

IN THE CIRCUIT COURT FOR  
MONTGOMERY COUNTY, ALABAMA

ALVIN HOLMES, GEORGE PERDUE,  
WILLIAM CLARK, and GEORGE CLAY

Plaintiffs,

v.

GUY HUNT, Governor of the  
State of Alabama,

Defendant.

Civil Action No. \_\_\_\_\_

FILED  
CLERK OF COURT  
MONTGOMERY, ALA.  
1976  
JAN 1

**COMPLAINT**

1. This action is brought by Alabama citizens who seek to prevent the Governor from carrying through with his threat to fly the Confederate battle flag on the dome of the Capitol. Flying the Confederate flag would violate Alabama Code §1-2-6 (1975). The statute provides that:

The flag of the state shall be hoisted on the dome of the capitol when the two houses of the legislature are in session, and shall be used by the state on all occasions when it may be necessary or customary to display a flag, except when, in the opinion of the governor, the national flag should be displayed.

The Confederate battle flag is not the "flag of the state."

**Jurisdiction**

2. The Court has jurisdiction of this controversy pursuant to Alabama Code §12-11-31(1). No plain and adequate remedy is provided in other judicial tribunals.

**Parties**

3. Plaintiff Alvin Holmes is an Alabama state representative and taxpayer. He is over the age of 19 and resides in Montgomery

County. He sues in his official capacity as a state representative and in his individual capacity as a taxpayer.

4. Plaintiff George Perdue is an Alabama state representative and taxpayer. He is over the age of 19 and resides in Jefferson County. He sues in his official capacity as a state representative and in his individual capacity as a taxpayer.

5. Plaintiff William Clark is an Alabama state representative and taxpayer. He is over the age of 19 and resides in Mobile County. He sues in his official capacity as a state representative and in his individual capacity as a taxpayer.

6. Plaintiff George Clay is an Alabama state representative and taxpayer. He is over the age of 19 and resides in Macon County. He sues in his official capacity as a state representative and in his individual capacity as a taxpayer.

7. Guy Hunt is the Governor of the State of Alabama. He is sued in his official capacity only. The Governor is over the age of 19 and resides in his official capacity in Montgomery County. The threatened action that this lawsuit seeks to prevent will take place in Montgomery County.

#### **Statement of the Case**

8. In 1895, the Alabama Legislature passed Act 383. The first section of the Act adopted the crimson cross of St. Andrew upon a field of white as the flag of the State. The second section of the statute commanded that the state flag "be hoisted on the dome of the capitol when the two houses of the general assembly are in session and shall be used by the state on all occasions when it may be necessary or is customary to display a

flag." During the 1896 codification of laws, the clause "except when, in the opinion of the governor, the national flag should be displayed" was added to the statute. The law has remained unchanged since that time and appears today in the 1975 Code of Alabama as §1-2-6.

9. After Act 383 was passed, a flagpole was constructed on the dome of the Capitol for the specific purpose of flying the state flag.

10. Governor Hunt has authority and exercises control over the flying of flags on the dome of the Capitol.

11. The Governor has announced his intention to fly the Confederate battle flag over the Capitol when renovations to the Capitol and flagpole are completed. The completion of such renovations is imminent.

12. Flying the Confederate battle flag will result in the unlawful expenditure of substantial public funds. In addition to incurring the cost of hoisting the flag, funds will be expended to maintain the flag and keep it in good repair. Substantial unlawful expenditures have already been made in anticipation of flying the Confederate battle flag.

#### **Causes of Action**

13. The threatened actions of the Governor will violate the rights of the plaintiffs in their official capacities to conduct legislative affairs under the banner of the state flag pursuant to Alabama Code §1-2-6.

14. The threatened actions of the Governor will violate the right of the plaintiffs in their individual capacities to be free

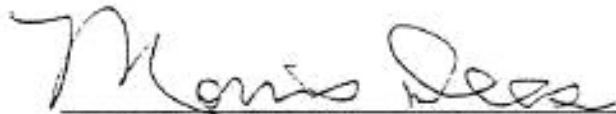
of expenditures of public funds that are unlawful under Alabama Code §1-2-6.

**Prayer For Relief**

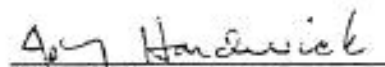
Wherefore, plaintiffs ask this Honorable Court to:

- a. Declare that the Governor's actions threaten to violate Alabama Code §1-2-6;
- b. Preliminarily and permanently enjoin the Governor from hoisting the Confederate battle flag on the dome of the Capitol; and
- c. Grant the plaintiffs all other relief that the Court deems necessary and appropriate.

Respectfully submitted,



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Counsel for Plaintiffs

CERTIFICATE OF SERVICE ON ATTORNEY GENERAL

I hereby certify that a copy of the foregoing Complaint has been served by hand delivery upon the Attorney General for the State of Alabama this 1st day of December, 1992.

  
Attorney for Plaintiffs