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More Than a Passive Interest

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The defeat of the Dyer anti-lynching bill in 1922 was a turning point in relations between black Americans and the Republican Party. Little is understood, however, about the role played in the debates by President Warren Harding. This article contends that Harding's conflicted views on presidential leadership caused him to badly mishandle the bill. The President's inability to choose between a restrained and consensual "Whig" approach and a more active "stewardship" role on a wide range of issues resulted in an erratic and ultimately unsustainable style of leadership. The Dyer bill's failure was affected by this dilemma as the hopes of black and white reformers were alternately raised and dashed by Harding's apparent indecisiveness. Black resentment at the bill's ultimate defeat was thus heightened still further, with severe consequences for the Republican Party's long-term electoral relationship with black voters.

INTRODUCTION

Between April 1921 and December 1922, the 67th US Congress debated legislation to make lynching a federal crime and empowering the Justice Department to prosecute individuals or groups accused of leading, aiding or abetting the activities of lynch mobs. SR.13 (known as the "Dyer bill" after its sponsor, Missouri Republican Representative Leonidas C. Dyer) aggravated both racial and political tensions. Congressional debates were marked by predictions of social anarchy, appeals to constitutional precedent and contentious references to Christian Scripture. The Republican-controlled House of Representatives passed the bill in January 1922 but, in December, Republican leaders abandoned it in the face of a Senate filibuster, infuriating black political leaders, who believed the best opportunity since Reconstruction to grant black citizens full constitutional protection of the law had been too quickly and cynically surrendered.

The contribution of President Warren Gamaliel Harding to the Dyer debates is a little-explored aspect of 1920s historiography. This is attributable, in part, to historians' tendency to regard Harding as an inconsequential figure – a theme which dominated scholarship on the presidency during the half-century following his death in August 1923. Until the mid-1960s, the twenty-ninth President was typically portrayed as an unintelligent party hack, whose rise to power was engineered by Senate Republican leaders determined

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to curtail the progressive energies of the executive branch under Theodore Roosevelt (1901–9) and Woodrow Wilson (1913–21). This negative viewpoint owed much of its contextual imbalance to historians' reliance upon journalistic accounts of Harding's administration which were often derived from anecdotal evidence, unsubstantiated rumours and the memoirs of the President's political opponents. Harding's performance as President, therefore, was either overlooked or trivialized. A modest "revisionist" trend in historical assessments followed the belated release of Harding's White House papers in April 1964 and grew more sustained from the 1980s as political and economic conservatism regained popularity. A small group of scholars focussed, instead, upon Harding's popularity, patriotism, skilful media manipulation and strongly defined political agenda.[1] The stereotype of the vacillating President, subservient to Congress, was partially overturned by writers such as Robert K. Murray and John Dean, who pointed to frequent clashes between President and Congress as evidence not only of Harding's determination to protect executive authority but also of his readiness to wield it vigorously when necessary.[2] Andrew Sinclair depicted Harding as a shrewd political pragmatist. Paul Johnson, in the 1990s, went so far as to denounce pre-1964 literature as "an exemplary exercise in false historiography."[3]

Attempts to reconfigure Harding's reputation, however, are problematic when applied to the 1921–22 Congressional anti-lynching debates. Critical works, if they examine the subject at all, largely confine themselves to accounts of Harding's 1920 statements on race and allegations of his mixed racial lineage. Later, more positive, accounts emphasize Harding's October 1921 speech in Birmingham, Alabama. This address – the most controversial delivered by any President between the 1870s and 1940s – is used by revisionist writers to counter criticisms of Harding's "passivity" in office and to reinforce their claims that he had been an assertive President. Both sides, however, avoid detailed analysis of his responses to the anti-lynching debates. Sinclair, for example, criticizes the Birmingham address, while Dean praises it, but neither provides a detailed analysis of Harding's overall handling of

[1] For a summation of relations between the Harding White House and the press see Stephen Ponder, *Managing the Press: Origins of the Media Presidency, 1897–1933* (London: Macmillan Press Ltd. 1999), 109–20. For media manipulation by the 1920 Harding campaign see John A. Morello, *Selling the President: Albert D. Lasker, Advertising and the Election of Warren G. Harding* (Westport, CT: Praeger, 2001).

[2] Robert K. Murray, *The Harding Era: Warren G. Harding and His Administration*. (Minneapolis: University of Minnesota Press, 1969); John W. Dean, *Warren G. Harding* (New York: Henry Holt & Co., 2004).

[3] Andrew Sinclair, *The Available Man: The Life behind the Masks of Warren Gamaliel Harding* (New York: The Macmillan Company, 1965). Paul Johnson, *A History of the American People* (London: Weidenfeld and Nicolson, 1997), 592.

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Dyer's bill.[4] Analyses of Dyer's bill, therefore, have adopted a variety of analytical angles and conclusions but have conspicuously avoided a detailed examination of Harding's performance *contextualized within* the post-1964 conceptual framework offered by revisionists. It has been argued that Harding was, or was not, fully supportive of the bill; that he did, or did not, attempt to promote its passage through Congress; and that he was, or was not, guilty of failing to use executive influence to push it through. What is missing is an explanation of *why* the President chose such an unsatisfactory, almost maladroit, strategy and *how* this reflected his deeper dilemmas over the practical limits and proper usage of executive authority.

This article contends that Harding's inability to reconcile two conflicting aspects of his fluid political personality – the practical conservative politician and the supra-partisan chief executive – caused him to adopt a double-handed approach to the Dyer bill which alternately raised and dashed the hopes of pro- and antireform activists and legislators. Harding was moving rapidly but inconsistently beyond the narrow confines of a traditional, conservative view of executive leadership and attempting to embrace a more dynamic and interventionist approach. In 1921–22, however, this process was both incomplete and erratic. It was, therefore, the "transitional" character of his leadership philosophy, not "racist" sentiment or partisan electoral calculation, which led the President to ensnare himself in a pattern of behaviour which left all sides exasperated and damaged Harding's historical reputation and the Republican Party's bond with black voters. Conventional histories point to the New Deal as the watershed moment in this relationship while recent scholars, such as Topping, suggest that the real parting of the ways between the GOP and blacks began with Herbert Hoover's insensitivity to civil rights concerns. This article indicates that the first serious fracture took place even earlier, under Harding.[5]

1920

The return of US soldiers from Europe in 1918 added impetus to the drive by black political organizations toward greater equality at home. Their hopes were further raised by the declining political fortunes of the Democratic Party, which had controlled the White House and Senate since 1913 and the House of Representatives since 1911. Under Woodrow Wilson, federal government

[4] Earl Ofari Hutchinson examines Harding's attitude towards the Dyer bill in a broad survey of presidential attitudes on black civil liberties but does not focus solely on Dyer or reference post-1964 revisionism. See Earl Ofari Hutchinson, *Betrayed: A History of Presidential Failure to Protect Black Lives* (Boulder: Westview Press, 1996).

[5] See Simon Topping, *Lincoln's Lost Legacy: The Republican Party and the African American Vote, 1928–1952* (Gainesville: University Press of Florida, 2008).

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facilities were racially segregated and low-ranking black officials were replaced by white appointees. The Democratic Congress also blocked efforts by the National Association for the Advancement of Colored People (NAACP) to pass federal anti-lynching legislation. With Republican majorities in Congress after 1918, however, NAACP officials made the passage of anti-lynching legislation their top priority. Efforts to mobilize support through Congressional lobbying, petitions and newspaper advertisements increased. In 1919, an NAACP report – *Thirty Years of Lynching in the United States: 1889–1918* – estimated that 3,224 people had been lynched over the past three decades, 2,522 of whom had been black Americans. Gunnar Myrdal noted that nine-tenths of recorded lynchings in this period took place in the South, with most of the remainder occurring in the old Civil War border states such as Kentucky and Missouri.[6] NAACP figures recorded 156 lynchings in the West, 219 in the North and 2,834 in the South.[7] The release of the report came as America endured a year of traumatic racial violence. In July and August 1919, riots in Chicago left twenty-three blacks and fifteen whites dead while violence also flared in Tennessee; Nebraska; Washington, DC; Arkansas; Texas; and Missouri. Particularly notable in these clashes, according to contemporary newspaper reports, was the new willingness of black victims of racial violence to retaliate. The return of black World War I veterans, they commented, hardened by battle and infused with patriotism, had encouraged greater pride among the black population and a new determination to resist white violence and second-class legal, social and political status.

