Trade of Puerto Rico ; Personal explanation : speeches of Hon. George H. White, of North Carolina, in the House of Representatives, Monday, February 5, and Friday, February 23, 1900.

HON. GEORGE H. WHITE.
Friday, February 23, 1900.
The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (H. R. 8245) to regulate the trade of Puerto Rico, and for other purposes--

Mr. WHITE said:
Mr. CHAIRMAN: Perhaps at no time in the history of our nation have there been more questions of moment before us for consideration than we have at this time. Our recent war with Spain and the result in acquisition of territory by reason of that war, and the necessary legislation for the government of these new possessions in order that they may not work any harm with us, to establish rules, laws, and customs, require the most thoughtful consideration of all of our statesmen. Not only the question that we have before us to-night as to the character of the the tariff to be imposed upon Puerto Rico, but the government that shall be established to perpetuate, elevate, and civilize and Christianize the Hawaiian Islands, the Philippine Island, and, in my opinion at no very distant day, the Cuban Island, also require our very best effort.

The weightiness of the consideration of these questions is increased by the peculiar circumstances surrounding these new possessions. Their relative geographical position, their climate, their distance from our shores, their close proximity to other foreign powers coupled with a heterogeneous composition of population of these islands, and their want in Christian and civil development, all tend to increase the consideration and make more complex the solution of their future government.

But these responsibilities are ours, taken of our own motion, and our plain duty with reference to these people must not be shirked, but met and disposed of honestly, patriotically, in the spirit of justice between man and man.

As a humble representative of this House, I would like to feel free to discuss and aid in the disposition of these questions in the same way that my 355 colleagues on this floor do.

Mr. Chairman, it would be great pleasure to me to know that fairness and justice would be meted out to all constituent parts of our beloved country alike in such a way as to leave no necessity for a defense of my race in this House against the attacks and unfair charges from any source. The very intimation of this fact with reference to the surroundings of the colored people of this country at this time, naturally causes the injury: Should not a nation be just to all of her citizens, protect them alike in all their

rights, on every foot of her soil--in a word, show herself capable of governing all within her domain before she undertakes to exercise

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{Begin page no. 4}

sovereign authority over those of a foreign land--with foreign notions and habits not at all in harmony with our American system of government? Or, to be more explicit, should not charity first begin at home?

There can be but one candid and fair answer to this inquiry, and that is in the affirmative. But, unfortunately for us, what should have been done has not been done, and to substantiate this assertion we have but to pause for a moment and make a brief survey of the manumitted Afro-American during the last thirty-five years. We have struggled on as best we could with the odds against us at every turn. Our constitutional rights have been trodden under foot; our right of franchise in most every one of the original slave States has been virtually taken away from us, and during the time of our freedom fully 50,000 of my race have been ignominiously murdered by mobs, not 1 per cent of whom have been made to answer for their crimes in the courts of justice, and even here in the nation's Capitol--in the Senate and House--Senators and Representative have undertaken the unholy task of extenuating and excusing these foul deeds, and in some instances they have gone so far as to justify them.

It was only a few days ago upon this floor that the gentlemen from Mississippi [Mr. Williams] depicted one of these horrible butcheries and held it up to the public in the following language:

A man leaves his home--a farmer. He goes down to the little town of Canton to market and sell his crop. It is rumored in the neighborhood that he had brought money from the market town the week before and that it is in the house. That night six or seven negro men break in to that house, ravish his daughter and his wife, and then they manacle and tie them together, and not only them but the little children--one of them, I believe, four or five years of age--manacle them down in the center of that house and set it on fire and burn them all up, hoping that the fire had done away with all trace of the crime. One of the negroes happened to have a peculiar foot, which led to tracking him. That led to crimination and recrimination among the criminals and to a confession. It led to confessions from other others. The people arose and lynched those men, and while they were lynching them they burned one of them, a voice coming from the crowd that he ought to receive the punishment himself which he had meted out to this innocent, helpless woman, her helpless daughter, and her helpless little children.

