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978-1-107-03710-6 - Civil Rights and the Making of the Modern American State

Megan Ming Francis

Excerpt

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I

Rethinking Civil Rights and American Political Development

What's past is prologue.

– William Shakespeare

This is the sort of work which the National Association for the Advancement of Colored People is doing. It is a broader question than that of obtaining justice for Negroes. It is a fight for the high principles which we as Americans revere.

– Walter White¹

It was a dreary night on September 30, 1919, when a small group of African American tenant farmers peacefully gathered in a church in Phillips County, Arkansas, to organize in seeking relief from the sharecropping system that kept them as virtual slaves to their white landlords. However, the meeting would not end in success. Aware of the union of African Americans, a small band of white law enforcement officials disrupted the gathering by firing shots into the church, first shattering the ceiling lights and then aiming at the frightened men, women, and children trapped in the darkened building. Their fire was returned with fire from inside the church, and one white man was killed. Declaring that the African Americans were forming a plot to kill the “good whites” of Phillips County, prominent whites called on the Ku Klux Klan and other white vigilante organizations from neighboring states such as Mississippi and Tennessee to quell the fabricated insurrection by African Americans. What ensued in Phillips County would become the worst display of racial violence up to that point in the twentieth century: more than 200 African American men, women, and children were indiscriminately hunted and shot down over the course of three days. Thousands were driven from their homes, and the African

¹ Walter White to George Wickersham (former Attorney General in President William Howard Taft's administration) in reference to the NAACP victory in *Moore v. Dempsey*, Letter, March 9, 1923, NAACP Papers, Manuscript Division, Library of Congress, Washington, DC.

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American section of town was looted and destroyed. When the dust cleared, seventy-two African American men had been arrested. After swift trials dominated by a bloodthirsty mob, all seventy-two were found guilty, and twelve were sentenced to death by the electric chair.

The Phillips County massacre was not an anomaly; the summer of 1919 had been marked by a series of horrifying race riots across the country.² Still, it stood out as the incident with the most devastating consequences and clearly displayed the power of white supremacy and the inadequacy of the American justice system. Twelve African American men faced what the National Association for the Advancement of Colored People's (NAACP) founder William English Walling called "lynching by law." These men, sharecroppers by profession, had been harassed in the first place because they sought to organize against exploitative white landowners who refused to pay them the market price for their cotton. Each member of the Phillips County 12 received a trial that was no longer than an hour. In the courtroom was a bloodthirsty mob that had agreed to let the legal proceedings take place only after the courts had promised that the accused would be found guilty and executed.³

The trial was just the latest example of the vulnerability of African American citizenship in postbellum America. At the time this incident occurred, Jim Crow justice was only an inch away from Judge Lynch. It was 1919, and mob-dominated trials and coercive methods of dealing with African American defendants in southern courtrooms were far from abnormal. The national government did not interfere in state criminal proceedings, and no uniform criminal procedure code existed. Individual states were responsible for the handling of their own criminal proceedings.

Despite not having a formal legal arm, the NAACP took as a serious affront the idea that twelve innocent African American men could be sentenced to die in an American courtroom. The sham trial threatened to undermine everything the organization had worked so hard to accomplish. The aspirations to effect equality in education, voting, and labor were doomed if brutal violence against African Americans could continue without punishment. Thus, legal support of the Phillips County 12 seemed like a necessary step for the NAACP. The circumstances surrounding the case were daunting; still, it chose to get involved. More than three years later, the NAACP's work would culminate in the precedent-setting Supreme Court criminal procedure decision, *Moore v. Dempsey* 261 U.S. 86 (1923), which would mark the first time the federal government interfered in state criminal court proceedings. The question before the Supreme Court was whether the presence of a mob in a courtroom violated the due process clause of the Fourteenth Amendment. In a decision written by Justice Oliver Wendell Holmes, the Supreme Court ruled in favor of the

² Arthur Waskow, *From Race Riot to Sit-In, 1919 and the 1960s: A Study in the Connections Between Conflict and Violence*, Garden City, NY: Anchor Books, 1967.

³ Walter White, "'Massacring Whites' in Arkansas," *The Nation*, December 6, 1919, Waskow.

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African American defendants and declared that a fair trial must be free from mob domination.

