

■ Southern Legislators Protest Proposed Anti-lynching Legislation

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Genre: Speech

Summary Overview

Spurred by recommendations from President Harry Truman and the Commission on Civil Rights he appointed in 1946, in July 1949 and January 1950 a subcommittee of the Judiciary Committee of the U.S. House of Representatives held hearings on several bills designed to provide protection against lynchings, which for decades had been carried out principally against minorities in the South. Many in Congress and a number of private and civic organizations, including the National Association for the Advancement of Colored People (NAACP), supported passage of antilynching legislation. However, senators and representatives from Southern states argued that the legislation was unnecessary, claiming that existing state laws provided adequate protection. Furthermore, they viewed the proposed legislation as unconstitutional because it represented a usurpation by the federal government of powers vested in the individual states.

Defining Moment

Lynching, a form of vigilante justice in which an individual is punished for an alleged crime without benefit of trial, has always been illegal in the United States. Historically, while lynchings occurred in many places outside the South, notably in the American West, the surge in this form of vigilantism rose precipitously in southern states after post–Civil War Reconstruction efforts ended in 1877. Beginning in 1882 officials at Tuskegee Institute in Alabama began collecting data on lynchings. Earliest records show that, before 1890, a greater number of whites were lynched, but by the 1920s, the proportion of African American to white victims was as high as ten to one.

Because lynching was considered a form of murder or attempted murder, responsibility for arresting and prosecuting those accused of lynching fell to the individual states. Unfortunately, for many years communities in the

South did not engage in vigorous pursuit of perpetrators or bring them to trial very often. In the few instances where people were tried, acquittals were common.

Efforts to pass federal laws protecting individuals from lynching began in the late nineteenth century. In 1919, the NAACP initiated a vigorous lobbying campaign to convince members of Congress to pass federal legislation that would curb lynching and bring perpetrators to justice. Most proposals also included stiff penalties (usually financial) for communities that failed to pursue alleged perpetrators of this crime. Several attempts were undertaken, most notably in 1922 and 1935, to pass anti-lynching laws in Congress, but Southern legislators managed to stymie action, largely through Senate filibusters.

Many Southerners saw efforts to create federal laws against lynching as part of a larger scheme to eradicate what they considered a time-honored regional lifestyle, where de jure segregation enabled continued economic and social privilege for white people. For example, during World War II, President Franklin Roosevelt created the Fair Employment Practices Commission to ensure that discrimination was not practiced in awarding jobs related to the war industry and government posts. Although this provision was narrow in scope, southerners feared that President Truman would make similar attempts to expand the powers of the federal government. In fact, President Truman did continue his predecessor's reformist agenda on civil rights; in December 1946 he appointed a President's Commission on Civil Rights to recommend appropriate changes to federal laws in order to guarantee equal protection to all citizens. A year later the committee published its final report, *To Secure These Rights*; in it they proposed sweeping changes to federal statutes, including legislation to provide federal protections against lynching.

In February 1948, President Truman forwarded proposed legislation to incorporate the commission's recom-

mendations into federal statutes. The president's proposal was sent to the appropriate committees in the Senate and House. In July 1949 and again in January 1950, a House judiciary subcommittee held hearings on twelve separate bills that would have made lynching a federal crime. During these hearings, legislators from southern states presented arguments that lynching should remain a crime punishable under state laws and not be subject to federal jurisdiction.

Author Biography

Four members of the House of Representatives, all Democrats and attorneys, testified against the proposals to make lynching a federal crime. The first, Charles E. Bennett (1910–2003) of Florida, a veteran of World

War II, was elected to Congress in 1948 and served until 1993. The second, Boyd Tackett (1911–85) served in the Arkansas House of Representatives before enlisting during World War II. He represented Arkansas in the U.S. House of Representatives from 1949 to 1952. John E. Rankin (1882–1960) of Mississippi, the third to speak against anti-lynching legislation, was known throughout the country as a leading opponent of civil rights legislation. He argued against earlier attempts to pass anti-lynching laws. Rankin served in World War I before being elected to Congress in 1920. The fourth to testify, Joseph R. Bryson (1893–1953), also served in World War I before being elected to the South Carolina state senate. He served in the U.S. House of Representatives from 1939 until 1953.