This is entirely ex parte; nothing has been said of the other side. While I deprecate as much as any man can the fiend who commits an outrage upon any woman, and do not hesitate to say that he should be speedily tried and punished by the courts, yet I place but little credence in the statement of a mob hunting for an excuse for its crimes when the

statement is made that the victim confessed with a rope perhaps around his neck. No court of justice anywhere in this broad land of ours would allow testimony under duress of this kind to be introduce against a defendant. A shoe track, a confession while being burned at the stake with the hope that life may be spared thereby, are very poor excuses for taking of a human life. A trial by jury is guaranteed to every one by the Constitution of the United States, and no one should be deprived of this guaranty, however grave the charge preferred against him.

In order to fasten public sentiment against the negro race and hold them up before the world in their entirety for being responsible for what some are pleased to call "the race crime"--rape--the gentleman from Georgia [Mr. Griggs] described in detail the other day the "fiendishness" of Sam Hose, late of his State, and I believe his district, and among other things he said:

But let me tell you of a case that happened in Georgia last year. A little family a few miles from the town of Newnan were at supper in their modest

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{Begin page no. 5}

dining room. The father, the young mother, and the baby were seated at the table. Humble though it was, peace, happiness, and contentment reigned in that modest home. A monster in human form, an employee on the farm, crept into that happy little home and with an ax knocked out the brains of that father, snatched the child from its mother, threw it across the room out of his way, and then by force accomplished his foul purposed. * * * I do not seek to justify that, but I do say that the man who would condemn those people unqualifiedly under these circumstances has water instead of blood to supply his circulation. Not the limpid water that flow from the mountain streams, Mr. Chairman, but the fetid water found in the cesspools of the cities.

The other side of this horrible story portrays a very different state of affairs. A white man, with no interest in Hose or his victim, declares upon oath that Hose did not commit this atrocious crime charged against him but was an employee of Cranford, and had importuned him for pay due him for labor. This incensed his employer, who rushed upon Hose with a gun. Hose seized an ax and killed Cranford instantly, in self-defense, and then fled to the woods with the greatest possible speed. I do not vouch for side of this story, but only refer to it to show the necessity for trying all persons charged with crime, as the law directs.

The gentleman might have gone further and described the butchery in his district of six colored persons arrested upon suspicion of being guilty of arson, and while they were crouching in a warehouse, manacled with irons, and guarded by officers of the law, these poor victims, perhaps guilty of no crime whatever, were horribly shot to death by irresponsibles, no one of whom has ever been brought to justice.

He might have depicted also, if he had been so inclined, the miserable butchery of men, women, and children in Wilmington, N.C., in November, 1898, who had committed no crime, nor were they even charged with crime. He might have taken the minds of his auditors to the horrible scene of the aged and infirm, male and female, women in bed from childbirth, driven from their homes to the woods, with no shelter save the protecting branches of the trees of the forest, where many died from exposure, privation, and disease contracted while exposed to the merciless weather. But this description would not have accomplished the purpose of riveting public sentiment upon every colored man of the South as a rapist from whose brutal assaults every white woman must be protected.

Along the same line the Senator from Alabama [Mr. MORGAN], in a recent speech, used this language:

In physical, mental, social, inventive, religious, and ruling power the African race holds the lowest place, as it has since the world has had a history, and it is no idle boast that the white race holds the highest place. To force this lowest stratum into a position of political equality with the highest is only to clog the progress of all mankind in its march, ever strenuous and in proper order, toward the highest planes of human aspiration.

Whoever has supposed or has endeavored to realize that free republican government has for its task the undoing of what the Creator has done in classifying and grading the races according to His will overestimates both the powers and the duties of its grand mission.

It is a vain effort and is fatal to the spirit and success of free government to attempt to use its true principles as a means of disturbance of the natural conditions of the races of the human family and to re-establish them on the merely theoretical basis, which is not true, that, in political power, all men must be equal in order to secure the greatest happiness to the greatest number.

