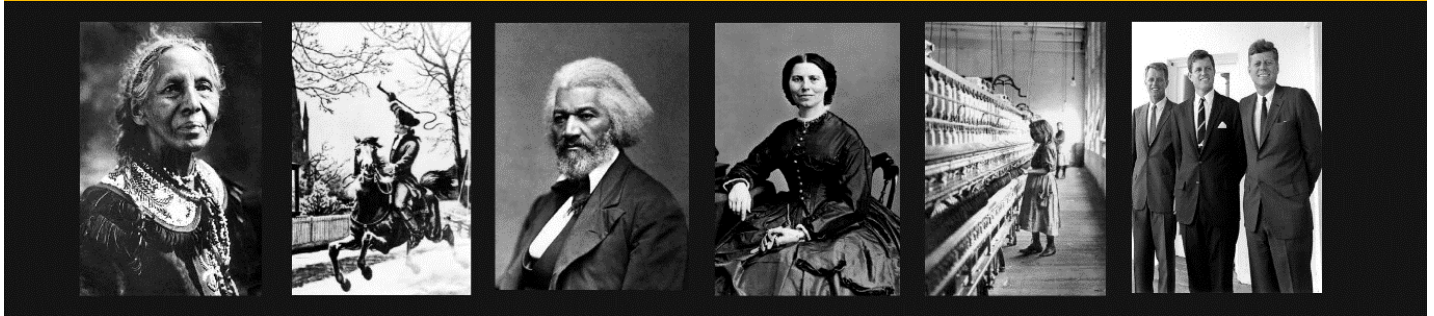


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**Fighting for Freedom to Marry**

Lyssa and Kris White of Manassas, VA, join demonstrators in Washington as the U.S. Supreme Court heard a case in review of same-sex marriage on March 26, 2013. Photo courtesy of Elvert Barnes.

# The Dilemma of Interracial Marriage: The Boston NAACP and the National Equal Rights League, 1912–1927

ZEBULON MILETSKY



**Editor's Introduction:** *On a wintry evening on February 1, 1843, a group of Boston's African American citizens gathered in the vestry of the African Baptist Church nestled in the heart of Boston's black community on the north slope of Beacon Hill. The measure they were there to discuss was a resolution to repeal the 1705 Massachusetts ban on interracial marriage.<sup>1</sup> Led largely by white abolitionists, the group cautiously endorsed a campaign to lift the ban. Their somewhat reluctant support for this campaign acknowledged the complexity that the issue of interracial marriage posed to African American communities. In contrast, during the early twentieth century, black Bostonians attended mass meetings at which they vigorously campaigned against the resurgence of anti-miscegenation laws led by the Boston branch of the National Association for the Advancement of Colored People (NAACP) and William Monroe Trotter's National Equal Rights League (NERL). This change is indicative*

*of both the evolution of thinking about the issue of interracial marriage and the dilemma that it had frequently represented for black Bostonians and their leaders.*

*Laws against interracial marriage were a national concern. In both 1913 and 1915 the U.S. House of Representatives passed laws to prohibit interracial marriage in Washington DC; however, each died in Senate subcommittees. In 1915 a Georgia Congressman introduced an inflammatory bill to amend the U.S. Constitution to prohibit interracial marriage. These efforts in the U.S. Congress to ban interracial marriage reflected widespread movements at the state level.*

*The 1913 bill (HR 5948) would have prohibited the “intermarriage of whites with negroes or Mongolians” in the District of Columbia and made intermarriage a felony with penalties up to \$500 and/or two years in prison. The bill passed “in less than five minutes” with almost no debate, by a vote of 92–12. However, it was referred to a Senate committee and never reported out before the session expired. In 1915 an even more draconian bill was introduced (HR 1710). It increased penalties for intermarriage to \$5,000 and/or five years in prison. The bill was first debated on January 11 and passed in the House of Representatives by a vote of 238–60. However, it too was referred to a Senate committee and never reported out. African Americans and their allies throughout the nation closely followed the passage of both bills and organized strong opposition, particularly to the 1915 bill. Most likely, their protests were key to the bill’s defeat in the Senate. As several authors have pointed out:*

*Although a symbolic victory [the 1913 and 1915 passage by the U.S. House of Representatives], a federal antimiscegenation policy was not produced. The District of Columbia would continue to be a haven for interracial couples from the South who wished to marry. Indeed, Richard and Mildred Loving, the interracial couple who would be at the center of the Loving v. Virginia (1967) Supreme Court case that struck down state-level antimiscegenation laws, were married in the District of Columbia in 1958.<sup>2</sup>*

*Although the bill to ban interracial marriage in Washington, DC, was successfully defeated, by 1920 thirty states had anti-miscegenation laws on their books. (The term “miscegenation” was coined in 1863 and was derived from the Latin word miscere, meaning “to mix.”) As late as 1967, when the Supreme Court declared anti-miscegenation laws*

*unconstitutional in the aptly named Loving v. Virginia decision, sixteen states still enforced them.*

*This article examines the political struggle over the issue of interracial marriage and the dilemma it posed for the Boston branch of the NAACP, as well as the national organization. The NAACP and its Boston chapter constituted the principal opposition to these efforts. The author examines the struggle to defeat similar bills that would have criminalized intermarriage in Massachusetts in 1913 and a second attempt in 1927. The author, Zebulon Vance Miletsky, is an Assistant Professor of Africana Studies and History at the State University of New York at Stony Brook.*

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**Introduction:** On July 16, 2008, the headline of a *New York Times* article trumpeted the proud accomplishment of the denouement of a longstanding era of discrimination in Massachusetts: “A 1913 Law Dies to Better Serve Gay Marriages.”<sup>3</sup> The so-called “1913 law” in question was the Uniform Marriage Act originally initiated by Massachusetts State Senator Harry Ney Stearns, a Harvard educated lawyer from Cambridge, on March 7, 1913. The law barred out-of-state residents from getting married in Massachusetts if their union was illegal in their home state. In 1913 interracial marriage was banned in thirty states.

In 2006, Attorney General Thomas Reilly insisted that the original 1913 legislation had nothing to do with race. In his brief to the state supreme court, Reilly argued that by enforcing the law and using it to prohibit gay people who lived in other states from attempting to marry in Massachusetts, the Commonwealth was simply respecting other states that banned such unions. Governor Mitt Romney, a strong opponent of same sex marriage, revived the archaic anti-miscegenation law as a means to block couples from travelling to Massachusetts to marry.

Although the law had not been enforced for decades, Romney used his position on same-sex marriage to help launch his failed presidential bids in both 2008 and 2012. He stated famously that “he did not want to make Massachusetts the Las Vegas of same-sex marriage.”<sup>4</sup> On March 30, 2006, the state Supreme Court agreed with Romney and upheld the application of the law to same sex couples. As a result, although same-sex couples could legally marry in Massachusetts, residents of other states could not.<sup>5</sup>

Representative Byron Rushing and State Senator Dianne Wilkerson, both African American elected officials representing parts of Boston’s South End with large LGBTQ constituencies, led the ensuing fight to repeal the law that

quickly came to be seen as a symbol of Massachusetts' little known racist past. It passed in the House 118–35. Deval Patrick, the state's first African American governor, signed the bill that repealed the law on July 3, 2008.

### MASSACHUSETTS' UNIFORM MARRIAGE ACT OF 1913

As previously stated, the 1913 law was originally passed to discourage interracial couples from travelling to Massachusetts to marry from states where intermarriage was illegal. But the law did not appear in a vacuum. The state legislature approved the measure shortly after a scandal involving heavyweight boxer Jack Johnson's marriage to Lucille Cameron, who was 18 years old and white. In 1908, Jack Johnson (1878–1946) had become the first black boxing world champion, having beaten Tommy Burns. After his victory, the search was on for a white boxer, a "Great White Hope," to beat Johnson. Those hopes were dashed in 1910, when Johnson beat former world champion Jim Jeffries. This victory ignited race riots across the U.S. as frustrated whites attacked celebrating African Americans. Johnson's later marriages to, and many affairs with, white women further infuriated white Americans.<sup>6</sup>

Efforts to reinvigorate dormant interracial marriage bans had been considered in many northern states in the early 1900s, but immediately took on a new vigor in the wake of Johnson's second marriage. By 1913, half of the 18 states that had lacked anti-miscegenation laws in 1910 had introduced legislation banning interracial marriage.

