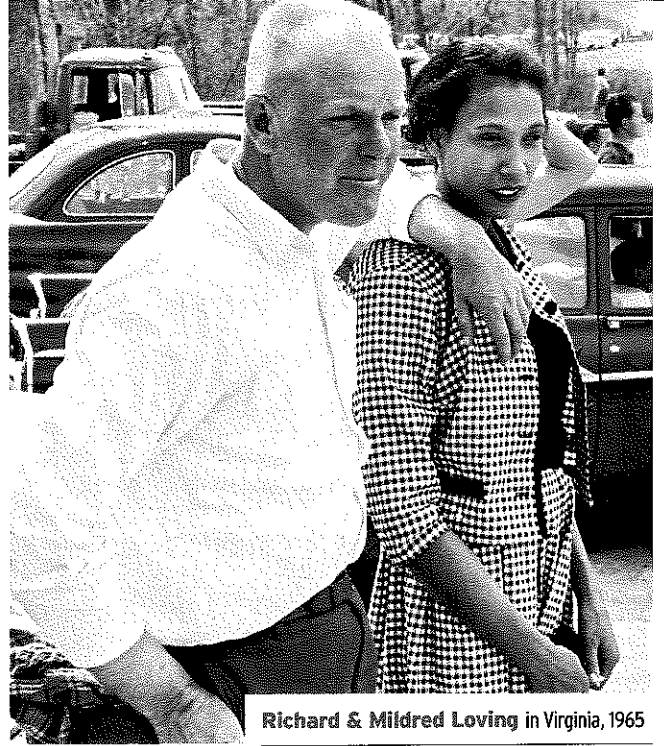


The Right to LOVE

Fifty years ago, in *Loving v. Virginia*, the Supreme Court made mixed-race marriages legal across the U.S. BY BRYAN BROWN



Richard & Mildred Loving in Virginia, 1965

The sheriff and his men arrived at 2 in the morning. Richard Loving heard the knocking, but before he could get out of bed, the officers broke through the door and burst into the bedroom. Later, Mildred Loving recalled the sudden panic, the flashlights in her face.

"They asked Richard who [I was]. I said, 'I'm his wife.' The sheriff said, 'Not around here you're not.'"

Richard, who was white, and Mildred, who was black and Native American, were a married couple, and in 1958 in rural Caroline County, Virginia, that was a crime. The marriage violated Virginia's 1924 Racial Integrity Act, which made it "unlawful for any white person in this State to marry [anyone except] a white person."

For their offense, the Lovings were exiled from their home state and nearly imprisoned. But they fought back in court, and their case eventually made it all the way to the U.S. Supreme Court. In 1967, the justices ruled in their favor, erasing laws in 16 states that banned interracial marriage. Fifty years later, *Loving v. Virginia*, now the subject of a new movie called *Loving*, continues to help protect the right of all Americans to marry anyone they want.

"It creates an extraordinary freedom that's suddenly everywhere—it's universal, it covers everybody," says Peter Wallenstein, a history professor at Virginia Tech and author of *Tell the Court I Love My Wife: Race, Marriage, and Law—An American History*. "It didn't matter whether you were Vietnamese or Korean, Jewish or

Catholic—nothing mattered anymore, you were free to marry and not face arrest."

Slavery & the 14th Amendment

By the time the Lovings were arrested, nearly a century had passed since the ratification of the 14th Amendment to the U.S. Constitution in 1868. It guaranteed "equal protection of the laws" to all Americans regardless of race. Yet African-Americans continued to face many barriers to equality (*see timeline, p. 20*).

This was especially true in the formerly slaveholding South. There, local and state "Jim Crow" laws discriminated against blacks in nearly every facet of life and protected the dominance and "racial purity" of whites.

Among these laws were bans on interracial marriage. The bans had been on the books in most U.S. states at one point or another, but the rules and how they were enforced varied from state to state. In the South, authorities tended to crack down mostly on marriages between blacks and whites, especially if the man was black and the woman white, according to Wallenstein. But marriages between whites and Chinese, Japanese, and Native Americans also occasionally came under fire. This was particularly true in cases

when one spouse died and his or her relatives contested the marriage so they could inherit money or property.