It is the experience of the younger men, arising out of the effort to work negro suffrage into our political system as a harmonious element, and not the prejudices or resentments of the former slaveholders, that have prompted

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{Begin page no. 6}

This strong and decisive movement in the Southern States. It will never cease unless it is held down by military power. It is a social evil as well as political, and the cost of its suppression will not be counted by this and succeeding generations in connection with questions of material prosperity.

No great body of white people in the world could be expected to quietly accept a situation so distressing and demoralizing as is created by negro suffrage in the South. It is a thorn in the flesh and will irritate and rankle in the body politic until it is removed as a factor in government. It is not necessary to go into the details of history to establish the great fact

that negro suffrage in Louisiana and the other Southern States has been one unbroken line of political, social, and industrial obstruction to progress and a constant disturbance of the peace in a vast region of the United States.

This language impliedly puts at naught and defies the fourteenth and fifteenth amendments to the Constitution of the United States, and from present indications it is only a matter of a short time when the abrogation of these constitutional provisions will be openly demanded.

It is easy for these gentlemen to taunt us with our inferiority, at the same time not mentioning the causes of this inferiority. It is rather hard to be accused of shiftlessness and idleness when the accuser of his own motion closes the avenue for labor and industrial pursuits to us. It is hardly fair to accuse us of ignorance when it was made a crime under the former order of things to learn enough about letters to even read the Word of God.

While I offer no extenuation for any immorality that may exist among my people, it comes with rather poor grace from those who forced it upon us for two hundred and fifty years to taunt us with that shortcoming.

We are trying hard to relieve ourselves of the brand with which we were bound and over which we had no control, nothing daunted, however, like the skilled mariner who, having been overtaken by the winds and storms and thrown off his bearings, stops to examine the chart, the compass, and all implements of navigation, that he may be sure of the proper course to travel to reach his destination.

In our voyage of life struggle for a place whereon we can stand, speak think, and act as unrestricted Americans citizens, we have been and are now passing through political gales, storms of ostracism, torrents of proscription, waves and inundations of caste prejudice and hatred, and, like the mariner, it is proper that we should examine our surroundings, take our bearings, and devise ways and means by which we may pursue our struggle for a place as men and women as a part of this body politic.

Possibly at no time in the history of our freedom has the effort been made to mould public sentiment against us and our progress so strongly as it is now being done. The forces have been set in motion and we must have sufficient manhood and courage to overcome all resistance that obstructs our progress.

A race of people with the forbearance, physical development, and Christian manhood and womanhood which has characterized us during the past two hundred and eighty-five years will not down at the bidding of any man or set of men, and it would be well that all should learn this lesson now.

As slaves we were true to our rulers; true to every trust reposed in us. While the white fathers and sons went forth to battle against us and the nation to perpetuate our bonds the strong, brawny arms of the black man produced the food to sustain the wives, children,

and aged parents of the Confederate soldier, and kept inviolable the virtue and care of those entrusted to his keeping,

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{Begin page no. 7}

and nowhere will anyone dare say that he was unfaithful to the helpless and unprotected over whom he kept a guardian watch.

How does this statement of facts compare with the frequent charges made against colored men for outraging white females? Is it a futile attempt to prove that an ignorant slave was a better man and more to be trusted than an intelligent freeman? But of these brutal murders, let us revert to a few facts and figures.

Since January 1, 1898, to April 25, 1899, there were lynched in the United States 166 persons, and of this number 155 occurred in the South. Of the whole number lynched, there were 10 white and 156 colored. The thin disguise usually employed as an excuse for these inhuman outrages is the protection of the virtue among white women.

