

IN THE SENATE OF THE UNITED STATES

JANUARY 3 (calendar day, JANUARY 4), 1935

Mr. COSTIGAN and Mr. WAGNER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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**A BILL**

To assure to persons within the jurisdiction of every State the equal protection of the laws by discouraging, preventing, and punishing the crime of lynching.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3       That the phrase "mob or riotous assemblage", when used  
4       in this Act, shall mean an assemblage composed of three  
5       or more persons acting in concert, without authority of law,  
6       for the purpose of killing or injuring any person in the cus-  
7       tody of any peace officer or suspected of, charged with or  
8       convicted of the commission of any crime, with the purpose  
9       or consequence of preventing the apprehension and/or trial

1 and/or punishment by law of such person or otherwise of  
2 depriving such person of due process of law or the equal  
3 protection of the laws.

4 SEC. 2. If any State or governmental subdivision  
5 thereof fails, neglects, or refuses to provide and maintain  
6 protection to the life or person of any individual within its  
7 jurisdiction against a mob or riotous assemblage, whether  
8 by way of preventing or punishing the acts thereof, such  
9 State shall by reason of such failure, neglect, or refusal  
10 be deemed to have denied to such person due process of law  
11 and the equal protection of the laws of the State, and to the  
12 end that the protection guaranteed to persons within the  
13 jurisdictions of the several States, or to citizens of the United  
14 States, by the Constitution of the United States, may be  
15 secured, the provisions of this Act are enacted.

16 SEC. 3. (a) Any officer or employee of any State or  
17 governmental subdivision thereof who is charged with the  
18 duty or who possesses the power or authority as such officer  
19 or employee to protect the life or person of any individual  
20 injured or put to death by any mob or riotous assemblage or  
21 any officer or employee of any State or governmental sub-  
22 division thereof having any such individual in his custody,  
23 who fails, neglects, or refuses to make all diligent efforts to  
24 protect such individual from being so injured or being put  
25 to death or any officer or employee of any State or gov-

ernmental subdivision thereof charged with the duty of apprehending, keeping in custody, or prosecuting any person participating in such mob or riotous assemblage who fails, neglects, or refuses to make all diligent efforts to perform his duty in apprehending, keeping in custody, or prosecuting to final judgment under the laws of such State all persons so participating, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment.

(b) Any officer or employee of any State or governmental subdivision thereof, acting as such officer or employee under authority of State law, having in his custody or control a prisoner, who shall conspire, combine, or confederate with any person who is a member of a mob or riotous assemblage to injure or put such prisoner to death without authority of law, or who shall conspire, combine, or confederate with any person to suffer such prisoner to be taken or obtained from his custody or control to be injured or put to death by a mob or riotous assemblage shall be guilty of a felony, and those who so conspire, combine, or confederate with such officer or employe shall likewise be guilty of a felony. On conviction the parties participating therein shall be punished by imprisonment of not less than five years nor more than twenty-five years.

1           SEC. 4. The District Court of the United States judicial  
2 district wherein the person is injured or put to death by a  
3 mob or riotous assemblage shall have jurisdiction to try and  
4 to punish, in accordance with the laws of the State where  
5 the injury is inflicted or the homicide is committed, any and  
6 all persons who participate therein: *Provided*, That it is first  
7 made to appear to such court (1) that the officers of the  
8 State charged with the duty of apprehending, prosecuting,  
9 and punishing such offenders under the laws of the State  
10 shall have failed, neglected, or refused to apprehend, prose-  
11 cute, or punish such offenders; or (2) that the jurors obtain-  
12 able for service in the State court having jurisdiction of the  
13 offense are so strongly opposed to such punishment that  
14 there is probability that those guilty of the offense will not  
15 be punished in such State court. A failure for more than  
16 thirty days after the commission of such an offense to ap-  
17 prehend or to indict the persons guilty thereof, or a failure  
18 diligently to prosecute such persons, shall be sufficient to  
19 constitute prima facie evidence of the failure, neglect, or  
20 refusal described in the above proviso.

21           SEC. 5. Any county in which a person is seriously  
22 injured or put to death by a mob or riotous assemblage shall  
23 be liable to the injured person or the legal representatives  
24 of such persons, or the estate of such deceased person for  
25 a sum of not less than \$2,000 nor more than \$10,000 as

1 liquidated damages, which sum may be recovered in a civil  
2 action against such county in the United States District  
3 Court of the judicial district wherein such person is put to  
4 the injury or death. Such action shall be brought and  
5 prosecuted by the United States district attorney of the  
6 district in the United States District Court for such district.  
7 If such amount awarded be not paid upon recovery of a  
8 judgment therefor, such court shall have jurisdiction to  
9 enforce payment thereof by levy of execution upon any  
10 property of the county, or may otherwise compel payment  
11 thereof by mandamus or other appropriate process; and  
12 any officer of such county or other person who disobeys or  
13 fails to comply with any lawful order of the court in the  
14 premises shall be liable to punishment as for contempt and  
15 to any other penalty provided by law therefor. The amount  
16 recovered shall be exempt from all claims by creditors of  
17 such injured or deceased person, or the legal representa-  
18 tives of such injured person or of the estate of such deceased  
19 person. The amount recovered upon such judgment shall  
20 be paid to the injured person, or where death resulted, dis-  
21 tributed in accordance with the laws governing the distri-  
22 bution of an intestate decedent's assets then in effect in the  
23 State wherein such death occurred.

24       SEC. 6. In the event that any person so injured or put  
25 to death shall have been transported by such mob or riotous

1 assemblage from one county to another county or counties  
2 during the time intervening between his seizure and injury  
3 or putting to death, the county in which he is seized and  
4 the county in which he is injured or put to death shall be  
5 jointly and severally liable to pay the forfeiture herein pro-  
6 vided, and action shall be brought and prosecuted by the  
7 United States district attorney of any district wherein any  
8 such county is located. Any district judge of the United  
9 States District Court of the judicial district wherein any  
10 suit or prosecution is instituted under the provisions of this  
11 Act may by order direct that such suit or prosecution be  
12 tried in any place in such district as he may designate in  
13 such order.

14       SEC. 7. If any provision, sentence, or clause of this  
15 Act or the application thereof to any person or circumstances,  
16 is held invalid, the remainder of this Act, and the application  
17 of such provision to other persons or circumstances, shall not  
18 be affected thereby.