Massachusetts Attorney General Reilly's comments in 2006 notwithstanding, the struggle over interracial marriage has implications for other oppressed communities and modern day struggles. The fact that Massachusetts' 1913 law against interracial marriage was used to block same-sex marriage in 2004 is remarkable. It lends credibility to those who have long made the connection between the gay rights and the civil rights movements and it links these communities of oppression in a palpable way.

Peggy Pascoe, author of the award-winning study, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (2010), has pointed out that today, when interracial marriage is legal and common, many Americans are surprised to learn that a vast network of laws once existed to prevent people from marrying outside their race. She writes:

laws prohibiting interracial marriage [miscegenation laws] were so deeply embedded in U.S. history that [they] would have to be considered America's longest-lasting form of legal race



### **Lucille Cameron and Jack Johnson**

Shortly after boxing champion Johnson married Cameron, Massachusetts attempted to enact a law discouraging interracial marriage.

discrimination; they lasted far longer than either slavery or school segregation. All told, miscegenation laws were in effect for nearly three centuries, from 1664 until 1967, when the U.S. Supreme Court finally declared them unconstitutional in the Loving decision.<sup>7</sup>

Such laws were rooted in Massachusetts' own past but had been successfully appealed in the mid-nineteenth century. Historians James and

Lois Horton argued in *Black Bostonians: Family Life and Community Struggle in the Antebellum North* (1979) that:

one victory that blacks cautiously endorsed but did not actively participate in was the repeal of Massachusetts' law against interracial marriage in 1843. William Lloyd Garrison spoke out against the law in 1831, but blacks made few public comments concerning the drive for its repeal until the early 1840s.<sup>8</sup>

The Hortons, like many earlier scholars, concluded that, "The law's removal from Massachusetts' statutes was largely the result of a petition drive sponsored by white abolitionists." The Hortons' belief that African Americans were not deeply involved in the 1830s-early 1840s efforts to repeal Massachusetts' anti-miscegenation law has been the accepted view for many decades among scholars. However, in *The Fight for Interracial Marriage Rights in Antebellum Massachusetts*, Amber D. Moulton makes the argument that African Americans played a more active role in petitioning and campaigning for the repeal of the law, which succeeded in 1843.<sup>9</sup>

In the early part of the twentieth century, however African Americans became more involved and had progressed greatly in their willingness to confront what Pascoe has called the "longest-lasting form of legal race discrimination." While it certainly still posed a "dilemma," black Bostonians and their leaders were more ready to tackle the issue head on. This change in and of itself becomes interesting, as it mirrors in many ways the somewhat slow evolution in attitudes around the issue of same-sex marriage.

## THE AFRICAN AMERICAN EXPERIENCE IN BOSTON

The intense political struggles generated over the issue of interracial marriage posed dilemmas for both the NAACP nationally and its Boston branch. The NAACP and its Boston branch constituted the principal opposition to the ban and held several mass meetings to protest the pending anti-miscegenation legislation. The Boston branch was especially challenged in 1927 when the Commonwealth of Massachusetts attempted to pass a statewide ban.

Boston, for most of the nineteenth century, was considered to be a relative haven for African American ambition and success and quite progressive in terms of race relations. Boston served as headquarters of the abolitionist movement and was the first city to integrate its public schools in the mid 1800s. It also had the lesser-known legacy of having some of the highest levels of interracial marriages of any major American city.



Perhaps for these reasons, the African American experience in Boston during the Progressive Era has not attracted as significant attention as earlier periods. Instead, both popular and scholarly attention has focused either on the antebellum period in Boston as “the golden age” of the African American experience, or else focused on the crisis period of 1970s busing. With some exceptions, such as Mark Schneider’s *Boston Confronts Jim Crow: 1890-1920* (1997) the historiography has generally overlooked Boston’s racial history in the Progressive Era.<sup>10</sup>

It is important to point out that although African Americans in Boston actively participated in the campaign to fight against the resurgence of anti-miscegenation laws in the early part of the twentieth century, they did so with some reservations. It was seen as an affront to their dignity to have to continually deny their intentions to want to intermarry with whites, and yet it was an issue that they had to fight against for that same reason. I argue that this sense of ambivalence is indicative of the dilemma of intermarriage for African Americans locally and nationally. Still, by viewing this as an assault on their dignity and their civil rights, the threat of anti-miscegenation laws encouraged black Bostonians to coalesce around what they considered to be an important organizing point in the larger battle for racial equality. In examining the black response to this phenomenon, this article seeks to rethink the debate about interracial marriage, underscoring the links between Boston’s abolitionist and race-reform tradition and the “long civil rights movement.”

Efforts to block sexual relationships and marriage across the color line represent just one aspect of a long and sustained campaign of oppression against African Americans. It is important to note that the assault on interracial marriage took place during a moment of broader attacks on the civil rights of African Americans under the presidential administration of Woodrow Wilson (1913–21). Wilson introduced formal segregation in federal offices for the first time. Housing segregation was also increasing nationwide.

In pursuing their rights to first-class citizenship, black Bostonians founded organizations to fight against the denial of this most personal of rights. They argued that efforts to ban intermarriage, which appeared at both the federal and state levels numerous times between 1890 and 1930, often had very little to do with intermarriage and much more to do with humiliation and the undermining of other, more important struggles for equal rights. This articulation became the national position among progressive black leadership and can be seen in the editorials and tracts written by several prominent intellectuals of the time, particularly W.E.B. Du Bois who described it well

in the pages of *The Crisis*. Even though the NAACP unequivocally defended the right to intermarry, it did not publically advocate intermarriage between the races.

As more and more northern and midwestern state legislatures initiated bills to either pass new, or reinstate old, laws forbidding interracial marriage during the 1910s, African Americans in various cities and states organized to defeat them. Between 1913 and 1927, the NAACP fought attempts to enact miscegenation legislation in California, Colorado, Connecticut, Illinois, Iowa, Kansas, Massachusetts, Michigan, Minnesota, New York, New Jersey, Ohio, Pennsylvania, Washington, Wisconsin, and Wyoming as well as a proposed constitutional amendment.<sup>11</sup>

### 1913 PROPOSED CONSTITUTIONAL AMENDMENT

As previously mentioned, this pro-miscegenation legislation movement was reinvigorated in 1912 following the high-profile interracial marriage between Jack Johnson and Lucille Cameron, only months after Jack Johnson's first wife, Etta Johnson (who was also white) committed suicide.<sup>12</sup> Within one week of Johnson's marriage to Cameron, a federal Constitutional Amendment to ban interracial marriage was proposed in Washington, DC.<sup>13</sup> Indeed, for the next several years, a surge of anti-black sentiment and violence began to move across the country as state after state began to call for anti-miscegenation legislation.

In the U.S. House of Representatives, Seaborn A. Roddenberry of Georgia proposed a constitutional amendment stipulating that marriage between "between negroes or persons of color and Caucasians or any other character of persons within the United States or any territory under their jurisdiction" be "forever prohibited."<sup>14</sup> The amendment (H.J. Res 368) introduced in January 1913 included a sweeping definition of who was to be categorized as such. It proposed that "the term 'negro or person of color,' as here employed, shall be held to mean any and all persons of African descent or having *any trace* of African or negro blood (emphasis added)." The amendment was striking in its open racism. It concluded that:

Intermarriage between whites and Blacks is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant. It is subversive to social peace. It is destructive of moral supremacy, and ultimately this slavery to Black beasts will bring this nation to a fatal conflict.<sup>15</sup>

Across the nation other white elected officials agreed. During a stormy session that concluded a meeting of the Conference of Governors in Richmond, Virginia in December 1912 a heated discussion regarding Johnson and Cameron's recent marriage and the need for legislation to prohibit such relationships took place. The governors concluded, in somewhat less inflammatory language than Roddenberry's proposed constitutional amendment that: "there is a necessity for more stringent laws prohibiting the alliance such as that of Jack Johnson, the Negro pugilist, and Lucille Cameron, a white girl."<sup>16</sup>

In the wake of the governors' conference, an unsigned editorial in *The New York Age*, commented:

It is regrettable that this question of the marriage of Blacks and whites should have arisen at this time and with Jack Johnson as the storm center: it is not a redeeming feature even that all of the women in the mix-up are in Johnson's class as "big-game sports."