I have taken the pains to make some little investigation as to the charges against the 166 persons killed, and find as a result of my efforts that 32 were charged with murder, 17 were charged with assault, criminal or otherwise, 10 with arson, 2 with stealing, 1 with being impudent to white men, and I am ashamed to acknowledge it, but this latter took place in North Carolina. Seventy-two of the victims were murdered without any specific charge being preferred against them whatever. Continuing this record of carnage, I give the record of the number of lynchings, with causes, from April 24, 1899, to October 20, 1899, inclusive: Crime committed:
Murder 9
Talked too much 2
Barn burning 1
Trespass 1
Sheltering a murderer 3
Defending a colored man 3
Brother to murderer 1
Suspected of murder 1
Drowned a man 1
Innocent 2
Bad character 1
Wounded a white man 1
Mormonism 1
Assault, criminal and otherwise 16
Nothing 2
Church burning 2
No cause stated 3
Put hand on white woman 1

Shooting a man 2
Entered a lady's room drunk 1
Wanted to work 7
Spoke against lynching 2

Total 63

Of the 63 lynched there were 1 Italian, 1 Cuban, 4 white men, and 57 negroes.

These facts and figures which I have detailed are reliable; still the same old, oft-repeated slander, like Banquo's ghost, will not down, but is always in evidence.

Perhaps I can not better answer the imputation of the gentleman from Texas [Mr. Burke] than by reading an editorial from the New York Press of February 2, 1900:

The time is passing when Southern members of Congressman defend the practice of lynching, as did Mr. BURKE of Texas, on Wednesday, on the ground of abhorrence of rape, the "usual crime." Statistics on the subject have been kept of late years. It has been shown as to last year both by the Chicago Tribune's and the figures presented by Booker T. Washington in a magazine article, that the "usual crime" was unusual by over 90 per

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{Begin page no. 8}

cent. There were only 12 lynchings for rape out of 103 lynchings of all kinds. So when Southern politicians and Southern writers and speakers proceed, as they invariably do, to justify the practice of lynching on the ground that its terrors are necessary to restrain the brute instincts of the black, they are guilty of as serious a libel as was ever perpetrated by one race on another.

The ravishers among negroes are almost literally one in a million. The 10,000,000 blacks of the country furnish in one year a dozen criminals of this class. Comparative data would be troublesome to come at, for in the North the chastity of women is not paraded before the community upon its invasion and later at the polls by its men "protectors." Rape cases are swiftly and silently tried in Northern courts. Newspapers rarely, if ever, report them, and consultation of the criminal statistics of every State would be necessary to establish the number. But it is doubtful if those statistics would make as good a showing for the white race.

The refutation of this calumny is not merely a matter of abstract justice. The Democratic party rules States where it is in a minority, and at the same time maintains its full representation in the nation, both of that minority and the majority it has suppressed largely by virtue of this rape issue. The Northern sympathy which would redress these wrongs has been steadily and systematically alienated by the repetition of the story, with the "usual crime" as proof, that the negro race was rapidly devaluating to the missing-link

stage. It has been the constant inculcation that every Southern family had a potential orang-outang in its woodshed in the shape of its "hired man."

There is no doubt whatever that this argument has had more to do with the astounding indifference of the North to the criminal invasion of the human rights of the blacks than any other one cause. That the nation, after spending more than 300,000 lives and three thousand millions in money to rescue the negro from slavery, should then abandon him to a state in many respects infinitely worse is explicable only on the theory that it has been persuaded of its mistake in the man. The attitude is the result simply of a conspiracy to make the man out a brute.

A sinful conspiracy it has been. Considering the motive of political maneuver, this systematic deprivation of the negro's good name is rather more discreditable to the people responsible than the old deprivation of his liberty, or the later deprivation of his political and civil rights. But to believe that it can long prevail is to despair of the Republic. It will come to be realized throughout this country before a great while that these sickening Southern horrors have not in nine cases out of ten the justification of a home destroyed. It will be generally known that the ordinary lynching is for murder, arson, theft, fun--anything but rape. Then there will be a Federal descent on all concerned in these demoniac pastimes which will be as much more "through" than the old Ku-Klux prosecutions as the crimes which inspired it are more inhuman than any perpetrated by the blood-stained klan. The few remaining Southern Republican members can not do a greater national service than by reiterating these facts to Congress and the country, as did Messrs. Linney and White in the recent debate.