Many Republicans considered federal action against lynching vital to the party's electoral future. By the early 1900s, black political leaders had tired of the party's foot-dragging on racial issues. Republican Presidents had occasionally defended black voting rights and attacked lynch-law.[8] Benjamin Harrison, for example, denounced the mobs that "shame our Christian civilization" and called upon Congress to prevent or punish lynching in circumstances in which a constitutional right to intervene could be established.[9] A combination of southern filibusters and clashing constitutional interpretations, however, hampered efforts to protect the civil and constitutional rights of black Americans. In 1906, Theodore Roosevelt denounced lynching in his annual message to Congress but avoided Harrison's call for direct federal

[6] Gunnar Myrdal, *An American Dilemma* (New York: Harper & Row, 1944), 560–61.
[7] *Thirty Years of Lynching in the United States 1889–1918* (Washington, DC: National Association for the Advancement of Colored People, 1919), 7.
[8] David O. Walter, "Legislative Notes and Reviews: Proposals for a Federal Anti-lynching Law," *American Political Science Review*, 28, 3 (June 1934), 436–42, 436. Walter's exploration of the constitutional ramifications of anti-lynching legislation is still one of the most concise available.
[9] Charles W. Calhoun, *Benjamin Harrison* (New York: Henry Holt & Co., 2005), 117.

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intervention.[10] President Wilson had appealed to the states "to make an end of this disgraceful evil" but feared alienating southern Democrats by supporting any of the anti-lynching bills presented in Congress between 1913 and 1921.[11]

The formation of the NAACP (1909) and the National Urban League (1911) gave black activism enhanced organizational capability and a sharper focus. By 1920, their leaders were challenging GOP platitudes on mob violence and states' rights and were angered by party efforts to create "lilywhite" southern party units as a strategy to break Democratic electoral dominance of the South. In pursuit of the latter goal, party officials determined that the 1920 convention would have a reduced number of southern delegates – a discouraging signal to black Republicans, as John L. Blair notes, "particularly those in Mississippi and Georgia, where the party organizations were more or less under Negro management."[12] This deliberate sidelining of black officials in the name of party harmony did nothing to increase confidence that the party would embrace the cause of black voting rights, still less a federal anti-lynching law. This suspicion appeared to be confirmed when, shortly before the 1920 convention, the five black members of the platform committee demanded the inclusion of clear pledges on federal protection of black voting rights and an end to segregation, only to see both rejected. The platform committee accepted only one of the proposals put forward by its black members, the request that Congress "consider the most effective means to end lynching in this country, which continues to be a terrible blot on our American civilization."[13] Although a mere request for Congress to "consider" action against lynching was less than activists had hoped for, it was, Richard B. Sherman noted, "the most specific recommendation of its sort to appear in a Republican platform in years."[14]

In June 1920, delegates to the Chicago Republican convention nominated conservative Ohio Senator Warren Gamaliel Harding for the presidency. An amiable and dedicated partisan, Harding's perceived strength lay in his ability to mediate between conservative and progressive factions of the

[10] Edmund Morris, *Theodore Rex* (New York: Random House Inc., 2001), 472. TR maintained that lynching not only was indefensible but also debased to the status of animals the adults who participated in it and the children who witnessed it.

[11] Myrdal, *Thirty Years of Lynching in the United States,* 5. The same argument was used by Franklin D. Roosevelt in the 1930s to explain his administration's reluctance to back yet another federal anti-lynching campaign. For the full text of Wilson's denunciation of lynching see www.amistadresource.org/plantation_to_ghetto/archives/document_archive.html.

[12] John L. Blair, "A Time for Parting: The Negro during the Coolidge Years," *Journal of American Studies*, 3, 2 (Dec. 1969), 177–99, 187.

[13] *Official Report of the Proceedings of the Seventeenth National Republican Convention* (New York: The Tenny Press, 1920), 105.

[14] Richard B. Sherman, "The Harding Administration and the Negro: An Opportunity Lost," *Journal of Negro History*, 49, 3 (July 1964), 151–68, 152.

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party – hostility between which had cost Republicans the 1912 and 1916 presidential elections. Conservatives were determined to reverse what they considered the trend to "presidential government" apparent since the early 1900s. The concept of the "stewardship" presidency, developed by Theodore Roosevelt and later refined by Wilson, envisioned a new role for the President as "articulator-in-chief" of the public interest, broadly defined by the President himself, over narrower sectional or partisan demands.[15] This redefinition of executive power as a tool with which to shape socioeconomic and political issues in national terms and then mobilize national opinion and federal power in order to tackle them justified, to Roosevelt and Wilson, frequent and direct presidential intervention in Congressional business and the manipulation of public opinion via the press. As such, the "stewardship" model was popular with progressives who viewed the presidency as the ideal motive engine for reform and admired the administrations of Andrew Jackson (1829–37), Abraham Lincoln (1861–65) and Grover Cleveland (1885–89) precisely because these Presidents interpreted the vaguely defined constitutional remit of their office in the broadest sense. By the summer of 1920, however, Roosevelt was dead and Wilson incapacitated by illness. Conservatives believed voters had become disillusioned with the strenuous and confrontational stewardship style and yearned for a leader willing to govern in the more restrained, "Whig" style of late nineteenth-century Presidents such as Rutherford Hayes or William McKinley or early twentieth-century executives such as William Howard Taft.[16] Unlike more "plebiscitary" Presidents such as Jackson or Roosevelt, "Whig" Presidents stressed the importance of the constitutional separation of powers, the mediating function of political parties and the dangers of unrestrained majoritarian democracy. As such, "Whig" Presidents rarely challenged Congress for control of the political agenda, preferring constitutional and partisan processes to operate with only moderate direction from the executive. Above all, they avoided the calculated rhetorical interventions of a Jackson or a Wilson which were often deployed as weapons to intimidate Congress or steer public opinion. Republican convictions that voters wished to see a return to this milder brand of leadership influenced the emergence of Harding as the party's nominee. His uncontroversial Senate record was one of support for states' rights and laissez-faire capitalism combined with an almost mystical respect for party government and for the

[15] The concept of the presidency as "steward" of national interests was first articulated by Roosevelt in his book *Theodore Roosevelt: An Autobiography* (New York: Charles Scribner's Sons, 1913).

[16] For a thorough exploration of the "Whig" concept of presidential leadership see Michael J. Korzi, "Our Chief Magistrate and His Powers: A Reconsideration of William Howard Taft's 'Whig' Theory of Presidential Leadership," *Presidential Studies Quarterly*, 33, 2 (June 2003), 305–24.

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independent authority of Congress. Harding was far from dogmatic, however. He had supported ratification of the Treaty of Versailles with the reservations proposed by Henry Cabot Lodge, enhancing his appeal to internationalists such as ex-President Taft. His earlier support for some of Roosevelt's attempts at social reform and his reputation as a conciliator even raised speculation in 1918 that Roosevelt had settled upon him as a vice presidential running mate in 1920. After the colonel's death, Harding himself became the nominee but convention delegates rebelled against attempts by party leaders to nominate Irvine Lenroot of Wisconsin for the vice presidency and instead chose Massachusetts governor Calvin Coolidge. Coolidge was another pro-business conservative but, even more than Harding, had shown a willingness to work with progressives, adapting parts of their agenda as his own. These factors made the Harding–Coolidge ticket appear the only practical solution to the problem of warring party factions. Harding's call for a period of "normalcy" offered an appealing contrast to the bitterness of the later Wilson years.

