

August 3, 1964



Honorable Warren E. Hearnes
Secretary of State
Capitol Building
Jefferson City, Missouri

Dear Mr. Hearnes:

This is in response to your recent request for an opinion of this office which reads in part as follows:

"We respectfully request an opinion of your office on whether or not preemptive rights can be abolished in a corporation formed under Chapter 351 by amending the Articles of Incorporation when said Articles of Incorporation make no reference to preemptive rights. If preemptive rights can be abolished, what percentage of the vote of the outstanding shares is necessary to pass the amendment abolishing same."

This specific question has never been decided by the appellate courts of this state, although I am advised that it is a principal issue in the case of Saigh v. Busch which is now pending before the Supreme Court of Missouri. It has long been the policy of this office that no opinion will be issued on a matter that is the current subject of litigation; and, in accordance with that policy, I must decline to express any opinion on the matter at this time.

Very truly yours,

THOMAS F. EAGLETON
Attorney General