Mr. chairman, in order to show the horrors which must inevitably follow where the laws are disregarded and the human butchers take the place of the courts, permit me to read from the white press again, The Roanoke Times, and allow me to again interject the information that these parties were all white:

From Newport News now comes the report that the lynching of young Watts in that city for an alleged criminal assault a few days ago was all a horrible mistake. From the statements now made it looks as if Watts were the victim of a woman's desire to hide her shame. The whole affair is most revolting, yet it is an instance of the most miserable effects of mob violence. Too often have communities allowed themselves to be wrought up and led into the commission of deeds that they could not but regret upon calm reflection. In the case of Watts, if the above statements are true, all of the facts would have come out and the lynching of an innocent man avoided. Of course there are times when men are so much worked upon by the horror of the crime committed that they can hardly be expected not to lose their heads, yet there are no cases in which the exercise of the law would not be a better course. The Watts instance is a striking example of the result of over-zealous law and order committees.

We make this the occasion for relating a most remarkable incident which has recently come to our knowledge. Hon. W.W. Baker, member of the house of delegates from Chesterfield County, gives us the story, and in the interest of law and order authorizes us

to use it. In the same spirit and for the same purpose we publish it. Some time ago a citizen of Chesterfield, upon

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{Begin page no. 9}

the complaint of a married woman, was arrested on a charge of criminal assault. The woman was heard to scream, and the man was seen to run from the house. There was no question as his identity, because he was well known to the community. The woman declared that he had assaulted her, and even went as far as to show finger prints upon her throat. There was great indignation in the community, and a party was organized to lynch the man, but, fortunately for him, a special grand jury was summoned and immediate steps taken to have the case regularly tried in court.

Mr. Baker was foreman of the grand jury, and although the evidence against the man seemed to be conclusive, he determined to do everything in his power to get at the facts. The woman told a straightforward story, and, as we have already said, exhibited finger marks on her throat, which she declared were inflicted by the prisoner. After her testimony was given, Mr. Baker impressed upon her the fact that this man's life was in her hands; that if he was guilty of the terrible crime of which she had charged him, he deserved to be hung, but that if he was not guilty she would be guilty of murder for swearing away his life. The woman finally broke down and confessed that she had told her story in order to conceal her own shame and the bruises on her throat were made by her indignant husband because of her infidelity. Of course the grand jury did not return a true bill, and the incident was closed.

This shows how dangerous mob law is. Human liberty and human life are precious, and the organic law of the land provides that whenever a man has been accused of a crime he shall have a fair trial before a jury of his peers and shall have the privilege of introducing testimony in his own behalf. It is the business of our courts to thoroughly investigate all such cases and ascertain the exact truth. But the mob does not pursue such a course. The mob acts upon impulse and often upon ex parte evidence and never gives the accused the opportunity of introducing testimony to prove his innocence. When the mob rules no man's life is safe, for the mob hangs men upon the mere suspicion.

In referring to the subject of lynching a few days ago on this floor to a privileged question of personal explanation in reply to some vile references made against me by the Raleigh (N.C.) News and Observer, I stated in defense of my race that this wretched crime was committed occasionally by both white men and black men. Thereupon this same paper, together with other lesser lights in the State, pounded upon me as a slanderer of white men in the South and especially in North Carolina. "Out of their own mouths shall ye know them."

I read from the columns of the same News and Observer that was issued but a few days after it jumped on me:

[Fayetteville Observer.]
SENSATION AT LUMBER BRIDGE--MAGISTRATE WHO TRIED REUBEN ROSS CHARGED WITH RAPE.
A big sensation was created in Lumber Bridge and throughout Robeson County this morning when it was known that M. L. Harley, J. P., had issued a warrant for the arrest of S.J. McLeod, J.P., charging him with criminal assault on a colored girl named Dora Patterson, at his home, in Lumber Bridge, day before yesterday.

Mr. McLeod is the magistrate who held the preliminary trial of Reuben Ross and committed him to jail for the crime for which he was hanged on last Friday.

I might add that McLeod's victim was not only colored, but a cripple, and that McLeod is a white man living in North Carolina.