HISTORICAL DOCUMENT

STATEMENT OF HON. CHARLES E. BENNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Bennett. I oppose the enactment of the proposed so-called antilynching bills for a variety of reasons. First of all, I think that the bills are unconstitutional as a violation of the tenth amendment of the Constitution. The Constitution would probably never have been enacted if it had not been for the inclusion of the tenth amendment which is part of the Bill of Rights. It provides that when governmental powers are not given specifically to the Federal Government, they shall remain with the people or the States into which these people may organize themselves or have organized themselves.

Along that same line, I oppose this type of legislation because I feel that it is projecting still further the Federal Government into local government which trend in government in late years I feel to be a mistake and a very dangerous mistake. When our country was founded, it was founded through experience. The colonists had experienced a remote governmental control and they desired to return to what they had experienced somewhat when they were in Europe which was more of a local control; plus that they desired to add to the grassroots control that they anticipated being able to have in this country. In other words, they rebelled against being controlled

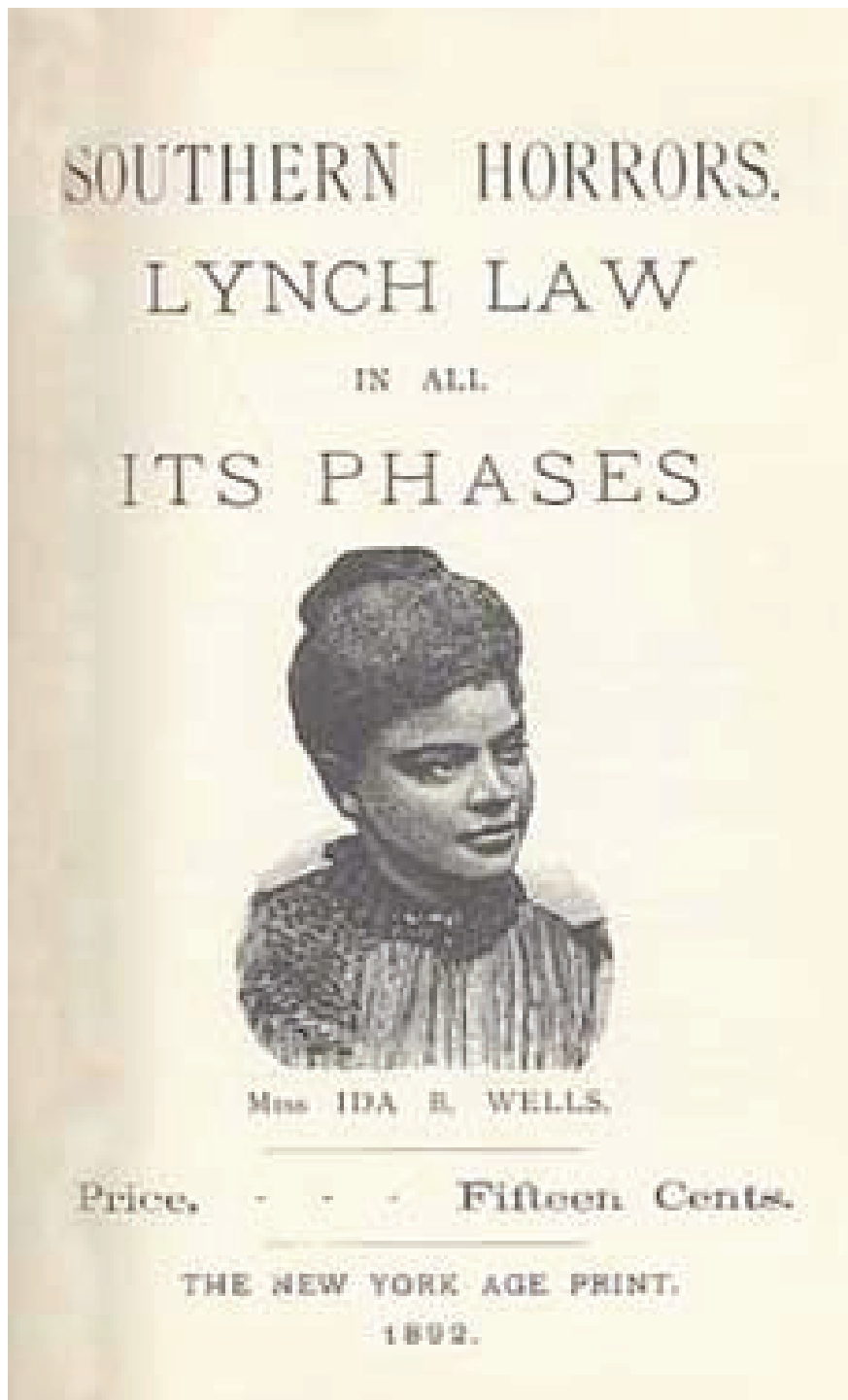
remotely from England and they wanted to get even a heartier participation in local government than they found possible in England itself when they were actually living in that country or whatever country they happened to live in Europe.

