

June 8, 1981

OPINION LETTER NO. 89
(Answered by letter--Klaffenbach)

The Honorable William R. O'Toole
State Representative
97th District
Room 408, Captiol Building
Jefferson City, Missouri 65101



Dear Representative O'Toole:

This letter is in response to your question asking whether § 21.150, RSMo 1978, which authorizes the employment of chaplains by the legislature violates any provision of the Constitution of the United States.

It is a basic rule that an act of the legislature is presumed to be valid and will not be declared unconstitutional unless it clearly and undoubtedly contravenes some constitutional provision. American United v. Rogers, 538 S.W.2d 711 (Mo. banc 1976). It is our view that there are reasonable arguments which can be made in support of the validity of § 21.150.

Further, it should be noted that this office has no authority to declare a state statute invalid. Gershman Investment Corp. v. Danforth, 517 S.W.2d 33 (Mo. banc 1974). However this office does have a duty to defend state statutes.

Therefore, since reasonable arguments exist to support the validity of § 21.150 and in light of the legal responsibility of this office to defend acts of the legislature, we presume the validity of the statute. Because it is the position of this office that the statute in question is valid, if the constitutionality of § 21.150 is challenged in court, we will defend and support its constitutionality.

Very truly yours,

JOHN ASHCROFT
Attorney General