

REPORT TO THE BRIARWOOD PRESBYTERIAN CHURCH SESSION
ON WHAT CONSTITUTES A CHRISTIAN MARRIAGE
IN LIGHT OF THE ALABAMA MARRIAGE CERTIFICATE STATUTE

INTRODUCTION

The purpose of this report is to distill, affirm and amplify the Biblical and Confessional position of Briarwood Presbyterian Church on what constitutes a Christian marriage in light of the recently enacted changes to Alabama law governing the State's recognition of valid, legal marriages. While this report is not intended to announce new standards, doctrine or Church polity on the subject, it is intended to provide some general and practical guidance to the Session of Briarwood in its handling of these Biblical principles as it shepherds the Church in this present age—where She must remain vigilant to identify error and resist direct and indirect assault against these rich Biblical truths that the Church holds dear and is committed to uphold and teach.

EXECUTIVE SUMMARY

Alabama's new law setting forth the requirements for a valid, legal marriage in the State—although a well-intentioned effort to relieve probate judges from threats to their religious principles and liberties—abolishes the requirement of a traditional marriage ceremony and makes allowances for the State's recognition of so-called same-sex marriages. But because we observe that the law recognizes the rudimentary and constituent elements of a Biblical marriage, we recommend that Briarwood accept as Biblically valid the marriages that couples enter into under Alabama law—so long as those marriages are otherwise in accord with Holy Scripture. We hasten to add that the Session and our pastors should lovingly, patiently but emphatically encourage such couples to participate in a public, Christian ceremony. We likewise declare that, despite Alabama's new law, Briarwood does not recognize same-sex marriages as ecclesiastically valid and—absent repentance in this area—would not admit such couples to Church membership. Should existing Church members enter into same-sex unions under Alabama's law, the Church would lovingly and decisively deal with those members on the basis of the truth of the Holy Scriptures through the means of patient shepherding and, if necessary, Church

discipline. In all this, we stress the importance of consistent and Biblically sound premarital counseling and, accordingly, recommend that Briarwood (1) maintain and enhance its premarital counseling ministry, and (2) encourage its ministry staff to sharpen their teaching on, and modeling of, the Biblical mandates of the marriage covenant.

OVERVIEW OF BIBLICAL MARRIAGE

Briarwood Presbyterian Church has, from its inception, held to the PCA's doctrinal standards for what constitutes a valid and Biblically defined and constituted marriage. Those doctrinal standards are embodied primarily, of course, in the Holy Scriptures and, subordinately, in the Westminster Confession of Faith and the Book of Church Order. We affirm the PCA's 20th General Assembly's Report of the Ad-Interim Committee on Divorce and Remarriage (hereinafter, "PCA Report") in its announcement that, "We understand that Holy Scripture is, as our Confession says, the supreme authority in this as in all matters of faith and practice. Our Confession, as a subordinate standard, is a faithful effort to reproduce the Scripture's teaching." (PCA Report, Intro. at 2).

The Lord Jesus Christ, quoting from the Old Testament Scriptures, says plainly in Matthew 19:4-6 (ESV), "Have you not read that he who created them from the beginning made them male and female, and said, 'Therefore a man shall leave his father and his mother and hold fast to his wife, and the two shall become one flesh'? So they are no longer two but one flesh. What therefore God has joined together, let not man separate."

The Westminster Confession likewise instructs that, "Marriage is to be between one man and one woman . . . [who] give their consent. . . [and] was ordained for the mutual help of husband and wife" and that "nothing but adultery, or . . . willful desertion . . . is cause sufficient of dissolving the bond of marriage." (WCF 24 *passim*).

The PCA's Book of Church Order similarly speaks to the solemnization of marriage that:

59-1. Marriage is a divine institution though not a sacrament, nor peculiar to the Church of Christ. It is proper that every commonwealth, for the good of society, make laws to regulate marriage, which all citizens are bound to obey insofar as they do not transgress the laws of God (Acts 5:29).

59-2. Christians should marry in the Lord; therefore it is fit that their marriage be solemnized by a lawful minister, that special instruction be given them, and suitable prayers offered, when they enter into this relation.

59-3. Marriage is only to be between one man and one woman (Gen. 2:24, 25; Matt. 19:4-6; I Cor. 7:2), in accordance with the Word of God. Therefore, ministers in the Presbyterian Church in America who solemnize marriages shall only solemnize marriages between one man and one woman.

59-4. The parties should be of such years of discretion as to be capable of making their own choice; and if they be under age, or live with their parents, the consent of the parents or others, under whose care they are, should be previously obtained, and well certified to the minister before he proceeds to solemnize the marriage.

