

## EAGLETON IN MISSOURI: THE RECORD IN LOCAL AND STATE OFFICE

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*All politics is local.*<sup>1</sup>

Before Thomas F. Eagleton was a United States Senator, he was the Circuit Attorney of the City of St. Louis,<sup>2</sup> then in succession, Attorney General and Lieutenant Governor of Missouri.<sup>3</sup> These were necessary steps in his journey to Washington, for it was the record he amassed in twelve years of local and state government service that enabled him to win a Senate seat.<sup>4</sup>

In 1956, Eagleton was a twenty-six year old lawyer who had achieved academic distinction (Amherst College and Harvard Law School,<sup>5</sup> both *cum laude*), but little else. He had worked briefly for his father, Mark D. Eagleton, a distinguished St. Louis trial lawyer, and for Anheuser Busch. He had held no public office and had little trial experience. Nevertheless, in that year he ran for St. Louis Circuit Attorney, the top prosecutorial position in Missouri's biggest city, and won the job—the youngest person ever to be elected to that office.

The Circuit Attorney is responsible for prosecution of all felony cases in the City of St. Louis (another office handles misdemeanor cases). It is an extraordinarily exposed position, subject to criticism for failure to prosecute with sufficient vigor and skill from the “forget the technicalities and lock ’em up” crowd, as well as for excessive zeal and deprivation of civil liberties from

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1. Attributed to Rep. Thomas P. “Tip” O’Neill, Speaker of the U.S. House of Representatives, 1977–1987. Mario M. Cuomo, *The Last Liberal*, N.Y. TIMES, Mar. 11, 2001, at BR8.

2. Biographical Directory of the United States Congress, Biography of Thomas Francis Eagleton, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=E000004> (last visited Oct. 9, 2007) [hereinafter *Directory*].

3. *Id.*

4. *See id.*

5. *Id.*

the “Bill of Rights” people at the other end of the spectrum. In St. Louis in the 1950s, these poles were represented by, respectively, the morning newspaper, the *Globe-Democrat*, and the afternoon paper, the *Post-Dispatch*. The two differed also in the intensity of their interest in issues of crime and punishment. The *Globe-Democrat* was unrelenting in its disdain for constitutional impediments to prosecution. The *Post-Dispatch*, on the other hand, was less constant in its support of a prosecutor whose decisions were guided by constitutional principles.

As Circuit Attorney, Eagleton wisely stayed out of the courtroom for the most part and devoted himself to administration of the office. He surrounded himself with a cadre of experienced trial lawyers and the office gained a solid reputation for the skill with which it conducted prosecutions. But there was frequent criticism from the *Globe-Democrat* over a vital aspect of the job: deciding when and in what circumstances to file charges.

Eagleton worked from the premise that the most important stage of the prosecution was the very first one, when the police walked into the Circuit Attorney’s Warrant Office with an offense report in hand and witnesses in tow. His assistants who worked in that office were trained not only to evaluate the strengths and weaknesses of the evidence, but also to review the conduct of the police and any vulnerabilities of the witnesses in deciding whether to initiate a prosecution. If it appeared that, based on experience with similar cases, the alleged violation was not one for which juries were inclined to return a conviction; the police conduct violated constitutional standards; or if the victim lacked credibility, prosecution was declined. Inevitably, cases were refused in which the crime was highly publicized, but the evidence against the suspect was weak or the investigating methods fell short of constitutional norms. The *Globe-Democrat* editorial writers would loose a torrent of invective against the Circuit Attorney and even the *Post-Dispatch* occasionally took on a chiding tone. It required extraordinary courage and determination for Eagleton to stick to his principles in the face of news accounts suggesting that he was freeing criminals to roam the streets, but stick he did.

The Circuit Attorney is also responsible for advising the grand jury in its investigations. Those conducted during the Eagleton administration ranged from the highly constructive to the faintly comic. A major grand jury investigation targeted corrupt members of the St. Louis City School Board. Films taken by investigators depicted school maintenance employees repairing and painting one member’s house. Teachers who sought preferment knew that they were expected to patronize the furniture store owned by another member. A third board member charged fees to new graduates in return for job recommendations. The Eagleton-led grand jury investigation and ensuing prosecutions resulted in major and lasting changes in the school board.