Harding's campaign speeches embraced the principle of a restrained presidency and denounced the "personal government" styles of Wilson and, by implication, Roosevelt. Excessive presidential activism, he argued, had a corrosive effect on political stability. Both Roosevelt and Wilson had badly undermined their parties – and thus the coherence of the legislative process – by arrogantly failing to distinguish between the "national will" and their own personal ambitions. States' rights and limited government – two conservative totems – were also threatened by the executive's growing appetite for federal expansion. Harding instinctively preferred the unassuming, consultative style of a Jefferson or a McKinley, striking dignified leadership poses for the public while exercising discreet influence in cooperation with his Congressional party and a loyal Cabinet. Locating this view in fashionable business parlance, journalist Mark Sullivan claimed that Harding would "have the same relation to leaders of his party in the senate that the president of a corporation has to his board of directors."[17] This stance, inevitably, had limited appeal to groups demanding radical political or socioeconomic reforms since the "consensual" style was also predisposed towards gradualism. Harding's opponents thus claimed that he had been handpicked by Senate leaders for the sole purpose of emasculating the presidency and handing direction of national affairs to a conservative Congress. Black political leaders initially reacted to the choice of Harding with guarded pessimism. Despite the encouraging platform language, they remained doubtful that an Ohio conservative would take the anti-lynching cause to his heart.

[17] Mark Sullivan, "Senate Control of White House," *Atlanta Constitution*, 14 June 1920, 5. Variations of this description would be later applied by historians to the management structures and leadership philosophies of both the Eisenhower and Reagan administrations.

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Harding appeared to confound this cynicism when he addressed the issue of lynching during notification ceremonies outside his home in Marion, Ohio on 22 July 1920. He declared, "I believe the Federal government should stamp out lynching and remove that stain from the fair name of America."[18] His choice of words immediately attracted attention since they appeared to expand the platform suggestion that Congress "consider" action into an implication of the federal government's moral *duty* to put an end to lynching. Harding continued, "No majority shall abridge the rights of a minority ... I believe the Negro citizens of America should be guaranteed the enjoyment of all their rights."[19] Democratic strategists, struggling to find an effective angle of attack against Harding's calm and detached "front porch" campaign, seized upon the words to warn that radical blacks would take advantage of a Republican victory in November by demanding full social equality and armed federal patrols at southern polling booths. The Democratic nominee, Ohio governor James Cox, flailed against "the African-American party" supporting Harding, while Ohio Democrats warned of "negro newspapers boasting loudly of the increased balance of power" they now held in the state.[20] The attempt to panic white voters by overstating black political influence in the Republican party was not a new one and its impact is hard to determine precisely. At the national level, the GOP was beginning to feel the pressure from activists such as Garvey demanding either a tougher civil rights stance or complete black voter independence, but it had no coordinated national response. Reactions were often knee-jerk and varied by region. Northern state parties, anxious to retain increasingly important black voter loyalty in the cities, were often more vocal on issues such as education, lynching and voter disenfranchisement, while southern parties squeezed black officials out of their hierarchies and converted the lynching issue into a debate over states' rights in a largely futile effort to woo white voters. A more dangerous attack came from Professor William Estabrook Chancellor, of Wooster College, Ohio, who circulated pamphlets around the state alleging that Harding had black ancestors. Chancellor had a long-standing obsession with "negro influence" in society and was forced to resign his post as a result of his action. The Republican campaign panicked and released thousands of leaflets showing Harding's family tree in order to refute Chancellor's claim that "Warren Gamaliel Harding is not a white man."[21] It was not the first time such rumours had

[18] Harding quoted in Sherman, 153.
[19] Randolph C. Downes, "Negro Rights and White Backlash in the Campaign of 1920," *Ohio History*, 75, 2–3 (Spring/Summer 1966), 85–107, 88.
[20] David Pietrusza, *1920: The Year of the Six Presidents* (New York: Basic Books, 2008), 366–67.
[21] Samuel Hopkins Adams, *Incredible Era: The Life and Times of Warren Gamaliel Harding* (New York: Capricorn Books, 1964), 181.

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swirled around Harding when he had run for office. While the nominee was extremely angry and sensitive to the political damage such claims could do, he could be offhand about the topic in private – once allegedly remarking to Cincinnati *Enquirer* reporter James Faulkner, "How do I know, Jim? One of my ancestors may have jumped the fence."[22]

Harding's campaign attempted to re-energize black Republican support, calling for a Congressional commission to examine civil rights issues and reassuring black voters of his intention to reverse Wilson's policy of segregating or firing black officials.[23] Republicans also attacked Wilson's policies in Haiti, using NAACP survey material passed on to Harding by its newly elected head, James Weldon Johnson.

Inevitably, this strategy worried sections of the white electorate. Harding, an inveterate political "balancer," tried to straddle the issue during a campaign speech in Oklahoma City on 9 October 1920, declaring,

> I wouldn't be fit to be president of the United States if I didn't tell you the same things here in the south that I tell in the north. I believe in race equality before the law. You can't give one right to a white man and deny it to a black man. But I want you to know that I do not mean that white people and black people shall be forced to associate together in accepting their equal rights at the hands of the nation.[24]

He thus countered his apparent embrace of federal activism in July by reaffirming his innate conservatism. He had been raised in a segregated small-town environment during the immediate post-Civil War era. Black supporters visiting Marion during the 1920 campaign found themselves denied entry to some guest houses and bars in the town. While Harding showed no signs of overt, hostile racism (unlike his Democratic counterpart, Cox) he shared with many of his generation a lazy acceptance of social segregation as the unfortunate but inevitable consequence of poisoned relations between the races and a problem which would take generations of patient effort to resolve. Thus he conceded that the federal government was morally obliged to support those seeking greater *legal* and *political* equality between the races but had not resolved in his own mind the best way to achieve these goals. He believed that Washington had neither the constitutional right nor the necessary enforcement powers to forcibly change southern political or social norms. Before long, black voters realized that this "hands-off" approach also extended to federal action in defence of black voting rights. Harding refused to endorse a "force bill" sanctioning federal intervention to protect the rights of unfairly

[22] Francis Russell, *President Harding: His Life and Times 1865–1923* (London: Eyre & Spottiswoode, 1969), 40.
[23] Eugene P. Trani and David L. Wilson, *The Presidency of Warren G. Harding* (Lawrence: University Press of Kansas, 1977), 104.
[24] Harding quoted in Randolph C. Downes, "Negro Rights" 95.

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disenfranchised black voters. This measure, first championed by Henry Cabot Lodge in 1891, was detested by southern whites and proved a perennially useful campaign weapon for Democrats. Even if federal intervention had been possible, however, Harding's political convictions would have recoiled from it.

By the end of the 1920 campaign, leading black political activists, writers and civic leaders had become hopeful that, as President, Harding would actively promote a federal anti-lynching bill which was entirely incompatible with his conservative philosophy. Harding avoided addressing the central dilemma of his strategy – how a President supportive of states' rights, wary of executive intervention and proposing to govern by consensus could conceivably promote legislation tailor-made to provoke southern fury and obstructionism. Although his straddle of the "legal–social" divide proved an effective election tactic, its drawbacks as a strategy for governing would soon become evident.

SPRING–SUMMER 1921

On 11 April, Representative Leonidas Dyer, a white progressive Republican from Missouri, introduced H. R.13 in Congress, "to assure to persons within the jurisdiction of every state the equal protection of the laws, and to punish the crime of lynching." Dyer had proposed several anti-lynching bills since 1911 to no avail but had renewed his campaign in April 1918, after savage race riots had broken out in his St. Louis district. By 1921, he had an additional weapon to use against critics' claims that the Constitution did not support federal intervention on such a scale. Dyer pointed out that a federal government willing to support a nationwide ban on the sale and transportation of liquor, via the Volstead Act, and empowered to dispatch Treasury and Justice Department agents across the country to clamp down on "bathtub gin," could hardly deny, on constitutional grounds, its duty to defend black Americans from premeditated murder by lynch mob. Dyer's bill was referred to the Committee on the Judiciary, a twenty-one-member body with a Republican majority and a chairman – Minnesota's Andrew J. Volstead – considered sympathetic to the anti-lynching cause. Doubts over the bill's constitutionality had, predictably, been raised not only by southern Democrats but also by Republicans such as Idaho Senator William Borah, who claimed to fear the expansion of federal policing powers. Borah's correspondence with pro-Dyer activists constantly reiterated this point. "There is only one proposition which is involved so far as I am concerned," he wrote in 1922, "and that is the constitutional question."[25] Anti-lynching campaigners based much of their

[25] Letter, William Borah (WB) to Troy W. Pendleton, 18 Feb. 1922,Washington, DC Library of Congress, William Borah Papers, Box 133, General Office File, Anti-lynching Bill (Dyer Bill) 1, Dec. 1921–March 1922.

