because—

(A) There existed no precedents for new states, as in the treaty of Berlin quoted by M. Clemenceau, except as to freedom of religion.

(B) M. Clemenceau defends these requirements because the allied and associated nations helped Poland to statehood. On the other hand however, the colored minorities helped, if they did not save the entente allies, especially France. In the light

of this comparison morality will not permit of the contention that the latter should be therefore denied consideration.

Without this amendment the allied and associated nations refuse to come under the principles of which by conquered and by associated countries they demand recognition, which they demand on the ostensible ground of justice and of the new world democracy.

Since the nations agree to subject themselves to treaty requirements as to the interests of organized labor and the industrial rights of women what just objection can they raise to treaty obligations for democratic rights for an ethnical minority of loyal citizens, such as they require of weaker nations?

The responsibility of the members of the League of Nations or at least of the principal allied and associated nations to agree to do for their ethnical minorities what they require Poland to do for its minorities can not be denied or evaded if they are to be on the same lofty plane which they set up for a weaker state.

CONCLUSION AND APPEAL.

Since the colored ethnical minority of America fought at least as valiantly, gave as freely, and died as willingly for the cause of the entente allies, as the ethnical minorities of Europe, it is monstrously unfair to refuse to grant them the identical protections required for these latter by the Allies.

By what moral code of nations can those for whom the colored Americans worked, fought, and died bestow upon the Jews of Europe full democracy and special privileges in addition thereto and fail to stipulate in the same peace instrument full democracy for the colored American minorities.

For the colored millions of North America who contributed money and soldiers in their due proportion, meeting the same mental, moral tests for enlistment or civilian aid, must the intolerable humiliation and permanent degradation of status in the United States of America continue now and forever just as before this terrible war. Despite loyalty and sacrifice is this "Magna Charta of a new order of things" to contain no protection from the exclusion, the public segregations, the disfranchisement, from the rope and the faggot?

Against this proscription and degradation and death at the hands of the mob, a stench in the nostrils of Almighty God, may the allied powers or some of them, intervene, albeit France, to whose rescue rushed the black soldiers of Africa and of America when she was indeed hard pressed.

Finally, say not that these protections for racial minorities in Europe are necessary to make perpetual peace, lest it be decreed that only through insurrection comes protections of a minority's rights: say it not lest colored Americans of a new-born generation be forced to the "court of last resort."

The peace of the world has not been made secure unless and until the union of the civilized governments declare for identity of public rights and protection of life without distinction of race and color.

Colored America, as yet confident in the ultimate ascendancy of the Right over Might, calmly waits upon the League of Nations.

*Secretary of Peace Petitioners,
of the National Equal Rights League.*

10 PLACE DE LA BOURSE,
Paris, July 4, 1919.

ANNEX A. AUTHORITATIVE STATEMENTS ON AIM OF ENTENTE ALLIES IN THE WORLD WAR

A. By President Wilson of the United States of America:

"Our country has entered the fight for the purpose of democratizing the nations of the world and liberating free peoples everywhere.

"We are embarked upon an enterprise which is to release the spirits of the world from bondage.

"We are fighting for the right of those who submit to authority to have a voice in their own government."

To "make the world at last free."

For "security for life and liberty."

To "make the world safe for democracy."

"The armistice was signed this morning. It will now be our fortunate duty to assist by example, by sober, friendly counsel, and by material aid in the establishment of just democracy throughout the world."

"America in coming into this war thought that all the world had now become conscious that there was a single cause of justice and of liberty for men of every kind place."

B. By Premier Lloyd George of Great Britain:

"I feel sure that at the peace conference we shall be able to cooperate faithfully to promote the reign of peace with liberty and true democracy throughout the world."

C. By M. Clemenceau, of France:

"Those sons of America who succumbed in our common battle for justice and for right repose in our fields where the liberty of the world was won."

ANNEX B. CONTRIBUTION BY COLORED AMERICA TO PROSECUTION OF WORLD DEMOCRACY WAR.

A. Soldiers:

1. Four hundred thousand plus, under selective service draft.
2. Four regiments of Regular Army.
3. Two regiments and several companies of National Guard.
4. Thousands joined French and British armies.
(Many thousands volunteered and were refused because of their color.)

B. Money, work and sacrifice contributing to--

1. Five Liberty loans.
2. War savings stamps.
3. Y. M. C. A. and Knights of Columbus charities.
4. War community service.
5. United war work fund.
6. Food conservation, etc.

ANNEX C. DENIALS OF LIBERTY AND DEMOCRACY TO COLORED AMERICANS.

From the official records of the Congress of the United States of America, the House of Representatives, the Congressional Record, June 29, 1918:

First. We are the victims of civil proscription, solely because of race and color, in three-fourths of the States and in the national capital (Federal territory), barred from places of public accommodation, recreation, and resort--yes; from such places within Government buildings.

Second. We are the victims of class distinctions, based solely on our race and color, in public carriers in one-third of the States; segregated even when passengers in interstate travel and with the railroads under the control of the Federal Government.

Third. We are the victims of caste and race prejudice in Government, military and naval schools and in officer schools with other citizens solely on the basis of race and color, and in the Navy itself, except in the service below deck.

Fourth. We are the victims of proscriptive discrimination, based on our race and color, in the executive departments of the Federal Government, refused employment in many after appointment through the civil service, segregated at work in the appointments of health and comfort.

Fifth. We are the victims of political proscription in one-third of the States, even in the election of Federal officials, in violation of the Federal Constitution, both indirectly by congressional representation based on disfranchisement and directly through intimidation, trickery, or State statutes and constitutions.

Sixth. We are the victims in many States, as a consequence of the foregoing civil and political proscriptions, of imposition, robbery, ravishing, mob violence, murder, and massacre because of our race and color; denied protection of police, of sheriffs; denied trial by court and jury; rendered impotent to protect our daughters, wives, or mothers from violation by white men or murder by the mob. (From petition of National Colored Liberty Congress, introduced in the House by Representative Gillett, now the Speaker of the House.)

Seventh. Refused accommodation in public inns to some extent in Cuba, since Spanish-American War and in Canada by persistency of United States propaganda.

STATEMENT OF MR. JAMES W. JOHNSON, OF NEW YORK, FIELD SECRETARY OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF THE COLORED RACE.

Mr. JOHNSON. Mr. Chairman and gentlemen of the committee, I am going to speak very briefly because there are others, of course, who want to be heard. I want to reinforce what both Capt. Spingarn and

Mr. Trotter have said about the doubtfulness of the constitutionality of this bill which leads to Congress taking action. I wish to say that those who differ in the opinion generally expressed that such a measure is unconstitutional, we have these names which I am going to read (not all of them), signers of an address to the nation, and in this address to the nation the last paragraph reads as follows:

The undersigned, therefore, as citizens of the United States without sectional or party bias, with the interest only of the Republic at heart, urge all public-spirited men and women to oppose with all their power the recurrence of the crime and the shame of mob murder; they urge the governors of the several States to do all that is possible to prevent and punish lynchings; they pledge their support to the officers of the law, who, in the face of mob excitement, discharge their duties; and they urge upon the Congress of the United States nation-wide investigation of lynching and mob murder to the end that means may be found to end this scourge.

Among the signers of that appeal who urge Congress to take this action seeking to remedy this matter, are William Howard Taft, former President of the United States; A. Mitchell Palmer, Attorney General of the United States; Edward Osgood Brown, former judge of Cook County circuit court; Charles J. Bonaparte, former Attorney General of the United States; Charles Nagel, former Secretary of Commerce and Labor of the United States; Charles Evan Hughes, former justice of the United States Supreme Court; Elihu Root, former Secretary of State of the United States; George W. Wickersham, former Attorney General of the United States; and I could name a great many others, presidents of bar associations and governors of States, both North and South.

That raises a doubt in favor of Congress taking action upon this thing.

There is no need for me to rehearse these facts about lynching. Mr. Trotter himself has already set forth one of the most horrible cases, but that does not stand unique, the case of Mary Turner does not stand unique.

There are cases after cases that could be duplicated, time after time. As has been said, in this present year, there were 14 of them burned at the stake. And not always for the usual crime, for the usual crime has come to be the unusual crime. You will see in the statistics put out for this year, that out of 84 lynchings, in only 14 cases was there any accusation of an attempt against womanhood—only 14 accusations out of 84 lynchings.

But aside from all questions of constitutionality, it is a question of action on the part of Congress. Twelve or fifteen millions of people can hardly understand why the National Government can not do something to protect them in this matter. I hold in my hand here a reproduction, a facsimile reproduction from the New Orleans States, the top one, and then on the side from the Jackson Daily News.

In large headlines "3,000 will burn Negro." I am just giving you an example of what goes on in the United States, not a solitary example, but merely an illustration of what is more or less common. The article is headed:

[New Orleans States, Thursday, June 26, 1919.]

THREE THOUSAND WILL BURN NEGRO—NEGRO JERRY AND SULLEN AS BURNING HOUR NEARS—TO BE TAKEN TO SCENE OF CRIME AND STOOD BEFORE CROWD.

ELLISVILLE, Miss., June 26 (Special).

As 4 o'clock approaches, John Hartfield, assailant of the Ellisville white girl, is being carefully guarded in the office of Dr. Carter of this city.

The wounded Negro has confessed and seems very nervous.

Dissent has broken out among the indignant citizens as to what disposition should be made of the prisoner.

It is said the Negro will be taken to the scene of his crime, near the Ellisville railroad tracks, where he attacked Miss Meek, and will be stood up where everybody can see him.

Some of the angry citizens, it is said, want Hartfield lynched, while others want him burned.

ELLISVILLE, Miss., June 26 (Special).

Walter Crawley and Will Rogers, two farmers, were members of the posse who shot Hartfield in the shoulder and effected his capture.

Three thousand strangers are in Ellisville to-day to witness the disposition of John Hartfield, Negro assailant of Miss Meek.

Officers are unable to control the crowds.

HATTIESBURG, Miss., June 26.

John Hartfield, Negro assailant of an Ellisville young woman, has been brought to Ellisville from Collins and is guarded by officers in the office of Dr. Carter in that city.

He is wounded in the shoulder. The officers have agreed to turn him over to the people at 4 o'clock this afternoon when it is expected he will be burned.

[From the Jackson, Miss., Daily News, Thursday, June 26, 1919.]

JOHN HARTFIELD WILL BE LYNCHED BY ELLISVILLE MOB AT 5 O'CLOCK THIS AFTERNOON—GOVERNOR BILBO SAYS HE IS POWERLESS TO PREVENT IT—THOUSANDS OF PEOPLE ARE FLOCKING INTO ELLISVILLE TO ATTEND THE EVENT—SHERIFF AND AUTHORITIES ARE POWERLESS TO PREVENT IT.

HATTIESBURG, June 26.

John Hartfield, the negro alleged to have assaulted an Ellisville young woman, has been taken to Ellisville and is guarded by officers in the office of Dr. Carter in that city. He is wounded in the shoulder but not seriously. The officers have agreed to turn him over to the people of the city at 4 o'clock this afternoon, when it is expected he will be burned. The negro is said to have made a partial confession.

GOV. BILBO SAYS HE IS POWERLESS.