Eagleton’s elderly Aunt Hazel served as the ace undercover agent in another investigation following a consumer complaint that certain dance

studios were defrauding lonely old ladies. Slick young salesmen would exploit the women's desire for companionship by selling them multiple life memberships while gliding them around the dance floor. Eagleton's grand jury report halted the abusive practices, but some of the victims reportedly yearned thereafter for the attentions of their former gigolos, despite having to pay a steep price for them.

In time, the responsible elements in the St. Louis community saw that Eagleton's leadership had developed an effective prosecutor's office that was focused on provable crimes, with due respect for individual rights. The Eagleton policies were seen to contribute to a law enforcement system that got results—one with greater credibility than a process in which charges were issued willy-nilly with much fanfare, only to end in failure months later as juries refused to convict or cases had to be dismissed when their weaknesses became apparent.

In 1960, armed with an impressive record as Circuit Attorney, yet still only thirty years old, Eagleton took his next step in public life by announcing his candidacy for Missouri Attorney General.<sup>6</sup> In this, his first statewide race, he faced a new obstacle: religious prejudice.

Being a Roman Catholic had not been a handicap in running for office in St. Louis. Indeed, in a city heavily populated with the descendants of immigrants from Catholic regions of Europe, Eagleton's religion was probably an advantage. It helped to offset the elitist stigma attached by some to his suburban private school education, followed by college and law school in the East.

But many Missourians, especially those in rural areas outside St. Louis and Kansas City, would no more vote for a "Papist" than they would the Devil, and in their minds there was little distinction between the two. A wide swath of the "Bible Belt," the home of fundamentalist protestantism, ran through rural Missouri and even reached into the St. Louis and Kansas City suburbs. Only an exceedingly attractive candidate with a strong public record could hope to overcome conventional prejudice and become the first Catholic statewide officeholder in the 20th century in Missouri.

In 1960, another attractive and youthful candidate was trying to overcome anti-Catholic bias, but on a much larger scale. The presidential candidacy of Senator John F. Kennedy<sup>7</sup> may actually have had a beneficial spill-over effect on the Eagleton campaign in Missouri. Because the Kennedy campaign forced the religious issue into the open, voters had to confront their traditional anti-Catholic views and, in many cases, were not able to reconcile them with their favorable response to the Kennedy appeal. Still, religion remained an important factor for many Missouri voters.

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6. *See Directory*, *supra* note 2.

7. Jo Mannies, *Loss of a Statesman*, ST. LOUIS POST-DISPATCH, Mar. 5, 2007, at A1.

Religion was not the only obstacle Eagleton faced in his race for Attorney General. His opponent in the Democratic primary (in those days in Missouri, the only election that mattered) was George Spencer,<sup>8</sup> the state senate majority leader from Columbia. Spencer was considerably older than Eagleton and was an experienced lawyer and political figure. He and his supporters were quick to contrast his qualifications for the position of Missouri's chief lawyer with those of "the boy candidate from the big city."

Eagleton achieved a narrow victory over Spencer in the August primary, and then went on to be elected Attorney General in November 1960, defeating the Republican nominee, Donald J. Stohr (later U.S. District Judge, Eastern District of Missouri).<sup>9</sup> He devoted much of his time after the Democratic nomination was in the bag to the presidential campaign of Senator Kennedy, who ultimately carried Missouri,<sup>10</sup> but only narrowly.

Eagleton sometimes commented that the job of Attorney General, in theory a move up the political ladder, was less challenging than that of Circuit Attorney. Rendering opinions about fees allowed to be charged by county clerks, or drafting real estate documents for the State Park Board, lacked the stimulation of a major murder case, or a grand jury investigation of political corruption.

But Eagleton was never one to sit back waiting for things to happen and he found excitement in several crusades. Early in his administration, he launched a campaign to enforce the "Blue Laws" against retail sales of anything other than necessary goods on Sunday. Especially in the Kansas City area, retailers were running seven day a week operations and openly flouting the Sunday sales prohibitions. The Attorney General's Office obtained injunctions that shut down the Sunday activities of retailers ranging from shopping centers to automobile dealers.