....

59-6. Marriage is of a public nature. The welfare of civil society, the happiness of families, and the credit of Christianity, are deeply interested in it. Therefore, the purpose of marriage should be sufficiently published a proper time previously to the solemnization to it. . . .

(BCO 59 *passim*).

This is not Briarwood Presbyterian Church’s first paper or report dealing, at least in part, on the contours of a Biblical marriage. (See, e.g., “Pastoral Position and Guideline Paper,” Nov. 17, 2015; and “The Briarwood Statement: A Theological Ministry Statement on Homosexuality with 10 Affirmations and Denials”, June 18, 2019). Nor is this report intended to create new standards or doctrine. Instead, our aim is to distill, affirm and amplify the Biblical and Confessional position of the Reformed Church—to which Briarwood, by God’s grace,

consistently has held—on what constitutes a Christian marriage. To that end, we believe the PCA Report provides a helpful and concise treatment of what the Reformed church has said consistently about marriage:

Marriage is the unique, one-flesh relationship of a man and a woman joined together by God in a union that He wills to be both permanent and exclusive, binding the couple to each other in a life-long companionship of common life and conjugal love.¹

(PCA Report at Ch. 2; Sec. I.A.). The PCA Report accurately observes that Scripture “uses covenantal language to describe marriage” (*E.g.*, Mal. 2:14; Prov. 2:17) and that “[w]hen Scripture says that a man shall cleave to his wife (Gen. 2:24), it is using a covenantal term. . . . This covenantal relation between man and woman was intended by God to be loving, loyal and permanent.” (PCA Report at Ch. 2, Sec. I.A.).

ELEMENTS OF A BIBLICAL MARRIAGE

Flowing from the standards set out herein—embodied in the Holy Scriptures, the Westminster Standards and the PCA’s Book of Church Order—we observe clearly and consistently the following constitutive elements of a Biblical marriage.

1. One Man and One Woman. This element specifies the Divinely instituted and authorized parties to a Biblical marriage. God, in His Divine wisdom, created marriage as the covenanted, conjugal union of one biological man and one biological woman. (Genesis 2:18-24; Matthew 19:4-6; Hebrews 13:4; WCF 24:1; BCO 59:3). “Briarwood recognizes the Biblical definition of marriage as ‘the unity of one man and one woman in covenant commitment for a lifetime, and that it is God’s unique gift to reveal the union between Christ and [H]is

¹ Report quoting Documents of Synod: Study Papers and Actions of the Reformed Presbyterian Church, Evangelical Synod – 1965-1982, Paul R. Gilchrist, ed., New Castle, 1982, p. 200. As to “common life and conjugal love,” *see also Larger Catechism*, Q.138, answering that “conjugal love and cohabitation” are duties required in marriage.

- [C]hurch and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards and the means of pro-creation of the human race.” (“Pastoral Position and Guideline Paper,” Nov. 17, 2015 (citing BCO, Appx. B)).
2. Consent, Contract & Covenant. This collection of elements requires that the parties to a Biblical marriage (husband and wife) mutually consent and agree to the stipulated marriage covenant and do contract to enter into and establish a valid marriage. (Ezekiel 16:8-14; Ruth 3:9-10; Mal. 2:14-15; WCF 24:3; BCO 59:4).
 3. Ceremony. This element commends a ceremony where vows affirming the covenant of marriage are solemnly sworn by and between husband and wife to God and before witnesses. (*See, e.g.*, John 2 (establishing Christ’s presence at the “wedding ceremony” as the place of His first recorded miracle); Ezekiel 16:8-14). Our Book of Church Order prescribes that couples wishing to marry are “bound to obey” the State’s marriage laws “insofar as they do not transgress the laws of God” and describes it fit that “marriage be solemnized by a lawful minister, that special instruction be given them, and suitable prayers offered, when they enter into this relation” and that—after covenantal vows are exchanged—the minister declare, “[f]orasmuch as these persons have covenanted together in marriage in accordance with the laws of the commonwealth, I do now pronounce them husband and wife, after the ordinance of God. ‘Therefore, what God has joined together, let not man separate.’ (Matthew 19:6).” (BCO 59 *passim* & Appxs. A & B).