When Gov. Bilbo was shown the above dispatch and asked what action, if any, he intended to take to prevent the affair, he said:

"I am powerless to prevent it. We have guns for Stato Militia, but no men. It is impossible to send troops to the scene for the obvious reason that we have no troops.

A committee of Ellisville citizens has been appointed to make the necessary arrangements for the event, and the mob is pledged to act in conformity with these arrangements.

Rev. I. G. Gates, pastor of the First Baptist Church of Laurel, left here at 1 o'clock for Ellisville to entreat the mob to use discretion.

A thing like that, possible in the daily papers, published in the United States of America! If that is not enough to call for action on the part of the Government, I know of nothing that could possibly move it. And now the 12,000,000 or 15,000,000 Negroes in the United States can not understand this committee or Congress itself quibbling over whether the preponderance of opinion is for or against the constitutionality of a measure such as contemplated here.

Mr. YATES. If you will pardon me, I do not suppose there is possibly a citizen in the United States who does not only want to see lynching stopped, but who is not willing to do everything in his power to stop it. What we want to do, though, is to pass an effective measure that will stop it; we do not want to pass an ineffective measure that is not going to accomplish the purpose. We want to stop it, and I would be very glad to hear your opinion as to just what Congress should do in order to effect what everybody wants to do, what everybody is anxious to do.

Mr. JOHNSON. Of course, I should think that one of these bills, or a consolidation or amalgamation of these bills ought to get an effective measure. I am not constitutional lawyer enough to pass on that, but I read these names here to show—

Mr. GOE. Pardon me, but listened to what you read—what was stated in that pamphlet, and it seemed to me it recommended an investigation. Now, want of investigation is not the cause of the trouble. As was said the other day about investigations, on some of these questions investigations do not get us anywhere. I do not know that they have stated in there just what Congress should pass in a Constitutional way. The Supreme Court of the United States, in the case I was speaking of, referred to section 19 of the Criminal Code, "Conspiracy to hinder persons in the exercise of civil rights," which provides:

If two or more persons conspire to injure, oppress, threaten or intimidate, any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway or on the premises of another with intent to prevent or hinder his free exercise or enjoyment of any right or privilege thus secured, they shall be fined, etc.

The Supreme Court of the United States in passing on an Alabama case did not render any opinion except to affirm the judgment of the court below in the case of *United States v. Powell* (212, U. S., 564), and this is the syllabus in that case, which says private citizens who take a prisoner from the custody of State officers and murder him, to prevent his trial, do not thereby deprive him of any right secured by the Constitution or laws of the United States in violation of the fourteenth amendment and they are not indictable under these sections for conspiracy to injure the prisoner.

Mr. JOHNSON. Might I say, just to clear up this point, that they urge upon the Congress of the United States "nation-wide investigation of lynching and mob murder to the end that means may be found to end this scourge," from which I suppose they must have had in mind the passing of some measure to do so. Now, might I ask the committee, is it not true that the committee itself is divided in opinion upon whether this law is constitutional or not; I mean, the committee does not feel confident that such a measure is constitutional. Is that not true?

Mr. GOE. For myself, I will say that the matter has never gotten to that point and, so far as I know, in the meetings of the committee, the matter has not gotten down to a final decision of the case.

Mr. JOHNSON. From the mere fact we are having this hearing on the constitutionality would show there is some dispute on the question.

The CHAIRMAN. It would show there is some doubt.

Mr. JOHNSON. Would show there is some doubt.

The CHAIRMAN. That is probably as far as it has gone.

Mr. JOHNSON. But is it not true that Congress has passed a law, even perhaps where there was less urgent need for a remedy than in this case, in which there was doubt as to the constitutionality as, for instance, the first income tax law, and it has a psychological effect upon these twelve or fifteen million people—they are watching, they are wideawake, and they are listening, too.

Mr. DYER. Some two years or so ago, I took this matter up with your organization. I think Mr. Storey was the president at that time. I asked him to have this investigated or to investigate it himself and to give to me his opinion as to the constitutionality of the bill which I sent him. He wrote me that he did not believe it was constitutional. Now he is the president of the National Association for Colored People.

Mr. JOHNSON. It may be he thought that specific bill was not constitutional.

Mr. DYER. The same principle is involved in all these bills. It is the same question. And that is the only matter I think the committee could be seriously in doubt about: I do not believe any one would refuse to vote to enact a law that would give protection to the lives of the people.

Mr. JOHNSON. Of course, I may say without any disrespect to the opinions that the courts have rendered, we know practically that the courts themselves, and the higher the court the more has been the inclination, have not met these issues squarely. Of course, we know that is the practice of the courts. The court is not going to decide on the main issue if they can sidestop on a minor issue. Everybody knows the history of the thirteenth, fourteenth, and fifteenth amendments, and the fourteenth amendment was drawn and adopted for the specific purpose of protecting the colored race.

Mr. IGOE. I ask you right there: This section is pretty broad that I read there, and it is upon somewhat the same theory this proposed law is based—I mean the principle underlying that section is also the principle underlying the Dyer bill and those other measures. For my own information, can you tell me has your association in New York any knowledge of any other proceedings that may have been brought under this section, in line with this Alabama case I have spoken of? Do you know of any case or effort made to bring prosecutions under that section?

Mr. SPINGARN. None have been reported.

Mr. IGOE. There was one case, as I stated, in the Federal Reporter. I think it was *United States v. Moore*, or something of that sort, in which, prior to this decision, the courts had held, that is, the court of appeals, I think it was, that under this section prosecution similar to that in the Alabama case might be brought. But that case never went to the Supreme Court of the United States so far as I know; and the Alabama case is the last one I know of before the Supreme Court. That was in 1909, I think.

Mr. SPINGARN. May I ask if it is the opinion of this committee that if a constitutional law can not be passed to remedy an evil which one of the Members has said is an evil which every right minded man in the country wishes to correct, that this committee

wishes to drop that matter; or is it not the fair thing to say that the only opportunity one has to pass a constitutional amendment is to make the best law you can, and, if it should be found unconstitutional, to open the way for a constitutional amendment. We have done that in the income tax, we have done that in numerous ways. The only way the constitutionality of a measure can ever be brought up is after the Supreme Court has held there is no possible way to remedy it.

Mr. IGOE. I do not think this committee has finally decided this bill is not constitutional or that one can not be drafted which is; but we are talking about a principle (at least I am) of law that has been on the statute books for over 30 years, and several sections of the law have been declared expressly unconstitutional and are now eliminated from the statute which has to do with the right of suffrage, as I recollect. And I am merely discussing the matter for my own information, to get your views about it. Of course, if the principle was the same, and the Supreme Court has held that that present statute which, I think, is quite broad—

Mr. JOHNSON. I do not believe so.

Mr. HUSTED. I would like to ask the gentleman what, in his opinion, the effect would be upon the country and especially upon the colored people of the country, if Congress passed a law to stop this terrible wrong and evil and the Supreme Court of the United States held it to be unconstitutional?

Mr. JOHNSON. I think the colored people would feel that the Government of the United States was, for the first time, sincerely interested in their welfare and the Congress of the United States had done all it could do to bring that about.

Mr. HUSTED. You do not feel that it would have any evil effect?

Mr. JOHNSON. None whatsoever.

Mr. HUSTED. For the United States Supreme Court to declare it unconstitutional?

Mr. JOHNSON. None whatsoever.

Mr. HUSTED. The only question in my mind was whether it would not be better policy to put through a constitutional amendment which would make it really constitutional, or whether we should take a chance on passing a bill which might be declared unconstitutional by the court?

Mr. JOHNSON. I might say, sir, that the colored people of the United States are peculiarly law-abiding people. I do not know of a single instance, even in the most radical members of the colored people, where they have fought against proper adjudications of the courts.

Mr. HUSTED. I think that statement is very correct and justified by the history of the colored race.

Mr. SUMNERS. They show no disposition to rebel against the Government under any circumstances.

Mr. JOHNSON. Not against the laws of the Government, sir. They have shown the greatest disposition to inveigh against crimes committed against the Government. If one will read that remarkable document prepared by the Department of Justice, "Sedition among the Colored People," he will find that practically every single thing in which the colored people are accused of sedition is a thing which every law-abiding citizen should get behind him and fight for. They are only insisting upon the enforcement of the now-existing laws.

They are no more disloyal than they are in insisting on the passage of an anti-lynching act. They are insisting that the laws which are now on the statute books be enforced in spirit as well as in the letter of the law. The colored people have never asked any more; they will never stop asking for any less.

Mr. DYER. I believe myself that this bill, the one I have, is constitutional. I have examined it very carefully for a number of years and here is a statement I made, after investigation of it, which I would like to read so as to get your view on it.

The equality clause of the fourteenth amendment forbids the States to deny to any person within their jurisdiction the equal protection of the laws. This clause is judicially held to confer immunity from any discrimination as a Federal right. The protection which the State extends to one person must be extended to all. It does not forbid discrimination merely in the making of laws, but in the equal protection which the laws are designed to afford. Forbidding the State to deny equal protection is equivalent to requiring the State to provide it. Equal protection is withheld if the State fails to provide it, and the guaranty of immunity is infringed. The constitutional requirement may be violated by acts of omission no less than by acts of commission. The omission of the proper officer of the State to furnish equal protection in any case is the omission of the State itself, since the State can act only by its officers.

That is a statement which I made some time ago in Congress and I have cited numerous decisions of the Supreme Court and other courts to sustain it.

Mr. SPINGARN. May I add this: I do not purpose going into a discussion of the constitutionality of this act. It is an act which can be drafted so as to meet the constitutional question and end all argument, and it is futile to go into that. But I just want to say, in finding authority for the constitutionality of this act, we do not rely exclusively on the fourteenth amendment. We find authority, also, in the Constitution itself which assures a Republican form of government in the States. You have two horns of the dilemma. The States are either powerless to prevent lynchings or they do not choose to prevent lynchings. If they are powerless to prevent lynchings, then we have mob rule in the States, "mobocracy" and the violation of the Constitution itself. If they can do it and they do not prevent it, you have a violation of the fourteenth amendment in that we do not give equal protection.

Mr. YATES. In what particular was it suggested this might be unconstitutional? Wherein is it supposed to violate the Constitution of the United States?

The CHAIRMAN. Does the Constitution grant power to do anything of this kind? You see the Constitution does not give us any power not specifically contained therein.

Mr. YATES. Not delegated?

The CHAIRMAN. Not delegated to Congress.

Mr. YATES. Yes, I understand that. It is just a general objection, then.

Mr. TROTTER. I just want to say to the Congressman in regard to that question about the amendment, first: The colored people (I want to speak for them; Mr. Spingarn has spoken for the friends and has spoken very well for them) feel that we ought to have the benefit of the easier way. It is a good deal harder to pass an amendment than it is to pass a Congressional law. If we pass a Congressional law and then the Supreme Court says it is unconstitutional

we know it is then up to us. But we would a great deal rather have the law first, even if it is declared unconstitutional, and then we have a better chance to get a constitutional amendment than we have to get the constitutional amendment without the law being first passed.