Eagleton had little sympathy for the policy that underlay the Sunday prohibitions, but he was troubled by the open defiance of state statutes. His efforts were intended to call attention to the anomaly of these 19th century laws still being given effect in a greatly changed 20th century society. His campaign was successful and his legislative proposals to harmonize the law with contemporary shopping patterns were soon adopted by the state legislature.

Another of Eagleton's crusades focused on nursing homes. Throughout Missouri, substandard nursing homes, many of them unlicensed, were keeping elderly patients in deplorable conditions. Eagleton and his staff conducted

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8. Terry Ganey, *A Slice of History*, COLUM. DAILY TRIB., Aug. 19, 2007, at D1.

9. C.L. Kelliher, *Eagleton Wins*, ST. LOUIS POST-DISPATCH, Aug. 3, 1960, at A1; *Election Results at a Glance*, ST. LOUIS POST-DISPATCH, Nov. 9, 1960, at A1.

10. Herbert A. Trask, *Democrats Win Major Races as State Lines Up with Kennedy*, ST. LOUIS POST-DISPATCH, Nov. 9, 1960, at A1.

raids on many such homes and put them out of business. Legislation that he promoted strengthened licensing requirements and enhanced the powers of public health inspectors.

While rendering a genuine public service in these efforts, Eagleton was also beginning to make himself a familiar name and face in areas of Missouri where he was previously little known. Most of the publicity about the Sunday sales issue came in the Kansas City area, where the violations were flagrant and where, as it happened, he was an outsider. Nursing home enforcement was focused on rural Missouri, justifiably, since the urban areas had their own licensing and enforcement. By doing his job well—and very publicly—Eagleton was establishing a statewide reputation that benefited him in his later race for the United States Senate.

He undertook one campaign, though, that was the antithesis of self-interest. In coming out against the death penalty, Eagleton manifested the fundamental idealism that was to characterize his years in public life, in contrast to the carefully neutral self-preservation that is the stance of so many politicians. There was very little for him to gain politically in his opposition to the death penalty. The liberals who would concur were already behind him. The “fry ‘em all” conservative hard core would almost certainly oppose him anyway on other grounds. A substantial majority of the uncommitted group in the middle—the voters who swing elections—were shown by polls to favor the death penalty.

Eagleton took on the issue with typical enthusiasm and exhaustive scholarship. Together with his longtime associate, Robert Kingsland, he reviewed the history of the death penalty in the years since Missouri gained statehood. He researched death sentences in contemporary America, and contrasted that experience with the practices of other civilized countries. He documented the undeniable inequities of race and class that pervade this ultimate sanction. His lengthy report, which concluded that imposition of the death penalty was not an effective deterrent and could no longer be morally justified, was published in full as a two-part opinion piece by the *Post-Dispatch*.<sup>11</sup>

While the death penalty exercise no doubt alienated some in Missouri, it reinforced Eagleton’s growing reputation as a thoughtful public servant. Along with his enthusiastic support for civil rights legislation and enforcement, his opposition to the death penalty showed he was willing to dissent from the established order to accord with the dictates of his conscience. These

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11. Thomas F. Eagleton & Robert D. Kingsland, *Capital Punishment, “. . . and May God Have Mercy Upon Your Soul”*, ST. LOUIS POST-DISPATCH, Jan. 20, 1963, at C1; Thomas F. Eagleton & Robert D. Kingsland, *Eagleton Advocates Appointing Legislative Interim Committee To Study Capital Punishment*, ST. LOUIS POST-DISPATCH, Jan. 21, 1963, at C1.

controversial positions presaged his opposition to the Vietnam War that became the centerpiece of his campaign for the U.S. Senate several years later.

During his years in Jefferson City, Eagleton acknowledged that his ultimate ambition was to serve in the U.S. Senate. He sent up a trial balloon for a Senate race in 1962, a little over a year after taking office as Attorney General. It was quickly brought down by charges of inexperience and excessive ambition, and by an intensified reelection campaign by the incumbent, Senator Edward V. Long, a Democrat.<sup>12</sup> Eagleton recognized that some of his closest supporters had been preempted by Senator Long and went on to serve the remainder of his term as Attorney General.