The initial incident that led to *Moore v. Dempsey* coincided with the apex of the NAACP's anti-lynching crusade. The issue of racial violence was foremost on the agenda of the NAACP because unchecked lynching and mob violence were some of the greatest impediments to equality for African Americans at the time of the NAACP's founding in 1909. After the brief period known as Reconstruction came to a close, state governments across the South sought to construct a system of racial and economic domination reminiscent of slavery. They set out to accomplish this goal through unrestricted racial violence. During the post-Reconstruction period, white mobs were free to inflict violence upon African Americans; they could easily, for instance, lynch an African American without punishment.⁴ Numerous examples exist in which African Americans were lynched because they were in the wrong place at the wrong time, or when there were new challenges to southern political authority, and especially when the economic standing of southern whites was threatened.⁵ Against such injustice African Americans had no recourse. Law enforcement and government officials looked the other way and thus played a complicit role in the violence.

The NAACP was established in the aftermath of a race riot in Springfield, Illinois, that occurred on August 14, 1908. During the riot, white mobs stormed through the African American district, burning homes and destroying business establishments. It took more than 4,000 militiamen two days to restore order. By this time, two people had already been lynched, and 2,000 African Americans had fled the city. Shock waves reverberated throughout the nation that such violence could occur in the North. The racist violence evidenced in the Springfield riot heightened the need for action and mobilized reformers to act. As a result, a biracial coalition of activists, clergy, and scholars was formed in 1909 as a watchdog of liberties for African Americans. The coalition members sought to create a unified front against future racial injustice and committed themselves to improving the fragile citizenship rights of African Americans.⁶

⁴ Walter Francis White, *Rope & Faggot: A Biography of Judge Lynch*, New York and London: A. A. Knopf, 1929; Ida B. Wells, *Crusade for Justice: The Autobiography of Ida B. Wells*, Chicago: The University of Chicago Press, 1970; A. Arthur Raper, *The Tragedy of Lynching*, Chapel Hill: University of North Carolina Press, 1933; W. E. B. Du Bois, *Black Reconstruction in America*, New York: Atheneum, 1935; Leon Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, New York: Vintage Books, 1998.

⁵ Susan Olzak, "The Political Context of Competition: Lynching and Urban Racial Violence, 1882–1914," *Social Forces* 69, no. 2 (1990): 395–421; Stewart Tolnay, E. M. Beck, and James Massey, "Black Competition and White Vengeance: Legal Execution of Blacks as Social Control in the Cotton South, 1890 to 1929," *Social Science Quarterly* 73 (1992): 627–644; Stewart Tolnay and E. M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882–1930*, Urbana: University of Illinois Press, 1995.

⁶ For accounts of the development of the NAACP, see the following: Langston Hughes, *Fight for Freedom*, New York: W. W. Norton, 1962; Charles Flint Kellogg, *NAACP: A History of*

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From the beginning, the NAACP remained committed to raising national awareness to the injustice of racial violence. Particularly notable was the development of its anti-lynching and mob-violence-reduction campaign. To conduct this campaign, the NAACP began by implementing a strategy to place the issue of racial violence in mainstream discourse. The first task undertaken by the anti-lynching campaign was to raise public awareness among whites of lynching and mob violence. Lynching persisted, and the NAACP believed this was because most white Americans knew very little about the terrorism lynching and mob violence inflicted upon African American communities.⁷ If they were aware of the barbarism of lynching, the NAACP reasoned, white Americans would be appalled, and steps would be taken “to end this miserable disgrace and foul blot upon the fair name of America.”⁸ To this end, the NAACP concentrated on investigating lynchings and developed a three-pronged media strategy focused on writing articles, producing anti-lynching pamphlets, and utilizing its own organizational magazine, *The Crisis*, to reach white Americans. By articulating the terror of lynching and broadcasting it to a wider audience through these different channels, the NAACP hoped the normalized attitudes toward lynchings – acceptability in the South and indifference in the North – would change and turn decidedly against lynching.⁹

The battery of NAACP activities focused on changing public opinion about lynching provided a necessary shock to a society that was at best ambivalent over the lynching of African Americans. Aided by resources, contacts, and well-placed board members, the NAACP was able to get the word out about lynching. The infusion of an alternative perspective into the public domain provided white Americans with another way to interpret lynchings. Nevertheless, despite the greater presence of lynching and mob violence in mainstream discourse, the NAACP’s publicity activities did not completely end lynching. Even more frustrating, it became apparent that many whites were aware of the racist violence African Americans endured but did nothing to stop the injustice.