THE COVENANTAL ONE-FLESH MANDATE

We also observe clearly and consistently that Scripture, the Westminster Standards and our Denominational governing standards embodied in the Book of Church Order establish that—within the marriage covenant properly established before God—certain covenantal duties and privileges exist, culminating in the over-arching mandate that in the marriage covenant the man and the woman are to

“become one flesh.” (Gen 2:24; *see also* Matt. 19:5; Eph. 5:31; I Cor. 7:2-3; WCF 24:6; Larger Catechism Q.137; BCO Appxs. A & B). Voluminous writings throughout the history of the Church have expounded the rich facets of this one-flesh relationship and this report need not re-fashion that treatment. One of the lead authors of the Westminster Confession of Faith, William Gouge, summarized the essence of the one-flesh relationship by noting:

To set forth the firmness of the marriage bond [Paul] addeth this emphatical phrase, shall be joined, [or as the word properly, according to the natural notation thereof signifieth, shall be glued] to his wife. Things well glued together are as fast, firm, and close as if they were one entire piece.

....

Fitly doth this agree with that which followeth [they two shall be one flesh]. Our English cannot well express the Greek in good sense word for word [but] the meaning is, They which were two before marriage, by the bond of marriage are brought into one flesh, to be even as one flesh: as nearly united, as the parts of the same body, and the same flesh. This unity is not in regard of carnal copulation [for if they be married they are one flesh, though they never know one another] nor in regard of procreation, because one child cometh from them both [for though they never have child, yet are they one flesh] but in regard of God's institution, who hath set it down for a Law, and as an-other nature, that man and wife should be so near one to another. Their consent in marriage [by virtue of God's institution] maketh them to be one flesh.²

One modern summary explains that, “‘One flesh’ is essential to the biblical view of marriage. It means, one mortal life fully shared. Two selfish me’s start learning to think like one unified us, sharing one everything: one life, one reputation, one bed, one suffering, one budget, one family, one mission, and so forth. No barriers. No hiding. No

² William Gouge, *Of Domesticall Duties* (1622); First Treatise, Para. 79.

aloofness. Now total openness with total sharing and total solidarity, until death parts them.”³

This one-flesh mandate within the marriage covenant certainly includes sexual intercourse as a central, integral and ordinary facet. The God-ordained conjugal nature of the covenant relationship in marriage is a powerful marker of the uniqueness of a Biblical marriage from any other human construct, union or relationship.⁴ These conjugal rights and privileges—clearly and consistently observed in Scripture—are gifted by our Creator and mysteriously but profoundly point us to the wonders of Christ’s relationship with His Bride, the Church.⁵ But the one-flesh relationship is *broader* than sexual union. Pastor, counselor and Westminster Theological Seminary professor Jay Adams helpfully observes that:

The notion that marriage begins on the honeymoon when sexual relations first occur, and not when the vows are taken is totally foreign to the Scriptures. On the former basis, the pastor would be lying when he says, “I now pronounce you man and wife.” Nonetheless, a marriage is consummated when a man and woman exchange vows before God and each other, and they enter into a covenantal relationship. The minister officiating at the wedding is telling the truth.

....

Marriage *authorizes* sexual relations. The honeymoon union is proper and holy (Heb. 13:4) only *because* the young couple is already married.

....

This point—that sexual relations do not constitute a marriage—is absolutely essential to any proper understanding of marriage, divorce and remarriage. Marriage is bigger than and distinct from (though inclusive

³ Ray Ortlund, “What is Marriage According to the Bible?” (June 26, 2015).

⁴ Compare, for example, the “unnatural relations” cited in Romans 1:26-27.

⁵ Ephesians 5:31-32.

of) sexual union. It is neither constituted nor dissolved by sexual relations.⁶

The Scripturally mandated one-flesh relationship describes the total and all-encompassing nature of that relationship as promised and preserved in the marriage covenant and cannot adequately or properly be reduced to the singular act of sexual relations. The Scriptures clearly and consistently teach that sexual union is not only authorized by, but a covenantal duty to be performed in, marriage. (*E.g.*, I Cor. 7:5). Not only that, but sexual relations should be a regular part of marriage to be abstained from only in very limited circumstances. (*See Id.*). We do not, however, observe clearly and consistently in Scripture, the Westminster Standards, or the Book of Church Order that the first and singular act of sexual union between a husband and wife is a constitutive element of the marriage covenant, without which no valid marriage would exist. In discussing and opposing the Roman Catholic view of marriage as a “sacrament” with “copulation” as its “sign,” Westminster Confession author William Gouge observed, “there may be a true marriage, though the parties married never know⁷ each other.”⁸

Nor do we observe clearly and consistently in Scripture, the Westminster Standards, or the Book of Church Order, a mandate that Reformed Elders ordinarily be in the business of ascertaining whether grounds exist for a declaration of an “annulment” of an ostensible Christian marriage. Given that fact, we recommend that Briarwood Presbyterian Church not attempt to break new ground for our denomination in that area. We recognize that painful and complex discipline cases can call into question one or both marriage parties’ failure and/or refusal to fulfill his or her covenantal duty of sexual union. We likewise recognize that medically or psychologically induced disabilities can sometimes—either temporarily or permanently—create impediments to the fulfillment of the covenantal duty of sexual union. Accordingly, we submit that our Elders—with their God-given “wisdom from above”⁹—can address such cases adequately under the clear

⁶ Jay E. Adams, *Marriage, Divorce, and Remarriage in the Bible*, pp. 6-7; Zondervan 1980 (emphasis added).

