Black vs. White.

ARGUMENT OF MR. CLUNIE.

Mr. Clunie, after arguing some minor law questions in the case, said that the person claiming to be Kate P. Milliken was a mulatto, and under the sixtieth section of the Civil Code, which reads as follows, "All marriages between white persons with negroes or mulattoes are illegal and void," was incapable of effecting a marriage with deceased, he being a white man. It is asserted by counsel on the other side that the State law was in conflict with the recent amendments to the Constitution, and to the so-called enforcement act, and the Civil Rights bill. Mr. Clunie contended not and asserted that marriage is *in no* sense a privilege which the man has as a citizen of the United States. The United States never had attempted to regulate marriage in a State, and they have no right to do it. The testimony shows a marriage prohibited by law. The States individually, and not the United States for them, have the right to regulate the marriage relation. Would it abridge the privileges of a citizen of the United States to prevent him from marrying his cousin? Counsel thought not. If he has that right as a citizen of the United States, to take it away would be an abridgment of the right. Conceding marriage to be a contract it does not impair the obligation in this case, but it prohibits the making of it in the first place. In North Carolina and Tennessee, where they have passed upon the State law regulating marriages, they hold that the law does not conflict with the recent amendments to the Constitution of the United States or the Enforcement Act or the Civil Rights bill. Marriage is a relation that has always been regulated by the States, and when the law says that negroes or mulattoes and whites cannot marry it operates upon the whites as well as the blacks, as the policy of the law is against the admixture of incongruous breeds.

In this case, to sustain this marriage would be a great calamity to the people of this country. To declare it void would not be a discrimination between the races nor repugnant to the laws of the United States, or subversive of civil rights, but in consonance with both. Neither the amendments nor Civil Rights bill were intended to enforce social equality but only civil and political rights. This is plain from their very terms. The policy of the law is against the amalgamation of the two races, and we all know that it never was the intention, even if the United States had a right to regulate the marriage relation, to permit such marriages, but to make the negro equal before the law. All the States have laws against such marriages and the Courts have always sustained the law, both before and after the amendments. It has been shown the Court that the mother of the woman claiming to be Kate Milliken was a black woman, possessing all the features of the negro, and this woman is her child by a white man, coming under the term mulatto. Counsel on the other side contend she is not a mulatto for the reason that, according to their testimony, the mother of Kate had only 15-16 negro blood. Admitting this to be a fact for the purpose of this argument, the Court will see that this woman who claims to be the deceased's wife has 15-32 negro blood. The case of the State *vs.* Davis, 2d Bailey, page 558, decided that unless there was so little trace of negro blood that you could not discern it, it was negro's or mulatto's. Our own State has decided that the words must be used in their generic sense. Adopting that rule would the Court say that a person having 15-16 of negro blood in his veins was not a negro? How could you classify him with respect to race? Common sense indicates that you would say he was a negro. Now, admitting this woman to have but 15-32 negro blood, is she not a mulatto? If not, she must resemble the animal that Barnum had, which was not a human being nor a brute, to which he gave the name of "What is It?"

Now, if Kate is not a mulatto, what is she? If the court held that to be a negro the person must be a full-blood African, and to be a mulatto he must have just one-half negro blood, while under our law the full-blood and half-blood negro could not marry a white person—a person having three-fourths or seven-eighths negro blood could intermarry with the white race. This seems to me too absurd for argument, but your honor has the decision of our own court to govern you in the use of the terms negro and mulatto, and you are bound to use them in their generic sense, and if Kate Pearson is nearer a mulatto than anything else, you must classify her as a mulatto or else the object of our law would be frustrated. To maintain this marriage would be a calamity to our social system, and an injury to the races, which would in time cause the whites and blacks to become extinct.—*S. F. Chronicle.*

Nearly all of the Richmond artists have received orders from Philadelphia to paint portraits of one or more of the Virginia signers of the Declaration of Independence, and are now engaged in searching old libraries and ancient homesteads throughout the commonwealth for authentic portraits of their subjects. It is intended to have the portraits of all the signers at the centennial. The artists are cautioned not only to have faithful likenesses, but to have their subjects dressed in costume appropriate to the times in which they lived.—*Richmond Whig.*