It was not enough for the NAACP to raise the public’s awareness about mob violence and lynchings; the organization knew a lot of power lay in politics and felt it necessary to supplement publicity with work in the legislative

the National Association for the Advancement of Colored People, Baltimore: Johns Hopkins University Press, 1967; B. Joyce Ross, *J. E. Spingarn and the Rise of NAACP, 1911–1929*, New York: Atheneum, 1972; Minnie Finch, *The NAACP: Its Fight for Justice*, London: The Scarecrow Press, 1981; Patricia Sullivan, *Lift Every Voice: The NAACP and the Making of the Civil Rights Movement*, New York: New Press, 2009.

⁷ “The world does not know, it does not realize evil or its significance in nine cases out of ten. This is particularly true of the situation of American Negroes.” In Seventh Annual Report for the Year 1916, NAACP Papers, Manuscript Division, Library of Congress, Washington, DC.

⁸ Tenth Annual Report for the Year 1919, p. 17, NAACP Papers, Manuscript Division, Library of Congress, Washington, DC.

⁹ August Meier, *Negro Thought in America, 1880–1915: Radical Ideologies in the Age of Booker T. Washington*, Ann Arbor: The University of Michigan Press, 1963, p. 161.

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arena where it sponsored an anti-lynching bill and began a historic drive in Congress in 1921. In a very short time, the NAACP remade itself into an anti-lynching lobbying organization, and, through direct lobbying to individual Congressmen and an expansive grassroots effort, pressured lawmakers in the House of Representatives to pass the anti-lynching bill. In less than a year, leading House Republicans went from a hands-off approach to anti-lynching legislation to actively advocating on its behalf and defending the necessity for such legislation against a determined coalition of southern Democrats. The NAACP-supported anti-lynching bill passed the House of Representatives by a commanding two-thirds vote. However, the bill was filibustered in the Senate and never made into a law.

The NAACP also trained its eyes on the Oval Office where, after much persuasion, the organization succeeded in placing racial violence on the presidential agenda. Through a relentless barrage of appeals, the NAACP was able to convince President Woodrow Wilson and President Warren G. Harding to publicly denounce lynching and mob violence. After mounting pressure, Wilson conceded to NAACP demands during his second term, and Harding complied with NAACP requests for a strong statement against lynching as soon as he assumed office. The public statements made by Wilson and Harding against lynchings are particularly remarkable because both men initially expressed an unwillingness to address the issue. Private correspondence also reveals other significant areas where Wilson and Harding directly responded to NAACP requests: Wilson halted the killings of an African American army battalion that came under court marshal, and Harding supported the NAACP-sponsored anti-lynching bill. Nevertheless, similar to its efforts in Congress, the NAACP did not ultimately get what it wanted: the presidential denouncements did not end lynching, nor were the presidents willing to actively push for anti-lynching legislation.

The marked increase in the NAACP's involvement at the political level can be traced to the additions of James Weldon Johnson as NAACP secretary and Walter White as assistant secretary in 1916 and 1918, respectively. Together they put renewed pressure on the political branches and aggressively pushed for a greater NAACP presence in national politics. By awakening the public and political consciousness to lynching and mob violence, the NAACP played a major role in creating an environment that was receptive to the need for more safeguards in the criminal justice process. Nevertheless, despite this work, the number of lynchings continued to increase. Exasperated with the pace of progress in the social and political contexts and aware that a lot of power lay in the law, the NAACP turned its attention to the legal arena, where the organization was able to challenge the boundaries of constitutional doctrine in the area of criminal procedure.

The NAACP's influence was displayed most prominently in the landmark decision *Moore v. Dempsey*. Through this ruling, the Supreme Court made history by breaking from an established tradition of federalism and changed the

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federal government's position on racial violence. With this case, the Supreme Court finally moved the federal government from a rut of frustrating symbolic rhetoric to substantive legal guarantees.