Mr. JOHNSON. May I conclude my remarks by bringing just another phase into the discussion on this subject. As to that clause in the fourteenth amendment, it says no State shall deny to its citizens or to any of its citizens equal protection of the laws. Of course, we know that even a man who is charged with crime and the man who is a criminal is entitled to a certain protection of the law. Now, I have figures here which show that since 1918, 13 negroes were taken from the custody of peace officers; that is, taken away from the sheriffs and deputy sheriffs and taken out of prisons and even out of the courts where they were being tried. Men have been lynched even after being sentenced by the court. One of the most horrible lynchings in the United States took place at Waco, Tex., where a boy had been sentenced to death and the mob immediately took him out and burned him in the public square before eight or ten thousand people. In 1919, 34 negroes were taken away from the peace officers, from the local authorities of the various States.

It seems to me there is some right under the fourteenth amendment which says no State shall deny to its citizens or to any of its citizens the equal protection of the laws, and we must conclude that the criminal, much more so than the man who is accused of crime, is entitled to equal protection of the laws; that is, he shall be kept in a place of safety until he is given a fair and impartial trial.

Mr. DYER. You have some data there?

Mr. JOHNSON. Yes, sir.

Mr. DYER. I suggest that you have that inserted in your remarks in full, to be printed in the hearings.

(The following papers were submitted for the record by Mr. Johnson:)

TABLE 1.—Number of white and colored persons lynched in the United States, 1889-1918¹

Years.	Total.	White.	Colored.	Years.	Total.	White.	Colored.
1889.....	175	80	95	1905.....	65	5	60
1890.....	91	3	88	1906.....	68	4	64
1891.....	194	67	127	1907.....	62	3	59
1892.....	226	71	155	1908.....	100	8	92
1893.....	153	39	114	1909.....	89	14	75
1894.....	182	54	128	1910.....	90	10	80
1895.....	178	68	110	1911.....	71	8	63
1896.....	125	46	79	1912.....	64	3	61
1897.....	162	38	124	1913.....	48	1	47
1898.....	127	24	103	1914.....	54	5	49
1899.....	109	22	87	1915.....	96	43	53
1900.....	101	12	89	1916.....	58	7	51
1901.....	135	27	108	1917.....	59	2	48
1902.....	94	10	84	1918.....	67	4	63
1903.....	104	17	87				
1904.....	86	7	79				
					3,224	702	2,522

¹ Victims of the Atlanta, Ga. (1906), and East St. Louis, Ill. (1917), riots have been excluded from this and subsequent tables.

TABLE 2.—Number of persons lynched, by five-year periods, and by color and sex, 1889-1918.

Years.	Grand total.	White.			Per cent white.	Negro.			Per cent negro.
		Total.	Male.	Female.		Total.	Male.	Female.	
1889-1893.....	839	260	258	2	32.2	579	571	8	67.8
1894-1898.....	774	230	221	9	29.7	544	529	15	70.3
1899-1903.....	543	88	88	0	16.2	455	451	4	83.8
1904-1908.....	381	27	27	0	7.0	354	348	6	93.0
1909-1913.....	362	36	36	0	10.2	326	320	6	89.8
1914-1918.....	325	61	61	0	18.8	264	253	11	81.2
Total.....	3,224	702	691	11	21.8	2,522	2,472	50	78.2

TABLE 3.—Number of persons lynched, by geographical divisions and States and by color, 1889-1918.¹

Section and division.	Total number.	White.	Per cent.	Negro.	Per cent.
United States.....	3,224	702	21.8	2,522	78.2
The North.....	219	118	54.4	101	45.6
New England.....	1	1	100.0	0	0
Maine.....	1	1	100.0	0	0
New Hampshire.....	0	0	0	0	0
Vermont.....	0	0	0	0	0
Massachusetts.....	0	0	0	0	0
Rhode Island.....	0	0	0	0	0
Connecticut.....	0	0	0	0	0
Middle Atlantic.....	8	4	50.0	4	50.0
New York.....	3	2	66.6	1	33.4
New Jersey.....	1	1	100.0	0	0
Pennsylvania.....	4	1	25.0	3	75.0
East North Central.....	63	33	53.1	30	46.9
Ohio.....	12	4	33.4	8	66.6
Indiana.....	19	10	55.0	9	45.0
Illinois.....	24	12	50.0	12	50.0
Michigan.....	4	3	75.0	1	25.0
Wisconsin.....	4	4	100.0	0	0
West North Central.....	147	80	54.7	67	45.3
Minnesota.....	4	4	100.0	0	0
Iowa.....	8	5	62.5	3	37.5
Missouri.....	81	30	37.0	51	63.0
North Dakota.....	2	2	100.0	0	0
South Dakota.....	13	13	100.0	0	0
Nebraska.....	17	15	90.0	2	10.0
Kansas.....	22	11	50.0	11	50.0
The South.....	2,834	425	15.0	2,409	85.0
South Atlantic.....	862	78	9.1	784	90.9
Delaware.....	1	0	0	1	100.0
Maryland.....	17	2	11.7	15	88.3
Virginia.....	78	11	15.1	67	84.9
West Virginia.....	29	7	24.0	22	76.0
North Carolina.....	53	12	22.6	41	77.4
South Carolina.....	120	3	2.5	117	97.5
Georgia.....	388	26	6.7	360	93.3
Florida.....	178	17	9.6	161	90.4
District of Columbia.....	0	0	0	0	0

¹ Of the total number of lynchings for the 30 years' period, 6.9 per cent occurred in the Northern States, 87.8 per cent in the Southern States, and 4.8 per cent in the Western States, while 15 lynchings are recorded in Alaska and "places unknown," 4 of these latter having occurred in Alaska. Individual States having a percentage of the total number of lynchings in excess of 5 per cent are: Georgia, 12.1 per cent; Mississippi, 11.6 per cent; Texas, 10.5 per cent; Louisiana, 9.6 per cent; Alabama, 8.9 per cent; Arkansas, 6.9 per cent; Tennessee, 5.9 per cent; Florida, 5.5 per cent; Kentucky, 5.2 per cent.

TABLE 3.—Number of persons lynched, by geographical divisions and States and by color, 1889-1918—Continued.

Section and division.	Total number.	White.	Per cent.	Negro.	Per cent.
East South Central.....	1,014	134	13.3	880	86.7
Kentucky.....	169	45	26.7	124	73.3
Tennessee.....	196	34	17.7	162	82.3
Alabama.....	278	32	11.6	244	88.4
Mississippi.....	373	23	6.1	350	93.9
West South Central.....	938	213	21.7	745	78.3
Arkansas.....	214	32	15.1	182	84.9
Louisiana.....	313	49	15.8	264	84.3
Oklahoma.....	90	60	67.8	30	37.2
Texas.....	335	72	21.9	263	78.1
The West.....	156	144	92.3	12	7.7
Mountain.....	110	101	91.8	9	8.2
Montana.....	22	22	100.0	0	0
Idaho.....	11	11	100.0	0	0
Wyoming.....	34	29	85.3	5	14.7
Colorado.....	18	16	88.8	2	12.2
New Mexico.....	13	11	84.6	2	15.4
Arizona.....	8	8	100.0	0	0
Utah.....	0	0	0	0	0
Nevada.....	4	4	100.0	0	0
Pacific.....	46	43	93.5	3	6.5
Washington.....	16	16	100.0	0	0
Oregon.....	4	3	75.0	1	25.0
California.....	26	24	92.3	2	7.7
Alaska and unknown.....	15	15	100.0	0	0
Alaska.....	4	4	100.0	0	0
Places unknown.....	11	11	100.0	0	0

TABLE 4.—Women and girls lynched, by States, 1889-1918.¹

	Total.	White.	Colored.
United States.....	61	11	50
Alabama.....	7
Arkansas.....	5
Florida.....	2
Georgia.....	5
Kentucky.....	1	3
Louisiana.....	1	4
Mississippi.....	1	11
Nebraska.....	1	.....
North Carolina.....	1	.....
Oklahoma.....	2
South Carolina.....	4
Tennessee.....	2	1
Texas.....	3	6
Virginia.....	1	.....

¹ The percentage of women lynched to the total number, is 1.5.

TABLE 5.—Number of persons lynched, by States and by five-year periods, 1889-1918.

Section and division.	Total.	1889-1893	1894-1898	1899-1903	1904-1908	1909-1913	1914-1918
United States.....	3,224	839	774	543	381	362	325
The North.....	219	66	73	44	9	15	12
New England.....	1	0	0	0	1	0	0
Maine.....	1	0	0	0	1	0	0
New Hampshire.....	0	0	0	0	0	0	0
Vermont.....	0	0	0	0	0	0	0
Massachusetts.....	0	0	0	0	0	0	0
Rhode Island.....	0	0	0	0	0	0	0
Connecticut.....	0	0	0	0	0	0	0
Middle Atlantic.....	8	2	2	2	0	1	1
New York.....	3	1	1	0	0	0	1
New Jersey.....	1	0	0	1	0	1	0
Pennsylvania.....	4	1	1	1	0	0	0
East North Central.....	63	20	20	12	8	5	3
Ohio.....	12	4	5	0	1	2	0
Indiana.....	19	7	7	5	0	0	0
Illinois.....	24	4	7	5	2	3	3
Michigan.....	4	3	0	1	0	0	0
Wisconsin.....	4	2	1	1	0	0	0
West North Central.....	147	44	51	30	5	9	8
Minnesota.....	4	2	2	0	0	0	0
Iowa.....	8	3	3	1	1	0	0
Missouri.....	81	18	26	20	4	6	7
North Dakota.....	2	0	0	0	0	2	0
South Dakota.....	13	4	8	1	0	0	0
Nebraska.....	17	9	7	0	0	1	0
Kansas.....	22	8	5	8	0	0	1
The South.....	2,831	690	661	474	362	343	304
South Atlantic.....	862	180	182	164	163	132	101
Delaware.....	1	0	0	1	0	0	0
Maryland.....	17	3	7	1	4	2	0
Virginia.....	78	35	16	14	6	3	4
West Virginia.....	29	11	4	9	0	4	1
North Carolina.....	53	16	8	10	8	3	8
South Carolina.....	120	28	36	19	15	14	8
Georgia.....	386	61	69	73	55	67	61
Florida.....	178	26	42	37	15	39	19
District of Columbia.....	0	0	0	0	0	0	0
East South Central.....	1,014	276	247	173	142	94	82
Kentucky.....	169	41	52	20	19	13	24
Tennessee.....	196	60	55	32	18	20	11
Alabama.....	276	84	79	36	29	29	19
Mississippi.....	373	91	61	85	76	32	28
West South Central.....	958	234	232	138	116	117	121
Arkansas.....	214	64	47	34	32	21	16
Louisiana.....	313	83	73	61	32	31	33
Oklahoma.....	96	16	40	4	5	19	12
Texas.....	335	71	72	39	47	46	60
The West.....	156	76	34	24	9	4	9
Mountain.....	110	58	19	16	6	4	7
Montana.....	22	12	1	6	0	2	1
Idaho.....	11	9	0	0	1	1	0
Wyoming.....	34	24	2	4	1	1	2
Colorado.....	18	1	12	4	1	0	0
New Mexico.....	13	9	1	0	2	0	1
Arizona.....	8	3	1	1	0	0	3
Utah.....	0	0	0	0	0	0	0
Nevada.....	4	0	2	1	1	0	0

TABLE 5.—Number of persons lynched, by States and by five-year periods, 1889-1918—Continued.