Despite the unsavory reputations of those involved, it pointed out that a fundamental principle was at stake:

to outlaw the right of a Black man to marry a white woman by state or federal legislation is to "abridge the privileges or immunities of citizens of the United States," which is prohibited to the states by the 14th amendment to the federal Constitution.<sup>17</sup>

The editorial concluded on a note common to most African American defenders: while "we do not need to favor the marriage of Blacks and whites as a personal matter...we do need to stand by the principle that Blacks and whites shall be free to marry if they so desire, without legal or sentimental restriction as other races are free to do it." Although acknowledging that it "may be best ... for the people to marry within their race lines," the editorial posed another critical question: "but what are the race lines of the Negro people and what legal statute can run a truthful division between the white and Black lines?"<sup>18</sup>

The same issue of *The New York Age* announced the arrival of Congressman Roddenberry's bill to the U.S. Congress:

Southern Democrats who seldom get into print except by making savage attacks on the Negro in the halls of Congress, have taken advantage of the Johnson – Cameron incident to air their views

on the race question, much to the disgust of hundreds of legislators who are in Washington to make just laws for all citizens instead of seeking to stir up racial strife.<sup>19</sup>

During his marathon outburst, which lasted many hours, Congressman Roddenberry warned:

nothing will contribute more to the popular development and wise administration of a Republican government than for the people in their legislatures to have an opportunity, by the adoption of this resolution, to provide that forever thereafter it shall be contrary to the fundamental law of the republic for a Negro or a part Negro or an African or a part African to intermarry with a white person a Caucasian or a person of like description.<sup>20</sup>

The *Boston Daily Globe* also reported extensively on Roddenberry's speech in Congress (December, 1912).<sup>21</sup> According to its reporting, Roddenberry declared that "no brutality, infamy or degradation . . . possess such villainous characteristics and atrocious qualities as the permission of [interracial] marriage by the laws of this country." He blamed the North for promoting race mixing "in the most criminal and degrading of ways." He averred that: "not only is the white slave traffic carried on, but the white girls of this country are made the slaves of an African brute sanctioned by the laws of the state and solemnized by form of the marriage ceremony."<sup>22</sup>

Highlighting the alleged superiority of southern racial mores, he concluded his racist appeal:

In the fellowship between the Blacks and the Whites in the South, the Blacks respected the superiority of their former masters and would commit self-destruction before entertaining the thought of matrimony with a Caucasian girl.<sup>23</sup>

The Roddenberry bill was tabled by the Committee on the Judiciary and, as a result, never came to a vote on the House floor.<sup>24</sup>

## **1912: MASSACHUSETTS CONSIDERS ADOPTING A BAN ON INTERRACIAL MARRIAGE**

Like his counterparts in many other states, upon hearing of Jack Johnson's marriage, Massachusetts Governor Foss publicly advocated placing

a law against intermarriage on the books for Massachusetts. Governor Foss allegedly remarked, "Massachusetts, I am sorry to say, has no such [anti-miscegenation] law, but I am in favor of placing it on her statute books."<sup>25</sup> One historian has characterized this as a "defense" against being "subjected to the . . . [virulent] criticism which Illinois suffered as a result of the Jack Johnson fiasco."<sup>26</sup>

Despite Governor Foss's comment, Massachusetts seemed the most unlikely site of passage of such a law. It had a history of abolitionist activism and only a tiny African American population. Boston did not experience the first "Great Migration" which dramatically increased the black population in many Northern cities during the 1910s. In 1850 the African American population of Boston was only 1,999 (1.46% of the city's population). This number increased to 8,125 in 1890 (1.81%) and 16,350 in 1920 (2.2%), but the overall percentage remained small. Statewide, the percentage of African Americans was even less.

Nevertheless, it initially appeared that the state might soon follow national trends toward formally banned interracial marriage. The state's elected officials began very publicly mulling over the idea of reinvigorating anti-miscegenation laws.

In 1913 Massachusetts legislators were not ready to go as far as passing a law prohibiting intermarriage outright. However, legislators were willing to make some sort of compromise or a legal gesture that could eventually move in that direction.<sup>27</sup> State Senator Harry Ney Stearns sponsored one such bill (Bill 234) in 1913 and persuaded his Senate colleagues, which included future president Calvin Coolidge, to approve the bill. It stated:

No marriage shall be contracted in this commonwealth by a party residing and intending to continue to reside in another jurisdiction if such marriage would be void if contracted in such other jurisdiction, and every marriage contracted in this commonwealth in violation hereof shall be null and void.<sup>28</sup>

Following the bill's report out of committee, it passed through both chambers of the legislature and was signed by Massachusetts Governor Foss later that year.<sup>29</sup> Although the law was passed to prevent out-of-state interracial couples from marrying in Massachusetts, the law's professed purpose was to create roughly equal statutes from state to state.<sup>30</sup> A newspaper reported the parameters of the law, which were as follows:

“Marriage between a white and a negro” was one of the examples of state-specific prohibitions the group mentioned – but it was not the only one. It also cited marriages with a minor without parental consent, and marriages within a specified time after entry of final decree in divorce.<sup>31</sup>

## INTERRACIAL MARRIAGE IN BOSTON

Prior to this, Boston residents’ perceived progressive stances on racial issues had helped make the city a national symbol for “amalgamation” by the early twentieth century; a symbol that was neither completely true nor untrue. By spreading panic and fear of race mixing, the battle over interracial marriage exposed the ways in which Boston, in particular, became the target of such accusations. Indeed, the city had a high number of interracial marriages. By 1915, it had more interracial marriages than any other major American city.<sup>32</sup>

Boston, with its substantial Irish population, had an unusual pattern of Irish, and other immigrant women, marrying African American men. In *The Other Brahmins: Boston’s Black Upper Class, 1750-1950*, Adelaide Cromwell, speculates that this occurred, in part because of the proximity within which they often worked and their differing notions about the taboo of race mixing. In addition, because of the unique stratification of Boston Brahmin society, marriage to an African American male could be sometimes regarded as a step up the social ladder for Irish American females. In this anomalous arrangement, African Americans were sometimes preferred and had greater access to upward mobility through employment than the Irish.<sup>33</sup> However, the perception that the city’s black population, albeit small, could make a living and have a real chance for upward mobility changed by the 1930s as Boston moved toward residential segregation, educational, and economic inequity.

In earlier decades, Massachusetts had often served as a foil to promote segregation in other states. For example, in 1903, during a heated political campaign, United States Senator Hernando De Soto Money of Mississippi repeatedly made the assertion that in Massachusetts in the previous year, two thousand white women had married “Negro” men. Of course this was an exaggerated number that was trumped up for political gain in a racist environment. Nevertheless, it effectively demonstrates the way in which Boston symbolized a hotbed of racial intermarriage, if only in the popular imagination.<sup>34</sup>

At the same time, there were signs indicating that interracial marriage may have been on the rise in Massachusetts generally and in Boston specifically

in the early part of the twentieth century. In *New People: Miscegenation and Mulattoes in the United States*, Joel Williamson argues that Boston was the “most tolerant large city in America with regard to interracial unions. From 1900 to 1904, 14 out of every 100 Negro grooms married white wives.”<sup>35</sup>

Boston’s leadership in the challenge to anti-interracial marriage laws was due in part to the city’s distinct demographics and progressive racial heritage, but also because of the early formation of local black leadership organizations such as the Boston chapter of the NAACP, the first branch in the nation established in 1911, and William Monroe Trotter’s National Equal Rights League, established in 1908.<sup>36</sup> Black Bostonians’ efforts in their home city and state led to similar challenges across the country, and as the city with a largest number of interracial marriages, this strong unified response was important and exemplary.<sup>37</sup>

However, during the 1920s Boston residents’ attitudes towards interracial marriage changed as Boston politicians began to align themselves explicitly with southern racialized viewpoints. This retrenchment of progressive politics in Boston created the space for the assault on interracialism, culminating with the 1927 bill to forbid interracial marriage in the commonwealth.<sup>38</sup>

