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

A BILL

To assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the phrase "mob or riotous assemblage", when used in this Act, shall mean an assemblage composed of three or more persons acting in concert, without authority of law, for the purpose of depriving any person of his life, or doing him physical injury.

Sec. 2. If any State or governmental subdivision thereof fails, neglects, or refuses to provide and maintain protection to the life or person of any individual within its jurisdiction against a mob or riotous assemblage, whether by way of preventing or punishing the acts thereof, such State shall by reason of such failure, neglect, or refusal be deemed to have denied to such person the equal protection of the laws of the State, and to the end that the protection guaranteed to persons within the jurisdictions of the several States, or to citizens of the United States, by the Constitution of the United States, may be secured, the provisions of this Act are enacted.

Sec. 3 (a) Any officer or employee of any State or governmental subdivision who is charged with the duty or who possesses the
power or authority as such officer or employee to protect the life or person of any individual injured or put to death by any mob or riotous assemblage or any officer or employee of any State or governmental subdivision having any such individual in his charge as a prisoner, who fails, neglects, or refuses to make all diligent efforts to protect such individual from being so injured or being put to death, or any officer or employee of any State or governmental subdivision 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, 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 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 for the purpose of being injured or put to death without authority of law shall be guilty of a felony, and those who so conspire, combine, or confederate with such officer or employee shall likewise be guilty of a felony. On conviction the parties participating therein shall be punished by imprisonment of not less than five years or for life.
Sec. 4. The district court of the judicial district wherein the person is injured or put to death by a mob or riotous assemblage shall have jurisdiction to try and to punish, in accordance with the laws of the State where the injury is inflicted or the homicide is committed, any and all persons who participate therein: Provided, That it is first made to appear to such court (1) that the officers of the State charged with the duty of apprehending, prosecuting, and punishing such offenders under the laws of the State shall have failed, neglected, or refused to apprehend, prosecute, or punish such offenders; or (2) that the jurors obtainable for service in the State court having jurisdiction of the offense are so strongly opposed to such punishment that there is no probability that those guilty of the offense can be punished in such State court. A failure for more than thirty days after the commission of such an offense to apprehend or to indict the persons guilty thereof, or a failure diligently to prosecute such persons, shall be sufficient to constitute prima facie evidence of the failure, neglect, or refusal described in the above proviso.

Sec. 5. Any county in which a person is put to death by a mob or riotous assemblage shall forfeit $10,000, which sum may be recovered by suit therefor in the name of the United States against such county for the use of the family, if any, of the person so put to death; if he had no family, then of his dependent parents, if any; otherwise for the use of the United States. Such action shall be brought and prosecuted by the district attorney of the United States of the district in the United States district court for such district. If such forfeiture be not paid upon recovery of a judgment therefor, such court shall have jurisdiction to enforce payment
thereof by levy of execution upon any property of the county, or may otherwise compel payment thereof by mandamus or other appropriate process; and any officer of such county or other person who disobeys or fails to comply with any lawful order of the court in the premises shall be liable to punishment as for contempt and to any other penalty provided by law therefor.

Sec. 6. In the event that any person so put to death shall have been transported by such mob or riotous assemblage from one county to another county during the time intervening between his seizure and putting to death, the county in which he is seized and the county in which he is put to death shall be jointly and severally liable to pay the forfeiture herein provided.

Sec. 7. 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 laws of such State or Territory, shall constitute a like crime against the peace and dignity of the United States, punishable in like manner in its courts 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.

Sec. 8. If any provision of this Act or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.