Section and division.	Total.	1889-1893	1894-1898	1899-1903	1904-1908	1909-1913	1914-1918
Pacific.....	46	18	15	8	3	0	2
Washington.....	16	8	7	1	0	0	0
Oregon.....	4	1	1	1	0	0	1
California.....	26	9	7	6	3	0	1
Alaska and unknown.....	15	7	6	1	1	0	0
Alaska.....	4	0	4	0	0	0	0
Places unknown.....	11	7	2	1	1	0	0

TABLE 6.—Number of persons lynched, by offenses charged and by color, 1889-1918.¹

	Murder.	Rape.	Attacks upon women. ¹	Other crimes against the person.	Crimes against property.	Miscellaneous crimes.	Absence of crime. ²	Total.
Total.....	1,219	523	250	315	331	438	148	3,224
White.....	319	46	13	62	121	135	6	702
Per cent of total whites lynched.....	45.7	6.6	1.8	8.7	17.4	18.1	1.4	100.0
Negro.....	900	477	237	253	210	303	142	2,522
Per cent of total negroes lynched.....	35.8	19.0	9.4	9.5	8.3	12.0	5.6	100.0

¹ This classification includes all cases in which press accounts state that attacks upon women were made, but in which it was not clear whether rape was alleged to have been consummated or attempted.

² Under this heading are listed such causes as "testifying against whites," "suing whites," "wrong man lynched," "race prejudice," "defending himself against attack," etc.

TABLE 7.—Number of persons lynched, by offenses charged and by five-years periods, 1889-1918.¹

	1889-1893	1894-1898	1899-1903	1904-1908	1909-1913	1914-1918	Total.
Murder:							
White.....	104	93	55	14	16	37	319
Negro.....	184	193	143	131	164	85	900
Total.....	288	286	198	145	180	122	1,219
Rape:							
White.....	16	15	6	4	4	1	46
Negro.....	151	113	69	65	51	28	477
Total.....	167	128	75	69	55	29	523
Attacks upon women:							
White.....	4	3	2	2	1	1	13
Negro.....	33	54	59	31	38	22	237
Total.....	37	57	61	33	39	23	250
Other crimes against the person:							
White.....	16	27	7	2	6	4	62
Negro.....	27	29	71	54	17	55	253
Total.....	43	56	78	56	23	59	315
Crimes against property:							
White.....	66	34	10	1	2	8	121
Negro.....	42	89	36	13	14	11	210
Total.....	108	123	46	19	16	19	331

¹ See footnote, Table No. 6.

TABLE 7.—Number of persons lynched, by offences charged and by five-years periods, 1889-1918—Continued.

	1889-1893	1894-1898	1899-1903	1904-1908	1909-1913	1914-1918	Total.
Miscellaneous crimes:							
White.....	51	57	6	4	7	10	135
Negro.....	111	27	44	32	33	56	303
Total.....	162	84	50	36	40	66	438
Absence of crime: ¹							
White.....	3	1	2	0	0	0	6
Negro.....	31	39	33	23	9	7	142
Total.....	34	40	35	23	9	7	148

¹ See footnote, Table No. 6.

TABLE 8.—Percentage of decrease during each five years' period, 1889-1918.

(1889-1893=100 per cent.)

Years.	Total number.	Per cent decrease.	White.		Negro.	
			Total number.	Per cent decrease.	Total number.	Per cent decrease.
1889-1893.....	839	0	260	0	579	0
1894-1898.....	774	7.8	230	14.1	544	4.7
1899-1903.....	543	35.2	88	67.1	455	20.3
1904-1908.....	381	54.6	27	89.5	354	38.0
1909-1913.....	362	57.2	36	85.8	326	43.6
1914-1918.....	325	61.3	61	77.6	264	54.4

Persons lynched, 1899-1918, by States.¹

Georgia.....	386 (26)	Maryland.....	17 (2)
Mississippi.....	373 (23)	Nebraska.....	17 (15)
Texas.....	335 (72)	Washington.....	16 (16)
Louisiana.....	313 (49)	New Mexico.....	13 (11)
Alabama.....	276 (32)	South Dakota.....	13 (13)
Arkansas.....	214 (32)	Ohio.....	12 (4)
Tennessee.....	196 (34)	Idaho.....	11 (11)
Florida.....	178 (17)	Places unknown.....	11 (11)
Kentucky.....	169 (15)	Arizona.....	8 (8)
South Carolina.....	120 (3)	Iowa.....	8 (5)
Oklahoma.....	96 (60)	Alaska.....	4 (4)
Missouri.....	81 (30)	Michigan.....	4 (3)
Virginia.....	78 (11)	Minnesota.....	4 (4)
North Carolina.....	53 (12)	Nevada.....	4 (4)
Wyoming.....	34 (29)	Oregon.....	4 (3)
West Virginia.....	29 (7)	Pennsylvania.....	4 (1)
California.....	26 (24)	Wisconsin.....	4 (4)
Illinois.....	24 (12)	New York.....	3 (2)
Kansas.....	22 (11)	North Dakota.....	2 (2)
Montana.....	22 (22)	Delaware.....	1
Indiana.....	19 (10)	Maine.....	1 (1)
Colorado.....	18 (16)	New Jersey.....	1 (1)

¹ Numbers not in parentheses are totals (both races). Numbers in parentheses are white persons.

Race riots, 1919.

	Date.	Reported killed.	Reported injured.
Arizona: Bisbee.....	July 3.		5
Arkansas: Elaine.....	Oct. 1.	15 25-50	
Connecticut: New London.....	June 13.		(¹)
Delaware: Wilmington.....	Nov. 13.		1
District of Columbia.....	July 19-23.	6	100
Georgia:			
Blakely.....	Feb. 8.	4	7
Dublin.....	July 6.	2	1
Millen.....	Apr. 13.	7	
Putnam County.....	May 29.		
Illinois:			
Bloomington.....	July 31.		
Chicago.....	June 28.	1	1
Do.....	July 27-Aug. 1.	38	1,500
Kentucky: Corbin.....	Oct. 30.		
Louisiana:			
Homer.....	Nov. 3.		
New Orleans.....	July 21.		
Maryland:			
Annapolis.....	June 27.		
Baltimore.....	July 11.		
Do.....	Oct. 2.		
Nebraska: Omaha.....	Sept. 28.	1	50
New York:			
New York City.....	Aug. 21.		2
Syracuse.....	July 31.		
Pennsylvania: Philadelphia.....	July 7.		
South Carolina: Charleston.....	May 10.	1	(¹)
Tennessee:			
Knoxville.....	Aug. 30.	7	20
Memphis.....	Mar. 14.	1	3
Texas:			
Longview.....	July 10.	1	
Fort Arthur.....	July 15.		2
Virginia: Norfolk.....	July 21.		6

1 4 Whites. 2 Negroes. 3 Several. 4 Or more. 5 Scores.

Lynchings, 1919.

Seventy-four negroes, six white men lynched, from January 1 to December 31, 1919.

Name.	Date.	Place.	Manner of lynching.
Henry Thomas.....	Jan. 18	Grand Bayou, La.	
Bragg Williams.....	Jan. 20	Hillsboro, Tex.	Burned.
Sampson Smith.....	Jan. 30	Monroe, La.	
John Daniels.....	Feb. 6	New Bern, N. C.	Hanged.
Will Fortner.....	Feb. 14	Bossier, La.	
Eugene Greene.....	Mar. 2	Belton, Miss.	
Clairo Cate.....	Mar. 13	Tuscaloosa, Ala.	Cut to pieces.
Joe Walker.....	do.	Greenville, Fla.	Shot.
Bud Johnson.....	Mar. 14	Castleberry, Fla.	Burned.
.....	Apr. 14	Millen, Ga.	
Sam McIntyre.....	Apr. 23	Forest City, Ark.	Hanged.
George Holden.....	Apr. 29	Monroe, La.	Shot.
Tom Gwyn.....	do.	Hickory, N. C.	
Benny Richards.....	May 2	Warrentown, Ga.	Hanged (burned after death).
Discharged soldier.....	May 9	Pickens, Miss.	
(woman).....	do.	do.	
Lloyd Clay.....	May 14	Vicksburg, Miss.	Burned.
.....	May 15	Scott, Ga.	
Will Moore.....	May 20	Ten Mile, Miss.	Hanged.
Frank Livingston.....	May 21	Eldorado, Ark.	Burned.
Jay Lynch (white).....	May 28	Lamar, Mo.	Hanged.
.....	do.	Mineral Wells, Miss.	
Berry Washington.....	May 30	Millan, Ga.	Do.
James E. Lewis.....	June 6	Fritchard, Ala.	Shot.
Max Smith.....	June 7	Abbeville, S. C.	
.....	June 12	Furth, Ark.	
Clyde Ellison.....	June 15	Star City, Ark.	Hanged.
Jim McMillan.....	June 18	Woodstock, Ala.	Shot.
Frank Foukal (white).....	June 22	Bay Minette, Ala.	Do.

Lynchings, 1919—Continued.

Name.	Date.	Place.	Manner of lynching.
John Hatfield.....	June 26	Ellitsville, Miss.....	Hanged (burned after death).
Lije Blake.....	do.	Tillman, S. C.....	Shot.
Lemuel Walters.....	June 28	Richton, Miss.....	Hanged.
Robert Truett (soldier).....	June 17	Longview, Tex.....	Do.
Chilton Jennings.....	July 15	Louisa, Miss.....	Do.
Argie M. Robinson.....	July 24	Gilmer, Tex.....	Do.
Charles Kelly (soldier).....	Aug. 1	Clark County, Ala.....	Shot.
.....	Aug. 5	Fayette County, Ga.....	Hanged.
Jim Grant (soldier).....	Aug. 15	Cochran, Ga.....	Shot.
Walter Elliot.....	Aug. 20	Pope City, Ga.....	Shot, burned after death.
Ell Cooper.....	Aug. 28	Louisburg, N. C.....	Do.
.....	.....	Ocmulgee, Ga.....	Do.
Lucius McCarty.....	Aug. 31	Bogalusa, La.....	Do.
Flinton Briggs.....	Sept. 3	Star City, Ark.....	Shot.
.....	Sept. 6	Monroe, La.....	Do.
.....	Sept. 8	Jacksonville, Fla.....	Hanged and shot.
.....	.....	.....	Do.
John Morine.....	.....	.....	Do.
I. D. Reed.....	Sept. 10	Clarksdale, Miss.....	Hanged.
Obe Cox.....	.....	Oglethorpe County, Ga.....	Burned.
Salvador Ortiz (Mex.).....	Sept. 15	Pueblo, Colo.....	Hanged.
Jose Gonzales (Mex.).....	.....	.....	Do.
.....	.....	Jonesville, La.....	Shot.
Robert Croskey (soldier).....	Sept. 29	Montgomery, Ala.....	Do.
Mike Phifer.....	.....	.....	Do.
John Temple.....	.....	.....	Do.
Will Brown.....	.....	.....	Do.
Ernest Glenwood.....	Oct. 2	Omaha, Nebr.....	Burned.
Mose Martin.....	Oct. 5	Americus, Ga.....	Drowned.
Jack Gordon.....	Oct. 6	Washington, Ga.....	Shot.
Will Brown.....	.....	Lincolnton, Ga.....	Burned.
Mose Freeman.....	.....	.....	Do.
Eugene Hamilton.....	.....	Macon, Ga.....	Shot.
.....	Oct. 16	Buena Vista, Ga.....	Do.
.....	.....	.....	Do.
Alex. Wilson.....	Oct. 21	Skidmore, Ark.....	Do.
Gus Jackson.....	Oct. 23	Shreveport, La.....	Beaten to death.
Henry Booth.....	Oct. 26	Humboldt, Tenn.....	Shot.
Paul Jones.....	Nov. 3	Macon, Ga.....	Burned.
(white).....	Nov. 6	Stafford, Kans.....	Do.
Robert Motley.....	Nov. 8	Lambert, Miss.....	Hanged.
Britt Smith (white).....	Nov. 11	Centralia, Wash.....	Do.
Jordan Jameson.....	.....	Magnolia, Ark.....	Burned.
.....	Nov. 16	Moberly, Mo.....	Shot.
Wallace Hayes.....	Nov. 19	Madison, Ga.....	Do.
Neville Foxworth.....	Nov. 28	Foxworth, Miss.....	Do.
Sam Mosely.....	.....	Lake City, Fla.....	Hanged.
.....	Nov. 30	Macon, Ga.....	Do.
E. D. Whitfield.....	Dec. 15	Chapmanville, W. Va.....	Shot.
Earl Whitney.....	.....	.....	Do.
Charles West.....	Dec. 21	Smithville, Ga.....	Do.
Powell Green.....	Dec. 27	Franklinton, N. C.....	Do.