No one would come here and take up for lynching, and I say that lynching should be a thing that we should not have. Certainly a person who engages in a lynching mob is a person who should have put upon his or her shoulders the responsibility of meeting a charge of crime and being convicted of it if guilty. The State laws, however, in every State of the Union are adequate to cover the question of lynching, and particularly they are in the South. We have murder laws in every State in the Union, and lynching is murder. A person can be and should be convicted of murder when he participates in a lynch mob.

Mr. KEATING. Is there not a serious question, Mr. Bennett, whether or not those laws are being enforced?

Mr. BENNETT. I will get to that in just a minute, if I may.

The history of lynching is a very interesting one. Many people do not understand the background of what brought about lynchings. Of course, some lynchings occurred prior to the War Between the States.



Cover of Southern Horrors: Lynch Law in All Its Phases. By Ida B. Wells.

There were many lynchings after the War Between the States when the Federal Government, despite the provisions of the Federal Constitution, saw fit, by fire and sword, to force back into the Union the States which had decided and determined their desire to be out of the Union. When the Federal Government did that, it did not use the kindly hand of Abraham Lincoln, nor the somewhat faltering but kindly hand of Andrew Johnson, but the Senate and the House of Representatives ruled the South with an iron hand. They sent down people to control the government; they allowed and encouraged people to assume high office who were not capable of assuming those offices. They overlooked and countenanced great corruption which led to the demoralization of the Government...

The South deplores lynchings more than any other section of the country. There is nothing that makes a southerner more unhappy and more depressed than the occurrence of a lynching—that is, the average southerner. There are people in our midst—I may say a great many of them, in my opinion, are not true southerners, either by having lived in the South for long or being consistent with the southern principles—who do engage in mob violence occasionally...

You must also investigate the type of lynchings which were referred to or what is defined as a “lynching,” because nowadays if two people shoot somebody else and they happen to be of a different race, they consider it a lynching, which is, of course, quite different from the lynchings that most people read about when they read about the situation in the South. In other words, some lynchings which are called lynchings are truly nothing, completely nothing but ordinary types of murder. There is no mob violence in it. Somebody shoots somebody else and they happen to be of another race.

Now that sort of thing occurs in the North as well as the South. I think in the last few years, as I have tried to read the newspapers on this subject, I have found about as many incidents pointed out in the North as there are in the South on the racial basis, about as many white people killing colored people under circumstances which, in the South would be called lynchings, because that is the popular propaganda way to refer to them when they occur in the South. When they occur in the North, they are “murders.”...

Now, I feel, therefore, that not only is this law unconstitutional, but I feel furthermore that the incidence of lynching has been so greatly on the decline that presently it is almost like the dodo bird, something entirely out of the practical realm of modern-day activity. And the few cases that do occur, most of them are not what most people think about when they think of lynchings. They are just murder...

The Federal Government now proposes to say that the State governments are not sufficient and the Federal Government should come along and lend a helping hand. The ways in which this tender of assistance is offered is important with regard to the reaction that people will have to this legislation. Southern pride is hurt because the South believes it can take care of its own government. It resents the implication that the South is not able to handle its own affairs. It resents the propaganda which is given out with regard to lynching. I remember when I was overseas in New Guinea I read in *Time* magazine, I believe it was, that there was about 100 lynchings a year on the average. It came back with an apology in a footnote in a letter to the editor saying that there were only three during the average years to which it had been referring. But that is typical of the sort of propaganda that is issued...

We think we can control our affairs pretty well. We certainly think we handle the matters with regard to race relationships much better than the rest of the country, and if I got into that, I would be here all afternoon; but I would like to quickly point out to you some facts with regard to race relations. The great race riots which occur in the country do not occur in the South. The one in Detroit a few years back saw 25 Negroes killed. It has been years and years and years since 25—I do not think there has been any times when 25 Negroes were killed in a race riot in the South, certainly not for many years...