### THE NAACP’S BOSTON BRANCH, 1911–20

The NAACP, originally founded as the National Negro Committee, was born in 1909. Bostonian involvement was significant from the beginning. The city was chosen as the site of the organization’s first conference when the committee held a meeting there to bring together persons interested in fighting for the civil rights of African Americans. Out of this meeting was formed “The Boston Committee to Advance the Cause of the Negro.” This committee grew significantly in terms of membership and activity between 1910 and 1911. The ad-hoc committee became the first branch of the NAACP when the second annual conference was held at the Park Street Church in Boston in 1911. Its membership included leading Bostonians such as Moorefield Storey, William Monroe Trotter, Archibald Grimke, and Francis and George Garrison.<sup>39</sup>

Originally the Boston branch merely operated as an ad hoc committee most active during moments of crisis, but by the annual conference in 1911 the national office recognized the Boston group as a full-fledged branch. The link between the national NAACP office and the Boston branch was evident with the leadership and policy making often originating in Boston. Moorefield Storey, a white lawyer, who served as the first national NAACP president also served as president of the Boston branch between the years

1910 and 1916. Other officers included black lawyer Butler Wilson (who would later be the Boston chapter's first black president from 1916 to 1936), Francis J. Garrison, and George Garrison. By the end of 1912, the Boston branch had more than 250 members.<sup>40</sup>

In 1914, the branch won a major victory when it persuaded the Boston school committee to withdraw from the schools a book entitled *Forty Best Songs* in which the words "darkey," "nigger," and other epithets were used by teachers and sung by children in the classroom.<sup>41</sup> In 1915 the branch protested the antiblack film *Birth of a Nation*. The racist movie was an adaptation of the bestselling novel, *The Klansmen* by Thomas Dixon. The branch published a leaflet explaining its opposition to the film and spent thousands of dollars in a campaign fighting for its removal from a Boston theater.<sup>42</sup> Protests aside, the city allowed the film to complete its scheduled run through the summer of 1915.<sup>43</sup>

By 1918, under the leadership of Butler Wilson, the Boston NAACP branch had over 447 new members. At the insistence of the Boston chapter, the national board called for a congressional investigation of the treatment of black soldiers at home and abroad who were fighting for democracy overseas in World War I and facing discrimination at home upon their return. In 1919, *The Crisis* again reported that the Boston chapter maintained the lead among branches in diversity of membership, with a large number of members representing other than the "colored race."<sup>44</sup>

During this membership growth period, the Boston NAACP turned some of its attention to protesting local and national attempts to ban interracial marriage. The chapter held several mass meetings to protest the pending anti-miscegenation legislation in Congress. On the evening of February 8, 1915, it adopted an important resolution condemning a bill before Congress which made intermarriage in the District of Columbia illegal.<sup>45</sup> W.E.B. Du Bois summed it up well when he wrote in *The Crisis* that:

The NAACP earnestly protests against the bill forbidding intermarriage between the races, not because the Association advocates intermarriage, which it does not, but primarily because whenever such laws have been enacted they become a menace to the whole institution of matrimony, leading directly to concubinage, bastardy, and the degradation of the negro woman.<sup>46</sup>

The concerns or "dilemma" faced by the black community can, in part, be connected to the all too familiar justifications of lynchings, in which black



men were accused of sexual assaults on white women, a rationale debunked by Ida B. Wells in her investigations of lynchings in the 1890s.<sup>47</sup> Another concern, less openly discussed, was connected to the ways in which black women were frequently the victims of sexual violence by white men, where the former had no legal recourse to seek redress for the crimes committed against them. Interestingly, white politicians focused on the “black brute” who desired white women but never addressed white men and their sexual attraction, criminal or otherwise, to black women. In this sense, this was largely a debate between men, with both black and white women’s voices ignored or silenced.<sup>48</sup>

However, as Peggy Pascoe points out, “The NAACP’s opposition to miscegenation laws was also phrased repeatedly and vehemently, as an argument for the protection of black womanhood.” She elaborates:

When it came to White men . . . miscegenation laws function much differently. Because White men could and did debauch Black women with little or no fear of prosecution, laws against interracial marriage merely helped them hide their abuse of Black women and escape from economic responsibility for the children they fathered. On the basis of this analysis, NAACP spokesmen repeatedly asserted that both Blacks and Whites naturally preferred to marry ‘their own kind,’ but flatly rejected the notion that miscegenation laws like equally to Blacks and Whites.<sup>49</sup>

## WILLIAM MONROE TROTTER’S EQUAL RIGHTS LEAGUE

Like W.E.B. Du Bois (1868–1963), William Monroe Trotter (1872–1934) used his position as a writer and activist to address the issue of intermarriage. Trotter, raised in Hyde Park, Massachusetts, earned his undergraduate and graduate degrees at Harvard University. He became a newspaper editor and real estate businessman based in Boston. An early opponent of the accommodationist race policies of Booker T. Washington, he founded the *Boston Guardian* in 1901, an independent African American newspaper, as a vehicle to express that opposition. In addition to his role as a journalist, Trotter founded a radical political organization called the National Independent Political League (NIPL), which went through several incarnations, eventually deciding upon the National Equal Rights League, (NERL). These groups served the dual purposes of racial uplift and fighting the Tuskegee machine. They also provided an alternative to the NAACP.<sup>50</sup>



**William Monroe Trotter**

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Trotter, although a founding member of the Niagara Movement (forerunner to the NAACP) along with Du Bois, quickly became a vocal critique of the NAACP for its lack of African American leadership. Part of the stated rationale for founding National Equal Rights League, which was emblematic of Trotter's unapologetic, uncompromising style, was the sense that there needed to be a black-led group. While cooperating minimally with the Boston chapter, Trotter could be just as caustic in his critique of the organization as he was about Washington's Tuskegee machine.

Interestingly enough, the subject of intermarriage was one area where Trotter chose to work with the NAACP. Even Trotter, the firebrand, had to be somewhat circumspect on this sensitive issue. He organized his own

protests against the bill, although largely cooperating with the NAACP chapter. Although Trotter's efforts at organizing were largely unsuccessful, compared to his journalism, he took the position that African Americans needed organizations with black leadership. By the 1930s, that view would begin to hold sway in Boston with even the national NAACP becoming black-led. By that point, however, Trotter would have long since passed from the scene.<sup>51</sup>

Certain characteristics distinguished the NERL from the NAACP. While the NERL planned to participate in elections and lobbying, the NAACP remained relatively nonpartisan and apolitical. Unlike the NAACP, Trotter's organization did not have a legal defense initiative. What it did have was a strong voice in the form of the *Guardian*, similar to Du Bois' influence through his monthly magazine, *The Crisis: A Record of the Darker Races*, which served as an effective consciousness-raising instrument and gave coverage to the NERL meetings.<sup>52</sup>

### **BOOKER T. WASHINGTON (1856–1915)**

Although the NAACP and the NERL may have disagreed on various issues, they did have one common political foe, Booker T. Washington, who refused to endorse interracial marriage. Washington enjoyed the support of numerous influential white Bostonians, who often viewed Trotter as a troublemaker. When Charles Eliot, president of Harvard, raised a glass at an event in Washington's honor to toast the man who had "done more than any other in the world to open the way of equal education to his race," he was speaking for much of the white Boston Brahmin elite.<sup>53</sup>

Indeed, the Garrisons, the descendants of the most famous abolitionist in American history and a legend in the abolitionist mythology of Boston, were by and large Washington supporters, even if, as some historians contend, they did not support his position on the abandonment of civil rights.<sup>54</sup> The Garrisons regularly wrote letters and editorials that supported Washington's positions and helped finance his trip to Europe. The Garrisons also participated in backroom deals to secure his position among affluent whites and they recognized the legitimacy of his leadership over other black leaders. The fact that the sons of William Lloyd Garrison, Trotter's stated hero, endorsed Washington must have particularly stung Trotter.<sup>55</sup>

Nevertheless, while Garrison family members were ardent supporters of Washington, William Lloyd Garrison, Jr., the eldest son and namesake of the fiery white Boston abolitionist and his youngest son, Francis Jackson Garrison, actively opposed anti-miscegenation laws in the 1910s. Their

position shows the complexity of racial politics in Boston and the extent to which things had changed from the antebellum period.