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case around the protection of citizen's rights under the Fourteenth Amendment but this amendment, Borah argued, could *not* be applied in cases of lynching. "It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the Amendment."[26] Section IV of the Dyer bill permitted federal prosecution of any state police or political officers deemed to have failed in their duty to protect lynching victims. Borah argued this was not only constitutionally questionable but also ineffective since "this would not cover any case of lynching except where an officer was involved. If you will look over the list of lynchings … this bill would have reached about three or four out of a dozen."[27]

NAACP officials also had misgivings. Moorfield Storey, the organization's president, considered Leonidas Dyer politically "inept."[28] He admitted to Borah that another of the bill's provisions – that a county would become liable if a lynching party crossed its boundaries carrying their intended victim – was "obviously questionable."[29] The NAACP's legal adviser, Albert Pillsbury, believed the flaws in the legislation rendered it constitutionally unsound but James Weldon Johnson preferred it to the flaccid alternative offered by Republican leaders – an investigative commission. For Johnson, Harding's unexpectedly strong campaign rhetoric had heightened Republicans' moral obligation to unite behind Dyer, and the bill's passage was more important than its ability to survive later legal challenges. Johnson queried Borah, "does not the situation warrant the leaving of fine differences of opinion on the constitutionality of this legislation to the United States Supreme Court?"[30] Such a tactic, Borah responded, would be "utterly shameless … utterly intolerable."[31]

On 12 April, President Harding addressed a joint session of Congress to outline his administration's policy agenda. In the early 1920s, a personal appearance by the President was still regarded by legislators as a vaguely provocative act. Although Wilson had normalized the practice, members were surprised that Harding, the arch-critic of "personal government," followed his

[26] Letter, WB to Herbert H. Stockton, 12 May 1922, William Borah Papers, Box 133, General Office File, Anti-lynching Bill (Dyer Bill) 2, April–May 1922.
[27] Letter, WB to editor, *Boston Transcript*, 8 June 1922, William Borah Papers, Box 133, General Office File, Anti-lynching Bill (Dyer Bill) 2, April–May 1922.
[28] Mark Robert Schneider, *We Return Fighting: The Civil Rights Movement in the Jazz Age* (Boston: Northeastern University Press, 2001), 184.
[29] Letter, Moorfield Storey (MS) to WB, 31 May 1922, William Borah Papers, Box 133, General Office File, Anti-Lynching Bill (Dyer Bill) 2, April–May 1922.
[30] Letter, James Weldon Johnson (JWJ) to WB, 7 Feb. 1922, William Borah Papers, Box 133 General Office File, Anti-lynching Bill (Dyer Bill) 1, Dec. 1921–March 1922.
[31] Letter, WB to editor, *Boston Transcript*, 8 June 1922, William Borah Papers, Box 133, General Office File, Anti-lynching Bill (Dyer Bill) 2, April–May 1922.

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example. Conservatives, who had expected that the new President would largely surrender control over legislation to Congress, were also surprised at the detailed agenda before them. Harding's move was partly motivated by his deep resentment at rumours that his nomination had been arranged by a "cabal" of Senators seeking to weaken the executive's independent authority by electing a "puppet" President. These had gained broad acceptance during the campaign, partly because Harding's own attacks on "personal government" tended to reinforce press suspicions that he would prove a weak leader. On 6 December 1920, Harding used his farewell appearance on Capitol Hill to warn members of Congress against any notion of a "Regency of the Senate." Reminding his audience of his rigorous defence of Congressional independence during his Senate years, he added, "I mean ... to be just as insistent about the responsibilities of the Executive."[32]

Despite his campaign criticisms, Harding had, in fact, admired Roosevelt's dynamism and had endorsed Wilson's temporary wartime expansion of federal authority. He played upon the residual appeal of a "McKinleyesque" campaign for short-term electoral advantage but did not believe the presidency could simply be returned to its late nineteenth-century status. As a former newspaper editor, he understood the importance of the press, radio and cinema newsreels in mobilizing opinion and took full advantage of the media's growing fascination with the presidency. Ahead of his first major address, the White House released five new photographs of the President for the 3 April 1921 edition of the *New York Times*.[33] His address to Congress was clearly designed to attract press attention and strengthen Harding's independent authority in the legislative process. This served to heighten the impact of his call for Congressional action against lynching. Observing that lynch-law undermined America's claim to set an example of civilized behaviour to the world, he urged Congress to "rid the stain of barbaric lynching from the banner of a free and orderly representative democracy."[34]

The reference to lynching was brief and the President's failure to actually *name* the Dyer bill disappointed some activists. The omission reflected Harding's initial reluctance to dictate legislative priorities. He remained, at this stage, committed to building a cooperative relationship with Congress. His failure to name the bill also allowed him to keep a potentially flawed piece of legislation at arm's length. While its passage through the House was likely, a narrower Republican majority in the Senate meant that Dyer's backers could not overcome a southern filibuster without support from some Democrats. By omitting reference to Dyer, therefore, Harding could underline the

[32] Harding quoted in Murray, *The Harding Era*, 94. [33] Ponder, *Managing the Press*, 114.
[34] Harding quoted in Murray, 398.

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administration's broad desire to see an end to lynching without prematurely triggering a southern filibuster. This was important if his main policy agenda – economic recovery, tax and budget reform, agricultural and shipping subsidies – was to pass Congress. Despite his election rhetoric, the anti-lynching campaign was not an administration priority.

Nevertheless, his renewed call for action pleased W. E. B. Du Bois. Writing in *The Crisis* two months later, he called it "the strongest pronouncement ever made by a President in a message to Congress."[35] The NAACP stepped up its efforts to secure a floor debate in the House, citing the speech as evidence of administration support. Harding's courting of media attention for his presidency had thus stimulated Dyer's backers, making it harder for Republicans to finesse their platform commitment to black Americans.

From 18 June, the House Judiciary Committee heard testimony on H. R.13. Both Attorney General Harry Daugherty and his deputy, Guy D. Goff, defended its constitutionality. Daugherty, writing to committee chairman Volstead on 9 August 1921, argued that the first seven parts of the fifteen-section bill were already covered by existing federal powers. He disputed the claim that Supreme Court rulings on the applicability of the Fourteenth Amendment since the 1870s had established a convincing set of legal precedents *against* federal intervention when denial of equal protection of the laws had been perpetrated by individuals rather than by state authorities. On the contrary, he wrote, precedent suggested that the *inaction* of state authorities and their consequent failure to protect the rights of citizens to equal protection of the laws was as much a violation of the Fourteenth Amendment, as an active, purposeful denial of those rights. He confirmed that the Justice Department would be willing to enforce the law and defend it in court.[36]

Daugherty's advice at this stage reflects the double-handed approach the administration seemed to be adopting. A politically safer move would have been to follow Borah's lead in citing adverse judicial precedents, playing upon the private doubts of NAACP officials and suggesting the bill be redrafted to pacify the South. This would have enabled the administration to claim that, despite its hopes, expert jurists considered Dyer's bill unworkable but that a differently worded bill, at a conveniently later date, might fare better. Instead, Daugherty and Goff followed the riskier strategy of declaring the bill's constitutionality, with an endorsement which surprised NAACP lawyers

[35] Du Bois quoted in Sherman, "The Harding Administration and the Negro," 157.

[36] Schneider claims, however, that the effect of Goff's testimony was to reinforce the fears of Democrats and some Republicans that the new law would trigger federal government intervention in a variety of state policing matters from lynching to bootlegging. Schneider, 175.

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considered a masterly legal argument.[37] Absent any public contradiction from Harding, this endorsement stood as the official administration position on the Dyer bill. The fact that Daugherty was considered Harding's closest political adviser probably increased activists' conviction that the President himself was moving toward active support.[38] Harding's rhetoric had endorsed the *spirit* of the bill, now Daugherty had defended its letter.

On 20 October, the bill was reported out of committee and Dyer urged Johnson to lobby for a special rule limiting debating time in order to circumvent southern delaying tactics. Johnson organized a deluge of "all the suasion and pressure I could command" upon the heads of Rules committee members.[39] Harding's and Daugherty's statements were circulated in this lobbying effort.