Mr. KEATING. There are cases that have been brought to Nation-wide attention where in my judgment, at least, local law enforcement officials have not taken the action which might be properly expected of them. You may disagree with that.

Mr. BENNETT. I certainly do.

Mr. KEATING. But I do believe firmly that there are such cases.

Mr. BENNETT. There may be such cases, but every one I have had a chance to look into was written with red ink, written by people who wanted to destroy the South and wanted to create fomentation between the North and the South in this country and wanted to serve the communistic cause. When you get to look at the facts, you find different situations.

Mr. KEATING. I do not believe all the reporters in the South are Communists....

Mr. BENNETT. If the committee got the impression that I meant to imply that all stories which emanate from the South and are critical of the handling of lynchings emanate from Communists, I certainly meant to make no such statement; and if I made a statement that all these reports are written by Communists, I hereby retract it—but I don't think I said it. I did say that I felt that this country has been flooded with propaganda with regard to the South that is so remote from the facts that it is hard to recognize it when you actually are faced with it. And I do say that I feel that these reporters who are getting that information out—and I do not think they are southern reporters because I do not think a southern man would do that even to get the money—I do feel that their activity in painting the South in improper colors is very helpful to the Communist cause. I suspect—I do not have any factual foundation to say that this is true—but I suspect that some of them are actually in the pay of the Russian Government or at least are people who are carried away with their desire to help Russia, like Judith Coplon apparently was, through misguided idealism, if you can call it idealism. They think it is to the best interests of the world, whatever is going to happen hereafter, to destroy America by pitting one side against the other...

STATEMENT OF HON. BOYD TACKETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. TACKETT. I wish to appear, Mr. Chairman, in opposition to the antilynching bills. I presume that is the only matter you have under discussion at this time. I have had

considerable experience in the State of Arkansas prosecuting and defending criminal cases, and I can truthfully say and can prove it without any fear of contradiction, that there have been more white people lynched during my life in the State of Arkansas than there have been Negroes. During my life of 38 years, I recall four white people being lynched in my home county and I believe that there has been one Negro lynched in those 38 years in the State of Arkansas.

Mr. FRAZIER. What that in the entire State?

Mr. TACKETT. That was within the entire State. If I am in error about that, it was something that happened back when I was a child and do not recall it. But I do recall that four men, four white men, were lynched in my home county because they killed an old peddler. They were burned in jail. Of course, the northern newspapers did not carry that story. I honestly believe that you call homicide in the North murder. And you call homicide in the South lynching. There are more unsolved homicide cases in any eastern or northern city than there is in the whole of the south United States....

I believe that my record as prosecuting attorney down there in the State of Arkansas should be sufficient to show that I am against discrimination. I do not believe in the white people mistreating the colored people, and it is not going on in my State, and I live just as deep in the South as any person in this Congress. We have made a lot of advancement down there. You will have to remember that the Negroes were slaves approximately 90 years ago. They have come a long way. If the white people will leave them alone, they will do well. If we quit meddling in their affairs and trying to bring dissension between the white people and the colored, they are going to advance in life. But every time this Congress meets up here and uses some of this political demagoguery, to stir up the feeling between the white and the colored people, they are not doing but one thing, and that is holding back the colored people within my section. All in the world that the East and the North has done is given the Negro a change to ride in a streetcar and make him think that he has gained something wonderful. Down in the South, we don't put the Negro in the back seat of the car but feel free to ride with them up and down the streets in the front seat. They

are free to come into our homes; have more access to our white homes in the South than they have to white homes in the North....

STATEMENT OF HON. JOHN E. RANKIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

When you stir friction, those Negroes are going to move. Where are they going—Harlem, New York, Philadelphia, St. Louis, Los Angeles, Chicago, Indianapolis? Then what are you going to do with them?

In the rest of the South—and I am speaking particularly of my district where the relationship is the best I have ever known between the whites and the colored people—you talk about lynchings. There has not been a lynching in my county since I was born, and I am as old as the gentleman from New York, nearly....