Once the NAACP secured this decision from the Supreme Court, new precedent was established, and the Supreme Court entered a new era of jurisprudence no longer bound by strict deference to state courts. After *Moore v. Dempsey*, the Supreme Court made clear it was no longer willing to ignore the blatant racism that existed in southern courtrooms. Subsequently, the Supreme Court displayed its willingness to intervene on behalf of helpless African American defendants in a number of precedent-setting cases in the 1930s and 1940s, such as *Powell v. Alabama* (establishing that defendants in capital cases have a right to state-appointed counsel),¹⁰ *Hollins v. Oklahoma* (the first of many decisions declaring exclusion of African American jurors unconstitutional),¹¹ *Brown v. Mississippi* (ruling that confessions exacted through torture violated the due process clause),¹² and *Chambers v. Florida* (establishing that confessions obtained under duress were illegal).¹³ Beginning with these cases in the first half of the twentieth century, the power of federal courts vis-à-vis state courts in the area of criminal law began to expand. The Supreme Court decisions during this period sent a message to state governments that a criminal trial had to have more than simply the appearance of being conducted in a lawful manner – it had to have substance as well. By doing so, the Supreme Court positioned itself as a major institutional player in the politics of race in Jim Crow America.

Moore v. Dempsey is known for the legal precedent it helped establish, yet the Supreme Court's complicated journey to a final outcome has been obscured in the existing literature. In line with public law scholars who have linked expansions in court power to elected officials as well as public opinion, the leading view explains the federalization of power in criminal law as a product of the changing political and social environment.¹⁴ It is often

¹⁰ 287 U.S. 45 (1932): One of the notorious Scottsboro cases where nine young black men were accused of raping two white women on a train. The young men barely escaped a lynch mob and were swiftly sentenced to death. On appeal, the Supreme Court reversed the convictions based on the due process clause of the Fourteenth Amendment and stated that fundamental fairness required that counsel be appointed.

¹¹ 295 U.S. 394 (1935): An African-American man convicted of a rape in Oklahoma charged that blacks had systematically been excluded from jury service based solely on account of their race.

¹² 297 U.S. 278 (1936): A case where three African American Mississippi men were stripped naked and beaten with leather straps with buckles and tortured by pseudo-lynching until they confessed to murdering their white plantation owner. The court's majority opinion cited *Moore v. Dempsey*.

¹³ 309 U.S. 227 (1940): A situation arose when more than thirty black men were rounded up without warrants and brought to the county jail whereupon they faced persistent and repeated questioning that went on for several days.

¹⁴ Mark Graber, "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary," *Studies in American Political Development* 7 (1993): 35–73; Paul Frymer, "Acting When Elected

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assumed, as Michael Klarman argues, that this was a fairly straightforward and easy decision. Klarman correctly stresses that, by the time *Moore v. Dempsey* appeared before the nation's highest court, the public (including national politicians) had become more concerned about the "problems of interracial violence and lawlessness."¹⁵ Yet his analysis does not explain how political and social conditions change so as to permit a case like *Moore v. Dempsey* to be decided the way it was. Nor does it take into account the independent role of the litigation process on the Supreme Court's decision in *Moore*. To be clear, this book does not mean to suggest that the established theories are completely without merit; they do tell the truth, but they are incomplete. As a result, other significant factors that contributed to the beginning of federal involvement in state criminal trials are sidelined in favor of a direct link between political-social transformations and the construction of a stronger national judiciary. Warning political scientists about this kind of reductionism in our theorizing about institutions, Robert Lieberman writes:

To explain a change in some familiar state of affairs, we must assume an antecedent change in one or more causal factors that were previously part of a stable system. But after making this move we are left with the same problem: What caused this antecedent change, if not some change farther back in the causal chain? At some point in this sequence, the source of change must come from outside the system.¹⁶

This book endeavors to reorient how we think about American political and constitutional development, away from a narrow focus on institutions and elite state actors to a broader study that encompasses bottom-up change from organized citizens on the ground. Unlike previous research, this book demonstrates the role of the NAACP in shaping the path of development. Indeed, path dependence research has highlighted the significance of the early stages of institutional development in the shaping of future outcomes.¹⁷ My own research reveals that by taking a step back and examining the antecedents to change in the political and social environment, we will see the critical role

Officials Won't: Federal Courts and Civil Rights Enforcement in U.S. Labor Union, 1935–85," *American Political Science Review* 97, no. 3 (2003): 483–499; Barry Friedman, *The Will of the People: How Public Opinion has Influenced the Supreme Court and Shaped the Meaning of the Constitution*, New York: Farrar, Straus and Giroux, 2009.

¹⁵ Michael Klarman, "The Racial Origins of Modern Criminal Procedure," *Michigan Law Review* 99, no. 1 (October 2000), p. 60; Michael Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*, Oxford: Oxford University Press, 2004; Malcolm Feely, "The Black Basis of Constitutional Development" in *Earl Warren and the Warren Court: The Legacy in American and Foreign Law*, edited by Harry N. Scheiber, Lanham, MD: Lexington Books/Rowman & Littlefield Publishers, 2007, pp. 66–67.