Mr. Chairman, the sickening effect of these crimes is bad enough in degenerating and degrading the moral sensibilities of those who now play upon the arena of the nation, but this is nothing when compared with the degrading and morbid effect it must have upon the minds of children in communities where these murders are committed in open daylight with the flagrant defiance of all law, morals, the State and nation, and the actors are dubbed as the best citizens of the community.

I tremble with horror for the future of our nation when I think what must be the inevitable result if mob violence is not stamped out of existence and law once permitted to reign supreme.

{Begin page no. 10}

If State laws are inadequate or indisposed to check this species of crime, then the duty of the National Government is plain, as is evidenced by section 1 of the fourteenth amendment to the Constitution of the United States, to wit:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

To the end that the National Government may have jurisdiction over this species of crime, I have prepared and introduced the following bill, now pending before the Committee on the Judiciary, to wit:
A bill for the protection of all citizens of the United States against mob violence, and the penalty for breaking such laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. **That all persons born or naturalized in the United States, and subject to the jurisdiction thereof, and being citizens of the United States, are entitled to and shall receive protection in their lives from being murdered, tortured, burned to death by any and all organized mobs commonly known as "lynching bees," whether said mob be spontaneously assembled or organized by premeditation for the purpose of taking the life or lives of any citizen or citizens in the United States aforesaid; and that whenever any citizen or citizens of the United States shall be murdered by mob violence in the manner hereinabove described, all parties participating, aiding, and abetting in such murder and lynching shall be guilty of treason against the Government of the United States, and shall be tried for that offense in the United States courts; full power and jurisdiction being hereby given to said United States courts and all its officers to issue process, arrest, try, and in all respects deal with such cases in the same manner now prescribed under existing laws for the trial of felonies in the United States courts.**

Sec. 2. That any person or persons duly tried and convicted in any United States court as principal or principals, aiders, abettors, accessories before or after the fact, for the murder of any citizen or citizens of the United States by mob violence or lynching as described in section 1 hereof, shall be punished as is now prescribed by law for the punishment of persons convicted of treason against the United States Government.

Sec. 3. That all laws and parts of laws in conflict with this statute are hereby repealed.

I do not pretend to claim for this bill perfection, but I have prepared and introduced it to moot the question before the Congress of the United States with the hope that expediency will be set aside and justice allowed to prevail, and a measure prepared by the Committee on the Judiciary that will come within the jurisdiction of the Constitution of the United States, as above cited.

There remain now but two questions to be settled: First, perhaps, is it expedient for the American Congress to step aside from the consideration of economic questions, the all-absorbing idea of acquisition of new territory, and consider for a moment the rights of a portion of our citizens at home and the preservation of their lives? That question I leave for you to answer.

The second is: Has Congress power to enact a statute to meet these evils? In my opinion it has ample authority under the Constitution of the United States.

A right or immunity, whether created by the Constitution or only guaranteed by it, even with or without express delegation of power, may be protected by Congress. (Prigg vs. Commonwealth of Pennsylvania, 16 Peters, 536; Slaughterhouse Cases, 16 Wall., 36; 83 U.S., XXI, 394; Virginia vs. Rivers, 100 U.S., 370; United States vs. Reeves, 92 U.S., 214; Sturgis vs. Crowninshield, 4 Wheat. Rep., 122, 193.)

{Begin page no. 11}

But it has been argued that the act of Congress is unconstitutional because it does not fall within the scope of any enumerated powers of legislation confided to that body, and therefore is void.

Stripped of its artificial and technical structure, the argument comes to this, that although rights are exclusively secured by, or duties are exclusively imposed upon, the National Government, yet unless the power to enforce these rights or to execute these duties can be found among the express powers of legislation enumerated in the Constitution, they remain without any means of giving them effect by act of Congress and they must operate solely proprio vigor however defective may be their operation, nay, even although, in a practical sense, they may become a nullity from the want of a proper remedy to enforce them or to provide against their violation. If this be a true interpretation of the Constitution, it must in a great measure fail to attain many of its avowed and positive objects as a security of rights and a recognition of duties. Such a limited construction of the Constitution has never yet been adopted as correct, either in theory or practice.

