

## The Dead have no Rights

By Richard L. Tolman, Ph. D.<sup>1</sup>

Lots of people have said it, 'The dead have no rights'<sup>2,3,4,5</sup> —except the right to be silent and to vote in Chicago. <sup>6</sup>And it's generally true—what people now dead have done or accomplished (physical things) can be owned and legally protected, but the *vitae*, thoughts, and actions of our dear departed are in the public domain.

So the actions of a great granddaughter (ggdau) to conceal the fact that greatgrandpa (ggf) was a lecher is misguided. And it's a little presumptuous too. What right does ggdau have to protect/hide/conceal facts about ggf? —surely all of his progeny have an equal right to disclose/conceal these facts! We all have lechers and horse thieves in our families—and royalty too, for that matter. It used to be that being a bastard (illegitimate) was a big deal—no more. Forty percent of Americans in 2014 were born out-of-wedlock.<sup>7</sup> Similarly, considering that you double the number of your ancestors every generation, at the signing of the Declaration of Independence you had several hundred living ancestors and a good number of them will have been illegitimate. Times change and standards of morality change too. In the 18<sup>th</sup> century a man might go into a dead faint if a lady exposed her ankle; today nubile females show all they own without a second thought (or for money—even more shocking).

I don't understand these people who create trees on Ancestry and then keep them private. Maybe they are private because they contain the names and *vitae* of living persons, but data on living persons do not belong in a family tree for privacy and security reasons. To keep the *vitae* of dead persons in a private tree defeats the very purpose of creating the tree; how can you find more distant relatives who may be able to help you research your ancestors? These people are plainly not interested in genealogy (which I find equally baffling).

---

<sup>1</sup> Richard L. Tolman, retired scientist/executive: Ph. D. in DNA bio-medicinal chemistry (University of Utah, 1969) with more than 30 years experience in DNA-related problems and research...and 15 years as a *pro bono* semi-professional genealogist/researcher.

<sup>2</sup> Thomas Jefferson to James Madison letter, online at [www.colorado.edu/herbst/node/68/attachment](http://www.colorado.edu/herbst/node/68/attachment)

<sup>3</sup> Thomas W. Jones, genealogist at Rootstech 2016.

<sup>4</sup> Smolensky, Kirsten Rabe 'Rights of the Dead' online at [law.hofstra.edu/pdf/academis/journals/lawreview](http://law.hofstra.edu/pdf/academis/journals/lawreview) (accessed 7 Aug 2018).

<sup>5</sup> Grabianowski, Ed 'Do you lose the right to privacy when you die?' online at [www.people.howstuffworks.com](http://www.people.howstuffworks.com) (accessed 7 Aug 2018).

<sup>6</sup>

<sup>7</sup> 'Out-of Wedock Births Rise Worldwide' YaleGlobal Online [yaleglobal.yale.edu/content/out-wedlock-births-rise-worldwide](http://yaleglobal.yale.edu/content/out-wedlock-births-rise-worldwide) (accessed 6 Aug 2018).

It is a fact universally acknowledged<sup>8</sup> that we have to share our ancestors with others. A recent experience reminded me of this fact. My wife and I recently celebrated our 50<sup>th</sup> wedding anniversary by hosting a family reunion in the Maine backwoods. When all of us were lined up for the photographer to take the group photo one of my granddaughters (3 yrs old) began crying inconsolably. It's happened to you—right? We took turns trying to console her and when it was my turn, I found out she realized for the first time that I was not exclusively HER grandpa, but that she had to share me with all those other kids. I felt so bad for her.

That is the way it is with genealogy—when you study an ancestor, you develop an understanding of them that progresses into a kind of personal relationship. They become a personal possession. And this is a good thing in many ways, but can be a bad thing in other ways.

---

<sup>8</sup> Jane Austen's *Pride and Prejudice*.