

**Document 155**  
**Papers as President: President's Personal Files**

PPF  
1820

J. S. Spingarn

New York, January 31, 1937

MEMORANDUM re proposed anti-lynching bill:

The salient features of the anti-lynching bill which the N.A.A.C.P. wishes to see introduced in and passed by the present Congress are as follows:

1. Criminal liability: restricted to an officer or employee of a state or governmental subdivision thereof who is charged with the duty or possessed of authority as officer or employee to protect the person from lynching, or who has custody of the person lynched, but neglects, refuses or wilfully fails to make all diligent efforts to protect him; or who in violation of duty neglects, refuses or wilfully fails to make all diligent efforts to apprehend, keep in custody or prosecute the members or any member of the mob. Guilty of felony; punishment — fine not exceeding \$5,000, or imprisonment not exceeding 5 years, or both such fine and imprisonment.

- "mob" and "lynching" defined; express exception that "lynching" shall not include violence between groups of gangsters or racketeers, or violence occurring during picketing or boycotting incidental to "labor dispute".

- after any lynching, if information on oath furnished the United States Attorney General that any officer or employee of a state or governmental subdivision violated any of the duties above set forth, the United States Attorney General shall cause an investigation to be made to

determine whether any violation of the Act.

- "Lindbergh Law" amended to make criminal the transportation in interstate or foreign commerce any person unlawfully abducted and held for purposes of punishment, correction or intimidation.

2. Civil liability: imposed on every governmental subdivision of a state to which the state has delegated functions of police for any lynching occurring within its territorial jurisdiction, or for any lynching outside its territorial jurisdiction where the victim was seized and abducted within its jurisdiction, in sum of not less than \$2,000, nor more than \$10,000, as monetary compensation for such injury or death: Provided,

1. the governmental subdivision may prove as an affirmative defense by a preponderance of evidence that its peace officers, and its citizens when called upon by any such officer, used all diligence and all powers to protect the victim;
2. satisfaction of judgment against one governmental subdivision shall bar further proceedings against any other governmental subdivision which may also be responsible for the lynching.

- suit in United States District Court of judicial district which includes defendant governmental subdivision. Action to be brought by United States Attorney General in the name of the United States for use of real party in interest, or at claimant's election by private counsel; without

prepayment of costs. Judgment enforced according to process available under state law; any officer or other person disobeying or failing to comply with lawful order of court for enforcement of judgment, guilty of contempt and punishable accordingly. No abatement of action in case of death before final judgment, but survival to next of kin. Next of kin determined by law of intestacy of decedent's domicile. Judgment exempt from claims of creditors.

- venue may be changed by any judge of the United States District Court wherein suit instituted, to any place in such district. Provided, no suit shall be tried within the territorial limits of the defendant governmental subdivision.

\* \* \* \*

The proposed bill differs from the Costigan-Wagner bill of the 74th Congress principally in that

1. The C-W bill failed to define "lynching", or to except therefrom gang killings and violence in "labor disputes".
2. The C-W bill provided a separate offense for an officer conspiring with any member of the mob or other person. Conspiracy is not touched in the new bill.
3. The C-W bill gave the United States District Court jurisdiction to try the individual members of the mob in event of failure of the state courts to function or in the face of obstructive prejudice on part of jurors available for service in the state courts. This provision is entirely omitted from the new bill.
4. The C-W bill did not provide for suit without prepayment of costs; it directed that civil suit be instituted and prose-

cutted by the United States District Attorney, whereas the new bill provides for suit in the name of the United States for use of the real party in interest, by the United States Attorney General, or at claimant's election by private counsel.

5. The C-W bill imposed civil liability on the county; the new bill on every governmental subdivision to which the state has delegated functions of police, etc.

6. In case of a fatal lynching, the C-W bill distributed the proceeds of suit among the next of kin determined by the law of intestacy of the state where death occurred; the new bill uses the law of the deceased victims domicile.

7. The C-W bill made a person disobeying an order of court in enforcement of the judgment liable for contempt and any other penalty provided by law; the new bill, contempt only.

8. The C-W bill imposed criminal responsibility for death or injury, but civil liability only for death or serious injury; the new bill requires death or serious bodily injury throughout.

9. The C-W bill did not attempt to broaden the "Lindbergh Law" as such; the new bill does.

10. The C-W bill did not provide investigation of lynchings by the United States Attorney General; the new bill does.

---