SUMMER–FALL 1921

Harding responded to mounting pressure from anti-lynching campaigners by expressing sympathy while refusing to spearhead the effort from the White House – a strategy which was recognized, reluctantly, by some of Dyer's supporters as congruent with his election promise of consensual leadership. By the summer of 1921, however, Harding's "executive restraint" appeared to threaten the success of the normalcy agenda. His faith that Republicans would unite in support of his tax and budget reform proposals had been entirely misplaced. The party was riven with factionalism, enabling Democrats and progressives to stall the administration's agenda by playing one group off against another. Agrarian states pushed for costly agricultural relief programmes, blocking demands by eastern business interests for tax cuts and higher tariffs. Congress also came under intense pressure from the American Legion for a "bonus" bill to pay cash compensation to war veterans. By July 1921, this legislative free-for-all was threatening to derail Treasury Secretary Andrew Mellon's tax reforms, prompting press criticism that the President was failing to assert his authority. Unexpectedly, Harding again appeared before Congress on 12 July to denounce the bonus as a reckless threat to economic

[37] Christoper Waldrep comments that Daugherty's summation was "longer and more convincing" than that presented in a landmark *Harvard Law Review* article twenty years earlier by NAACP legal adviser Albert Pillsbury. See Christopher Waldrep, *African Americans Confront Lynching: Strategies of Resistance from the Civil War to the Civil Rights Era* (Lanham: Rowman & Littlefield Publishers Inc., 2009), 73.

[38] Daugherty's influence over Harding was often exaggerated by earlier historians, encouraged by Daugherty himself in his memoirs and by Harding's detractors. Letters and official papers released after April 1964 suggest that Daugherty's influence waned after Harding entered the White House.

[39] James Weldon Johnson, *Along This Way: The Autobiography of James Weldon Johnson* (London: Penguin Books, 2008), 364.

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recovery and to threaten it with his veto. The bill was returned to committee amid complaints that the President had blatantly disregarded Congressional prerogatives and violated protocol. Press coverage of the intervention, however, was overwhelmingly positive. Editorials favourably contrasted this display of executive authority with earlier predictions of weak leadership and urged Harding to intervene more often. In November 1921, columnist Mark Sullivan, an early sceptic of his leadership calibre, announced, "The fact is that the Harding who was a Senator and the Harding who is President are different men."[40]

This episode signalled the opening of a new, parallel track in Harding's leadership style, utilizing rhetorical interventions even as he continued to advocate interbranch cooperation. This dual approach helped his public popularity but created as many problems as it solved. By demonstrating his willingness to wield power in the style of Wilson, Harding inadvertently diminished the credibility of his "restrained leadership" stance just as the House debate on Dyer's bill got under way.

The implications of this dilemma became clear on 26 October 1921, during his visit to Birmingham, Alabama. Accompanied by Democratic Senator Oscar Underwood, leader of the anti-Dyer campaign, Harding addressed a segregated audience of thousands, roped off from each other to either side of the speakers' rostrum. The President was expected to indulge his penchant for "bloviating" – his own term for making speeches containing lofty, uncontroversial platitudes. Instead, he delivered what was regarded as the most controversial statement on race relations made by any President since Reconstruction.

The president repeated his view that social segregation could not be overturned, claiming that "a fundamental, eternal and inescapable difference" separated the races.[41] The black race should, instead, focus on self-improvement "as a distinct race, with a heredity, a set of traditions, an array of aspirations all its own."[42] To facilitate these changes, he called for an end to political, educational and legal inequality and insisted that southern states should stop "narrowing the Negro's political rights."[43]

Reporters contrasted the "loud and lusty cheers" of blacks in the audience with reactions across the aisles. "The whites," according to the *New York Times*, "were silent."[44] The President seemed determined to increase the

[40] Mark Sullivan, "One Year of President Harding," *World's Work*, 43, 1 (Nov. 1921), 26–32, 29.
[41] "The Negro's Status Declared by the President," *Literary Digest*, 71, 8 (19 Nov. 1921), 8.
[42] Ibid.
[43] "Harding Directs South to Give Fit Black Man the Vote and to Prohibit Vote from Unfit White," *New York News*, 28 Oct. 1921, 1.
[44] "Harding Says Negro Must Have Equality in Political Life," *New York Times*, 27 Oct. 1921, 1.

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impact of his remarks through direct personal appeals and confrontational body language. To the black audience he declared, "I want to look at you directly as I say this . . . because I am never going to say anything that I can't say to every section and to all the people."[45] The *New York News* noted the "stony silence" of the white listeners appeared to anger Harding.[46]

> The President's ire was frankly stirred up by this apparent coldness. During one tense pause, he squared his jaw and pointed straight at the white section of the crowd. "Whether you like it or not", he said, "unless our democracy is a lie you must stand for that equality."[47]

On the subject of political rights, the President declared, "let the black man vote when he is fit to vote and prohibit the white man voting when he is not fit to vote," and suggested that the Republican Party's monopoly of black support and the Democrats' hold on the South were both politically unhealthy.[48]

Widely differing verdicts emerged from newspaper coverage of the speech. To some, the President had simply restated old truths. "There was nothing new," the editor of the *Montgomery Advertiser* asserted, "in his presentation of the race question."[49] Others suggested that Harding's intention had been to reassure whites that segregation would remain unchallenged, stressing his distinction between social inequality and political and economic status. According to the Atlanta *Constitution*, "Upon this point, no southerner could have gone further than the president went in this statement of his position."[50]

Others, however, attacked the address as blatant interference in southern affairs. The Montgomery *Journal* maintained that the "race problem" had already been resolved to the mutual satisfaction of blacks and whites and observed, "it is to be regretted that President Harding . . . should have made this serious, if not fatal mistake this early in his administration."[51] Murray Stewart, mayor of Savannah, Georgia, called the speech "unfortunate and inappropriate," adding, "If President Harding expected his speech to help . . . he has made a grave mistake . . . we of Georgia intend to keep the negro where he belongs and where he is the happiest, namely, the servant of the white race."[52]

Opinion among black leaders was equally divided. Du Bois complained that the President's explicit endorsement of segregation undermined any potential benefit from his outspokenness, while J. Silas Harris, president of the Negro

[45] "Harding Directs."
[46] Ibid.
[47] Ibid.
[48] Ibid.
[49] "President Harding in Birmingham," *Montgomery Advertiser*, 28 Oct. 1921, 1.
[50] "The Birmingham Speech," *The Constitution*, 30 Oct. 1921, 4, Warren G. Harding Papers, Ohio State Historical Archive, Columbus, Ohio, Roll 230, Box 765, Folder 777.
[51] "The President's Mistake," Montgomery *Journal*, 29 Oct. 1921, Harding Papers, Roll 230, Box 765, Folder 700.
[52] Ibid.

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National Educational Congress, described it as "sending a ray of hope into the homes of all honest Americans."[53]

The President had "stirred up a hornets' nest" with this jarring departure from his usual conciliatory style, but the speech's long-term impact was compromised by its multilayered message. The manner in which it was delivered was, perhaps, more radical and noteworthy than its content, since the latter seemed open to the broadest range of interpretations.[54] Some anti-lynching campaigners, mystified at Harding's failure to come out swinging for the Dyer bill, contented themselves with grim satisfaction at Senator Byron Harrison's complaint that the President's speech was "a blow to the white civilization of this country that will take years to combat."[55]

At first glance, the purpose of the Birmingham address seems unclear. Harding's biographers have struggled to place it within the broader contexts of either administration policy on lynching or Harding's evolving leadership style. Robert Murray, while considering it a remarkable address, described it as "shot through with political expediency."[56] John Dean termed it "the most daring and controversial speech of Harding's political career" but noted that its main aim may have been to undermine southern Democratic control.[57] This view was shared by Andrew Sinclair, who argued that Harding's speech revealed him "as the racist and segregationist that he was."[58] Sinclair suggested that an "adroit plan" to hasten the end of white primaries, literacy tests and other devices used to disenfranchise black voters, thus boosting Republican support, accounted for Harding's "definite, if misguided, courage" in Alabama.[59]

In a private letter, Harding admitted some partisan interest in long-term political change, adding,

> my great hope is to see the matter so justly handled that we can get away from the bugaboo of the black race and establish a Republican party in the South. When that is accomplished we may hope for a prompter solution of the question in the more difficult details.[60]

The fullest explanation of his motives, however, came in a 5 January 1922 letter to an Ohio friend, Malcolm Jennings. "The impelling reason," he confided, "was the claim of the negro politicians for the performance of the

[53] Letter, J.Silas Harris to Warren G. Harding (WGH), 26 Oct. 1921, Harding Papers, Roll 230, Box 765, Folder 700. [54] "The Negro's Status Declared by the President."
[55] Byron Harrison quoted in Sherman, "The Harding Administration and the Negro," 159.
[56] Murray, *The Harding Era*, 397–99. [57] Dean, *Warren G. Harding*, 125.
[58] Sinclair, *The Available Man*. [59] Both quotations from Sinclair, 230–35.
[60] Letter, WGH to H. H. Kohlsaat, 28 Oct. 1921, Harding Papers, Roll 229, Folder 761, #0339.