Despite their support, Washington took a position different from the Garrisons on the subject of intermarriage. In a letter sent to Albert Jenks dated December 4, 1911, he attributed his silence to the fact that “I have not hitherto seen any particular advantage in doing so.” His letter continued:

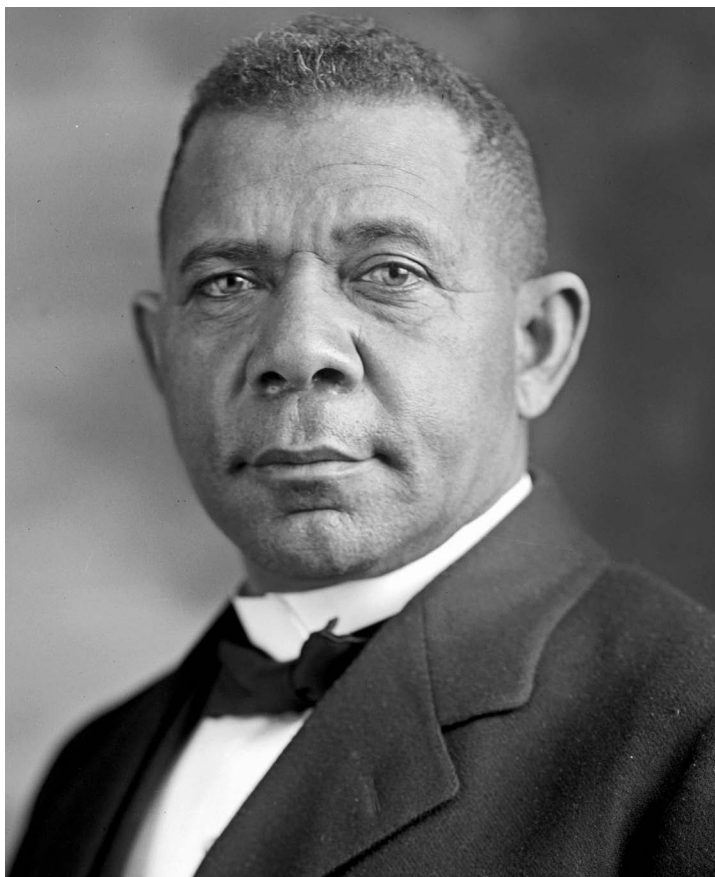
I have never looked upon amalgamation as offering a solution of the so-called race problem and I know very few negroes who favor it or even think of it, for that matter. What those whom I have heard discuss the matter do object to are laws which enable the [white] father to escape his responsibility, or prevent him from accepting and exercising it when he has children by colored women. . . .

This point addresses concerns previously expressed by Du Bois and other NAACP spokespeople, who were concerned that white men could easily abandon their black lovers and girlfriends when they became pregnant or otherwise sought to end relationships if black women did not have the right to marry white men. Washington continued, commenting upon what he felt to be a misguided motive:

Those who are fighting race distinctions are doing so, I think you will find, not because they want amalgamation or because they want to intermingle socially with white people, but because they have been led to believe that where race distinctions exist they pave the way for discriminations which are needlessly humiliating and injurious to the weaker race. Let me add that I do not wholly share this view myself.

In the typical Washingtonian style of looking at both sides of the argument, Washington concluded:

While there may be some serious disadvantage in racial distinctions, there are certainly real advantages to my race, at least. So it would seem that if laws can protect the racial integrity of the negro and the white Americans, and can also protect the present unfortunate victim, the negro woman, such laws would be wise, moral, and desirable.<sup>56</sup>



**Booker T. Washington**

Thus, Booker T. Washington, ever the accommodationist, refused to take a stand against antimiscegenation laws despite his acknowledgement that African American women often had the most to lose by the lack of interracial marriage rights.

### **DUBOIS' DEFENSE OF INTERRACIAL MARRIAGE**

In contrast to Washington, the NAACP and Du Bois opposed all efforts to criminalize intermarriage. Despite Washington's failure to take a public stand on the issue, by the early twentieth century the fervor surrounding the issue of miscegenation had reached a fever pitch. What had largely been a

southern phenomenon had spread to northern states, many of which had once had antimiscegenation laws on the books but had since abandoned them. As previously noted, between 1912 and 1927, the NAACP fought attempts to enact miscegenation legislation in at least 15 largely northern states.

Throughout 1912, headlines about bills in several state legislatures loomed large in the pages of T. Thomas Fortune's *New York Age* as well as several other black newspapers that winter. One noted that, "the introduction of bills in the legislatures of several northern states prohibiting marriage or cohabitation between whites and Blacks" was being followed and deeply resented "by the Negro citizens throughout the United States."<sup>57</sup> It concluded in the strongest language, "In no uncertain terms a determined effort will be made to defeat each of the noxious measures which has as its ulterior purpose to degrade the Negro."<sup>58</sup>

Although many critics often claimed otherwise, the NAACP's position was quite clear. Du Bois wrote extensively on the issue of intermarriage and pending anti-miscegenation laws. In 1910 he had devoted an entire essay to this subject titled, "Marrying of Black Folk." More than a decade later, he penned a frank and clear essay on the subject entitled "Social Equality and Racial Intermarriage."<sup>59</sup>

The NAACP's fourth annual report, signed by W.E.B. Du Bois and Oswald Garrison Villard (chairman of the board of directors and a grandchild of William Lloyd Garrison) called attention to the fact that in 1913 it had defeated in several state legislatures proposed laws prohibiting black-white intermarriage. The authors added a disclaimer making it clear that although the NAACP defended the right to intermarry it did not advocate intermarriage between the races. The NAACP "earnestly protests against the bill forbidding intermarriage between the races, not because the Association advocates intermarriage, which it does not" but instead, as quoted earlier, because of its concerns regarding the "menace to the whole institution of matrimony, leading directly to concubinage, bastardy, and the degradation of the negro woman."<sup>60</sup>

Again, the NAACP asserted its position against these types of laws in defense of black women: "*We oppose it for the moral reason that all such laws leave the colored girl absolutely helpless before the lust of the white man, without the power to compel the seducer to marry*" (emphasis added).

The authors directly referenced Massachusetts' abolitionist legacy by asserting that the NAACP opposed antimiscegenation statutes drawing upon "the language of William Lloyd Garrison in 1843, in his successful campaign for the repeal of a similar law in Massachusetts." Paraphrasing Garrison, they continued:



**W.E.B. Du Bois**

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Because it . . . does not belong to the power of any legislative assembly, in a republican government to decide on the complexional affinity of those who choose to be united together in wedlock; and it may as rationally decree that corpulent and lean, tall and short, strong and weak persons shall not be married to each other as that there must be an agreement in the complexion of the parties.<sup>61</sup>

Finally, and somewhat characteristically, the NAACP argued that the low numbers of interracial marriage rendered legislation unnecessary:

The statistics of intermarriage . . . show this happens so infrequently as to make the whole matter of legislation unnecessary. Both races are practically in complete agreement on this question, for colored people marry colored people, and white marry white, the exceptions being few.<sup>62</sup>

Du Bois devoted many pages of *The Crisis* to the issue of intermarriage. One of his first editorials on the subject is emblematic of the kind of witty and sardonic style that was so carefully cultivated by Du Bois in *The Crisis*. In the February 1913 issue he wrote: “We are opposed to such laws,” Du Bois wrote, “not because we are anxious to marry white men’s sisters, *but because we are determined that white men shall let our sisters alone*” (emphasis added).<sup>63</sup>

Likewise, in “The Social Equality of Whites and Blacks,” (1920) Du Bois stated unequivocally that:

The demagoguery associated with this concept has been harmful for too long; social equality means moral, mental and physical fitness to associate with one’s fellowmen. *The Crisis* is for this and always has been and will be. The right of two adults to marry each other if they wish is sacred and brings no harmful results from a physical point of view.<sup>64</sup>

However, he went on to caution about potential “social difficulties” if any iota of condescension is present, intermarriage is to be rejected. He also respected the fact that “there is a proper determination to build a great Black race tradition of which the Negro and the world will be as proud in the future as it has been in the ancient world.”<sup>65</sup>

