

# ACLU Blasts Miscegenation Laws

Fifth Estate Collective

1966

The American Civil Liberties Union urged the United States Supreme Court last week to review the constitutionality of Virginia's state laws making racial intermarriage a criminal act.

The civil liberties organization argued that the miscegenation laws violate the equal protection and due process clause of the Fourteenth Amendment to the US Constitution, the right of privacy, the right to marry, and civil rights provisions of the US Code.

The ACLU's jurisdictional statement submitted to the high court is on behalf of Richard Loving, a 31-year-old white construction worker and his part-Indian, part-Negro wife, Mildred. Five weeks after their Washington, DC marriage, the Lovings were arrested on July 11, 1958 in Caroline County, Virginia, where they were living, and charged with attempting to evade the Virginia ban on interracial marriages. One year prison terms were suspended for the Lovings on condition that they both leave Virginia "at once and do not return together or at the same time...for a period of 25 years." The couple lived in Washington, for a few years, but in 1963 they decided to fight the conviction and the sentence of banishment from their home state. On March 7, 1966 the Supreme Court of Appeals of Virginia upheld the state miscegenation statutes, and the jurisdictional statement filed with the US Supreme Court is an appeal from that decision.

Asserting that "there can be no doubt that the conviction of the Lovings was based on race," the ACLU's jurisdictional statement argued that the essence of the Lovings' claim that "the anti-miscegenation statutes violate the due process of equal protection clauses of the Fourteenth Amendment, is that it is the color of their skin which makes their marriage constitute a criminal offense." Any statute, said the statement, "which bases the criminality of the act on race alone is a gross abuse of equal protection."

Emphasizing the unequal treatment inherent in the Virginia statutes, the Union pointed out that they permit "white persons" to marry only "white persons" but allow "colored persons" to marry anyone except "white persons. In passing an "Act for the Preservation of Racial Integrity," the ACLU contended, the Virginia legislature clearly "was not concerned with equal protection of the 'integrity' of the Negro race."

Pointing to Supreme Court decisions affirming that "the sacraments of marriage are beyond the arbitrary grasp of the state," the ACLU maintained the freedom to choose one's mate "cannot, be infringed by the state setting standards which unreasonably and arbitrarily apply race criteria." The statement argued that the constitutional right of privacy protects the right to marry freely.



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