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things written into our platform and promised in the campaign."[61] These promises included action against lynching, an investigation into the military occupation of Haiti, more black appointments to government positions and a biracial commission to consider strategies for improving race relations. By late 1921, little progress had been made on any of these items. Secretary of State Charles Evans Hughes discouraged the Haiti investigation, while the commission idea had stalled in Congress. Harding had requested progress reports from each government department on the hiring of black employees but entrenched racism and bureaucratic inertia meant progress had been negligible.[62] Only on the Dyer bill was progress evident but Harding was only too aware that the main impetus for this was coming from the NAACP and pro-Dyer Republicans, not from the White House. His reluctance to risk his own political capital beyond a short paragraph on lynching in the April address to Congress was already drawing criticism from black and white civic and political leaders, who had hoped for a dramatic personal intervention similar to that made over the issue of the veterans' bonus in July. He was pleased with the general press reception for his speech, noting that disapproval had come only from "some petty little partisan squirt or some blackguard sheet."[63] Nevertheless, he deemed it a failure on two fronts. Dismissing accusations that his sole motivation had been partisan, he told Jennings that "the public man who thinks that he is going to break the solidarity of the South is dreaming."[64] He was also churlishly disappointed at the negative reactions of some black leaders, complaining, "I doubt now myself if it were worthwhile to have made the effort. The negroes are very hard to please."[65]

Harding's increasingly assertive presidential style was clearly displayed at Birmingham but the speech was, despite its daring, a rhetorical firework display masking a lack of clear direction or commitment on race issues. The President used the moral authority inherent in his office to prod the "hornets' nest," thus enhancing his public popularity, while avoiding more direct intervention. In this sense, the address was a strategic error. In seeking further praise for his leadership style, he also renewed activists' hopes that he was finally ready to come out fighting for the anti-lynching bill. Instead, in the months after Birmingham, he moved further away from direct engagement with the campaign.

SPRING–SUMMER 1922

The Dyer bill passed the House of Representatives on 26 January 1922 by 230 votes to 119. Ominously, only eight Democrats supported the measure, with

[61] Letter, WGH to Malcolm Jennings, 5 Jan. 1922, Malcolm Jennings Collection, Harding Papers, Roll 261. [62] Murray, *The Harding Era*, 401.
[63] Letter, WGH to Malcolm Jennings. [64] Ibid. [65] Ibid.

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southern representatives solidly opposed. The Senate's Judiciary Committee referred it to a subcommittee chaired by Borah which comprised three Republican and two Democratic members. None represented heavily black electoral districts and, as Johnson noted, most were constitutional lawyers sharing Borah's aversion to leaving the issue of constitutionality for settlement by the Supreme Court.[66]

Still claiming to have Harding's active support, the NAACP collected a petition signed by nearly half of the nation's state governors, thirty-nine city mayors and assorted state Supreme Court judges and clergymen. It reached Borah amid an accompanying deluge of letters from schools, rotary clubs and masonic lodges urging the committee to report out the bill quickly and favourably. Further pressure came from Senate Republicans, particularly Henry Cabot Lodge, who wanted the issue settled before the November midterm elections. Illustrating the issue's potential for dividing the party and badly shaking black voter loyalty, Dyer himself stoked Lodge's fears by visiting Massachusetts in 1922 and telling audiences that Lodge should pay with his seat should the GOP fail to pass the anti-lynching bill.[67] Meanwhile, over the spring and early summer of 1922, the Republican-controlled legislatures of California, Colorado, Massachusetts, Missouri, West Virginia and New York all passed resolutions demanding passage of the Dyer bill.[68] This reflected growing concerns in the GOP that their electoral strength in key northeastern and mid-western industrial cities could be undermined by black voter abstention. Borah reacted angrily, complaining to newspaper editor James T. Williams that he had been forced "year after year to prostitute my intellectual integrity in trying to pass bills which we have no authority to pass."[69] His clear resentment at Harding's stirring up of black expectations was echoed by Iowa's attorney general, George Woodson, who complained that "the utterances of President Harding has [*sic*] led them to believe that our Republican administration would take this step."[70]

As thousands of white and black protesters marched through the streets of Washington in support of the anti-lynching measure, the subcommittee eventually reported the bill out negatively. The Senate Judiciary Committee then passed it by a vote of eight to six on 29 June, with Borah joining the Democrats opposed.

[66] Johnson, *Along This Way*, 66.
[67] Philip Dray, *At the Hands of Persons Unknown: The Lynching of Black America* (New York: The Modern Library, 2002), 267.
[68] *The Crisis*, 25, 1 (Nov. 1922), 28.
[69] Letter, WB to James T. Williams, 21 June 1922, Borah Papers, Box 133, General Office File, Anti-Lynching Bill (Dyer Bill) 3, June–Sept. 1922.
[70] Letter, George H. Woodson to WB, Borah Papers, Box 133, General Office File, Anti-lynching Bill (Dyer Bill) 3, June–Sept. 1922.

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As campaigners celebrated the clearing of another legislative hurdle, the administration became almost mute. Responding to Johnson's renewed plea for a specific endorsement, presidential secretary George Christian advised, "Legislation dealing with the matter is pending, and the President is disposed to doubt the propriety of an interposition of further counsel on his part for the present at least."[71] This noncommittal tone, in the aftermath of the Birmingham speech, and the secretary's weak assurance of Harding's "continuing and very earnest interest in behalf of this cause," perplexed activists.[72] The President's interest in the matter was unchanged, Christian also informed Alice Carter Simmons of the National Association of Negro Musicians, as were his hopes that "results along the lines of your earnest desires may be brought about in the not very distant future."[73] Some recipients of these anodyne replies became frustrated. Nick Chiles, editor of the Topeka *Plain Dealer*, praised Harding's campaign rhetoric on mob rule and equality before the law but questioned his administration's overriding preoccupation with tax and tariff legislation. Human rights, he argued, were more important than those of lawyers and financiers but "much valuable time is taken up by the President to satisfy their whims over the difference of a few cents."[74] Chiles concluded, "We stood and declared to the world that you were the second Abraham Lincoln, but my people keep after me about my word. So now, President, please don't let my word fail."[75]

Harding was facing the ironic consequence of his success in countering early expectations of a weak presidency. The cumulative effect of his speeches in April, July and October 1921 had undermined the credibility of a noncommittal stance by the executive on such a controversial piece of legislation as the Dyer bill. During 1921–22, he seemed to look for new opportunities to demonstrate executive independence and assertiveness, increasingly placing Republican Party unity at risk. In late 1921, he ordered the release of the jailed socialist leader Eugene Debs, along with most wartime political detainees, over the protests of some Congress members and his own Attorney General. In September 1922, he carried out his threat to veto the bonus bill, provoking a strong backlash in Congress where many Republicans voted with Democrats in a failed bid to override the veto. The President also pressed for US membership of the World Court, placing himself on a collision course with Hiram Johnson, the Senate's leading isolationist. Most significantly, the administration intensified its lobbying efforts for a shipping subsidies bill

[71] George Christian (GC) to JWJ, 23 June 1922, Harding Papers, File 266, Folder 5.
[72] Ibid.
[73] GC to Alice Carter Simmons, 1 Aug. 1922, Harding Papers, File 266, Folder 5.
[74] Nick Chiles to WG. Harding Papers, 5 Aug. 1922, File 266, Folder 5.
[75] Ibid.