⁷ The context of Gouge’s language here is that “know” denotes a sexual union.

⁸ William Gouge, *Of Domestical Duties* (1622); First Treatise, Para. 92.2.

⁹ James 3:17-18.

standards and governing framework for pastoring, shepherding and discipline the Lord has graciously made available to His Church: chiefly in His Holy Word and subordinately in the Westminster Standards and the Book of Church Order.¹⁰

Analysis of The Alabama Marriage Law's Origin and Practical Effect

Against the aforementioned Biblical background, we examine the recently enacted laws regulating marriage in the State. The process for entering into a legal marriage recognized by the State of Alabama changed, effective August 29, 2019, by way of Alabama Act No. 2019-340. In brief, the ostensible purpose behind this change in law was to relieve Christian probate judges from the legal dilemma in which many found themselves when—under the law set out in the U.S. Supreme Court's decision in *Obergefell v. Hodges* making same-sex marriages legal in all States—homosexual couples sought marriage licenses, which had to be issued by probate judges as a prerequisite to a valid marriage in Alabama. While many petitioned legislators to enact laws to protect the religious rights of those dissenting probate judges, those efforts were largely unsuccessful. As the Southeastern Law Institute observed, the “only alternative” was a “change in the marriage law which would return it to a ‘contractual’ basis thereby removing the need for a probate judge to ‘approve’ a license.”¹¹ This change in law was, then, in large part an attempt to “remove the threat to the religious principles [and liberties] of those objecting judges.”¹²

Under the new marriage law in Alabama, persons wanting to marry will no longer file an application for a marriage license with the county

¹⁰ We earnestly acknowledge the continuity of challenging circumstances in this arena and the accompanying depth of pain and difficulty in addressing such problems. While specifics of Scriptural pastoring and counseling methodology are outside the scope of this report, we commend to the Session—and by extension, the Discipline Committee—its continual use of the resources the Lord has graciously made available beginning, of course, with the Holy Scriptures and implemented in large part through the work of Briarwood's Pastoral Staff and Counseling Ministry.

¹¹ A. Erik Johnston; SLI Memo Re: Alabama's New Marriage Law (Oct. 2019).

¹² *Id.* (brackets are Committee's).

probate court and the courts will no longer issue marriage licenses. Now, persons wanting to marry must complete an “Alabama Marriage Certificate” and file it in the probate court. Probate judges will then record the Marriage Certificate as the official record of marriage, making it a legal marriage under the laws of the State. Essentially the new law reduces what Alabama recognizes as a valid, legal marriage in this State to (1) two consenting adults;¹³ (2) swearing in a witnessed (notarized) affidavit (the Marriage Certificate); (3) that they are competent to marry and entering into the marriage voluntarily and of their own free will; and (4) file the Certificate with the probate court within 30 days of the last dated signature of either party. In addition to its other administrative requirements, the law declares that “[a]ll requirements to obtain a marriage license by the State of Alabama are abolished and repealed. The requirement of a ceremony of marriage to solemnize the marriage is abolished.” Although the law recites that a wedding ceremony may be performed, such a ceremony is not a requirement for a valid marriage in the State. Ala. Code 30-1-9.1 (1975) (*passim*).

At the outset, we affirm that the Church does not take its cues nor seek approval from the State in its recognition of, submission to and practice of the Biblical authority governing the Lord’s people. Thus, we recognize a marriage as valid not in the first instance because the State may say it is valid, but because the Lord says it is valid. We do also, however, hold to the view that God’s people must obey and fulfill the laws of the State so long as those laws do not command disobedience to God’s Word. (*E.g.*, Romans 13:1). The Book of Church Order likewise affirms this duty in the context of the Church’s solemnization of marriages: “It is enjoined on all ministers to be careful that, in this matter, they transgress neither the laws of God, nor the laws of the community. . . .” (BCO 59-6).

