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SENATE JOINT RESOLUTION NO. 370

Offered February 6, 2017

Commending Bernard S. Cohen and Philip J. Hirschkop.

Patrons—Surovell, Barker, Chafin, Chase, Cosgrove, Dance, Deeds, DeSteph, Dunnivant, Ebbin, Edwards, Favola, Hanger, Howell, Lewis, Locke, Lucas, Marsden, Mason, McClellan, McDougale, McPike, Newman, Norment, Obenshain, Peake, Petersen, Reeves, Ruff, Saslaw, Stanley, Stuart, Sturtevant, Suetterlein, Vogel, Wagner and Wexton; Delegates: Adams, Aird, Albo, Anderson, Austin, Bagby, Bell, John J., Bell, Richard P., Bell, Robert B., Bloxom, Boysko, Bulova, Byron, Campbell, Carr, Cline, Cole, Collins, Cox, Davis, Dudenhefer, Fariss, Farrell, Filler-Corn, Fowler, Freitas, Garrett, Greason, Habeeb, Hayes, Head, Helsel, Heretick, Herring, Hester, Hodges, Holcomb, Hope, Howell, Hugo, Ingram, James, Jones, Keam, Kilgore, Kory, Krizek, Landes, LaRock, Leftwich, LeMunyon, Levine, Lindsey, Lingamfelter, Lopez, Loupassi, Marshall, D.W., Marshall, R.G., Massie, McQuinn, Miller, Minchew, Miyares, Morris, Mullin, Murphy, O'Bannon, O'Quinn, Orrock, Peace, Pillion, Plum, Pogge, Poindexter, Price, Ransone, Rasoul, Robinson, Rush, Sickles, Simon, Stolle, Sullivan, Torian, Toscano, Tyler, Ward, Watts, Webert, Wilt, Wright, Yancey and Yost

WHEREAS, Bernard S. Cohen and Philip J. Hirschkop, the attorneys for the plaintiffs in the landmark *Loving v. Virginia* case, which invalidated state laws against interracial marriage, touched the lives of countless Americans through their defense of civil rights and contributions to constitutional law; and

WHEREAS, Richard Perry Loving and Mildred Delores Jeter Loving of Caroline County married in Washington, D.C., in June of 1958; upon their return to Virginia, they were arrested under the Commonwealth's longstanding statutes prohibiting interracial marriage, particularly the 1924 Act to Preserve Racial Integrity; and

WHEREAS, the Lovings were briefly jailed, then given a one-year suspended sentence provided that they left Virginia and did not return together for a period of 25 years; after the passage of the Civil Rights Act in 1964, Mildred Loving wrote to Attorney General Robert F. Kennedy asking if the new law would permit the Lovings to live together in Virginia; and

WHEREAS, Mildred Loving's letter was forwarded to the ACLU of the National Capital Area, which assigned Bernard Cohen and Philip Hirschkop to represent the Lovings in the appeals process; the attorneys filed a motion to vacate the Lovings' conviction on the grounds that Virginia law violated the Equal Protection Clause of the Fourteenth Amendment; and

WHEREAS, after the Supreme Court of Virginia upheld the Lovings' conviction, Bernard Cohen and Philip Hirschkop prepared to argue the case before the Supreme Court of the United States, which had, prior to the Civil Rights Act, upheld antimiscegenation laws with decisions in 1883 and 1888; and

WHEREAS, during the oral arguments before the Supreme Court of the United States, Philip Hirschkop maintained that Virginia law violated the Lovings' right to equal protection; Bernard Cohen argued that the law violated the Lovings' right to due process and dramatically relayed a message from Richard Loving: "Mr. Cohen, tell the Court I love my wife and it is just unfair that I can't live with her in Virginia."; and

WHEREAS, in 1967, the Supreme Court of the United States ruled unanimously in favor of the Lovings, striking down Virginia's interracial marriage laws as a violation of the Fourteenth Amendment, with Chief Justice Earl Warren calling marriage "one of the basic civil rights of man, fundamental to our very existence"; the ruling paved the way for other couples to marry, free from persecution under the law; and

WHEREAS, the achievements of Bernard Cohen and Philip Hirschkop have been the subject of countless books and examinations of the *Loving v. Virginia* ruling, and they were portrayed in the 1996 television movie *Mr. & Mrs. Loving* and the 2016 film *Loving*; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Bernard S. Cohen and Philip J. Hirschkop for their historic contributions to the Civil Rights movement and the understanding of constitutional law; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to Bernard S. Cohen and Philip J. Hirschkop as an expression of the General Assembly's admiration for their commitment to equality for all Americans.

INTRODUCED

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