Lynching in the United States in the year ending Dec. 31, 1919, by States.

Alabama.....	18
Arkansas.....	10
Colorado.....	2
Florida.....	5
Georgia.....	22
Louisiana.....	8
Mississippi.....	12
Missouri.....	2
Nebraska.....	1
North Carolina.....	4
South Carolina.....	2
Tennessee.....	1
Texas.....	3
Washington.....	1
Kansas.....	1
West Virginia.....	2
Total.....	84

1 One white.

2 Mexicans.

78 colored; 6 whites.

The manner of lynching was as follows:

Burned.....	14
Shot to death.....	31
Hanged.....	24
Beaten to death.....	2
Cut to pieces.....	1
Drowned.....	1
Manner unknown.....	11
Total.....	84

The alleged causes are as follows:

Member of Non-Partisan League.....	1
Insulting white woman.....	5
Altercation with white man.....	1
Attempting to pull white woman from horse.....	1
Trouble between white and colored cotton-mill workers.....	1
Assault on white woman.....	14
Murder.....	27
Insulting white woman.....	1
Shooting white man.....	7
Attempted assault on white woman.....	5
Result of race riot.....	1
Talking of Chicago riot.....	1
Not turning out of road for white boy in auto.....	1
Leader among negroes.....	1
Circulating incendiary literature.....	1
Misleading mob.....	1
Boastful remarks re killing of sheriff.....	1
Intimacy with white woman.....	2
Found under bed in white man's house.....	1
Expressing himself too freely re lynching of negro.....	1
Causes unknown.....	4
Assault on white man.....	1
Beating and robbing white man.....	1
Abetting riot.....	4
Total.....	84

SUPPLEMENTARY MEMORANDUM ON WHY CONGRESS SHOULD INVESTIGATE RACE RIOTS AND LYNCHINGS.

(Submitted by the National Association for the Advancement Colored People. Headquarters: 70 Fifth Avenue, New York, January, 1920.)

Supplementary to data previously submitted as to why Congress should investigate race riots and lynchings the following is submitted:

1. Increase in cruelty and ferocity of lynchings. Number of Negroes burned at the stake: 1918, before death, 2; after death, 4; 1919, before death, 11; after death, 3.

2. Local sheriffs and peace officers have allowed prisoners to be taken from them without bona fide efforts being made to protect prisoners and to hold them for legal trial: 1918, 13; 1919, 34.

In the year 1918:

Alabama, 2. November 10, William Bird, taken from jail at Sheffield; November 12, George Whiteside, taken from Colbert County jail at Tusculmbia.

Arkansas, 1. December 17, Willie Jones, taken from jail at Newport.

Georgia, 4. March 26, Spencer Evans, taken from Taliaferro County jail, Crawfordsville, Ga.; May 23, James Cobb, taken from jail at Cordelo; August 11, Ike Radney, taken from sheriff and two deputies at Colquitt; September 3, John Gilham, taken from sheriff and deputy near Gray, Jones County.

Illinois, 1. April 5, Robert F. Praeger, taken from four policemen at Collinsville. Louisiana, 2. April 22, Clyde Williams, taken from deputy sheriff near Monroe; August 8, Bulber Hall, taken from sheriff at Bastrop.

Mississippi, 1. April 18, Claud Singleton, taken from county jail at Poplarville.

North Carolina, 1. November 5, George Taylor, taken from "deputized citizen" at Rolesville.

South Carolina, 1. February 23, Walter Best, taken from sheriff and two deputies at Fairfax, Barnwell County.

In the year 1919:

Alabama, 3. June 22, Frank Foukal, taken from sheriff in county jail at Bay Minette; September 29, Robert Croskev, taken from county officials near Montgomery; September 29, Miles Phifer, taken from county officials near Montgomery.

Arkansas, 2. April 23, Sam McIntyre, taken from county jail at Forest City; November 11, Jordan Jameson, taken from officials at Magnolia.

Colorado, 2. September 13, Salvador Ortez, taken from jail at Pueblo; September 13, Jose Gonzales, taken from jail at Pueblo.

Florida, 4. March 13, Joe Walker, taken from officers at Greenville; March 14, Bud Johnson, taken from officers near Castlebury; September 8, Bowman Cook, taken from jail at Jacksonville; September 8, John Morine, taken from jail at Jacksonville.

Georgia, 5. April 14, unknown Negro taken from jail at Millen; May 24, Berry Washington, taken from jail at Millen; August 5, unidentified Negro taken from city barracks at Cochran; November 3, Paul Jones, taken from 2 deputy sheriffs at Macon; December 21, Charles West, taken from officers on train going from Jacksonville, Fla., to Americus, Ga.

Louisiana, 3. January 30, Sampson Smith, taken from sheriff near Monroe; September 6, unidentified Negro, taken from sheriff at Morehouse Parish; October 23, Gus Jackson, taken from police or sheriff at Shreveport.

Mississippi, 3. June 28, unidentified Negro, taken from marshal near Richton; November 8, Robert Motley, taken from jail at Lambert; November 28, Neville Foxworth, taken from officers at Foxworth.

Missouri, 2. May 28, Jay Lynch, taken from officers in court at Lamar; November 16, Halley Richardson, taken from Macon County jail.

Nebraska, 1. September 28, Bill Brown, taken from jail at Omaha.

North Carolina, 2. February 6, John Daniels, taken from jail of Onslow County; August 20, Walter Elliott, taken from sheriff at Louisberg.

Tennessee, 1. October 26, Henry Booth, taken from jail at Humboldt.

Texas, 3. January 20, Brage Williams, taken from jail at Hillsboro; June 17, Lemuel Walters, taken from jail at Longview; July 24, Chilton Jennings, taken from jail at Gilmer.

Washington, 1. November 11, Britt Smith, taken from jail at Centralia.

West Virginia, 2. December 15, E. D. Whitfield, taken from sheriff and deputies while being taken from Chapmanville to Huntington; December 15, Earl Whitney, taken from sheriff and deputies while being taken from Chapmanville to Huntington.

3. Convictions noted in only two cases in 1918 and 1919:

The only convictions noted were those of 15 men sentenced to from 14 months to 6 years for attempting to break into the jail at Winston-Salem, N. C., for the purpose of lynching Russell High, a Negro; and the fining of 12 men who pleaded guilty in court to the lynching of Frank Foukal, a white man, at Bay Minette, Ala. The men pleaded guilty by agreement and the fines ranged from \$100 to \$300.

REWARDS OFFERED FAIL TO PRODUCE RESULTS.

The publishers of the San Antonio (Tex.) Express, who established a fund of \$100,000 to be used as rewards for bringing about conviction of lynchers, telegraphed on January 10, 1920, that since the establishment of the fund, on August 4, 1918, no claims for reward have been presented."

In addition to the San Antonio Express reward fund, liberal rewards have been offered in three instances for the apprehension of participants in lynching mobs. In the case of the lynching of Berry Washington, at Milan, Ga., \$1,500 reward was offered, \$1,000 of which was offered by Gov. Dorsey; \$750 of a \$1,300 reward was offered by Gov. Dorsey for the apprehension of the lynchers of Eli Cooper at Ocmulgee, Ga.; and Gov. Bickett, of North Carolina, has offered rewards of \$400 each for the arrest and conviction of members of the mob which lynched a negro at Franklinton, N. C., on December 27.

In many instances special grand juries were called, but their reports have generally been that they were "unable to find information as to the identity of any of the lynchers."

These convictions were in 1919.

4. Governors confess themselves powerless:

In addition to the fact that convictions are rare and that local authorities do not protect prisoners from lynching mobs, governors have confessed themselves powerless

to prevent lynchings or to act unless requested to by local authorities who fear to offend mobs and who are at times participants in lynchings.

Gov. Bilbo's declaration that "I am utterly powerless," etc., has already been alluded to in our printed brief of September, 1919.

In a letter addressed to the secretary of the association February 21, 1918, Gov. Tom C. Rye, of Tennessee, said:

"I deplore this murder (that of Jim McIlherson at Estill Springs) as much as your association or any other citizen of our common country, but I could not anticipate that local officers, whose duty it is to take custody of prisoners, would fail to accord protection, nor could any action upon my part be taken without being requested so to do by the local police authorities or court officers."

In his annual report submitted to the legislature July 3, 1918, Gov. Hugh M. Dorey of Georgia said:

"When information of impending mob violence is brought to the attention of the executive he should not be handicapped by having to await a call for military assistance from local authorities."

STATEMENT OF MR. ARCHIBALD H. GRIMKÉ.

Mr. GRIMKÉ. I am head of the local branch of the national association here, and my legal residence is in Boston.

Mr. Chairman, I have been tremendously interested in this hearing, and I think you ought to know how it has reacted on me, a colored man, 70 years of age. A most appalling situation has been described here, wrongs which are almost incredible, and the effect that has been produced on me when these 12,000,000 of people have come up here to speak to the lawmakers, the great Judiciary Committee of the House (all of you, I suppose, are authorities on constitutional law), the reaction on me is a certain apathy on the part of the committee in the presence of these wrongs. "What can we do about them? We know they exist; they are terrible, and you have our sympathy." But do you know that lynchings are going on of these 12,000,000 of people and that this thing is burning into them. What is it? Criminal anarchy in the United States, which the Attorney General is pursuing night and day when the colored people are not involved in it.