¹⁶ Robert Lieberman, "Ideas, Institutions, and Political Order: Explaining Political Change," *The American Political Science Review* 96, no. 4 (December 2002), p. 698.

¹⁷ Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis*, Princeton, NJ: Princeton University Press, 2004.

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the NAACP played in this case and by extension, in the construction of the national judiciary and civil rights.

Civil Rights–Centered Approach

This book places the NAACP at the crux of understanding the building of the twentieth-century American state. Using the NAACP's anti-lynching campaign, I determine the NAACP influenced the reshaping of institutions and the actions of individuals in a period critical to state development. First, I argue that the NAACP played a pivotal role in the growth of federal court power in criminal procedure and subsequently in civil rights by helping the Supreme Court wrestle away jurisdiction from state courts in the first quarter of the twentieth century. The importance of understanding the foundation of the Supreme Court's criminal procedure jurisprudence is magnified by its relation to the development of civil rights in the United States. *Moore v. Dempsey* marked a critical moment that helped federal courts see that the states were too weak to protect the most basic right to citizenship – the right to live – and thus the responsibility was up to the Supreme Court. Subsequently, the Supreme Court began a long tradition, climaxing in the 1950s and 1960s, of using the unequal treatment of African Americans as justification to power-grab from state courts.

In contemporary scholarship, we accept that the Supreme Court was an important institutional player in the furthering of a federal civil rights agenda in the twentieth century, but we do not trace it back to this path-dependent fork in the road. Part of this negligence is attributable to the oversaturation of *Brown v. Board of Education* 347 U.S. 483 (1954) in the literature. However, the starting point of civil rights was not born out of struggles around gaining equal access to education; that famous struggle built on the battle to have the right to live protected. In other words, the starting point of a more expansive federal civil rights agenda can be traced to the state's response to anti-lynching crusades. Without the NAACP, *Moore* would have never reached the Supreme Court, and the expansion of the Court in the areas of criminal procedure and civil rights would have come later or not at all. This is so because *both* the NAACP's focus on education desegregation litigation and the funding structure that birthed the storied NAACP Legal Defense Fund (NAACP-LDF) originated from a generous grant from the American Fund for Public Service (AFPS) in 1930. However, as evident in the AFPS archives, the NAACP's anti-lynching campaign first attracted the attention of the funder in 1922 and provided the basis of an invaluable relationship between the two organizations.¹⁸ In this

¹⁸ Appropriation of \$2,500 for an educational campaign in connection with the Federal Anti-Lynching Campaign was voted into effect on October 11, 1922. An additional appropriation of \$865.50 was voted on and approved on January 24, 1923. Reel 10, Box 15, American Fund for Public Service Records, Rare Books and Manuscripts Division, Schwarzman Building, New York Public Library.

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way, the NAACP's campaign against racial violence and the subsequent victory in *Moore v. Dempsey* can be thought of as a critical juncture—a moment when the organizing logic of civil rights was established and new possibilities for political change were opened up.¹⁹ We miss a crucial part of the development of the twentieth-century civil rights state by not systematically analyzing this earlier period.

Second, the NAACP's anti-lynching struggle influenced the strategies that African American political actors viewed as viable. Fighting for equal rights in American courtrooms was not the primary objective of the NAACP when it was founded. In 1909, the NAACP began a struggle for African Americans to gain the right to citizenship. And by 1919, the fledgling NAACP was making its presence known at the legislative, executive, and judicial levels of the federal government at the same time. Most existing scholarship focuses on the deployment of different strategies civil rights groups used to fight for equal rights, often comparing which was the most effective, but I remain unconvinced that we sufficiently understand how these strategies become identified as reasonable and prominent in social movement organizations. In other words: in the period before there was a canon of known civil rights strategies, how did litigation become recognized as part of this canon? Specifically, why was the NAACP's main site of contestation over civil rights in American courtrooms instead of in the American political process or in the streets? Available accounts on the NAACP and civil rights often treat it as an inevitable that the NAACP pursued a litigation-centered strategy – but this was not a foregone conclusion.

