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**STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL**

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Honorable John Laney  
Mayor, City of Demopolis  
Post Office Box 580  
Demopolis, Alabama 36732

Municipalities – Alabama Memorial  
Preservation Act of 2017 –  
Historical Activities or Preservation  
– Marengo County

The Alabama Memorial Preservation  
Act of 2017 does not render void a  
vote by the Demopolis City Council  
to alter the remains of a Confederate  
monument that ceased to exist before  
the effective date of the act.

Dear Mayor Laney:

This opinion of the Attorney General is issued in response to your  
request on behalf of the City of Demopolis.

QUESTION

Does the Alabama Memorial Preservation  
Act of 2017 void a prior vote by the Demopolis  
City Council to alter a damaged Confederate  
monument?

FACTS AND ANALYSIS

Your request states that the Daughters of the Confederacy presented  
the City of Demopolis with a Confederate monument in 1910. You further

state that the base is inscribed with a message honoring the Confederate dead, and atop the base was a statue of a Confederate soldier. The monument remained intact on public property in the city from 1910 until July 16, 2016. On that date, an on-duty police officer accidentally struck the monument, damaging the base and causing the statue to topple and break.

The Demopolis City Council formed a committee to determine whether the monument should be repaired or replaced. The committee recommended that the base remain, but that an obelisk commemorating all that have died in military service replace the damaged statue. On April 20, 2017, at a council meeting, a motion was made to adopt the committee's recommendation, and the motion passed. No steps have been taken to repair the base or place the obelisk atop the base. Presently, only the base remains on public property.

On May 24, 2017, the Governor signed the Alabama Memorial Preservation Act of 2017 into law, which is codified at section 41-9-230, *et seq.*, of the Code of Alabama. ALA. CODE §§ 41-9-230 to 41-9-237 (Westlaw 2017). Section 41-9-232(a) provides that “[~~n~~o] architecturally significant building, memorial building, memorial street, or **monument which is located on public property and has been so situated for 40 or more years may be relocated, removed, altered, renamed, or otherwise disturbed.**” ALA. CODE § 41-9-232(a) (Westlaw 2017) (emphasis added).

The act defines a “monument” as follows:

**A statue, portrait, or marker intended at the time of dedication to be a permanent memorial to an event, a person, a group, a movement, or military service that is part of history of the people or geography now comprising the State of Alabama.** The term does not include signage bearing historical or interpretive text, commonly known as historical marker or wayside exhibit, or portraits or plaques installed by temporary means and not intended to be permanent at the time of installation.

ALA. CODE § 41-9-231(6) (Westlaw 2017) (emphasis added).

The city's monument that had been in place for more than 40 years was inadvertently destroyed when the statue was broken into pieces and

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removed from the site. Because the monument ceased to exist at the time of the effective date of the act, the act's prohibitions were not triggered. Accordingly, the city council's vote is not void and the city may proceed with its plans for the remains of the monument.

### CONCLUSION

The Alabama Memorial Preservation Act of 2017 does not render void a vote by the Demopolis City Council to alter the remains of a Confederate monument that ceased to exist before the effective date of the act.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Wes Shaw of my staff.

Sincerely,

Steve Marshall  
Attorney General

By:

A handwritten signature in black ink, appearing to read "G. Ward Beeson, III". The signature is fluid and cursive, with the last name "Beeson" being more prominent.

G. WARD BEESON, III  
Chief, Opinions Section

SM/RWS/as  
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