So, the relationship is the best I have ever known. You are talking about schools, education. At home, schooling is compulsory. The Negroes have their own schools, and they want their own schools. They get along. Negroes in my town now have a better schoolhouse than the one I went to school in when I was a boy. We have no friction with them. They behave themselves better evidently than they do in New York, because we do not send half as many to the penitentiary. They are enjoying a protection that they do not get anywhere else except in the Southern States. If you do not believe it, you just take the records of any other State in this Union now and check and see how many they have living in those States and how many they have in the penitentiary. You will find that those States that are raising the most howl about the conditions in the South have the largest percentage of their Negroes in the penitentiary. When you disturb the peaceful relations now existing between white man and Negro, one of them is going to move. Which one is it? You know who it is going to be. You have done more harm, just such agitation as this has done the Negroes of the South more harm, deprived more of them of homes, than anything else that has occurred since I have been a Member of Congress. And today, as I said, the time has come when they are not needed as servants. We have three servants to take their place: oil, gasoline, and electricity.

You are not doing them any good. And you do not care a tinker's damn about them. That is the tragedy of it. You don't give a tinker's damn, if you will excuse the expres-

sion, about the Negroes in the South. This is done to try to create a political furor for political purposes in the North. I was here when this crazy measure was up during the Harding administration. There is a speech I made on it at that time in which I exposed the ridiculousness of a bill of this kind, the antilynching bill.

Of course, the Senate talked it to death; and you know good and well this bill never will become a law. I came to Congress that year, and the Republicans had a 169 majority in the House. They took this thing up, and we filibustered it and turned the spotlight onto it in the House. The Senate did the same thing. The election came off that year, and it took about 2 weeks to organize the House, they came so near losing the House; and Mr. Cooper, from Wisconsin, ran on an independent ticket and tied the House up for 2 or 3 weeks, if I remember correctly. That is what you are doing now. You are not doing yourselves any good. If you want to know about this, go down there. Do not go down there and ask the chief of police or the sheriff. There [indicating] is what they call the Negro section. Go over there. Go and see how they live and ask them and see how ridiculous they will make you feel before you get away from there. This thing is not for a thing in the world but just to create disturbance in the southern States, where we have done the very best we could. Nowhere else under the shining sun—nowhere—has the Negro ever received the treatment at the hands of the white people where he lived in large numbers as he does now among the white people of the South. But you are injuring the cause of the poor Negro....

STATEMENT OF HON. JOSEPH R. BRYSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA...

Mr. BRYSON. I wish to concur in what has been said by these distinguished Members of Congress who have preceded me, and I observe that most of the gentlemen who sit on this distinguished committee live north of the Mason-Dixon line. I seriously doubt—I do not question the sincerity, but I seriously doubt—whether the average man who annually sponsors and introduces these kind of bills knows what he is doing....

God Almighty in His infinite wisdom made distinct differences between the Negro and the white race.

I do not know what His purposes were. But since He endowed the different races with different characteristics, I believe it was His purpose for the races to remain separate and distinct and I think it should be unlawful, both against civil law and divine law, for an intermingling of the races. If the average Members of Congress react as I do to some of the exhibitions we saw here yesterday and today, I do not believe we will ever get legislation like this through. With the necking, the fondling, and the loving, even in the gallery of the House, which was called to my attention by other Members of Congress, it seems to me people of different races have no regard for decency...

I have every seriousness in appearing here. Heretofore we probably have not treated the minority race as we should. But I can easily tell the attitudes in the South are changing as well as elsewhere. I believe every person, whether a Yankee or a Rebel, has an inherent God-given desire to do justice to and for all mankind; and I believe we are making great progress toward that end. But some long-haired men and short-haired women, so highly edu-

cated, continue to penetrate into our Southland and try to dictate and force their alleged advanced ideas upon our people. It is retarding the progress that we are making.

Although we are poor, as a rule the colored people per capita are much poorer than the white people and they are more prolific, it seems to me; however, the white people are rather prolific in our country. Perhaps the North would be better off if the native-born people who live there were a little prolific and looked after their home work a little bit better rather than try to lift the restriction of the immigration law so as to import a lot of foreigners. If we had more good, native-born American citizens, we would not need to talk about amending the law...

Source: Antilynching and Protection of Civil Rights, Hearings before Subcommittee of the Committee on the Judiciary, House of Representatives, 81st Congress, 1st and 2d Sessions, June 1949; January 1950. Washington, DC: U.S. Government Printing Office, 1950.