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designed to create a viable national merchant marine. The tactics deployed by the White House – a combination of aggressive arm-twisting, patronage and implied threats – were another throwback to the Wilson era and far removed from the "consensual government" promised by candidate Harding in 1920. Disillusioned with his party's disunity and, as he saw it, disloyalty to the administration, Harding had begun to despair of his earlier hopes for cooperation. He wrote to a close friend, "I find I cannot carry my pre-election ideals of an Executive keeping himself aloof from Congress."[76] By August 1921, the *Literary Digest* was already praising the change in Harding's approach, terming it a "gradual drift in the direction of aggressive leadership."[77] The journal's choice of words was instructive, however. Harding's assertiveness was neither predictable nor politically consistent, as the differences in his handling of the bonus, the shipping subsidies, the World Court and the Dyer bill demonstrated. A McKinley-esque "Whig" on some issues and a Rooseveltian "steward" in others, the President veered uncertainly between both approaches over the Dyer bill, unable to commit himself firmly to champion the legislation but hoping to gain credit for speaking out on the issue and boosting the morale of black Republicans. His early speeches in April and October 1921 had ratcheted up black expectations and provoked both hope and irritation among Republicans and Democrats in Congress. This made it impossible for Harding to adopt a lower profile, as he tried to do after Birmingham, without confusing and disappointing black activists.

The inconsistencies in Harding's leadership were not lost on James Weldon Johnson. "I am sorry the President takes this view of the matter," he wrote George Christian on 6 July, "in view of the fact that he has been reported as recently urging upon Congress the enactment of other legislation."[78] Johnson recognized the fatal potential of the threatened southern filibuster against the Dyer bill in the Senate but believed that the President should stand by the bill to the end. Defeat was likely but a "moral victory" could still be won. His frustration reached a peak when, on 18 August, Harding again intervened in Congress, this time to express concern over recent labour disturbances which, he noted, had also threatened the lives of foreign citizens living and working in the US.[79] The situation, he declared, had potentially international repercussions. The president concluded,

> One specific thing I must ask at your hands at the earliest possible moment. There is pending a bill to provide for the better protection of aliens and for the enforcement of

[76] Letter, WGH to Malcolm Jennings, 14 July 1921, Malcolm Jennings Collection, Harding Papers, Roll 261.
[77] *Literary Digest*, 6 Aug. 1921, 12.
[78] Letter, JWJ to GC, 6 July 1922, Harding Papers, File 266, Folder 5.
[79] *Indiana Evening Gazette*, text of President Harding's message to Congress, 19 Aug. 1922, 7.

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their treaty rights. It is a measure, in short, to create a jurisdiction for the federal courts through which the national government will have appropriate power to protect aliens in the rights secured to them . . .[80]

He cited the long history of presidential requests for action, including President Harrison's plea for action due to "the embarrassment which grew out of the lynching of eleven aliens in New Orleans in 1891."[81] He also recalled President Taft's attack on the "pusillanimous position" of federal authorities in making "definite engagement to protect aliens and then to excuse the failure to perform these engagements by an explanation that the duty to keep them is in states or cities, not within our control."[82] The recent "Herrin massacre" had appalled the nation by its "butchery of human beings, wrought in madness."[83] In June 1922, twenty-two men had been killed in a dispute between striking miners from the United Mineworkers of America and strike-breakers brought in to operate a strip mine near the town of Herrin, Illinois. One of the victims had been lynched. Congress, Harding concluded, should end "the humiliation which lies in the federal Government's confessed lack of authority to punish that unutterable crime."[84]

The speech was reminiscent of his 1920 comments on lynching but his willingness to publicly endorse and demand passage of one particular bill, sponsored by Senator Frank B. Kellogg, contrasted starkly with his attitude toward the Dyer bill. The White House view that protection for foreign workers across the US was a federal responsibility beyond the scope of the states' rights doctrine failed to persuade Dyer's supporters that the administration was not guilty of double standards.

Under the circumstances, Johnson's next telegram to the White House was remarkably restrained. "It is necessary to protect the lives of aliens through Federal authority," he agreed, "but is it not equally important to say the least that the lives of American citizens be protected from mobs as well?"[85]

Four days later, a *New York Times* article headlined "Harding for Kellogg Bill: President Prefers It to Dyer Anti-lynching Measure" implied that Harding's lingering private doubts over the constitutionality of the Dyer bill explained the disparate treatment accorded to the two bills, with the President regarding the Kellogg bill as more likely to pass Congress.[86] Fears that this would undermine Republican resistance to the Democratic filibuster

[80] Ibid. [81] Ibid.
[82] John Gabriel Hunt, ed., *Inaugural Addresses of the Presidents* (New York: Gramercy Books, 1995), 312. [83] *Indiana Evening Gazette*. [84] Ibid.
[85] Telegram, JWJ to WGH, 22 Aug. 1922, Harding Papers, File 266, Folder 5.
[86] "Harding for Kellogg Bill. President Prefers It to Anti-Lynching Measure," *New York Times*, 26 Aug. 1922.

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prompted the NAACP to telegraph the White House, "We cannot believe our Chieftain will oppose passage. We still have faith in God and you."[87]

On the day the article appeared, First Lady Florence Harding became seriously ill and she lay close to death through the first half of September 1922.[88] Distracted, Harding carried out only essential duties and passed most of his daily correspondence to his secretaries. On 8 September, George Christian replied to Johnson's telegram of 22 August, assuring him that the *Times* was mistaken. "My understanding of the President's attitude," he explained, "is that he does not consider that the Dyer Bill and the Kellogg Bill conflict with each other at all. He believes the one is necessary to meet one particular situation, and the other to meet another situation."[89] Thus far, Christian maintained the administration's vaguely positive line. The next paragraph, however, appeared to go further. The President, Christian explained,

> feels that the purpose which the Dyer bill is intended to further is so important that the legislation ought not to be held up by reason of some uncertainties as to what the courts might finally decide about it . . . his attitude is that the legislation ought to pass and put the question up squarely to the courts for determination.[90]

This shift in the administration's public line may have been an effort to counter any impression that the President had boxed himself into a corner by directly endorsing Kellogg's bill. The *Times* article and Johnson's letter both suggest that direct comparisons were being made between the President's handling of the two bills. Though Christian's reply lacked the headline-grabbing impact of the Kellogg endorsement, it was the specific endorsement Johnson had long sought. He urgently requested permission to release it to the public, simultaneously asking Ohio Senator Frank B. Willis and New York's William M. Calder to press the White House on his behalf. Christian's response to all these requests was that the White House would not object to publication.

Despite the new statement, the Dyer bill was blocked in September 1922 by a tightly coordinated filibuster organized by Senators Underwood and Harrison. The Senate adjourned for two months, after which, Underwood predicted to reporters, government business would continue to be stalled until the bill was withdrawn. "This bill," he declared, "is not going to become a law at this session of Congress."[91]

[87] Telegram, NAACP to WGH, 27 Aug. 1922, Harding Papers, File 266, Folder 5.
[88] Carl S. Anthony, *Florence Harding: The First Lady, the Jazz Age and the Death of America's Most Scandalous President* (New York: William Morrow & Co. Inc, 1998), 376–83.
[89] Letter, GC to JWJ, Harding Papers, 8 Sept. 1922, File 266, Folder 5.
[90] Ibid. [91] Underwood quoted in Dray, *At The Hands of Persons Unknown*, 271.

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FALL 1922

The Senate filibuster was another ironic reflection on Harding's changed political perspectives. Campaigning in 1920 for the "restoration" of Congress's prerogatives, he had described the Senate as a source of stability and wisdom in guiding the nation's affairs. Its collective experience was more valuable and reflective of public opinion than that of the presidency. Its tradition of long debates and filibusters, he claimed, ensured the fullest consideration of all viewpoints, safeguarding the rights of smaller states and groups against larger ones and also against dictatorial Presidents. There was, Senator Harding had claimed, "not a more helpful thing in all our popular government."[92]

By late 1922, his own administration was hamstrung by these "safeguards." Its proposal for government subsidies for private contractors to buy up over a thousand unwanted naval vessels in the construction of a merchant marine was being resisted by farm-state members who routinely opposed federal aid for business. After heavy Republican losses during the 1922 midterm elections, Harding called the lame-duck 67th Congress into special session in an attempt to ram the bill through. Anti-lynching campaigners demanded the Dyer bill also be taken up as a priority. Pressure from within the GOP mounted during October and November. On 4 October, Lodge gave his "most cordial support" for the National Equal Rights League's request that Dyer's bill be declared a priority.[93] White House responses, however, now reverted to the bland format of the previous summer, assuring correspondents of the President's continued interest but arguing that further statements of support were unnecessary.

