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SENATE JOINT RESOLUTION NO. 392

Offered February 10, 2017

Commemorating the 50th anniversary of Loving v. Virginia, 388 U.S. 1 (1967).

Patrons—McClellan, Dance, Deeds, Locke, Lucas and Spruill; Delegates: Bagby, Herring, Hester, Lindsey, Price, Rasoul, Torian, Tyler and Ward

Referred to Committee on Rules

WHEREAS, on June 12, 1967, the United States Supreme Court, in the landmark decision *Loving v. Virginia*, 388 U.S. 1 (1967), ruled unanimously that Virginia's Racial Integrity Act of 1924, which prohibited interracial marriage, was unconstitutional; and

WHEREAS, miscegenation laws dating from the Colonial era had been enacted throughout the nation; however, historically, greater emphasis was placed on enforcing interracial marriage bans in the slave-holding states of the South; and

WHEREAS, after the American Civil War, legislation known as Black Codes was enacted across the South to circumvent and thwart the newfound freedoms of former slaves, and after Reconstruction, Southern state governments passed a system of laws known as Jim Crow laws, which established a rigidly segregated and legally sanctioned social system that repressed and disenfranchised African Americans, again relegating them to second-class citizenship from 1877 until the mid-1960s; and

WHEREAS, Virginia's Racial Integrity Act of 1924, which institutionalized the "one drop rule," categorized individuals according to their race, required a racial description of every person to be recorded at birth, and made interracial marriages between whites and persons of African American ancestry illegal, was rigorously enforced by Dr. Walter Plecker, the first registrar for the newly created Virginia Bureau of Vital Statistics, who served in this office from 1912 to 1946; and

WHEREAS, in June 1958, Mildred Jeter, a woman of African American and Native American ancestry, and Richard Loving, a white man, both residents of Caroline County, were married in Washington, D.C., because their union was forbidden in Virginia; the couple returned to Virginia and set up their marital abode in Caroline County, where, during the October 1958 term of the Circuit Court of Caroline County a grand jury issued an indictment charging them with violating Virginia's Racial Integrity Act; and

WHEREAS, Mildred and Richard Loving pleaded guilty of the charges on January 6, 1959, and were sentenced to one year in jail; however, according to "*Loving v. Commonwealth of Virginia*, 388 U.S. 1 (1967)," by Vernellia R. Randall at the University of Dayton School of Law, "the trial judge suspended the sentence for a period of 25 years on the condition that the Lovings leave the State and not return to Virginia together for 25 years. He reiterated Johann Friedrich Blumenbach's 18th century interpretation of race in his opinion that: 'Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix'"; and

WHEREAS, the Lovings moved to Washington, D.C., and on November 6, 1963, they filed a motion in Virginia trial court to vacate the judgment and set aside the sentence because the Racial Integrity Act of 1924 violated the Fourteenth Amendment to the United States Constitution; in the aforementioned article written by Vernellia R. Randall, it was noted that since the "motion was not decided by October 28, 1964, the Lovings filed a class action suit in the United States District Court for the Eastern District of Virginia, requesting that a three-judge panel of the court be convened to determine whether Virginia's miscegenation statutes were unconstitutional and to enjoin state officials from enforcing their convictions"; and

WHEREAS, the Virginia trial court judge denied the motion to vacate the sentences on January 22, 1965, and the Lovings appealed to the Supreme Court of Appeals of Virginia, which upheld the constitutionality of the Racial Integrity Act of 1924, modified the sentence, and affirmed the convictions; and

WHEREAS, with the support of the American Civil Liberties Union of Virginia, the Lovings appealed the decision of the Supreme Court of Appeals of Virginia to the United States Supreme Court, which held unanimously on June 12, 1967, that "Virginia's statutory scheme to prevent marriages between persons solely on the basis of racial classifications violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment"; and

WHEREAS, the Court's opinion noted that "the freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men and is fundamental

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58 to our very existence and survival," and Virginia's ban on interracial marriage was repealed in 1967; and
59 WHEREAS, the 2016 historical drama *Loving* garnered critical praise and numerous awards,
60 including a nomination for the Academy Award for Actress in a Leading Role by the Academy of
61 Motion Picture Arts and Sciences, and the film brings visibility and honor to the Commonwealth; now,
62 therefore, be it

63 RESOLVED by the Senate, the House of Delegates concurring, That the 50th anniversary of *Loving*
64 v. *Virginia*, 388 U.S. 1 (1967), be commemorated; and, be it

65 RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the
66 family of Richard and Mildred Loving and to Claire Guthrie Gastañaga, Executive Director of the
67 American Civil Liberties Union of Virginia, requesting that they further disseminate copies of this
68 resolution to their relatives and the organization's constituents, respectively, so that they may be apprised
69 of the sense of the General Assembly of Virginia in this matter.