Now, what we want, we want you to look at our case, just to look at our case as we would look at it as American citizens. Here we are, a part of the United States; we have been here 250 or 300 years, with our never having done anything to it but on the good side and never having gotten anything out of it but on the bad side. And from a few millions of people we have grown to twelve millions and this terrible wrong is eating into the souls of these twelve million people in your own midst.

(Thereupon, at 12.15 o'clock p. m., the committee took a recess to 2 o'clock p. m.)

AFTER RECESS.

The committee reconvened pursuant to recess at 2.15 o'clock p. m., Hon. Andrew J. Volstead (chairman) presiding.

The CHAIRMAN. I think we might as well proceed. It is very difficult to get a full attendance of members of the committee at this time. I assume you will want to have your views put in the record so they can be read as a part of the hearing.

STATEMENT OF MR. ARCHIBALD H. GRIMKÉ—Resumed.

Mr. GRIMKÉ. Mr. Chairman, I was wondering just as this committee adjourned at noon how long it would take the Committee of

the Judiciary to find the way to reach a situation in the South in which the whole thing was reversed, where the colored people not only were in a large majority but actually had the money power and the physical power and were lynching at will and burning white men who committed what they call rape upon colored women.

It seems to me, Mr. Chairman, to inquire what would be done under such circumstances? Would not this committee find a way to put an end to that situation in which members of the white race, men, women, and children, were being outraged in that way. Such a situation would not exist. It would not exist more than two or three weeks once it got up here. Of course, what we are up against is southern propaganda in which the colored people are put down as brutes, and that the main thing for which colored men are lynched is this usual crime. That is distributed all over the country by newspapers and word of mouth, and the southerners are here in the North and everywhere talking the thing up and have infected everybody with it so that if you are a white person you are not free from the infection.

That is what we are up against. I think that we have shown in this case what underlies the whole thing is that there is this propaganda based on inferiority of a certain class of people in the country, and the thing is preached night and day subconsciously and consciously to the white men and white women and taught to the white child. All these colored people whom you see are so utterly inferior to you that there is no possible way for them to ever get up to your level. Now, you see what the effect of that sort of teaching is going to be on people, unless there is anything introduced to change the psychology of the Nation because that is the only way you can abolish lynching.

That sort of thing affects the self-respect of the colored people; it affects the sense of justice and the conscience of white people, and would make a white man believe that this person is not a human being, but he is a human being, with rights and wrongs just like white people.

Nobody seems to believe it, because you can listen apparently with utmost indifference to these terrible outrages, which burned themselves into us while the committee had not even heard of them; 82 persons lynched in one year in the United States, 78 of them colored people. Why? Because the papers keep all that out. There is no propaganda to spread and to develop public opinion against this lynching thing. Why? Because persons who are lynched are colored. In Mexico where there were only 29 lynched in a year in the whole of that country, the powers of the National Government are stirred to excite the indignation of this country and bring it to the boiling point of war. There is absolutely no comparison between the two.

The rights which we ask here are the simple rights of American citizens. Can not we live in this country at peace with ourselves and at peace with our neighbors? If we walk upon the street and happen to jostle a belligerent white man in the South, it is a signal for what? For a lynching bee. It is an impudent Negro. That is the cry. If a man wants to look into a Bible in a white church—this really happened—and took the Bible out of the church, he was lynched because he wanted to read the Scriptures belonging to the

white church. That seems incredible, but that actually took place. So we are up against it, Mr. Chairman, and gentlemen. If you could really put yourselves in our places and just reverse the whole thing, suppose that a lot of colored people were lynching white people, men and women, and sometimes children, as it has occurred, do you think that you would sit down quietly under it? Do you not think that you would find a way, a committee like this, Constitution or no Constitution, that you would find a way to reach those colored people who were doing it, and save the honor of the country and protect the white men and women and children in peace and in safety. Can not we get the same protection? Can not we get anything like that? Look at the Arkansas matter. There was simply an attempt on the part of some colored tenant farmers to get an accounting. There had been no accounting for years, and what was the trouble? Because they employed one of their Southern lawyers they made a case against them in order to keep them in this sort of slavery; tenant-farm slavery. Never mind how much you make in a year, \$1,600 a year, it is all eaten up at the end of the year, and there was the absolute refusal to give you any itemized account of what you had done, and you and your family living in penury, in the utmost poverty, and when at last you ask for it, what happens?

Mr. SUMNERS. Would it interrupt you to state the case you are speaking of?

Mr. GRIMKE. Elaine, Ark.

Mr. SUMNERS. What date?

Mr. GRIMKE. That happened just a few months ago, three or four months ago, and that whole thing was so successfully worked by the owners of the farms that they made not only the governor, but they made the attorney general believe that the negroes had conspired to massacre whites, and what was the result? They banded themselves together and when they thought they needed more help they called upon the United States to come to their assistance, and the United States very quickly, under this administration, sent troops there and disarmed all those colored people, going into their houses and taking their arms away, and the result was that they arrested and tried over a hundred of them, who had never done anything at all except rebel against the tenant-farm system and ask for an accounting. They condemned and sentenced to be electrocuted 12 of them, and 60 of them were ordered to long terms of imprisonment. Why? In order to continue to exploit them. The whole thing is done so skilfully. You know what the propaganda is. I can make you believe anything if I have the press and all the avenues of information to the intelligence of the people, and they have it, and the result is that they have made the country believe that sort of thing and the Attorney General has been in it, too, the Department of Justice. They are all in it. The War Department is in it. The whole thing is done so that these Southern farmers who do not care for the people who work for them any more than they do for cattle, not as much as the old slave masters cared for them, because if a slave died, the master lost so much, but to-day if a tenant farmer were to die before an accounting, why, the owner reaps the benefit, there is no occasion for an accounting. It is a terrible condition and situation. It leads to lynch law. There were four brothers who had gone to Elaine on a visit only, educated men, men of means,

whom the whites considered to be dangerous people in that country. One of the four brothers had served in Franco. They were perfectly innocent people, away from home, and they were waylaid and shot down.

Mr. COOK. That is the Arkansas case.

Mr. GRIMKE. That is the Arkansas case. It is one of the worst miscarriages of justice that has ever disgraced any civilized country in the world. Talk about the Turkish atrocities in Armenia. Talk about the Germans in Belgium. I do not know anything that is quite equal to that Arkansas matter that I have ever read about, because it was done absolutely out of whole cloth, and for only one reason, for the purpose of exploiting these poor people who hardly had anything at all but their miserable huts and worked night and day for these farm owners and at the end of the year they wanted an accounting because they wanted to live better. They wanted to give their children shoes and stockings and decent clothes and send them to school, and they could not do it unless they got an accounting; but it does not suit these farm owners that sort of people should live in the South. That is the reason they are opposed to education. You educate a person and you can not exploit him so well. The mind is a good bed for ideas.

That is the danger the country faces. The Government under which these people live not only refuses to protect them but oppresses them, and at the bidding of their enemies haled them into court and tried them and sentenced to be electrocuted 12 of them and sent 61 up for long terms of imprisonment? What are you going in such a case? Is it the fault of such people when they ask Democrats and Republicans, the two parties in power, for help and they do not get it, while there are people who do promise to give it to them, attempt to give sympathy, call them bolsheviki, call them socialists, call them I. W. W., call them anything you choose, but there they are connecting up with the rankling feeling of wrong of the colored people. It is something terrible. I know that they are outnumbered and that they must get the worst of it, but there is a limit just as true as any thing you can possibly say, there is a limit to the endurance of a man's mind, and when you reach that limit something is going to break even though the person who is to be broken on the wheel is the victim of the oppression. They must strike and do something. They look around and they are helpless and no government to protect them.

We come here to this great committee, Mr. Chairman; there is not any committee greater anywhere in the world than this Committee of the Judiciary, with the best trained minds, I suppose, of both parties, legal minds in it. Is not there any way by which you can reach this thing and give a chance to these people, lift the repression and oppression and suppression of this great body of people, because on that thing rests the salvation of the Negro and the nation. Never mind what they do; never mind how much money they get; never mind how educated they are; never mind how much moral worth they display. The lowest white man, that is what the South says, is superior to them. That is the doctrine down there. As long as that doctrine is taught and is not offset by something here, there will be lynch law. It is based on that doctrine of utter inferiority, of their utter inability to ever rise to the dead level of the lowest white man. This the generic

idea of lynch law in the South, the poor whites of the South is better than the best Negro. Then these white people go man hunting as they do possum hunting or fox hunting or bear hunting or deer hunting. That is what we are up against to-day, and I beg you to consider that matter. I want to get at the fundamentals of it because underlying lynch law is just that attitude of the whites in the country towards colored people.

STATEMENT OF DR. WILLIAM H. WILSON.

Dr. WILSON. I speak as a member of the local branch of the National Association for the Advancement of Colored People. Mr. Chairman, I heard read here this morning a statement from one of America's foremost lawyers, which gave me occasion for thought, and made me feel that to say what I shall say in the way of random remarks will best cover the situation in so far as it is possible for me to cover it. That remark was from Mr. Storey. It was in the nature of a prophecy, a prophecy which will eventuate in all probability except there is taken some action by this Government which will have for its purpose the prevention of its eventuation. Mr. Storey was quoted as stating that if the practice of lynching is continued in this country it could end only in civil war. The statement does not come from me; it comes from one of America's leading lawyers. I am bound to concur in it. I am aware that one of two ways to stop lynchings is to stop the things which cause it. The other way is to stop it by force, which America displays no inclination to do. The things which cause it are the things which have for their purpose and intent the preaching that negroes are less than other men, that negroes must accept less, have less, enjoy less, be less, and thus they are less, and therefore, they can be lynched. It is possible that men might say we are unlike you, but we feel and know that we have sensibilities, that we have consciousness; we have those things which tend to make us feel that except we get out of life what you get, we are less than you, and you are practicing upon us those things which you will not practice upon one another. Then if it is impossible that all white men be made to forego those things which tend to make us less than men, lynching can not be stopped.

There is one other way and that way is force. I am not a lawyer. I am simply a practitioner of medicine, knowing little about it, and less about law, but it seems to me I know this—where men want to do a thing they will do it. Where a thing ought to be done and men see that it ought to be done a way is found to do it. If we had all the constitutional lawyers in America here to-day, none of them could tell you more than I about Federal jurisdiction, except they could cite specific details, and decisions. All they could tell you would be their opinion. They could give you no judgment on the result of your act and their opinion might be no better than mine because in the final analysis judgment must come from another source. The fact that they might tell you that judgment has always been different from what it may be in a given case does not imply that judgment will remain different. Men's minds change and decisions which have gone differently heretofore may go as they should in the future.

It follows that in the passage of one of the bills before you you leave to the courts the decision, and since finally the courts must decide it is the part of wisdom, since we can find no other way, to pass one of these bills and leave it to the courts for judgment.

In the final analysis Government has no reason for being except the protection of the people who constitute it. All things else submerge themselves into that. A government which fails to protect the people who constitute it to that extent is no government at all. It has no authority except that derived from its people. It practices a wrong except it protects them. It does injustice to them if it neglects to protect them and indeed they do injustice to themselves when they submit to that lack of protection. I am brought to say this because it has been stated by better men than I that among certain rights which are inalienable are the rights to live and the pursuit of happiness, and so forth.