For these reasons only, he concluded in 1920, *The Crisis* “advises strongly against interracial marriage in the United States today.”<sup>66</sup> That year Dr. Elizabeth Leonard, president of a woman’s club that had spent two weeks studying *The Souls of Black Folk*, asked for Du Bois’s views on intermarriage and race assimilation. Du Bois replied that, “no race is permanent.” However, he cautioned that “probably marriage within one’s own group has the best chance of success; [but] marriage outside it is a matter for the people themselves to decide and no one else’s business.” He noted that “where a people are treated as inferiors it is a matter of self-respect, usually, for them to marry within their own group.” In the end, however, the



guiding principle should be not “to insult or degrade other groups or deny them the same rights.”<sup>67</sup>

In 1927, discussing the issue of intermarriage, Du Bois offered the following witty analogy. “Despite everything we still maintain that English dukes should have the right to marry Americans, but we do not ‘advocate’ it. We have too much respect for Americans.”<sup>68</sup>

### THE BOSTON NAACP PROTESTS, 1913-15

In 1914 the national NAACP circulated a questionnaire titled “Where Does Your Congressman Stand?” Question number three read: “Regardless of whether you advocate racial intermarriage, will you oppose the passage of a law making such marriage in the District of Columbia invalid, since the enactment by states of such laws has led to the degradation of Negro women and children?”<sup>69</sup> Of the 113 responses, forty-nine gave favorable answers to all the questions. Out of those, six Massachusetts Congressmen gave favorable responses, while another six either did not answer or gave an unsatisfactory response on the question of intermarriage.<sup>70</sup>

Although by no means the only organizations dedicated to racial justice in Boston, the two major options that black Bostonians had for leadership were the Boston NAACP chapter and William Monroe Trotter’s National Equal Rights League. As previously described, both groups organized mass meetings and rallies to protest national, state and local legislation that was harmful to their black constituents. The local branch of the NAACP, as well as the national organization, moved swiftly into action when a bill was introduced first to outlaw interracial marriage nationally in 1912, and then again, successfully in this case, in Washington, DC. in 1913 and 1915.<sup>71</sup>

The Boston NAACP chapter held several mass meetings to protest the pending anti-miscegenation legislation in Congress. At a meeting on the evening of February 8, 1915, the chapter adopted an important resolution. It is clear from the minutes of that meeting that the issue that concerned them most was the anti-intermarriage bill then before Congress, which would have made intermarriage in the District of Columbia illegal. The committee drafted a resolution to be sent to Congress, declaring that the anti-intermarriage bill “would establish a dangerous precedent of race discrimination, in violation of the spirit of the Constitution.”<sup>72</sup>

On March 8, 1915, approximately 400 African American men and women from all over Greater Boston, along with a few hundred white people, attended a mass meeting in Tremont Temple. The meeting was called to protest against “Jim Crow legislation of any kind, or under any pretext, in Congress

or legislatures, or any act that would minimize or contradict, the spirit of justice and equality promulgated in the Declaration of Independence.”<sup>73</sup>

On the platform were Francis Garrison and a number of other white men and women, some of whom were descendants of abolitionists. The theme of many of the speeches centered upon the rash of legislation being proposed in many state legislatures as well as in the U.S. Congress itself. Dr. Spingarn, addressed the issue and aptly expressed the NAACP’s assessment:

The colored people will never get their full rights until they insist on them. No colored people want to marry white people, and those that do are as fully tabooed by the colored people as by the whites. But at the same time any special laws against such marriages are not desirable.<sup>74</sup>

### **THE GARRISONS LOBBY MASSACHUSETTS SENATORS, 1915**

Despite their overall support for Booker T. Washington, the descendants of William Lloyd Garrison were keen observers of the bills being introduced in Washington. Francis Jackson Garrison, the youngest son of the famed abolitionist, acted as the reigning elder statesman of the family. Oswald Garrison Villard, his nephew, was the chairman of the NAACP’s board of directors. Francis wrote his nephew often inquiring as to the status of various bills. In one letter dated January 16, 1915, he wrote:

Dear Oswald:

I am relieved to know that the S.J.C. [intermarriage] bill cannot pass at this session. The South will not be so much on top in the next Congress, and it may be possible to avert such wicked and reactionary legislation, but there is grave danger when even our Mass. Senator Wicks writes me that in his judgment ‘any reasonable action which will prevent the marriage of white and colored people would be for the public interest’ and he should naturally support it. I propose to give him a very vigorous pull-up in rejoinder. Lodge has not yet replied to my letter to him, nor have Long and McCall responded.<sup>75</sup>

In another letter, dated January 24, 1915, Francis wrote:



**Oswald Garrison Villard**

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In spite of what you wrote as to the likelihood of the S. J. C. inter-marriage bill's not being enacted by this Congress, I am uneasy lest these Southerners may rush it through suddenly, and as yet there seems no earnest or affective [sic] opposition.

He went on to point out that both of Massachusetts' senators were "disposed to support it." He reported that Senator Henry Cabot Lodge had written him the following revealing note:

Whether the question of intermarriage is one to be dealt with by law is of course a point to be considered, but in my opinion such marriages are injurious to both races from the racial and ethnical point of view, as is shown in many of the West Indian islands.

The senator finished by stating that he had not yet had a chance to examine the proposed law carefully, but would do so. Frances informed his nephew that he was:

writing to both [Senators] Lodge and Wicks, in rejoinder that after contemplating Frederick Douglass, Booker Washington and many other leaders of the race who are mulatto, we needn't worry about 'the racial and ethnical point of view,' but only as to the fidelity of Mass. Senators and Congressmen and the traditions of the State and of freedom.

Frances concluded that:

Our Boston [NAACP] Branch feels that we ought to have a public meeting within a month and invite Congressman Madden, of Illinois, who has been our most earnest champion to come and address us.

In a postscript, he added, "Keep us posted and give us danger signals about the bill."<sup>76</sup> Finally in a letter dated February 1, 1915, Frances reported that:

Our mutiny is to be held at Tremont Temple Sunday, March 7th, Daniel Webster's day. We are turning our gaze on Lodge and Wicks and the Mass. members of the House both in this and on the Jim Crow law. Wicks's training was in the Naval School and all his affiliations have been Southern.

He concluded: "It should be rubbed into these men and the public that they do not propose any legislation to forbid or punish co-habitation, but are actually promoting it by denying legal marriage."<sup>77</sup>

These descendants of white abolitionists used their national political connections as well as their relationships within the local black community to attempt to influence anti-miscegenation legislation in Congress, yet black Bostonians were often forced to adopt a more careful and circumspect stance in their protests. At a January 15, 1915 meeting, the Boston branch of the National Equal Rights League voted "to protest the intermarriage bill and the bill for separate cars for

colored persons in the District of Columbia.<sup>78</sup> The proposed protest planned to ask Senator Henry Cabot Lodge, “to use his influence against both bills... that prohibition of intermarriage would be against the interests of morality.”<sup>79</sup> The statement was signed by Maude Trotter, William Monroe Trotter’s sister.<sup>80</sup>

### WANING PROGRESSIVISM & THE DEFEAT OF THE 1927 BILL

The campaign against legislation to prohibit interracial marriage was the last major campaign waged by the local NAACP and Trotter’s NERL. Several factors pushed them both from the national scene. By the end of the 1920s, activities of the chapter began a sharp decline as shifting national priorities left the chapter and the organization as a whole outside of the loop. According to historian Mark Schneider, in an article titled “The Boston NAACP and the Decline of the Abolitionist Impulse,” Boston’s progressivism was exhausted by the end of the 1920s, a period he characterized as “the decline of the abolitionist impulse” which witnessed the near collapse of the Boston chapter.<sup>81</sup>

Another major factor was competition from other civil rights organizations, most notably Trotter’s National Equal Rights League that competed for the hearts and minds of Black Bostonians. Trotter’s efforts drove many African Americans away from the ranks of the NAACP, which he regarded at best as a white ally to his own organization.<sup>82</sup> The Boston NAACP was challenged again in 1926, when the U.S. Senate attempted to pass another anti-intermarriage bill. Chapter President Butler Wilson, appealed to the Massachusetts congressional delegation. Having corresponded with both senators of Massachusetts, Butler eagerly reported to National Secretary James Weldon Johnson that neither would support the bill.<sup>83</sup>