No one has ever supposed that Congress could constitutionally, by its legislation, exercise powers or enact laws beyond the powers delegated to it by the Constitution. But it has on various occasions exercised powers which were necessary and proper as means to carry into effect rights expressly given and duties expressly enjoined thereby. The end being required, it has been deemed a just and necessary implication that the means to accomplish it are given also, or, in other words, that the power flows as a necessary means to accomplish the end. (United States Supreme Court Reports, 38-41, 618-619.)

By permission I will here reproduce a letter written by one of the ablest lawyers in the Commonwealth of Massachusetts, an ex-attorney-general of that State, to a friend of his in this city. I refer to the Hon. A.E. Pillsbury. His letter is as follows:

I am aware that this is a difficult subject to deal with, but is not to be dismissed offhand. The precise question is whether the United States has any power, under the fourteenth amendment or otherwise, to protect the lives of its own citizens against mob violence within the States which the States do not prevent or punish or commonly make any attempt to prevent or punish. This question has never been directly decided. There are two grounds upon which I think it at least possible that Federal legislation for this purpose may be supported.

The first is found in the express rights and powers conferred by the fourteenth amendment. Strauder vs. West Virginia (100 United States, 303) holds that the fourteenth amendment confers, as a Federal right, immunity from hostile or unfriendly action of the States or their agencies. Ex parte Virginia (100 United States, 339) declares as of course that Congress has power to enforce the fourteenth amendment against State action

however put forth, whether executive, legislative, or judicial; that such enforcement is no invasion of State sovereignty; and sustains the constitutionality of the section, civil-rights act of March 1, 1875, which punishes State officers for acts of omission, among others, for failing to summon colored citizens for jury duty. (See also Tennessee vs. Davis, ibid., 257.)

The Civil Rights Cases (109 U.S., 3), while holding unconstitutional the provision of the same act forbidding the denial of equal accommodations in railroad trains and places of entertainment, etc., on the ground that the law in this particular was not corrective of any hostile action of the State or its agencies, broadly declares that if State laws do not protect the citizen in all his Federal rights his remedy will be found in further corrective legislation, which Congress may adopt under the fourteenth amendment. See also the strong dissenting opinion of Mr. Justice Harlan.

The powers of Congress were by no means exhausted in the civil rights legislation.

The fourteenth amendment creates and defines citizenship of the United States as a Federal right, and makes the primary change and citizenship of the States secondary and derivative.

It would be no greater stretch than the court has often indulged to hold that the amendment confers upon citizens of the United States within the States the right to the same protection, at least in their lives, that the Government owes them everywhere else, and that the United States may afford this protection against mob violence within the States or the inaction or indifference of the States and their agencies in refusing or omitting to prevent or punish the murder of colored citizens by mobs.

Suppose a State law against murder omits to provide any penalty against the murder of colored persons. It could hardly be denied that this would violate the equality clause of the fourteenth amendment and that Congress could interfere for their protection. Suppose a State law applies the penalty to all murders, but the State authorities openly and notoriously omit to enforce

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{Begin page no. 12}

force it against the murders of colored persons. The resulting mischief is the same as if the law contains no penalty for the latter offense. The omission to enforce the penalty is as much the act of the as the omission to enact it. The open and notorious omission of the State to prevent or attempt to prevent lynching encourages and contributes to the doing of it. Can it be said that Congress, having power to correct the mischief in the former case, is powerless in the latter? Why has it not the power? For the sole reason, if any, that the general power of domestic regulation is reserved to the States.

But this is only a negative reason, and does not affirmatively exclude the exercise within the State of any power, expressed or implied, which the United States may possess. There is now another possible ground which had not appeared in the day of the Civil Rights case.

Siebold's case (100 U.S., 371,394) broadly intimates, and Neagle's case (135 U.S., 1, 69) directly decides, that there is a "peace of the United States" throughout our jurisdiction; that the United States may preserve and enforce it by preventing an assault upon a Federal Officer within a State, even to the extent of killing the assailant, and that this is not an invasion of State sovereignty.