What qualified as white also varied. Wallenstein says that for a long time in California and much of the rest of the U.S., marriage laws classified Latinos as white as long as they

**'Tell the Court
I love my wife,
and it is just
unfair that
I can't live with
her in Virginia.'**

—Richard Loving

Download excerpts from the Supreme Court ruling, the Virginia law, and more at www.upfrontmagazine.com



Protesting school desegregation in Little Rock, Arkansas, 1959

DIMITRIOS KAMBOURIS/GETTY IMAGES (KANYE & KIM)

didn't have African ancestry. In places like Oklahoma, anyone without African ancestry was considered white, including Chinese and Native Americans.

There had been several attempts prior to *Loving* to challenge mixed-race-marriage bans before the Supreme Court, according to Wallenstein. But after taking on *Brown v. Board of Education*, the landmark school desegregation case, in 1954, the Court thought the timing for a case on mixed marriage wasn't quite right.

"[The Court] said, 'Hey, look, you know we're all caught up in this fracas over schools,'" says Wallenstein. "It will

"The fact that [God] separated the races shows that he did not intend for the races to mix."

— Judge Leon Bazile

only make life more difficult in school desegregation if we address this now."

Despite segregation laws across the South, in places like Caroline County, where

Mildred and Richard grew up, the lives of blacks and whites were pretty intertwined.

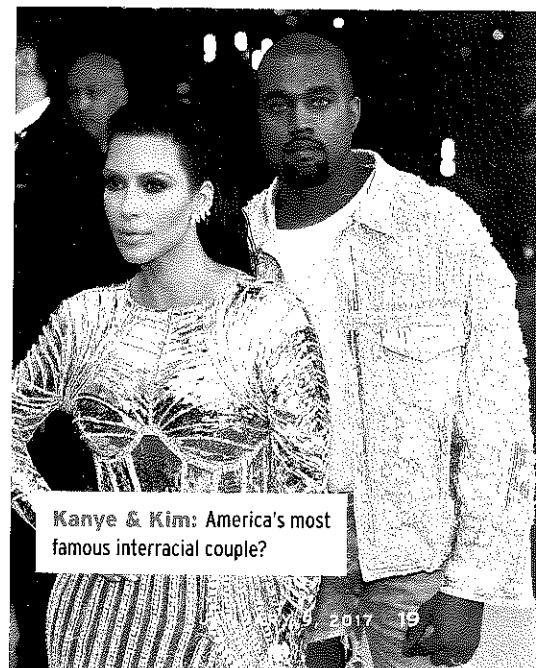
'Mixing All the Time'

"[My parents] grew up within three or four miles of each other," Richard and Mildred's daughter, Peggy Loving, said in a 2011 documentary about the case. Mildred's brothers played music at parties Richard attended. Black and white families

Interracial Marriage Today

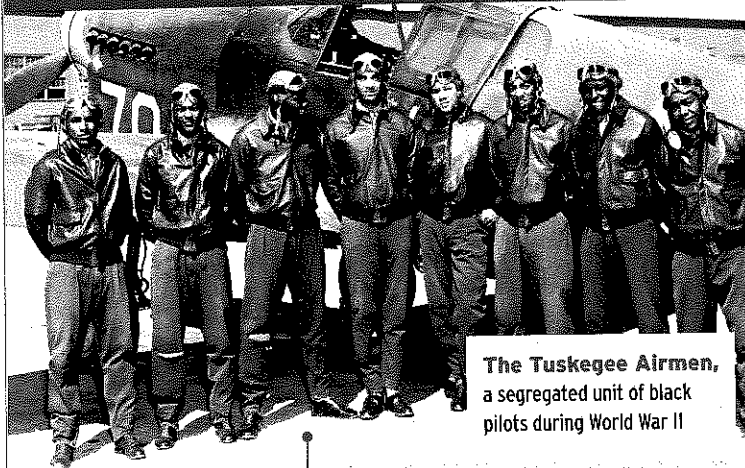
Attitudes have become more accepting, but there's still resistance