If this right to life is inalienable, it seems to me it must follow nobody has a right to take it. No law permits any man to take it. Every man is within his right when he protects it. He then lives up to the law of man and the law of God. When men receive no protection from government, it seems to me it must follow that they are entirely within their rights, they obey the law, they make a certainty of that which is inalienable, when they themselves protect themselves. Further, to ask Government to protect life is a concession to government, indicative of our loyalty and its neglect. Why need we ask anybody to protect that which is inalienable, that which is ours? If I must seek help in its protection, it is because the thing is not inalienable at all, and if it is inalienable it is my duty to protect it. No man can take it, nor can one justly expect me to sit quietly by and let any man or Government attempt to take it or see it taken. Now, if I am wrong in this, the wrong lies in the fact that it seems to me a Government which fails over a long period to protect human life is a Government which neglects the essence of its functions. I am sure, though I have said I know nothing about law, that the Government which can step into a State to imprison a man for stealing a postage stamp or selling a c. ink of liquor or for the denial of the right to vote—provided one is not black—that Government can stop the murder of men. Then the question is, does the Government desire to do it? If the Government desires to do it, it will do it.

If I have made the point plain, the contention I make will resolve itself into this: Except something is done for us by the source of power, we will feel that we are without help; we will feel that we can expect nothing; we will feel that the Government is opposed to us; we will feel that protection lies in self. We can not feel otherwise except we see put into practice the ideals so commonly preached. It boots us nothing to hear about democracy when we never see it practiced; we feel the preacher is a hypocrite, and we have no reason for feeling anything else. If that belief continues, it is bound to make us feel, and all negroes will eventually get to feel, that we have no help except self. Then the question with me is, are you going to permit us to be driven to the conclusion that after all protection lies in self and resort to arms in defense of self is the only measure of hope we have? I thank you.

STATEMENT OF MR. NEVAL H. THOMAS, MEMBER EXECUTIVE BOARD, NATIONAL ASSOCIATION FOR ADVANCEMENT OF COLORED PEOPLE.

Mr. THOMAS. Mr. Chairman and members of the Judiciary Committee, I represent the legislative committee of the local branch of the National Association for the Advancement of Colored People. The first point I wish to make is that it is the duty of this committee and Congress to pass this bill and put it up to the court. Then if the court reads away a bill which is designed to give men protection for their lives in this country the blood is on their hands and not upon the hands of the Congress of the nation. You have abundant precedent for doing any such thing. For 130 years and more you have been passing bills that have been read away one after another by the supreme judiciary of the land. You passed the Missouri Compromise in 1820. There were men of great legal learning in Congress on both sides of the question, and it stood for 37 years until Chief Justice Taney under the domination of the slave power read it away, so we had the benefit of it for 37 years, and then how did they read it away? They read it away by the obiter dictum. The Supreme Court has always been able to sidestep an issue when it means justice to black men, and they read a lengthy and learned opinion upon the slave question and said the case was dismissed for want of jurisdiction, that Dred Scott was a thing and had no standing before the court. That is what we ask them to do to forward the ends of justice. Charles Sumner's civil rights bill stood for 40 years and we received inestimable benefits until the Supreme Court again found a way to read away that. So this committee will be divided upon the constitutionality of this bill, and the Supreme Court of the United States will be divided. As some of its members have said, "The only reason we are right is because we get the last guess."

So do not let Congress sit down and say, "We doubt the constitutionality of it, hence we will give these 12,000,000 suffering people no relief." That is not justice. Supposing it is ultimately read away. Why can not we, after the passage of this bill, put a constitutional amendment to the States? We can even get Southern men to get the legislatures of those States to ratify it because several of those Southern governors have thundered in trumpet tones against lynch law and some of them have been manly enough to call out the militia and uphold the law. We can get 45 States, I dare say to ratify a constitutional amendment. We have the eighteenth amendment to the Constitution and the constitutionality of it has been debated. We have just added the nineteenth, which is a forward movement in democracy, and makes for the moral betterment of this country. There are still doubts of its constitutionality, and although it is now in operation the Supreme Court has yet to rule upon it. Ought the men of this Congress, although there was a difference of opinion about the constitutionality say, "No, we will throw prohibition over." I claim that the 19 amendments to the Constitution compared in importance to this are like a farthing candle compared with the sun.

Mr. GRIMKE. You are speaking of the eighteenth amendment, prohibition?

Mr. THOMAS. The nineteenth is going through; the woman suffrage amendment is going through. Eighteen of them are forward movements in democracy, and one, the eighteenth, prohibition, is a great moral wave. So, as I say, we should not quibble over constitutionality. Put it up to the States and put it up to the Supreme Court. Everybody knows that the Supreme Court and every other court takes cognizance of public opinion. If the awakened conscience of the nation condemns mob violence, any court in the land will reflect a righteous public sentiment. Anyhow, let us do our duty.

As I say, we have two ways of getting at this, by a law and by constitutional amendment, and both of them should be tried, and, gentlemen, do it for this reason, above all things, for the tremendous moral effect it will have upon this nation to have the Congress of the United States, the Congress which boasts of being the greatest legislative body in the world, declare that lynch law is murder, that lynch law is causing us to relapse back into barbarism and that primitive state of society which makes every man his personal avenger. It will have a tremendous effect upon mobs of the South and in the North where lynchings occur, because after you start lynching negroes, and you have found it to be true, you will wind up by lynching white men and lynching women and children.

The power to do one carries with it the power to do the other. Let us pass this law. It will have a tremendous effect upon the South and these lawless elements in the North, and it will show to the world that our lofty professions of justice and democracy are something more than mere rhetoric, and until we have gotten to the point where we do that they are rhetoric. Democracy is not rhetoric. Democracy is life. So let us vindicate the good name of the nation by showing the world, which is cognizant of what we are doing over here in spite of our boasts heralded about the world. We heard a great deal about democracy in Paris, but the 333 delegates that sat at the peace table knew what was going on here. It has been my privilege to wander over a goodly portion of the globe. I met representatives of the four corners of the earth in the shadows of the pyramids, and there where we were engrossed in the study of bygone days, these people went away from that and talked to me of the lynchings and of my submerged group of 12,000,000 Americans.

We colored people are jealous of the good name of this country, and as I wandered from country to country and different people expressed disgust with the many barbarous crimes to which we are subjected here it filled my heart with pain. Mr. Grimko has referred to the lynching of these people in Elaine as the shame of Elaine. It is America's shame. Germany, the most cruel nation in war that the world has seen, never committed an atrocity in war that these people have committed in days of peace, not against enemies, but people who loved them, people who wanted to live for America, people who are law-abiding and simply groaning under their oppression. I say we can find a way to stop this sort of thing, and the moral effect it will have upon the Nation, for mob law can not stand up against the moral indignation of the world. The foreign nations all condemn it, because lynching is an American institution, and here it abides alone; everywhere else on earth it is condemned. So, as I say, the lawless

sections of this country could not stand against the wave of the world's indignation.

Another thing, my friends; I put it on this lower ground, the ground of political expediency. That is not a good ground to appeal on, but I throw it in and make it last. Politically it will be the wisest piece of legislation that you have ever passed in this Nation. Remember, the cornered rat will fight. The worm turns. Don't tell us to be patient any more. We have tried patience, and as our patience grew the mob spirit grew until, gentlemen, last summer it came under the shadow of the dome of this Capitol and reached to the front door and steps of the White House, and colored people put patience away.

The State broke down. The police power of the State broke down and sympathized with the mob, and instead of arresting the perpetrators they were hunting down negroes who were bearing arms in self-defense and filled the jail. Some of these people were goaded to desperate resistance, and while the police were filling the jails they filled the morgue, and from Washington that spirit spread to Chicago and even invaded the South in Knoxville. Remember, don't try to make enemies out of people who want to get along with you and who love all white people who are great enough to be just. Make friends of the people who want to be friendly with you for your own sake, for the sake of the good name of the Nation and for the sake of the persecuted. Persecution hurts the persecutor and brings him down just as much as it does the poor, helpless victim, and you must remember that self-defense is not only a divine right but a sacred duty, in spite of the Attorney General of the United States. Gentlemen, get Senate Document 153 and read the last 30 pages of that document, a prolonged wail against us people who are tired of being lynched, and the Attorney General is mortified that he should find a new reaction against mob violence, that we will no longer submit to hanging on a limb or over the crackling flame. Gentlemen, let me tell you, and this is no threat. We have found in many communities a cure for mob law, and when the State says it has no cure the individual is driven to self defense, a divine right, a sacred duty which lies at the basis of our constitution and is the basic creed of all free institutions. I do not say it as a threat but when the mob comes we are going to meet it with that same desperate courage with which we died on Flanders field and stormed the towers of mighty Metz. These men fought Germany in distant fields against organized autoeracy, supposedly for democracy. We can fight right at home in defense of our loved ones, our little babes, our wives and children and our mothers.

As I say, you must not feel that we are doing anything that is wrong when we strike back at the fellow who is attacking us. I can give you my own personal experience. I had never owned a pistol in my life. I saw the necessity of it when I saw the mob raging before my house, and now I am ready for the mob, just as thousands of other colored people are ready for the mob, and the indifference of the Nation has made it necessary that we prepare to preserve the greatest thing in life, which is life itself. So I ask you gentlemen not to be indifferent. I know the fourteenth and fifteenth amendments have been read away largely by judicial decree and national indifference. I say you are simply forcing us to the wall. We realize that the State has broken down. I have heard expressions

by so many white men who have heard southern white men talk of their determination to see that these soldiers 400,000 strong, drafted and sent to distant fields to fight for democracy shall not have any of that democracy for which they so gloriously died. There is a growing spirit among Negroes that if we are able to face Germany's awful fire, the most terrific military machine the world has ever seen, if we can carry the American flag to the Rhine, we can certainly preserve the lives of the poor little innocent, helpless babes of the Negro women living right here in America. Gentlemen, you will know this, that when law-abiding people are goaded to desperate resistance and they organize to drive the mob back, you have war, and in war, reprisal, that dangerous thing, is always resorted to. What do you have? The lives of innocent white men and women, lives of innocent black men and women and children, put into jeopardy.

We saw that in this mob here last spring. It was dangerous for white people to go into Negro districts and dangerous for any Negro to go into white districts, and here you put into peril the lives of innocent people who have absolutely no sympathy with mob law. I would like to see this Nation, since it calls itself a great democracy, although we have lived here for 250 years and never enjoyed a single blessing from democracy, rise to its sense of duty and teach the world that we are able to live up to these lofty professions which President Wilson heralded all over Europe and all over the world, although he is so painfully silent upon them here in this country. You should try to destroy every bit of discrimination, as Mr. Grimke has pointed out. When you take away one man's rights, you cheapen those rights and you teach Americans that he is an inferior thing, that he can be imposed upon with impunity, hence you invite lynching, you invite the mob to attack him, thinking that it has murdered a lower order of being and that it is to suffer no punishment for it. The rights are all the same—the right to go into the restaurant of the House of Representatives, of the Senate and Library across the way, that belong to me as they do to all the other 112,000,000 of people in this country. The right to go to those places is as sacred as the right to live, and when we contend for that we are simply trying to vindicate the sacred principle of democracy, which is just as sacred as life itself.