We conclude that the new Alabama marriage law does not require conduct that is in opposition to God’s Word and, when adhered to by a Christian man and woman wishing to marry, it—as a practical (if not technical) matter—contains the bare rudiments of the constitutive elements of a Biblical marriage. First, a believing couple will consist of one man and one woman, satisfying the “One Man and One Woman”

¹³ The person must be 18 years or older. If ages 16-17, parental consent is required.

element. Second, presumed and implied in the law's requirements are at least the basic indications of "Consent, Contract & Covenant" in that the parties must swear that they are of age, eligible to be married (*i.e.*, not currently married) and have consented to enter the marriage voluntarily. Third—despite its purported "abolition" of a "ceremony of marriage" requirement—the new law does require that a couple must announce in a publicly sworn, witnessed and filed affidavit the couple's entrance into the marriage as a matter of public record, at least rudimentarily meeting the "Ceremony" element.

PRACTICAL PRINCIPLES

Believing Man and Woman Married Under Alabama's Law:

An immediate and recommended upshot of the analysis herein is this: If a believing couple came to join Briarwood Presbyterian Church, holding themselves out as a married couple after following the new law's procedure for a valid, legal marriage in the State, we as a Session would neither declare to the couple that they are "not married" nor would we deny membership to the couple on that basis. We hasten to add, however, that Alabama's new law falls woefully short of prescribing the Biblically advisable level of solemnity that a marriage ceremony should contain, even on a secular level. Given that reality, we as a Session along with the Church's pastors would lovingly, patiently but emphatically encourage such a couple to submit themselves to participate in a public, Christian ceremony officiated by a minister of the Gospel—as illustrated in and authorized by the Book of Church Order—solemnizing the covenant of marriage. Yet, the Session would engage in such encouragement while affirming that the couple's present status as legally "married" is without question under the laws of this State.

Believing Married Couple Withholding Sexual Relations:

Relatedly, if a believing, married couple came to Briarwood's Session claiming that one party (or both) has willfully withheld sexual relations from the other since the beginning of their marriage, we as a Session (through the Discipline Committee and/or other related shepherding means) would lovingly, patiently but emphatically counsel the offending party in such a couple to uphold his or her marriage vows and, as a matter of obedience, fulfill this particular covenantal duty prescribed in Scripture. While a protracted and recalcitrant refusal to perform the

covenantal duty of sexual relations within the marriage covenant can certainly be a disheartening and difficult shepherding situation, it is not beyond the reach of the Spirit's work in the hearts of His sheep nor beyond the application of Scripture's remedial allowances for disciplinary situations also set out subordinately in, among other places, the Westminster Confession of Faith and the Book of Church Order. Again, we do not here address particular shepherding steps at the granular level in these difficult situations but commend to the Session Briarwood's Counseling Ministry as a primary tool in such shepherding.

Same Sex Couple Desiring or Actually Marrying Under Alabama Law:

We acknowledge that the law and its related documents sanction the State's recognition of unions contrary to those prescribed by Scripture and use language that allow for human constructs of gender in opposition to those prescribed by Scripture. Briarwood denies the U.S. Supreme Court's new secular definition of marriage, even as reluctantly accommodated by Alabama's new statute in a well-intentioned effort to protect believing probate judges. Moreover, the new law does not change Briarwood Presbyterian Church's position on what constitutes a valid Biblical marriage set out in this report and in other Session documents cited herein. Accordingly, should a same-sex couple who are members or visitors at Briarwood approach Church leadership with a desire either to be married at Briarwood or to join Briarwood as a married couple, we as a Session along with the Church's pastors would lovingly, patiently but emphatically counsel such a couple to submit themselves to the mandates of Scripture that forbid such a union and lay before them the power of the Gospel and the sweetness of the Law of the Lord: that in keeping it there is great reward.¹⁴ We hasten to add that—while Briarwood would not, of course, condone a same sex relationship or offer Church membership to a couple persisting in such relationship as out of accord with Scripture—we affirm that the Session and Briarwood's pastoral staff should set an example of loving encouragement in “equip[ing] Christians to minister with clarity, conviction and compassion to those struggling with homosexual thoughts, desires and actions.”¹⁵

¹⁴ Psalm 19:11

¹⁵ The Briarwood Statement: A Theological Ministry Statement on Homosexuality with 10 Affirmations and Denials, June 18, 2019.

CONCLUSION

While some implications of Alabama's new law are contrary to Scripture, we also recognize that a Christian couple's obedience to the law's prescriptions in order to obtain the status of a valid and legal marriage in the State does not contravene Scripture when followed.

The committee is grateful for this opportunity to serve the Session in its study and work and remains ready to discharge any further duties given to it by the Session. The committee's prayer is that this report is honoring to the Lord and helpful to the Session in its charge to shepherd Christ's Church.