



What Are Inalienable Rights and Liberty Worth to You?

March 16, 2018 / in [2018 blogposts](#) [blog](#) / by [David Fowler](#)

After my mother went to heaven, my dad eventually remarried. After the marriage ceremony, the minister asked my dad and me to join him in his office, and we'd get the marriage license and application for the certificate of marriage signed. I now appreciate more fully the meaning of what was a humorous exchange between them.

My dad's response to the minister? Bewilderment! He said, "You mean at my age I have to get permission from the state in order to get married?"

The minister was horrified and immediately wanted to know if they were going to be sharing a motel room that evening.

Dad's response was effectively, "Of course. We just got married."

Marriage between a man and a woman should never be considered or seen as a right conferred on us only by the government. Government didn't "create" marriage. From the Christian's perspective, God did¹ and governments simply acknowledge that pre-existing fact.

The minister's problem was that he was so steeped in statist thinking that it did not even cross his mind that they were married in God's sight. He was worried they'd be living in sin until after their honeymoon because they didn't have a state license.

I say, "Poppycock!"

What's the Source of the 'Right' to Marry?

According to the U.S. Supreme Court, early in our history state marriage laws did not confer the *right* to marry but only allowed for the "registration of marriages" and to provide "evidence of the marriage." The "right to marry," the Court said, was part of the common law because it was inherent to the complementariness of the male-female relationship.

But over time states arrogated to themselves sole power over marriage, saying effectively you can only get married if we give you permission and you can only get married if you agree to our terms and conditions for doing so.

When states did that, men and women didn't object that their inherent, inalienable, pre-governmental right to marry was being usurped. That was understandable. At the time of the state's power grab, the state's definition and the terms and conditions for

a lawful marriage lined up with Christian beliefs. Even non-Christians were okay because they could use a government official, rather than a minister, to legalize their marriage.

My dad, born in 1931 into a different era, had assumed that at his age he had a right to marry apart from the state and got hit, unexpectedly, with the fact he didn't have that right.

At the heart of *Obergefell* is this idea: When states chose to forsake the Higher Law that defines and establishes in a man and a woman the right to marry and made marriage its sole domain, they subjected themselves to the mercy of the U.S. Supreme Court and its interpretation of what the "higher law" of the Constitution imposes on them.

Of course, states never thought the U.S. Supreme Court would impose a new definition of marriage on them via constitutional "interpretation."

The Really Big Underlying Issue

So, as we think about whether the state should stop licensing marriages and allow a man and woman to exercise their pre-governmental right to marry and register notice of that marriage with county clerks or the state's office of vital records, we need to realize that the issue here is bigger than marriage.

If there is no pre-political type of law, call it what you will and ascribe to it what source you will, and law only comes from the pen of a legislator or judge, then there can be no inalienable rights for anyone.

Inalienable rights rest on the proposition that there is a form of "law" that pre-exists the lawmaker and

which the lawmaker must acknowledge.

You may not think marriage is one of those pre-existing laws, but if something that has been going on for millennia is not a right that pre-exists government, then what chance do other rights-life, speech, guns, and religion-have in the face of the U.S. Supreme Court's pen? All of these other rights, but not marriage, have been widely suppressed by governments at one time or the other.

What Will Our Position Say About Us?

Fighting to take the creation of marriage out of the state's hands and therefore the Supreme Court's hands will lead to a super-sized Human Rights Campaign boycott. But if we're silent when that fight comes, what will it say about us?

I would hope our silence would not evidence a willingness to give up on inalienable rights or to say they are not worth the cost, if any, of enduring a boycott.

When I think of defending the common law right of a man and woman to marry against government usurpation and absolute control of that right, I can hear the echo of Patrick Henry, "Give me liberty or give me death." I hope you hear him, too.

NOTES

1. Non-Christians might ascribe marriage to natural law or common law arising out of common sense and long-established tradition that pre-exists government.

Commentaries in the Marriage Series:

- [What Are Inalienable Rights and Liberty Worth to You?](https://factn.org/inalienable-rights-liberty-worth-you/) [https://factn.org/inalienable-rights-liberty-worth-you/]
 - [A Really Hard Question: What Is Marriage Worth to You?](https://factn.org/really-hard-question-marriage-worth/) [https://factn.org/really-hard-question-marriage-worth/]
 - [How Long Before Parents Have to Be Licensed by the State?](https://factn.org/how-long-parents-licensed-state/) [https://factn.org/how-long-parents-licensed-state/]
 - [Should Christian Couples Get Legally Married?](https://factn.org/should-christian-couples-get-legally-married/) [https://factn.org/should-christian-couples-get-legally-married/]
 - [Are Tennessee's Evangelical Pastors Licensing Same-Sex 'Marriages'?](https://factn.org/are-tennessees-evangelical-pastors-licensing-same-sex-marriages/) [https://factn.org/are-tennessees-evangelical-pastors-licensing-same-sex-marriages/]
-

David Fowler served in the Tennessee state Senate for 12 years before joining FACT as President in 2006.

Read [David's complete bio](https://factn.org/about/david-fowler/)

[https://factn.org/about/david-fowler].



[\[https://factn.org/category/blog/feed/\]](https://factn.org/category/blog/feed/)

Get David Fowler's Blog as a [feed](https://factn.org/category/blog/feed/)

[\[https://factn.org/category/blog/feed/\]](https://factn.org/category/blog/feed/).

[Invite David Fowler to speak at your event](https://factn.org/speaking-engagement-request-for-david-fowler/)








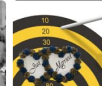

[\[https://factn.org/speaking-engagement-request-for-david-fowler/\]](https://factn.org/speaking-engagement-request-for-david-fowler/)

Tags: [inalienable rights](#) [marriage](#)

Share this entry



You might also like

| | | | | | | | | |
|---|---|---|---|---|---|---|---|--|
|  |  |  |  |  |  |  |  |  |
| <u>The</u> | <u>Oberg</u> | <u>FACT</u> | <u>Staten</u> | <u>Same-</u> | <u>What</u> | <u>Asking</u> | <u>The</u> | |
| <u>Extrem</u> | <u>Annive</u> | <u>Report</u> | <u>on</u> | <u>Sex</u> | <u>the</u> | <u>and</u> | <u>'Fire,</u> | |
| <u>of</u> | <u>Isn't</u> | <u>The</u> | <u>Introd</u> | <u>Marria</u> | <u>Suprer</u> | <u>Answer</u> | <u>Ready,</u> | |
| <u>Marria</u> | <u>the</u> | <u>Sanctit</u> | <u>of</u> | <u>Ruling</u> | <u>Court</u> | <u>the</u> | <u>Aim'</u> | |
| <u>Definit</u> | <u>One</u> | <u>of</u> | <u>Senate</u> | <u>Washe</u> | <u>Will</u> | <u>Wrong</u> | <u>Respo</u> | |
| | <u>to</u> | <u>Humal</u> | <u>Bill</u> | <u>Away</u> | <u>Redefi</u> | <u>Questi</u> | <u>on</u> | |
| | <u>Focus</u> | <u>Life</u> | <u>2566</u> | <u>Values</u> | <u>Next</u> | <u>on</u> | <u>Marria</u> | |
| | <u>on</u> | <u>and</u> | <u>We</u> | <u>Marria</u> | | | | |
| | <u>Marria</u> | <u>Hold</u> | | | | | | |
| | | <u>Dear</u> | | | | | | |