In a 2015 survey by the Pew Research Center, 37 percent of Americans agreed that interracial marriage is a good thing for society, up from 24 percent four years earlier. A 2013 Pew report found that 12 percent of all new marriages in the U.S. were interracial—a record high and roughly double the percentage in 1980. Those changes have been reflected in pop culture, with interracial couples featured in movies and on TV shows like *Master of None*, *Fresh off the Boat*, and *Crazy Ex-Girlfriend*. But despite growing acceptance, there's been pushback. A few years ago, a Cheerios commercial featuring an interracial family faced a barrage of racist comments on YouTube—so many that General Mills, which makes Cheerios, disabled commenting. Uproar over the ad is just one sign that attitudes about race can be slow to change. Says Rose Cuison Villazor, a professor at the University of California, Davis, School of Law: "We should not be too quick to rely on the increase in interracial marriages as proof that we now live in a 'post-racial' society." —Veronica Majerol



Kanye & Kim: America's most famous interracial couple?

Timeline THE CIVIL RIGHTS ERA



The Tuskegee Airmen, a segregated unit of black pilots during World War II



1948

The Military

President Harry S. Truman issues an executive order to desegregate the U.S. armed forces.

1954

Brown v. Board of Education

The U.S. Supreme Court rules that segregated public schools are unconstitutional, overturning the "separate but equal" standard established in 1896.

1955

Bus Boycott

Rosa Parks is arrested in Montgomery, Alabama, for refusing to give up her seat to a white passenger. It sparks a boycott of city buses, led by Martin Luther King Jr.

1957

Little Rock Nine

Nine black students attempt to desegregate Central High School in Little Rock, Arkansas. They're turned away by an angry mob. Federal troops eventually escort the students inside.

in Caroline County routinely helped harvest each other's crops. In that small world, it wasn't so incredible that Mildred Jeter and Richard Loving would meet and fall in love.

"People had been mixing all the time, so I didn't know any different," Mildred later said. "I didn't know there was a law against it."

Even so, Richard and Mildred knew that some people in their community felt threatened by racial mixing. When they got married in June 1958, they did it quietly in Washington, D.C. About five weeks later, they were arrested back home.

Brought before Judge Leon Bazile in January 1959, the Lovings feared being thrown in prison. So they pleaded guilty in exchange for a one-year sentence. As part of a plea bargain, Bazile suspended the sentence, but under one condition: The Lovings would have to leave Virginia, the place they'd always called home, for 25 years.

Mildred and Richard decided to move to Washington, D.C. But they struggled to adjust to the city, often sneak-

ing back to Virginia to see their family and friends.

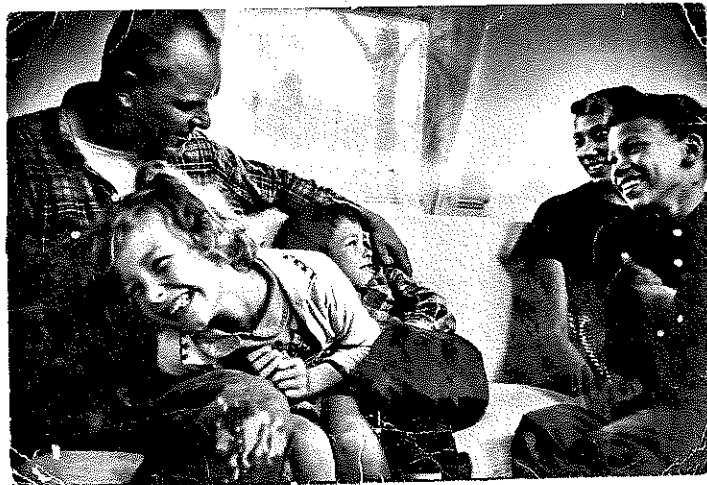
At the same time, America was changing. The civil rights movement and protests against racial segregation, many led by Martin Luther King Jr., dominated the news. In early 1963, with that sense of change in the air, Mildred wrote to U.S. Attorney General Robert Kennedy explaining their situation. Kennedy referred them to the American Civil Liberties Union (A.C.L.U.). There, Mildred's letter reached the desk of a young lawyer named Bernard Cohen.

