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CIVIL RIGHTS SECTION

May 5, 1943

Honorable Paul B. Johnson
Governor of the State of Mississippi
Jackson, Mississippi

Dear Governor Johnson:

On April 24, 1943, a jury's verdict of acquittal in the United States District Court for the Southern District of Mississippi, at Hattiesburg, terminated the Government's prosecution of certain persons on indictments charging violations of Sections 51 and 52, Title 18, United States Code. These indictments had been returned by a federal grand jury composed of twenty-three citizens of Mississippi on January 12, 1943, at Jackson, after its investigation of the lynching of Howard Wash, a Negro, by a mob at Laurel, Mississippi on October 17, 1942.

Federal Judge Sidney C. Mize instructed the jury at Hattiesburg:

> "You are instructed as a matter of law that the United States is acting within the scope of its soverign power in proceeding with these charges, and you are further instructed that a verdict of guilty reached by you, under the instructions of the court on any of the counts of the indictments, against any of the defendants, will not constitute an invasion of the rights or the sovereign powers of the State of Mississippi."

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Nevertheless, it is understood that the factor which probably determined the jury's verdict was a belief that prosecution of these persons should more properly have been conducted in the State courts rather than in the federal court. It is true that a grand jury of Jones County investigated this lynching shortly after its occurrence and adjourned without returning indictments, but important and material evidence has since been obtained, including a signed confession of one of the suspects.

The jury's verdict, of course, exhausts the prosecutive remedies of the Federal Government in this matter, inasmuch as the Government may not appeal from a verdict of acquittal. However, it remains true, as Judge Mize advised the jury at Hattiesburg:

> "In this Nation we live under government of a dual chracter. Many violations of law constitute a crime both against the state government and against the government of the United States. In such cases the state government and the federal government have concurrent jurisdiction and this is usually so in case of violation of the Civil Rights Statutes. In such case, therefore, either government is justified in prosecuting defendants charged with such a violation."

The acquittal on the federal charge being no bar to a prosecution by the State of Mississippi, it is entirely possible that prosecuting officials of the State of Mississippi may desire to prosecute one or more of the individuals involved under State law and in the State courts.

In such event, this is to let you know, and through you, the Honorable Gregg Rice, Attorney General of the State of Mississippi, and the Honorable Alexander Currie, State District Attorney at Hattiesburg, in whose District this lynching occurred, that the Department of Justice in Washington and the office of the United States Attorney at Jackson will make available to the State authorities, upon request, all evidence relating to this case in the hands of the United States Government.

In this connection, you are advised that the Government introduced at the trial of this case an original signed statement by one of the defendants, admitting his participation in the lynching of Howard Wash. This exhibit is now in the custody of the Clerk of the United States District Court at Jackson. Inasmuch as this statement was made public at the trial, I am attaching a copy hereto for your information. I know from the statements which you made at the time of this lynching last fall that you agree with the statement which I made over a year ago on February 13, 1942, at the time of a prior lynching, when I publicly stated:

> "With our country at war, to defend our Democratic way of life throughout the world, a lynching has significance far beyond the community or even the State, in which it occurs. It becomes a matter of national importance. . . "

It is with this fact in mind, and in the spirit of attempting to do my full duty, that I address this letter to you, and make public its release.

With kindest regards,

Sincerely yours,

Attorney General