This book proposes that the NAACP's focus on a litigation strategy to fight for equal citizenship in the twentieth century was a strategic decision, constructed through a series of wins and losses during the formative years of movement activism.²⁰ I argue that to understand this choice of movement strategy, it

¹⁹ In making this claim, I am applying historical institutionalist ideas about critical junctures and path dependence to non-state institutions. There is, of course, an impressive literature; see for example: Rogers Smith, "If Politics Matters: Implications for a 'New Institutionalism,'" *Studies in American Political Development* 6, Spring (1992): 1–36; G. John Ikenberry, "History's Heavy Hand: Institutions and the Politics of the State," unpublished manuscript, 1994; Karen Orren and Stephen Skowronek, "Beyond the Iconography of Order: Notes for a 'New Institutionalism,'" in *The Dynamics of American Politics: Approaches and Interpretations*, edited by Lawrence Dodd and Calvin Jillson, Boulder, CO: Westview Press, 1994; Paul Pierson, "The Path to European Integration: A Historical Institutional Approach," *Comparative Political Studies* 29, no. 2: 123–163; Kathleen Thelen, "Historical Institutionalism in Comparative Politics," *Annual Review of Political Science* 2, no. 1 369–404. David Broockman was particularly useful in thinking through this point.

²⁰ For scholarship that calls attention to the need to focus on the internal processes of social movements and decision making of movement actors, see: Clayborne Carson, "Civil Rights Reform and the Black Freedom Struggle" in *The Civil Rights Movement in America*, edited by Charles Eagles, Jackson: University Press of Mississippi, 1986, pp. 19–32; Lee Ann Banaszak, *Why Movements Succeed or Fail: Opportunity, Culture, and the Struggle for Woman Suffrage*, Princeton: Princeton University Press, 1996; Sarah Soule, *Contention and Corporate Social Responsibility*, New York: Cambridge University Press, 2009; Holly McCammon, *The U.S.*

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is necessary to view the NAACP's campaign against racist violence as a site of civil rights strategy production. In doing so, this book deviates from the main thrust of social movement scholarship, which points to a receptive political climate or "political opportunity structure" to help explain huge civil rights breakthroughs.²¹ A political opportunity theoretical framework suggests that there are institutional circumstances ripe for change or political allies that are sympathetic – neither of which was in place for the NAACP in 1909. Instead of a retrospective focus on what political conditions allow movement victories, I address an area wherein researchers have spilled far less ink: What decisions do movement actors make that help bring about success?

The historical overview of the NAACP's early fight to rid the nation of lynching and mob violence demonstrates that the litigation strategy took precedence because of prior setbacks using political and public opinion tactics as well as fundraiser imperatives. The NAACP's public opinion and political lobbying campaigns did not fail – they produced valuable gains in terms of bringing more people into the movement, demonstrating the power of collective action, and building up financial resources. However, when it came to substantive political gains – in terms of a new federal law granting protection against racist violence – the door seemed to be stubbornly closed in the executive and legislative branches.

The judicial branch was different; it appeared as if the NAACP could push open the door to constitutional litigation. In 1919, when the incident leading to *Moore v. Dempsey* occurred, the NAACP perceived litigation to be burdensome and financially straining, but after the Supreme Court's decision in *Moore*, the NAACP was singing a different tune, praising the virtues of litigation as the organization viewed the judiciary as permeable.²² NAACP financial reports make clear the changing organizational priorities, showing that during 1919, the NAACP spent \$1,000 on legal defense and \$15,793 on publicity

Women's Jury Movements and Strategic Adaptation, New York: Cambridge University Press, 2012. For scholarship that focuses on the necessity of building up an organizational support structure that will initially face setbacks, see: Michael McCann, *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*, Chicago: University of Chicago Press, 1994; Charles Epp, *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective*, Chicago: University of Chicago Press, 1998; Eve Weinbaum, *To Move a Mountain: Fighting the Global Economy in Appalachia*, New York: The New Press, 2004; Steven Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law*, Princeton: Princeton University Press, 2008; Blair Kelley, *Right to Ride: Streetcar Boycotts and African American Citizenship in the Era of Plessy v. Ferguson*, Chapel Hill: The University of North Carolina Press, 2010.

²¹ Doug McAdam, *Political Process and the Development of Black Insurgency, 1930–1970*, Chicago: University of Chicago Press, 1982.

²² Tenth Annual Report for the National Association for the Advancement of Colored People, 1920, p. 50. NAACP Papers, Manuscript Division, Library of Congress, Washington DC; Fourteenth Annual Report for the National Association for the Advancement of Colored People, 1925. NAACP Papers, Manuscript Division, Library of Congress, Washington, DC.