In 1964, with no U.S. Senate seat up for election, Eagleton could have sought reelection as Attorney General and retained the office, probably without significant opposition. He chose, instead, to run for Lieutenant Governor,<sup>13</sup> a post he won easily.

Many of his supporters were disappointed that he had settled for a position with virtually no power and few responsibilities. Others appreciated the political truism that, "Lieutenant Governor is the best job in the state from which to run for something else."

And run, Eagleton did. He made appearances and spoke at events in all corners of the state. He developed relationships with people who would later make up the personal organization that was vital to his subsequent Senate campaign.

Eagleton quipped that his principal activity as Lieutenant Governor was to race the Governor up the steep steps of the State Capitol every morning. In truth, the more probable survivor of such a cardiac contest would have been Governor Warren E. Hearnes, rather than the notoriously unathletic Eagleton. Contrary to this characteristic bit of self-deprecation, Eagleton was an active and creative partner with Hearnes, a fellow Democrat, during the four years he served as Lieutenant Governor.<sup>14</sup> In addition to the time-consuming task of presiding over the state senate, he spearheaded a number of special projects for Governor Hearnes and took on major responsibilities in several areas of state government.

One function that Hearnes left almost entirely to Eagleton was the state prison and parole system. It was in deplorable condition. The main penitentiary in Jefferson City, first occupied before the Civil War, was virtually unmanageable and had experienced a horrific riot a few years earlier. Eagleton recruited as director of the Department of Corrections Fred T.

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12. Biographical Directory of the United States Congress, Biography of Edward V. Long, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=L000415> (last visited Oct. 9, 2007).

13. Mannies, *supra* note 7, at A6.

14. *See Directory*, *supra* note 2.

Wilkinson, the retiring second in command of the Federal Bureau of Prisons, who oversaw major improvements in the state prison system.<sup>15</sup>

Another Eagleton initiative as Lieutenant Governor had its roots in a celebrated case that arose during his term as Attorney General. Dr. Harold Lischner, a highly qualified pediatrician and professor of Medicine at the University of Missouri, was denied a Missouri medical license by the state Healing Arts Board on the ground that he was not of good moral character.<sup>16</sup> The sole basis for the board's finding was that Dr. Lischner was a conscientious objector to military service and a believer in pacifism.<sup>17</sup> The case illustrated a serious flaw in the Missouri system for licensing applicants in a multitude of occupations, ranging from medicine and dentistry to barbers and beauticians. The licensing boards were composed of members of the relevant profession or trade, appointed by the Governor (the prestige, though not the compensation, made the appointments political plums). Each board was ostensibly advised by an Assistant Attorney General, but they were free to disregard the advice.<sup>18</sup> Some had gotten so accustomed to their autonomy—acting as investigator, prosecutor, judge, and jury<sup>19</sup>—that they consulted the Attorney General's Office only on the rare occasion when one of their decisions was appealed to a circuit court.

The board that rendered the Lischner decision had the advice of a very able Assistant Attorney General, Albert J. Stephan (later a judge of the Missouri Court of Appeals, Eastern District), but they rejected it. Attorney General Eagleton informed the board members that their decision was indefensible and that they would have to retain their own counsel on appeal.<sup>20</sup> Predictably, the Circuit Court of Cole County held the board's decision to be "arbitrary, unreasonable and capricious" and reversed it.<sup>21</sup> The board did not appeal the circuit judge's ruling.<sup>22</sup>

Informed by this and other, similar experiences,<sup>23</sup> Lieutenant Governor Eagleton promoted legislation to create an independent hearing examiner.<sup>24</sup>

15. *Missouri Names Prison Director*, WASH. POST, Mar. 11, 1965, at A31.

16. Eugene G. Bushmann, *The Origin of the Administrative Hearing Commission*, 62 MO. BAR J. 366, 367 (2006).

17. *Id.*

18. *Id.* at 366–67.

19. *Id.* at 366.

20. *Id.* at 367.

21. Bushmann, *supra* note 16, at 367.

22. *Id.*

23. For example, the author took a call in the Attorney General's Office one Friday evening from a distraught small town barber in Southwestern Missouri. His shop had been summarily ordered closed by an inspector for the state Barber Board on the eve of his principal earning day of the week. He was advised that the summary closing was unauthorized and he was free to cut hair on Saturday.