In 1927, the Commonwealth of Massachusetts itself attempted to pass a statewide ban on intermarriage. On January 18, House Bill 712, was introduced in the Massachusetts General Court. Its stated objective was “prohibiting the Intermarriage of whites and persons of African descent, and prescribing penalties for violation thereof.”<sup>84</sup>

Several measures were taken by the Boston NAACP to once again rally Black Bostonians to defeat the bill. A letter from the national organization’s secretary, James Weldon Johnson to Butler Wilson warned that the “Ku Klux Klan is making a concerted effort in the New England states to have four bills enacted ... one of them an anti-marriage law discriminating against colored people.” He concluded: “I suggest our Boston Branch look into this whole matter at once ... These measures cannot be passed if the NAACP in each state moves to prevent their enactment.”<sup>85</sup> Wilson responded that same day, writing: “I should be greatly obliged to you if you will furnish me any statistics on intermarriage or any information that will help in opposition to the bill.”<sup>86</sup>

The “vile bill,” as it was called by the *Philadelphia Tribune*, began to move through the Massachusetts state legislature, in and out of various committees, including the joint committee in Legal Affairs. Boston’s two most prominent race organizations mobilized the rank and file to strongly protest the legislation at an open hearing on the bill. With Butler Wilson, serving as chairman for a number of organizations working together as a united front, the branch president opened his response to Johnson’s letter by charging the Klan with “the blood of the lynched” and then summarized their many objections to the bill.

The National Equal Rights League “presented a petition with 1500 signatures in opposition” through its Boston secretary. He called the bill “the illegitimate child of an illegitimate organization,” declaring that it was drafted, “not in Massachusetts, but in Georgia, was contrary to Massachusetts traditions, and that no amount of legislation could keep the races apart.”<sup>87</sup>

As in 1913, the 1927 bill was defeated. Byron Curti Martyn reports in his tome on the history of anti-miscegenation legislation:

After a campaign opposing the bill was carried on under the leadership of Butler R. Wilson, President of the Boston branch of the NAACP, and with the cooperation of all the Massachusetts branches of the NAACP and twelve other organizations, the Committee of Legal Affairs reported leave to withdraw the bill on March 2, 1927.<sup>88</sup>

Despite this significant victory, the fortunes of the Boston NAACP were fading. The chapter had been, for the first decade of its existence, the preeminent organization with regard to the national civil rights agenda. As the 1920s drew to a close, many new organizations emerged, some of which were more radical in nature and scope and more dedicated to dealing with the pernicious effects of unemployment in the politically radical 1930s, such as the League of Struggle for Negro Rights. Rivalry with William Monroe Trotter’s National Equal Rights League contributed in no small part to these changes. Shifting national priorities and the changing Boston landscape left the chapter without a clear agenda. This period, which saw the near collapse of the chapter, was marked by uncertainty and an extinguishing of Boston’s progressive flame. By the 1930s, both organizations began to fall out of favor with African Americans in Boston. Trotter became less relevant on the national scene and died in 1934 while the Boston NAACP chapter faded into a period of obscurity.

Although the question is a complicated one that defies any easy characterization, one can surmise from the language used by both organizations, especially Du Bois' writing in *The Crisis* and Trotter's in *The Guardian*, that the issue of intermarriage represented a dilemma for African Americans. It was an affront to their dignity to have to repeatedly assert their lack of interest in intermarrying with whites. Du Bois, who perhaps best understood the dilemma of intermarriage and the problem that it posed for African Americans, asserted in 1913, as stated earlier:

[F]ew groups of people are forced by their situation into such cruel dilemmas as American Negroes. . . . Take, for instance, the question of the intermarrying of white and Black folk; it is a question that colored people seldom discuss. It is about the last of the social problems over which they are disturbed, because they so seldom face it in fact or in theory... White people, on the other hand, for the most part profess to see but one problem: 'Do you want your sister to marry a negro?'

He concluded:

Note these arguments, my brothers and sisters, and watch your state legislatures. This winter will see a determined attempt to insult and degrade us by such non-intermarriage laws. We must kill them, not because we are anxious to marry white men's sisters, but because we are determined that white men shall let our sisters alone.<sup>89</sup>

Dominated by a discussion of "black brutes" marrying "innocent white women," the idea of interracial marriage touched a chord that played into the hearts and fears of white men in particular, while white women, with some noticeable exceptions, stood on the sidelines of the debate. In contrast, while black men often took the lead in advocating the right for members of various races to marry, it was often couched in their desire to protect black women from the abuses of white men and their claims to equal rights as citizens. It was their opinion that the government should not be involved in legislating who could marry. Ultimately the issue of interracial marriage was resolved in the 1967 Supreme Court case *Loving v. Virginia*, which outlawed the prohibition of interracial marriage across the nation.

In many ways it was the height of irony that in 2004 Massachusetts legislators successfully used the state's dormant 1913 law, steeped in racial

bias, to attempt to prohibit another group of citizens from marrying. Yet, in the contemporary moment, legislators across the country on both the federal and state levels have insisted on determining who has the right to marry in the battle for marriage equality. Indeed, the language of the past came back with a vengeance in the twenty-first century with opponents using religious justifications and playing into fears of criminality and deviancy. This would all be overturned, however, with the Supreme Court's historic ruling on June 27, 2015 declaring same-sex marriage constitutional across the nation.

In both the past and present moments, minority groups argued that the prohibition of this basic right, the right to marry, deemed them second-class citizens and denied them various rights, protections and liberties guaranteed by the U.S. Constitution. As explored in this article, the twenty-first century issue of marriage equality has direct links to the Progressive Era struggles of African Americans to secure equal rights. It was, in the end, the bid to secure rights for same-sex marriage, that created the political will to finally, and for good, eradicate the "1913 Law."

And, although the Supreme Court issued a monumental ruling on June 27, 2015, it is clear, just as in the aftermath of *Loving v. Virginia*, that there is still much work to be done to secure the civil rights of all Americans regardless of race, gender, class and sexual orientation.

HJM

## Notes

1. *The Liberator*, February 10, 1843. See also, Louis Ruchames, "Race, Marriage, and Abolition in Massachusetts," *The Journal of Negro History*, 40, No. 3 (Jul., 1955), 250–273.
2. This account of Congress' proposed antimiscegenation bills for Washington, DC, is from Jeffery A. Jenkins, Justin Peck and Vesla M. Weaver, "Between Reconstructions: Congressional Action on Civil Rights, 1891–1940," *Studies in American Political Development* 24 (April 2010), 57–89. The quote is from p. 65.
3. A.M. Belluck and Katie Zezima, "A 1913 Law Dies to Better Serve Gay Marriages," *New York Times*, July 16, 2008.
4. Mitt Romney quoted in Belluck and Zezima.
5. *Cote-Whitacre v. Department of Public Health*, 844 N.E.2d 623 (Mass. 2006)
6. See Geoffrey C. Ward, *Unforgivable Blackness: The Rise and Fall of Jack Johnson*, (New York: Vintage, 2006).
7. Peggy Pascoe, "Why the Ugly Rhetoric Against Gay Marriage Is Familiar to this Historian of Miscegenation," *History Network News*, April 19, 2004, p. 36. See also Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (England: Oxford University Press, 2010).



