

Statement Of H. L. Mencken, Editor, Essayist, And Critic, Baltimore, MD.

HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON THE
JUDICIARY
UNITED STATES CONGRESS SENATE
SEVENTY-FOURTH CONGRESS

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
FEBRUARY 14, 1935

Mr. MENCKEN. The problem before Congress is the simple one of providing legislative measures to execute the fourteenth amendment. It is *too* manifest to need argument that every lynching deprives its victim of his life without due process of law, and denies him an equal protection of the law. The States are charged with punishing all such invasions as the common rights of the citizens, but some of them have failed in their effort to do so, and others have not honestly tried. Meanwhile, lynchings continue, and though they do not increase in number, they show some tendency to increase in savagery. To large numbers of American citizens life in certain parts of the country becomes intolerably hazardous. They may be seized on any pretext, however flimsy, and put to death with horrible tortures. No government pretending to be civilized can go on condoning such atrocities. Either it must make every possible effort to put them down or it must suffer the scorn and contempt of Christendom. That Congress has aspired to adopt necessary legislation seems to be agreed by all lawyers, though they differ somewhat as to the wisdom and the constitutionality of the bill now before the Senate. On this point I can offer no opinion, but I hope I may at least suggest that the best plan will be to make a beginning by enacting that bill and then waiting for the proper courts to advise upon it. If defects are found in it, however, whether legal or practical, they may be remedied. But nothing can be accomplished until an actual experiment is undertaken. Even if the worst comes to the worst and we find that preventing lynching is actually impossible, that discovery will at least be something... I know of no civilized man who is in favor of lynching. There are differences of opinion as to whether this bill will achieve the end that it seeks. The chief virtue of this bill, as I see it, is that it does not try to set up lynching as a new crime and provide new penalties for it. It presumes lynching is murder, which is precisely what it is, and it punishes it as such. The only new crime it sets up is the crime of conniving at lynching. That is probably not sufficiently covered by our existing law, and that part of the bill needs no defense. The part that provides for penalties, as I have said, on the town, is at least controversial. There are unquestionably cases in which the heaviest burden would fall on the most innocent people; the taxpayers in a lynching, the well to do, and educated people very seldom in favor of lynching. They may find it impossible for various reasons to protest against it, but I have never heard of many of them being in favor of it.

At the time of the lynching in Maryland the decent people of the Eastern Shore were against it. They could do nothing, because after all they had to live there. They needed help from outside their own area. The Governor of Maryland at the time tried to give them that help, but it turned out under our constitutional laws in Maryland it was impossible to make that aid efficacious.
Senator VAN NUYS. Thank you very much, Mr. Mencken.

Congressional Information Service, CIS US Congressional Committee Hearings on Microfiche (1833-1969), Group 3, 74 S474-7.