

Senate Resolution 85

By: Senators Lee of the 29th and Stephens of the 51st

ADOPTED SENATE

A RESOLUTION

1 Expressing support of the Governor of the State of Georgia and urging the Attorney
2 General to dismiss the appeal in *Georgia v. Ashcroft*; and for other purposes.

3 WHEREAS, the Governor of the State of Georgia has directed the Attorney General
4 to dismiss the appeal currently pending before the United States Supreme Court in
5 *Georgia v. Ashcroft*, 195 F. Supp. 2d 25 (D.C.D.C. 2002), *prob. juris. noted*, 71
6 U.S.L.W. 3137, 71 U.S.L.W. 3483, 71 U.S.L.W. 3486 (U.S. Jan. 17, 2003); and

7 WHEREAS, the Attorney General of the State of Georgia has announced his intention
8 to refuse to follow this directive of the Governor by letter dated February 5, 2003; and

9 WHEREAS, Article V, Section II, Paragraph I of the Constitution provides that the
10 Governor is the Chief Executive of the State of Georgia; and

11 WHEREAS, Article V, Section II, Paragraph II of the Constitution provides that "The
12 Governor shall take care that the laws are faithfully executed ..."; and

13 WHEREAS, Article V, Section III, Paragraph IV of the Constitution provides that
14 "The Attorney General shall act as the legal advisor of the executive department,
15 [and] shall represent the state . . . in all civil . . . cases in any court when required by
16 the Governor"; and

17 WHEREAS, Code Section 45-15-35 of the Official Code of Georgia Annotated
18 provides that "The Governor shall have the power to direct the Department of Law,
19 through the Attorney General as head thereof, to institute and prosecute in the name
20 of the state such matters, proceedings, and litigations as he shall deem to be in the best
21 interest of the people of the state."; and

1 WHEREAS, Paragraph (3) of Code Section 45-15-3 of the Official Code of Georgia
2 Annotated provides that "It is the duty of the Attorney General: . . . When required to
3 do so by the Governor, to participate in, on behalf of the state, . . . all . . . civil actions
4 to which the state is a party."; and

5 WHEREAS, under these and other provisions the Governor, not the Attorney General,
6 has the constitutional and statutory authority to determine the State of Georgia's
7 litigation objectives in cases where the State of Georgia is a party; and

8 WHEREAS, the Attorney General is illegally proceeding in contravention of the
9 direction of the Chief Executive of the State of Georgia.

10 BE IT THEREFORE RESOLVED by the Senate that this body expresses its support
11 of the Governor of the State of Georgia in this matter and urges the Attorney General
12 to dismiss immediately the appeal in Georgia v. Ashcroft.

13 BE IT FURTHER RESOLVED that the Governor of the State of Georgia is urged to
14 appoint other counsel to represent the interests of the State of Georgia in this matter
15 if the Attorney General continues in his refusal to follow the directive of the
16 Governor.