GLOSSARY

filibuster: the use of irregular or obstructive tactics by a member of a legislative assembly to prevent the adoption of a measure generally favored or to force a decision against the will of the majority.

posse: a body or group armed with legal authority

tinker: a person skilled in various minor kinds of mechanical work; jack-of-all-trades

Document Analysis and Themes

Although the four representatives who spoke against anti-lynching legislation in 1950 did not coordinate responses before testifying, certain issues come up in each one's testimony. Several points of argumentation are similar, if not identical, and language used to categorize race relations in the South and describe the motives of those supporting the legislation is remarkably consistent. Given these similarities, the four presentations reveal much about Southerners' attitudes toward civil rights at this crucial time in American history.

Representative Bennett invokes an argument made consistently by southerners for three decades: this form of civil rights legislation is unconstitutional, as it violates the Tenth Amendment of the U.S. Constitution, which grants to states all powers not specifically granted to the federal government by the Constitution. He appeals to reason in asking that Congress consider the facts and provides some to support his claim that lynching—which he says increased in the late nineteenth century because of the white majority's frustration with corrupt Reconstruction governments—is actually declining. He also points out that what is called “lynching” in the South is merely another form of murder, which occurs in the North as well, and that state laws are adequate for dealing with those who commit this crime. Representatives Tackett and Rankin echo this line of reasoning, providing examples to support claims that race relations in their communities are generally harmonious and that African Americans are prospering under existing laws.

Despite calls for reasonable assessment of the facts, all four representatives rely heavily on emotional appeal to make their cases and resort to name-calling or finger-pointing in one form or another in criticizing supporters of anti-lynching laws. Bennett notes that Northern cities are plagued with race riots, while Southern communities remain calm. Tackett suggests that this form of legislation is simply “meddling” and will do more harm than good for African Americans. Rankin makes this point directly, accusing Northern legislatures of not “giv[ing] a tinker's damn” about “the Negroes in the South”; instead, they are creating “political furor for political purposes in the North”—to win votes from minority constituencies. Additionally, he argues that these efforts are doomed to backfire and cause problems for northern legislators at the polls.

Representative Bryson is perhaps the most derogatory. He first appeals to religion to support existing Southern practices of segregation, claiming that “God Almighty in his Infinite Wisdom” created the races differently;

the implication is that attempts to alter the status quo go against God's plan. He uses the rhetorical device of synecdoche, describing supporters of the legislation as “long-haired men and short-haired women” (implying that they are deviants) of trying to “dictate and force their alleged advanced ideas upon our people.” All four believe that such efforts are, as Bryson says, “retarding the progress” being made in the South.

On the surface, arguments over anti-lynching laws focused on the issue of states' rights. Southern legislators believed the federal government was usurping powers reserved to the states by taking jurisdiction for crimes of murder, torture, and abuse, which had since the founding of the nation been handled in state courts. Underlying these stated arguments, however, is a fundamental philosophical difference between many people in the nation over the nature of African Americans. Northern legislators operated from the premise that African Americans should be treated no differently than whites in any part of the country. The arguments presented by the four Southern legislators in the hearings on anti-lynching bills reveal a deep-seated belief that African Americans were inferior both socially and morally. Hence, any law giving them equal protection posed a serious threat to the way of life that had existed in the South since the end of Reconstruction.

The arguments over anti-lynching laws also highlight an important difference of opinion over the nature of the United States Constitution. Southerners based their arguments on language of the Tenth Amendment of the Constitution, which gives states all powers not specifically granted to the federal government by the Constitution. Reformers proposing anti-lynching legislation found their authority in the Fourteenth Amendment, which gave the federal government the right (and responsibility) to protect an individual's civil rights. The struggle over which amendment would take precedence in determining actions of the federal government in the area of civil rights would last for several more decades.

The efforts of the Eighty-First Congress to pass anti-lynching legislation met the same fate as earlier attempts. The Truman administration's initiative died in the Senate, the victim of an organized filibustering effort led by Georgia senator Richard Russell, Jr. It would take more than a decade of civil rights protests and the assassination of a reformist president to generate sufficient public outcry to overcome Southern obstruction and pass the comprehensive Civil Rights Act of 1964.

—Laurence W. Mazzeno, PhD

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