The same process of reasoning which leads to that conclusion is capable of leading to the conclusion that the United States has the same power of protecting its citizens as of its officers within the States. It was only an implied power in the case of the officer. The power which the United States has and exercises to protect its citizens outside the States is only an implied power.

Under the "peace" doctrine there is at least ground to affirm that the murder of a citizen of the United States by a law-defined mob is an invasion of the peace of the United States; and under the fourteenth amendment that the default of a State and its officers in taking means to prevent or to punish such murders is a violation of the rights thereby secured: and that the United States may take measures to preserve the peace of the United States within the States, and may extend to its citizens the protection in their lives which the States deny by failing to furnish it. All reasonable presumptions, in legislation and in judicial construction, are to be made in favor of the protection of life.

It hardly need be said that the express provision of the fifteenth amendment against abridging the right of citizens of the United States to vote does not by implication authorize the States to kill citizens of the United States or suffer them to be killed without interference; or does the provision for Congressional legislation to enforce it exclude by implication the exercise of any other power which the United States may possess under the fourteenth amendment or otherwise.

I am not prepared to assert that this is impregnable for the constitutionality of such legislation; but there is enough in it to afford food for thought, and, in my opinion ground for the attempt. If Congress and the Executive deemed the protection of our own citizens in their lives and liberties of as much importance as the conquest and subjugation of the Filipinos, I think the Constitution would be found adequate to it.

It is quite possible that more difficulties may be found in working out the remedy than in establishing the constitutional power; but if the power exists, I see no reason why the murder of a citizen of the United States by a mob should not be declared a crime against the United States and punished as such. The responsible officers of the county or other district in which such crimes occur might be punished by the United States for omission to bring or attempt to bring the offenders to trial under the State laws. The occurrence of a lynching might be declared sufficient primary fact evidence of denial by the State and

its officers of equal protection. A fine might be levied on the county or district in which the lynching occurs. The military powers might be brought to bear upon any such district or neighborhood for the prevention of further offenses, which provision by itself would go far to prevent them.

Any bill for the purpose must of course contain a certain provision for the empaneling of juries in the Federal courts in proceedings for the punishment of the offenses in question. It is also worth considering whether the equity powers of these courts may not be invoked. The rule that equity does not prevent or punish crimes may be reserved by statute, subject only to the constitutional guaranty of jury trial. The liquor selling can be prevented and punished by bill in equity, which is held constitutional in some of the States, and it is possible that mob violence directed against the lives of unoffending people may be.

If the Republican party leaders consider that any attempt at legislation of this character is inadmissible for political reasons, I can understand it though I do not agree to it. The legal proposition that the United States, having unquestioned power to protect its citizens in their lives and their property in every other quarter of the world, has no power to protect them in their lives

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{Begin page no. 13}

within sight of its own capital where the States openly, notoriously, and purposely fail to do it is so monstrous that it is not to be conceded until affirmed by final authority.

To admit that our nation, which is made up of several States, is unable to enforce law throughout its limits whenever the people therein are disposed to violate the same and that the State governments, or rather the lack thereof, are superior to and ultimately independent of the General Government, is to admit, if I mistake not, the soundness of the late contested platform of secession. What is government if not enforcement rather than the enactment of law? And what is law if not the protection of the lives and peace of the people? If the United States has no government which can effect this throughout its jurisdiction, the will of any State to the contrary notwithstanding, what is the improvement of its Government over that of the Turks in Armenia?

In concluding these remarks, Mr. Chairman, I wish to disclaim any intention of harshness or the production of any friction between the races or the sections of this country. I have simply raised my voice against a growing and, as I regard it, one of the most dangerous evils in our country. I have simply raised my voice in behalf of people who have no one else to speak for them here from a racial point of view; in behalf of a patient and, in the main, inoffensive race, a race which has often been wronged but seldom retailed; in behalf of the people who--

Like birds, for others we have built the downy nest; Like sheep for others we have worn the fleecy vest;
Like bees, for others we have collected the honeyed food;
Like the patient ox, we have labored for others' good.
[Prolonged applause.]