Cohen immediately understood the challenges of the case. He knew it would likely take years to resolve, and might well go

all the way to the Supreme Court. Cohen also believed the chances of winning were high—and made better by the plaintiffs' last name. "It was a very good omen," he said.

First, Cohen appealed to Judge Bazile to reconsider the case. Bazile's decision, in January 1965, showed them just what they were up against.

"Almighty God created the races white, black, yellow . . . and red, and he placed them on separate



The Loving family in their Virginia living room, 1965



1960 Greensboro

Black college students in North Carolina stage a sit-in at an all-white lunch counter. The act of civil disobedience helps galvanize young blacks across the U.S.



President Lyndon B. Johnson (seated) with Martin Luther King Jr.

1964 Civil Rights Act

President Lyndon B. Johnson signs the Civil Rights Act of 1964, outlawing segregation in public places and employment.

August 1965 Voting Rights Act

Congress outlaws literacy tests, poll taxes, and other obstacles to minority voter registration.

1967

*Loving
v.
Virginia*

continents,” Bazile stated. “The fact that he separated the races shows that he did not intend for the races to mix.”

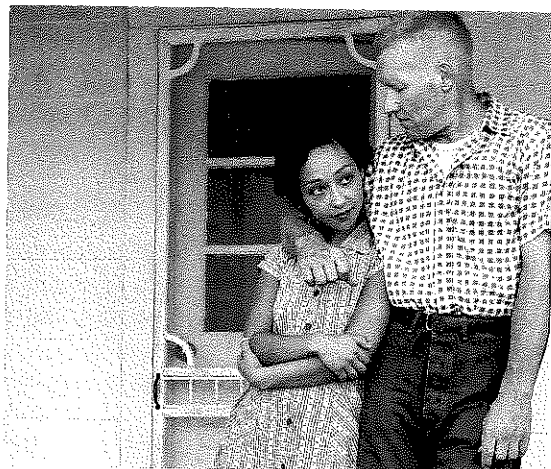
‘I Feel Free’

Cohen and his law partner appealed the case through state and federal courts. At last, in April 1967, *Loving v. Virginia* reached the Supreme Court. By then, the Civil Rights Act (1964) and the Voting Rights Act (1965) had been passed, and the Court felt the time was ripe to take on a case about interracial marriage.

The night before the lawyers made their arguments, Cohen asked Richard if there was anything he wanted the justices of the Supreme Court to know.

“Tell the Court I love my wife, and it is just unfair that I can’t live with her in Virginia,” Richard said.

Two months later, on June 12, the Court unanimously backed the Lovings, ruling that Virginia’s law violated the 14th Amendment. The Court’s decision, read aloud by Chief Justice Earl Warren, said: “Under our Constitution, the freedom to marry . . . a person of another race resides with the individual and cannot be infringed by the State.”



The movie *Loving*, starring Ruth Negga and Joel Edgerton (above) tells the story of the 1967 Supreme Court case that legalized interracial marriage.

Talking to a reporter that day, Cohen emphasized the importance of the ruling for the country. “We hope we have put to rest the last vestiges of racial discrimination that were supported by the law in Virginia and all over the country.”

For the Lovings, things were simpler. “I feel free now,” Richard said.

The decision had an immediate effect, allowing interracial couples to get married in any state.

And in 2015, nearly 50 years after the ruling, *Loving* found a second life. That year, the Supreme Court returned to the case in a decision that struck down state laws against same-sex marriage. Citing *Loving* and the 14th Amendment, Justice Anthony M. Kennedy said that marrying whoever one chooses is one of the “fundamental liberties” protected by the Constitution.

With the case’s applications to both mixed-race couples and same-sex couples, “the legacy of *Loving* is really, really huge,” says Wallenstein. “Not only could you get married, stay married, and be free of arrest from your marriage,” he says, “but you could [take your marriage] anywhere you want in the U.S.” ●