8. James Oliver Horton and Lois E. Horton. *Black Bostonians: Family Life and Community Struggle in the Antebellum North*, rev. ed. (New York: Holmes & Meier, 1999) p. 76
9. Editor's Note: Amber D. Moulton argues that African Americans played a far more active role in this repeal effort than was previously known, but that their activism was not widely visible outside the black community and therefore did not pass into the historical record. See *The Fight for Interracial Marriage Rights in Antebellum Massachusetts* (Cambridge, MA: Harvard University Press, 2015).
10. There are several notable exceptions that focus quite effectively on the period between the antebellum era and the 1970s including: Mark Schneider, *Boston Confronts Jim Crow: 1890-1920* (Boston, MA: Northeastern University Press, 1997); Stephen and Paul Kendrick, *Sarah's Long Walk: The Free Blacks of Boston and How Their Struggle for Equality Changed America* (Boston, MA: Beacon Press, 2004); L. W. Levy, and D. L. Jones, *Jim Crow in Boston: The Origin of the Separate but Equal Doctrine* (New York, NY: Da Capo Press, 1974); Stephen David Kantrowitz, *More Than Freedom: Fighting for Black Citizenship in a White Republic, 1829-1889* (New York, NY: Penguin Press, 2012); and Davison M. Douglas, *Jim Crow Moves North: The Battle over Northern School Segregation, 1865-1954* (New York, NY: Cambridge University Press, 2005).
11. Joseph Washington, *Marriage in Black and White* (Boston, MA: Beacon Press, 1970), 74-84, App. 41.
12. Randall Kennedy, *Interracial Intimacies: Sex, Marriage, Identity and Adoption* (New York, NY: Pantheon, 2003), 79-83.
13. *Congressional Record* 49 (1912): p. 502.
14. Kennedy, *Interracial Intimacies*, 83.
15. *Congressional Record*, 62nd Congress, 3rd session, December 11, 1912. Vol 49, p. 502.
16. "Marriage of Whites and Blacks," *New York Age*, December 19, 1912, p. 3
17. Ibid.
18. *New York Age*, December 19, 1912.
19. "Aftermath of Johnson Muss," *New York Age*, December 19, 1912, 1.
20. Ibid.
21. *The Boston Daily Globe* December 12, 1912, 1.
22. Ibid.
23. Ibid.
24. Byron Curti Martyn, "Racism in the United States: A History of Anti-Miscegenation Legislation and Litigation" (PhD dissertation, University of Southern California, 1979), 928.
25. "Marriage of Whites and Blacks," *New York Age*, December 19, 1912, 4. See also "Jack Johnson Again," *New York Age*, December 12, 1912, 4, App. 38.
26. Martyn, 909.
27. Scott S. Greenberger, "History Suggests Race Was the Basis" *The Boston Globe*, 21 May, 2004, B.6.
28. Massachusetts General Law, ch. 207, § 11 (2005).
29. Massachusetts Legislature, *Bulletin of Committee Work: 1912-1915*, 169.
30. Greenberger, B-6.
31. Greenberger, B-6.
32. Joel Williamson, *New People: Miscegenation and Mulattoes in the United States* (Baton

- Rouge, LA: Louisiana State University Press, 1995).
33. Adelaide Cromwell, *The Other Brahmins: Boston's Black Upper Class, 1750–1950* (Fayetteville, AR: University of Arkansas Press, 1994), 186. See also Horton and Horton, *Black Bostonians*, 22.
  34. Williamson, *New People*, 106; 188.
  35. Williamson, *New People*, 188.
  36. Schneider, Mark R. *Boston Confronts Jim Crow: 1890–1920*. (Boston: Northeastern University Press, 1997).
  37. Zebulon Miletsky, “City of Amalgamation: Race, Marriage, Class and Color in Boston, 1890–1930” (PhD dissertation, University of Massachusetts, 2008).
  38. Schneider.
  39. Robert C. Hayden, *Boston's NAACP History, 1910–1982*. (Boston, MA: Boston Branch NAACP, 1982) (28 pages).
  40. Ibid.
  41. Ibid.
  42. “‘Birth of a Nation’ Causes Near-Riot,” *The Boston Globe*, April 18, 1915.
  43. Schneider, *Boston Confronts Jim Crow*, 148.
  44. Hayden.
  45. “Jim Crow Bill Attacked,” *Boston Daily Globe*. February 8, 1915.
  46. My emphasis. “Intermarriage,” *The Crisis*, February 1913, vol. 5, no. 4, 181.
  47. Ida B. Wells, *The Red Record: Tabulated Statistics and Alleged Causes of Lynching in the United States*, 1895.
  48. See Dorothy E. Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* 1st ed. (New York, NY: Pantheon Books, 1997).
  49. Pascoe, *What Comes Naturally*, 178–79.
  50. Stephen Fox, *The Guardian of Boston: William Monroe Trotter* (New York, NY: Atheneum Press, 1970).
  51. Mark Schneider, “The Boston NAACP and the Decline of the Abolitionist Impulse.” *The Massachusetts Review*. 1 (1999): 95–113.
  52. Schneider, *Boston Confronts Jim Crow*, 117–118.
  53. Ibid.
  54. Mark R. Schneider, “The Colored American and Alexander’s: Boston’s Pro-Civil Rights Bookerites,” *Journal of Negro History* 80, no. 4 (1995): 157–69.
  55. Elliott M. Rudwick, “Race Leadership Struggle: Background of the Boston Riot of 1903.” *The Journal of Negro Education* 31, no. 1 (1962): 16–24.
  56. Albert Ernest Jenks, “The Legal Status of Negro-White Amalgamation in the United States,” *American Journal of Sociology* 21, no. 5 (1916): 673. Emphasis added. For a recent biography of Washington by the coeditor of the Booker T. Washington Papers, see Raymond W. Smock, *Booker T. Washington: Black Leadership in the Age of Jim Crow* (Ivan R. Dee Publ., 2009). For his debates with Du Bois, see Jacqueline M. Moore, *Booker T. Washington, W.E.B. Du Bois, and the Struggle for Racial Uplift* (Rowman & Littlefield Publisher, 2003).
  57. *New York Age*, December 19, 1912, 1.

58. "Bills Against Intermarriage Being Introduced," *New York Age*, January 23, 1913.
59. "Social Equality and Racial Intermarriage," *World Tomorrow* V (1922): 83–84.
60. Jenks, 666–78.
61. Jenks, 670.
62. Jenks, 672.
63. My emphasis. *The Crisis*, February 1913, vol. 5., no. 4, 180–181.
64. W.E.B. Du Bois, "The Social Equality of Whites and Blacks," *The Crisis*, 21 (November 1920), 16.
65. Ibid.
66. Ibid.
67. Ibid., 16–17. The January 1920 issue of *The Crisis* (pp. 105–110) also noted that, "Attorney General Palmer is attacked for reporting any effort to legalize intermarriage." *The Crisis*, January 1920, vol. 19, no. 3.
68. *The Crisis*. January 1927, vol. 33, no. 3, 127–131. In that same year, in the November, 1927 issue, Du Bois stated, "A law to ban intermarriage has Georgia worried; it does not bother Black people, but white people have to prove they are white!"
69. *The Crisis*, November 1914, vol. 9, no. 1.
70. Ibid.
71. "Jim Crow Bill Attacked," *Boston Daily Globe*. February 8, 1915.
72. Ibid; "Braches: Boston," *The Crisis*. May 1915.
73. "Four Thousand Unite in Protest," *Boston Daily Globe*. March 8, 1915.
74. Ibid.
75. FJG to OGV, Jan. 16, 1915. Box 1453. Oswald Garrison Villard Papers, 1872–1949 (MS Am 1323). Houghton Library, Harvard University.
76. FJG to OGV, January 24, 1915. Box 1453. Oswald Garrison Villard Papers, 1872–1949 (MS Am 1323). Houghton Library, Harvard University.
77. FJG to OGV, February 1, 1915. Box 1453. Oswald Garrison Villard Papers, 1872–1949 (MS Am 1323). Houghton Library, Harvard University.
78. "In Interest of Negroes," *Boston Daily Globe*. January 16, 1915, 13
79. Ibid.
80. "Equal Rights League Opposes Marriage Act," *Chicago Defender*, January 6, 1915.
81. Schneider, "The Boston NAACP."
82. Ibid.
83. Butler R. Wilson to James Weldon Johnson, February 8, 1926. Box I-G-88, NAACP Papers, Library of Congress.
84. Massachusetts House Bill No. 712 1927 (Bill to prohibit intermarriage) (1927).
85. James Weldon Johnson to Butler R. Wilson, February 5, 1927. Box I-G-88, NAACP Papers, Library of Congress.
86. Butler R. Wilson to James Weldon Johnson, February 5, 1927. Box I-G-88, NAACP Papers, Library of Congress.
87. "United Attack on Vile Bill," *Philadelphia Tribune*, March 5, 1927.
88. Martyn, 1077.
89. "Intermarriage," *The Crisis*, February 1913, vol. 5, no. 4, 181.