On 14 October, Representative Harry C. Gahn (R-Ohio) warned the White House that black voter registration in Ohio's 21st district was "about one-half of what it should be." A clear public statement of support, he urged, "would surely convince them that your administration means to become interested in this bill."[94]

Harding's correspondence during this period reveals his continuing aversion to federal intervention in state affairs. On 2 November 1922, Louisiana governor John Parker appealed for Washington's help in ending Ku Klux Klan influence over of a large section of the state. He asked the President and Attorney General Daugherty to consider removing disloyal state officers and police officials. Harding replied, "Frankly, I am very greatly surprised . . . I fear the proposal of federal interference with the police powers of the state would develop a policy very likely to be resented throughout many states of

[92] "Harding to Advise with U. S. Senate," *Atlanta Constitution*, 20 Aug. 1920, 5.
[93] Letter, Henry Cabot Lodge to GC, 4 Oct. 1922, Harding Papers, Roll 193, File 266, Folder 5.
[94] Letter, Harry C. Gahn to WGH, 14 Oct. 1922, Harding Papers, Roll 193, File 266, Folder 5.

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the Union."[95] His conservative views on federal intervention in domestic state policing matters, despite Daugherty's letter to Volstead in 1921, had never altered.

Congress was called into special session on 9 November, but Harding's message contained no reference either to lynching or to Dyer's bill. Both were also absent from his address to Congress on 21 November. George Christian explained to Johnson that the President had found it necessary to keep the speech "exclusively to the one subject of the Merchant Marine."[96]

Ohio representative Harry Davis, concerned at the long-term repercussions for Cleveland's 11th ward of abandoning Dyer, lectured the President, "you, as the leader of the Republican party, should take more than a passive interest in a measure promoting simple justice." He praised Harding's influence on the debates. "Your repeated denunciations of mob violence," he noted, "have, in my judgment, been the highest expressions on this point of any president."[97] Nevertheless, he insisted that the consequences of Harding's ad hoc forays into moral leadership were clear. Senate Republicans should be forced to "face this matter without flinching."[98]

On 3 December, Republican Congressional leaders flinched. Lodge informed reporters, "it was our duty to set aside the Dyer bill and go on with the business of the session."[99]

Harding blamed the defeat on the Senate's "inability to function," arguing that only procedural reforms could have broken the filibuster.[100] "Frankly," he told Harry Davis , "I do not think it possible to effect their revision during the present short term of the Congress."[101] He predicted renewed efforts in the future, "but it will avail nothing to deceive one's self about the inability of the Senate to sweep aside the filibuster."[102] Davis disagreed, suggesting that prolonged, negative press coverage of the filibuster would have badly damaged the Democrats. Republicans, he warned, underestimated black voter resentment, which had now "developed into a rather bitter cynicism, a belief that the party ... surrendered too easily."[103] Harding's reply included a sarcastic comment that continuing the deadlock "for purely educational purposes" was a futile strategy.[104]

The President's rather emotionless response aroused cynicism over his motives, particularly as he seemed to tailor justifications for his strategy to suit

[95] Letter, WGH to John N. Parker, 8 Nov. 1922, Harding Papers, Roll 193, Box 720.
[96] Letter, GC to JWJ, 23 Nov. 1922, Harding Papers, Roll 193, File 266, Folder 5.
[97] Letter, Harry E. Davis to WGH, 2 Dec. 1922, Harding Papers, Roll 193, File 266, Folder 6.
[98] Ibid.
[99] Lodge quoted in Dray, 271.
[100] Letter, WGH to Harry E. Davis, 4 Dec. 1922, Harding Papers, Roll 193, File 266, Folder 6.
[101] Ibid.
[102] Ibid.
[103] Letter, Harry E. Davis to WGH, 15 Dec. 1922, Harding Papers, Roll 193, File 266, Folder 6.
[104] Ibid.

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different audiences. To Davis, he blamed the defeat on arcane Senate rules. In a letter written on the same day to former Oregon Senator Jonathan Bourne, however, he implied that presidential backing for anti-lynching legislation was not possible. "I have to proceed tactfully to avoid paralysing the activities of the government," he told Bourne, "One thing we need in the United States at the present time is a period of relief from the threat of disturbing legislation."[105] This pragmatic assessment could be viewed as indicative of Harding's real motivations, since it echoed his campaign call for a "return to normalcy." It was, however, disingenuous. While seeming to sacrifice the Dyer bill on the altar of interbranch harmony, he was perfectly prepared to fight battles in Congress over World Court membership and the shipping subsidies bill with a bitter combativeness which brought executive–legislative relations to their lowest point in four years.

CONCLUSION

President Harding's role in the anti-lynching debates has been treated largely as an irrelevance by writers whose contempt for his "weak" leadership automatically discounted his influence in any significant policy area between 1921 and 1923. Some later perspectives, attempting to restore "balance" to history's view on Harding, overcompensated by exaggerating the political significance of the Birmingham speech and overplaying the President's "endorsement" of the Dyer bill. This article has addressed the erratic nature of Harding's approach to the anti-lynching debate by comparing and contrasting each presidential statement or phase of inaction during the anti-lynching debates with definable phases in his evolving leadership style. It concludes that while Harding displayed unexpectedly strong leadership traits in dealing with the bonus bill, the World Court and the shipping subsidies debates, his handling of the Dyer bill was a more poorly conceived, conflicted mixture of leadership styles and partisan motives, reflecting his inner uncertainty over, first, the wisdom of a head-on clash with southern Democrats on the lynching issue and, second, the appropriate role for the presidency in postwar American politics. Harding was clearly disillusioned by the failure of his early efforts at consultative leadership and increasingly disposed to disregard party unity and the views of Congress in his defence of executive authority. His conversion to strong leadership, however, was incomplete and unpredictable, moving back and forth between restrained "Whig" and interventionist "steward" stances, according to the issue and to his own estimate of potential success. He raised and dashed the hopes of white and black reformers, angered southern Democrats and alienated some

[105] Letter, WGH to Jonathan Bourne Jr., 4 Dec. 1922, Harding Papers, Roll 229, Box 762.

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Republicans, while offering varied explanations for his action or inaction and seeming indifferent to the confusion caused by his tactics. Harding appeared not to understand the expectations he had aroused or the disappointment which greeted his failure to follow them through with active leadership.

After 1923, lynching rates across America began a steep decline, a phenomenon which may be partly attributed to the publicity surrounding the Dyer debates and the decision by some states to toughen their responses to lynchings in order to forestall the seemingly real prospect of federal intervention. Black disenchantment with the Republican Party, however, remained deep. Within a year of the bill's abandonment, the NAACP officially recommended that its members redefine themselves as "independents" and campaigned actively against any Republican members of Congress who had opposed the Dyer bill. Blacks, *The Crisis* commented, should no longer act as "the secure appendage of the Republicans."[106] President Harding's performance was not solely responsible for this rapid deterioration in relations between the Republican Party and the black electorate, nor had he ever had the power to break the Senate filibuster. Nonetheless, his angry assertiveness as President by 1923 had attracted widespread attention. Had he wielded the political and moral authority of the presidency for the Dyer bill with the same determination he displayed over the bonus, subsidies and Kellogg bills, he would have gained more praise for his vision and political courage, whatever the consequences for southern Republicans and his economic agenda, than he eventually received from generations of unimpressed historians. As it was, his premature death in August 1923 from worry and exhaustion ensured that his contribution to the anti-lynching cause ended with the loss of the Dyer bill. *The Crisis* noted his passing with a short editorial hinting that while Harding might have disappointed many black Americans, his rhetoric had been appreciated. Raising, once again, the rumours concerning Harding's ancestry that had dogged him in 1920, W. E. B. Du Bois concluded, "If there ran in his veins any bit of the blood of Africa, America should be proud of it . . . it would explain much of the spirit of sympathy and forgiveness in the heart of this over-worked servant of the people."[107]

[106] "Political Straws," *The Crisis*, 26, 3 (July 1923), 124.

[107] Ibid.

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