24. Bushmann, *supra* note 16, at 368.

Aided by Stephan and another former Assistant Attorney General, Eugene G. Bushmann, Eagleton negotiated through the legislature a bill to create an Administrative Hearing Commission (AHC), authorized to take over the hearing function from licensing boards, make findings, and issue recommendations. The AHC bill drew strong support from the Bar, but equally strong opposition from the insurance industry, which sought to retain control over the licensing of insurance agents and brokers.<sup>25</sup> Even after the bill passed both houses by overwhelming margins, the industry lobbied hard for a veto by the Governor.<sup>26</sup> Eagleton's personal intervention with his ally, Governor Hearnes, was among the factors that tipped the balance in favor of final approval of the bill.<sup>27</sup>

Such has been the success of the independent hearing procedure over the years that the role of the AHC has steadily expanded. Three commissioners now handle a case load averaging over 2,000 new cases filed each year.<sup>28</sup> The actions of more than one hundred state boards and agencies are subject to its jurisdiction.<sup>29</sup>

Early in 1968, Eagleton declared his candidacy for the U.S. Senate.<sup>30</sup> The record of the 1968 Senate race in Missouri is a large and complex story that requires a separate telling. The reputation of the incumbent, Senator Long, was severely tarnished by allegations made in several *Life* magazine articles.<sup>31</sup> An unexpected entrant in the race for the Democratic nomination was multi-millionaire businessman and former Ambassador True Davis,<sup>32</sup> whose lavish spending transformed the economics of elections in Missouri. Even after Eagleton overcame long odds and defeated these two in the primary election,<sup>33</sup> he faced veteran Republican Congressman Thomas B. Curtis at a time when Missouri, like the rest of the nation, was riven by urban riots and deep differences over the Vietnam War.<sup>34</sup>

It is enough to say that throughout that turbulent year of 1968, Tom Eagleton conducted himself with great distinction. He worked extremely hard.

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25. *Id.*

26. *Id.*

27. *Id.* Fittingly, Bushmann was appointed by Governor Hearnes as the first administrative hearing commissioner. *Id.* at 366 n.1.

28. *Id.* at 369.

29. Bushmann, *supra* note 16, at 369.

30. Mannies, *supra* note 7, at A6.

31. *See The Other Long*, TIME, June 2, 1967, at 13 (detailing Long's association with jailed Teamster boss Jimmy Hoffa and the improper legal fees Long accepted from Hoffa's attorney, as exposed in LIFE). *See also Long Lost*, TIME, Aug. 16, 1968, at 24 (listing the LIFE exposé as a factor in Long's loss of his Senate seat).

32. Mannies, *supra* note 7, at A6.

33. *Id.*

34. *See id.*



Up against well-funded opponents with a woefully underfinanced campaign of his own, he inspired the support and labors of a legion of volunteers. He articulated his principles and the policies he espoused, many of them controversial, without equivocation. He faced his opponents in debate when they were willing (Long ducked debates), and vanquished them fairly and squarely. In the end, he triumphed.

Tom Eagleton traveled far, both literally and figuratively, from the beginnings of his career in Missouri, but his achievements in national and international affairs rest firmly on the base of his experience in local and state office. There, he first tested his political abilities, and sometimes made mistakes that taught him valuable lessons. He learned to be a public figure, and to withstand media praise and media blame. He honed his speaking skills and became noted for impromptu eloquence flavored with the ever present Eagleton wit. Most importantly, it was in these early offices that he established a reputation for integrity and dedication to serving the public that remained with him throughout his career.

The conventional wisdom in Washington, D.C. is: "They never go back to Pocatello." Senators, House Members, Cabinet Secretaries, and other top officials of the federal government grow accustomed to the heady atmosphere of politics and policy-making at high levels. Once out of office, they almost invariably move into Washington law and lobbying firms or trade associations.

In this, as in so many other areas, Tom Eagleton defied the conventional wisdom. It is a testament to his affection for his native city and state that, upon expiration of his third term in the Senate, having declined to seek reelection, he returned to St. Louis. There, for the remaining two decades of his life, he devoted his intelligence and energy to a host of civic causes, continuing to serve his fellow St. Louisans and Missourians in private life as he had in public office.