Let the Congress of the United States lead the way. Masses everywhere are like sheep. They follow leaders. All that is necessary to destroy wrong in this country is for the men who occupy the seats of power to attack and condemn. President Wilson, with the stroke of his pen could destroy segregation in the departments to-day and every subordinate under him would say "Amen." He could restore the merit system to the civil service with equal ease. The Congress of the United States could destroy lynching. The Supreme Court rose in its might two years ago and destroyed residential segregation, in which the Hon. Mr. Dyer and his great family figured so prominently in the State of Missouri. Let men in places of power say that laws must be obeyed and the commonalty of men will obey them. It is the indifference of the law-making bodies and executives of the States and city and Nation that makes the mob.

So, gentlemen, let me plead with you in the name of the thousands of brave, black boys who never saw a free day that at this very hour are sleeping their last sleep upon the sweet hilltops in France in your

defense, let me beg of you in the name of the loved ones that they have left, and for whom they made the supreme sacrifice in the hope that those loved ones would get the thing for which they were told to die; I say, let me plead with you to declare before the world that we believe in democracy in actual life and not in rhetoric. Then we will stand, having solved the problem of the ages, that of making a free government from a great mass of the people.

STATEMENT OF PROF. GEORGE WILLIAM COOK, HOWARD UNIVERSITY, WASHINGTON, D. C.

Mr. COOK. I have been coming to the Capitol appearing before committees for nigh onto 20 years. I must say that I have never been before a committee where the occasion was of such vast and deep importance as this appearance to-day. You may read it through the inference or read where the inference is given, or you may read it out of the logic of events, that this committee representing the judiciary of the United States in Congress assembled is to-day challenged. The presentation of facts and conditions here to-day are such that if this committee does not take a very serious consideration of it it is scarcely up to the level of its own duty.

We did not come here to-day simply for the purpose of talking to you. We came here to convince you as we know it, and as we hope to show it to you that this awful carnage of lynching and injustice in so many different ways must be stopped or we have our backs to the wall. My family is broken to-day and let me give you the circumstances. As my wife and I motored from Washington last July, we heard in Baltimore that there was a race riot in Washington. It was Tuesday after Monday the last day of the riot. We hastened here because we had one son, our only child, a young boy whom we found home, and I asked him. "Where were you, George?" "I was in it." "Why were you in it?" "You can not take me out and shoot me like a dog. I am going to die fighting if I have to die." There is an 18-year-old boy. He contemplated that thing, and he said finally, "Papa, I am not going to stay here." He is somewhat of a law unto himself. I said, "Where are you going?" "I am going out of the country." "Where do you propose to go first?" "I think that I will go to Canada and go to school." He went to Canada. These holidays he returned to Washington on a visit and he was not home two days before he said, "I smelt it as soon as I reached Baltimore and I am going away again."

Now, you may consider that as an isolated case or you may consider it trivial. I have been teaching young colored men for 40 years. I have tested the opinion and growing conviction. I want to say if you want to drive out a pure unadulterated loyalty that has existed in the colored man, just allow this lynching to continue. You are all men of spirit and courage and belong to the Anglo-Saxon race. You would not stand it. You did not stand taxation without representation with very little personal violence attached to it and you were right, and I want to say here as far as I can gauge my people they are loyal to the backbone, they want no disturbance, and they will accept none until forced to. That is our position in the matter.

Why did I speak of that boy? Do you want to drive citizens who are loyal from your shores. You have sent away the undesirables.

We are not undesirable; no. You want the labor, but we are going to say and can say that along with that response and the giving of labor we are going to ask for our God-given rights, and it is our duty as far as possible to demand them.

There was a question raised this morning as to loyalty. There seems to be some little idea that possibly the negro is not quite as loyal as he used to be. The Attorney General of the United States shows that in 30 pages, I read almost all of it night before last and there are some in the South who feel the same way.

Mr. SUMNERS. Just a moment. I made the statement that there was no evidence. I made the statement that there was no general evidence of disloyalty on the part of the colored man toward the Government. I made that upon my own responsibility.

Mr. COOK. I meant simply the question that came before us. I want to say now, sir, that the colored man is loyal. He is loyal in secret and he is loyal openly, and there is but one way to shake that loyalty. He sings, "My Country, 'Tis of Thee," with all the luster and all of the sincerity that you sing, and there is now but one way to shake that, and that is to continue the lawlessness against him, and when you find him raising his hand in defense it is against the mob. He never voluntarily raises his hand against the Government, never has, never was an assassin, political assassin or menace, never was a traitor, there is not one that betrayed the confidence in all of the wars, and in all you have had he has engaged. There never was one. Therefore, I appeal to you now to help us because we are a weak people, financially, economically, but with all the opposition we have had we are stronger than we were 50 years ago, and it is not only in strength that we would come and ask you, we would come and ask you in our helplessness, that we, as American citizens, in the Thomas Jefferson declaration sense, are willing to die rather than continue our serfdom.

It is only necessary to be a little honest. You gentlemen who have studied the Elaine case understand it. These four brothers were not in the riot. They were out hunting when that treacherous gang came to them and told them they had better go home because they might get into trouble, and "let us have your guns in order that you will not be considered in the mob." They got their guns and then shot them to death. They had not done anything and did not even know a riot was going on in the town. I appeal to every man on this committee and I am sorry they are not here to hear these other gentlemen speak. I am only taking up the ravelled ends and appeal to you upon pure justice first, and then on the lower ground of political necessity, to give us our rights. Do not allow your communities to deny the colored man an accounting when he has given his sweat toward the cultivation of the crop. Let him have an accounting and treat him fairly.

We bring this general proposition to you and we can support every one of them by cases upon cases. The most horrible thing of it all in that lynching, when they shot these four brothers to death, that they scarcely knew for what they were being shot. That was a lynching. Now, it is too late, and I am glad to see by the public press, the white press, that the white man is half ashamed of bringing attacks upon women as the great cause for lynching. The record has been too well kept by the Chicago Tribune and by The Crisis. We

know why it is. Men have been lynched for nothing else but wearing the uniform of the United States Government. It was but yesterday that a young man in my class in commercial law said to me: "I will tell you something." I went to him when I came out of the classroom. He said: "I was simply standing in the street down in South Carolina talking when a young white man came up and said, 'What are you doing with this on?' He says, 'I just came out of the Army.'" "Well, you can not wear that down here." Can not wear the uniform of the United States Government down there? Just a few feet away they brought up another one and he left for nothing but wearing the uniform. He said he went to the post office for his father's mail and the postmaster said to him, "Do you want the package that is here?" He said, "No, I can not carry that, I will wait for the car to come in." This young man said, "What did you say to me?" I said, "No, I will not take that now." He said, "I want you to know you can not talk that way to me. You must say, 'sir,' to me, if you propose to stay about here," and started to come out to him. He talked up and said, "If you come after me on a charge like that, one or both of us will report to God to-day."

That is just yesterday. Do you blame the man for saying it. No security from attack upon a colored man even though he had the uniform of the United States Government upon him; this young man in the post office assuming to chastise a man who had given his all for the life of the Government, offered his all, for the protection of the flag of the United States. He said his father said to him, "You had better go. They might take out revenge on me and burn us out." He was not wrong in telling that young man to go away. The other young men had gone away. These cases are not imaginary cases. These have happened.

Now, there are two points I wanted to make. One is will you continue to teach the younger element of the 12,000,000 of people to ask the question, Is loyalty worth while? One you have driven out of the country. We are bereft of our son, as I told you. He made up his mind that he would not die like a dog and that he would get out of it. Are you anxious to lose loyal citizens? If the economic condition of the Negro was such, hundreds of them, not as immigrants to Liberia or some place set apart for them, would migrate upon economic grounds, you may say, and go out as pioneers, but we have been chained down in America for over 300 years, the sweat of our brow has gone into the wealth of the Nation; it is undeniable because the statistics of your own department records will show it. What we ask now is protection under the flag that we have fought to keep aloft in as many wars as you have engaged in. Well might we repeat what Carney said when he returned at Fort Wagner, "The old flag never touched the ground," you have never heard of a Negro color bearer of the United States going to the rear unless ordered there. That is a sample of the feeling of the colored people.

We are born here. "My Country, 'Tis of Thee," I sing. You will find some few colored people, and probably with just convictions, who will not sing it. I sing it. Why? It is my country. Born here, my mother and father before me and my grandmother and grandfather, and what they added in honest industry went to help build up this Nation and to make it strong. It is my country. I will not forsake it. Why? I will treat it very much as I will a

leaking house. I will repair the roof. I will not abandon it. The United States to the black man has a leaky roof, and we are here to-day to ask you to repair that roof in order that we may live in comfort and in peace, and the challenge that I spoke of to you was a challenge to you who have not thought the matter out to think it out and come on the side of justice. Let no man go out of here and say the Negroes are arguing for social equality. What some people call social equality we disdain. I want my company and I never seek other company, which does not want me, and so it is with every self-respecting colored man, but I tell you what else I want, whether you want me or not, I want my civic political rights, and if you call that social equality, I say that you have made a misrepresentation and you give a wrong distinction. For me to be driven to travel from here to New Orleans and forced to ride and sit in a dirty car is what I protest against. I do not protest for social equality. I protest for civil rights, for civic privileges, for a discharge of the contract on the part of the railroad people to give me what I have paid for, and when you allow, as was done Sunday night, a man to step up and put a pistol to the body of an attorney of the District of Columbia and say to him, "You get out of this car or I will shoot you," when you allow that, gentlemen, you are only inviting the downfall of the Republic, because not only will the 12,000,000 finally be affected by that, but the whole Nation will be affected.

Some people speak of the unrest of the Negro. The Negro has always been the most quiet man in the United States. There are a few criminals who are among us, naturally, just like the white criminals, but the unrest in this Nation is not only with Negroes, and I pray to Almighty God that when the time comes for you to put down unrest in the form of anarchy, that the 12,000,000 of Negroes will have a just cause to be on the side of the United States, and if that is not realized, then may God help, for my country is lost. Do not misunderstand us. We are here to ask you to attempt to do something, even though there is a doubt as to the constitutionality of it. Don't I remember when I walked down to pay my income tax? There were men who said it was unconstitutional before you passed it, and you put it up to the Supreme Court of the United States, and you remember there was some little juggling up there and finally it was declared unconstitutional. Somebody changed. They inveighed against it because there was some doubt. They all said let us do it, and to-day what have you? An amendment to the Constitution for an income tax to be operated. Now, let us for the hope of our common good and of justice to all and for a fair understanding, let us pass some bill that will look toward stopping the greatest crime that you have in the land, that of lynching.

STATEMENT OF MISS ESTHER MORTON SMITH, RELIGIOUS SOCIETY OF FRIENDS, PHILADELPHIA, PA.

Miss SMITH. We have heard to-day of almost unbelievable atrocities, and we truly can not wonder that at times our colored brothers and sisters feel hopeless. I want to ask my brothers of the white race if we have not cause to feel hopeless of ourselves if we allow these things to continue in this land?

(Thereupon, at 3.30 o'clock p. m., the committee adjourned.)