Suspend the Rules and Pass the Bill, H.R. 35, With an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 35

To amend section 249 of title 18, United States Code, to specify lynching as a hate crime act.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. RUSH introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend section 249 of title 18, United States Code, to specify lynching as a hate crime act.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Emmett Till Antilyching Act”.
6
7 SEC. 2. FINDINGS.
8 Congress finds the following:
1. The crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction.

2. Lynching was a widely acknowledged practice in the United States until the middle of the 20th century.

3. Lynching was a crime that occurred throughout the United States, with documented incidents in all but 4 States.

4. At least 4,742 people, predominantly African Americans, were reported lynched in the United States between 1882 and 1968.

5. Ninety-nine percent of all perpetrators of lynching escaped from punishment by State or local officials.

6. Lynching prompted African Americans to form the National Association for the Advancement of Colored People (referred to in this section as the “NAACP”) and prompted members of B’nai B’rith to found the Anti-Defamation League.

7. Mr. Walter White, as a member of the NAACP and later as the executive secretary of the NAACP from 1931 to 1955, meticulously investigated lynchings in the United States and worked tirelessly to end segregation and racialized terror.
(8) Nearly 200 anti-lynching bills were introduced in Congress during the first half of the 20th century.

(9) Between 1890 and 1952, 7 Presidents petitioned Congress to end lynching.

(10) Between 1920 and 1940, the House of Representatives passed 3 strong anti-lynching measures.

(11) Protection against lynching was the minimum and most basic of Federal responsibilities, and the Senate considered but failed to enact anti-lynching legislation despite repeated requests by civil rights groups, Presidents, and the House of Representatives to do so.

(12) The publication of “Without Sanctuary: Lynching Photography in America” helped bring greater awareness and proper recognition of the victims of lynching.

(13) Only by coming to terms with history can the United States effectively champion human rights abroad.

(14) An apology offered in the spirit of true repentance moves the United States toward reconciliation and may become central to a new un-
standing, on which improved racial relations can be
forged.

(15) Having concluded that a reckoning with
our own history is the only way the country can ef-
fectively champion human rights abroad, 90 Mem-
bers of the United States Senate agreed to Senate
Resolution 39, 109th Congress, on June 13, 2005,
to apologize to the victims of lynching and the de-
cendants of those victims for the failure of the Sen-
ate to enact anti-lynching legislation.

(16) The National Memorial for Peace and Jus-
tice, which opened to the public in Montgomery, Ala-
abama, on April 26, 2018, is the Nation’s first memo-
ral dedicated to the legacy of enslaved Black people,
people terrorized by lynching, African Americans hu-
miliated by racial segregation and Jim Crow, and
people of color burdened with contemporary pre-
sumptions of guilt and police violence.

(17) Notwithstanding the Senate’s apology and
the heightened awareness and education about the
Nation’s legacy with lynching, it is wholly necessary
and appropriate for the Congress to enact legisla-
tion, after 100 years of unsuccessful legislative ef-
forts, finally to make lynching a Federal crime.
(18) Further, it is the sense of Congress that criminal action by a group increases the likelihood that the criminal object of that group will be successfully attained and decreases the probability that the individuals involved will depart from their path of criminality. Therefore, it is appropriate to specify criminal penalties for the crime of lynching, or any attempt or conspiracy to commit lynching.

(19) The United States Senate agreed to unanimously Senate Resolution 118, 115th Congress, on April 5, 2017, “[c]ondemning hate crime and any other form of racism, religious or ethnic bias, discrimination, incitement to violence, or animus targeting a minority in the United States” and taking notice specifically of Federal Bureau of Investigation statistics demonstrating that “among single-bias hate crime incidents in the United States, 59.2 percent of victims were targeted due to racial, ethnic, or ancestral bias, and among those victims, 52.2 percent were victims of crimes motivated by the offenders’ anti-Black or anti-African American bias”.

(20) On September 14, 2017, President Donald J. Trump signed into law Senate Joint Resolution 49 (Public Law 115–58; 131 Stat. 1149), wherein Congress “condemn[ed] the racist violence and do-
mestic terrorist attack that took place between Au-
gust 11 and August 12, 2017, in Charlottesville,
Virginia” and “urg[ed] the President and his admin-
istration to speak out against hate groups that
espouse racism, extremism, xenophobia, anti-Semi-
tism, and White supremacy; and use all resources
available to the President and the President’s Cabi-
net to address the growing prevalence of those hate
groups in the United States”.

(21) Senate Joint Resolution 49 (Public Law
115–58; 131 Stat. 1149) specifically took notice of
“hundreds of torch-bearing White nationalists,
White supremacists, Klansmen, and neo-Nazis [who]
chanted racist, anti-Semitic, and anti-immigrant slo-
gans and violently engaged with counter-demonstra-
tors on and around the grounds of the University of
Virginia in Charlottesville” and that these groups
“reportedly are organizing similar events in other
cities in the United States and communities every-
where are concerned about the growing and open
display of hate and violence being perpetrated by
those groups”.

(22) Lynching was a pernicious and pervasive
tool that was used to interfere with multiple aspects
of life—including the exercise of Federally protected
rights, as enumerated in section 245 of title 18, United States Code, housing rights, as enumerated in section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631), and the free exercise of religion, as enumerated in section 247 of title 18, United States Code. Interference with these rights was often effectuated by multiple offenders and groups, rather than isolated individuals. Therefore, prohibiting conspiracies to violate each of these rights recognizes the history of lynching in the United States and serves to prohibit its use in the future.

SEC. 3. LYNCHING.

(a) OFFENSE.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

“§ 250. Lynching

“Whoever conspires with another person to violate section 245, 247, or 249 of this title or section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631) shall be punished in the same manner as a completed violation of such section, except that if the maximum term of imprisonment for such completed violation is less than 10 years, the person may be imprisoned for not more than 10 years.”.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 13 of title 18, United States Code,
is amended by inserting after the item relating to section 249 the following:

“250. Lynching.”.