

Marriage.—Statutes that forbid the contracting of marriage between persons of different races are unconstitutional,¹⁷¹⁴ as are statutes that penalize interracial cohabitation.¹⁷¹⁵ Nor may a court deny custody of a child based on a parent's remarriage to a person of another race and the presumed "best interests of the child" to be free from the prejudice and stigmatization that might result.¹⁷¹⁶

Judicial System.—Segregation in courtrooms is unlawful and may not be enforced through contempt citations for disobedience¹⁷¹⁷ or through other means. Treatment of parties to or witnesses in judicial actions based on their race is impermissible.¹⁷¹⁸ Jail inmates have a right not to be segregated by race unless there is some overriding necessity arising out of the process of keeping order.¹⁷¹⁹

Public Designation.—It is unconstitutional to designate candidates on the ballot by race¹⁷²⁰ and apparently any sort of designation by race on public records is suspect, although not necessarily unlawful.¹⁷²¹

Public Accommodations.—Whether discrimination practiced by operators of retail selling and service establishments gave rise to a denial of constitutional rights occupied the Court's attention considerably in the early 1960s, but it avoided finally deciding one way or the other, generally finding forbidden state action in some aspect of the situation.¹⁷²² Passage of the Civil Rights Act of 1964 obviated any necessity to resolve the issue.¹⁷²³

Elections.—Although, of course, the denial of the franchise on the basis of race or color violates the Fifteenth Amendment and a

¹⁷¹⁴ *Loving v. Virginia*, 388 U.S. 1 (1967).

¹⁷¹⁵ *McLaughlin v. Florida*, 379 U.S. 184 (1964).

¹⁷¹⁶ *Palmore v. Sidoti*, 466 U.S. 429 (1984).

¹⁷¹⁷ *Johnson v. Virginia*, 373 U.S. 61 (1963).

¹⁷¹⁸ *Hamilton v. Alabama*, 376 U.S. 650 (1964) (reversing contempt conviction of witness who refused to answer questions so long as prosecutor addressed her by her first name).

¹⁷¹⁹ *Lee v. Washington*, 390 U.S. 333 (1968); *Wilson v. Kelley*, 294 F. Supp. 1005 (N.D.Ga.), *aff'd*, 393 U.S. 266 (1968).

¹⁷²⁰ *Anderson v. Martin*, 375 U.S. 399 (1964).

¹⁷²¹ *Tancil v. Woolls*, 379 U.S. 19 (1964) (summarily affirming lower court rulings sustaining law requiring that every divorce decree indicate race of husband and wife, but voiding laws requiring separate lists of whites and African-Americans in voting, tax and property records).

¹⁷²² *E.g.*, *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961); *Turner v. City of Memphis*, 369 U.S. 350 (1962); *Peterson v. City of Greenville*, 373 U.S. 244 (1963); *Lombard v. Louisiana*, 373 U.S. 267 (1963); *Robinson v. Florida*, 378 U.S. 153 (1964).

¹⁷²³ Title II, 78 Stat. 243, 42 U.S.C. §§ 2000a to 2000a-6. *See Hamm v. City of Rock Hill*, 379 U.S. 306 (1964). On the various positions of the Justices on the constitutional issue, *see* the opinions in *Bell v. Maryland*, 378 U.S. 226 (1964).