



This commemorates

that
John Doe

and
Mary Roe

were united in
Holy Matrimony
according to the ordinance of God
on the island of Oahu, in Kaneohe, Hawaii
on Saturday, the 11th of June, at 3:30pm
in the year of our Lord, 2011.

Officiant



Groom

Bride

Best Man / Witness

Maid of Honor / Witness

Groomsman / Witness

Bridesmaid / Witness

Family Record

Husband: _____, Born _____

Father: _____, Born _____

Mother: _____, Born _____

and

Wife: _____, Born _____

Father: _____, Born _____

Mother: _____, Born _____

Loving v. Virginia, 388 US 1, 18 L ed 2d, United States Supreme Court Reports, October Term, 1966, Lawyers' Edition, Second Series, Volume 18 (Rochester, N.Y.: Lawyers Cooperative Publishing Company, 1968) p.1014n.

1967

In 1967, the U.S. Supreme Court struck down state anti-miscegenation laws in *Loving v. Virginia*. As a result of the decision, Virginia and fifteen other states had their anti-miscegenation laws declared unconstitutional.

What's Legally Valid and What's Not?

The United States Supreme Court in *Meister v. Moore*, 96 U.S. 76 (1877) said, "As before remarked, the statutes are held merely directory; because marriage is a thing of common right..." The statutes to which the Court was referring purported to render invalid any marriages not entered into under the term of written [statutory] state law.

Directory - A provision in a statute, rule of procedure, or the like, which is a mere direction or instruction of no obligatory force, and involving no invalidating consequence for its disregard, as opposed to an imperative or mandatory provision, which must be followed. *Black's Law Dictionary*, 6th Ed. While the various state courts have prattled on for almost 200 years about what the laws of their states do and do not allow concerning marriage, the US Supreme Court cut straight to the heart of the issue in declaring that statutes controlling marriage can only be directory because marriage is a common right, which is not subject to interference or regulation by government. Or phrased another way, the God-given right to marry existed prior to the creation of the states or the national government, and therefore it is beyond their purview to alter, modify, abolish, or interfere with, such a right.

"Recognized" versus "Unlawful"

A lot of Americans hold the incorrect perception that common law marriage is unlawful. Nothing could be further from the truth. There is no state law anywhere that claims to make common law marriage "unlawful". Such a law could not withstand the scrutiny of the US Supreme Court because the exercise of a fundamental right is always lawful!

It is true that in many states common law marriage is not "recognized". Because common law marriage is lawful, "not recognized" means that in the eyes of the State "the marriage is not known, understood, or perceived to exist".

A "statutory marriage" is registered with the State as a result of the man and woman applying for a State marriage license and thus entering into a three-party contract with the State. The State keeps records of all contracts to which it is a party and therefore such a marriage is "known to exist" to State authorities. To state the point most clearly - "not recognized" does not mean, "invalid". No state can arbitrarily declare common law marriage invalid by legislation, and none have done so!

Validity of Marriage

What constitutes a "valid" marriage at common law?

Unless there is a controversy over the validity of a marriage, a marriage thought proper by the consenting parties is a valid marriage.

The single most important element under common law is the mutual consent of the couple presently to be husband and wife. All the rest is considered evidence of this consent or exchange of promises. The only time requirement necessary was time enough reasonably to establish these circumstances.

In summary, validity is often determined based a composite picture drawn from the totality of the circumstances. Here are basic elements:

Both parties sign a marriage contract and have it notarized.

Have a ceremony.

Have three witnesses sign a marriage certificate.

Memorialize the ceremony in photographs or on video.

Consummate the contract after it has been signed or the ceremony performed.

Let friends, co-workers, and people in the community know you and your spouse are married.

By applying each of these elements, there is no court in America that can declare your common law marriage invalid.