

# Congressman Richard Bolling and Missouri Ethics Reform

**Rebekkah Stuteville**  
*Park University*

Ethics reform for government institutions in the United States has followed an uneven path since modern reform efforts began in earnest in the 1970s in the wake of Watergate. Ethics reform is arguably a “reactive” and “piecemeal process” that has been “undertaken defensively.”<sup>1</sup> In the traditional cycle, ethics reform rises on the public’s agenda after scandals have been uncovered<sup>2</sup>; public officials then become concerned about the reputation of their institutions and their own electoral prospect.<sup>3</sup> Then, in response, regulations are crafted to prevent a reoccurrence of behaviors.<sup>4</sup> Once an ethical problem is addressed through a regulatory “fix,” ethics reform becomes less salient to the public.

Ethics reform, however, is not solely about designing rules to curb isolated incidents of undesirable behavior by public officials. Ethics reform in legislatures at both the federal and state levels reveals important beliefs about how the American system of government operates.<sup>5</sup> Legislative ethics involves conflicting views about the nature of representation<sup>6</sup> as well as different perspectives on the responsibilities of office-holders to citizens and the government institutions in which they serve.<sup>7</sup>

This paper examines views on representation and their effect on ethics reform through a decidedly Missouri lens in the areas of conflicts of interest, lobbying, and campaign finance. First, the paper looks at ethics reform in the context of the role of the state legislator’s or congressional member’s duties as a representative of his or her constituents and in relationship to common standards of ethics. Second, the paper explores Congressman Richard Bolling’s perspective on ethics reform. Bolling represented the state of Missouri in the U.S. House of Representatives for over three decades and he was a well-known advocate of congressional reform, including ethics reform. Finally, the paper examines the ethics reform that appears to be emerging in the state of Missouri.

## Ethics Reform, Representation, and Standards

Efforts to change campaign finance laws, control the revolving door between the public and private sectors, and reduce conflicts of interest are not exclusively about controlling discrete instances of self-interested behavior by legislators at the federal and state levels. Legislative ethics is connected to beliefs about how elected officials serve as representatives and their responsibilities as representatives.<sup>8</sup> For example, when looking at some of the complexities of representation and ethics in the area of conflicts of interest, Charlene Wear Simmons argues that the “unclear, contradictory meanings of representation

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*Dr. Rebekkah Stuteville is Vice Provost and an Associate Professor of Public Administration at Park University, Parkville, Missouri.*

<sup>1</sup> Bruce Jennings, “The Institutionalization of Ethics in the U.S. Senate,” *The Hastings Center Report* 11, no. 1 (Feb. 1981): 6, accessed December 11, 2016, <http://www.jstor.org/stable/3561596>.

<sup>2</sup> Beth A. Rosenson, “The Impact of Ethics Laws on Legislative Recruitment and the Occupational Composition of State Legislatures,” *Political Research Quarterly* 59, no. 4 (Dec. 2006): 619, accessed December 11, 2016, <http://www.jstor.org/stable/4148064>; Alan Rosenthal, *Drawing the Line: Legislative Ethics in the States* (Lincoln, NE: University of Nebraska Press, 1996), 7.

<sup>3</sup> Dennis F. Thompson, “The Ethics of Representation,” *The Hastings Center Report* 11, no. 1 (Feb. 1981): 10, accessed

December 27, 2016, <http://www.jstor.org/stable/3561597>; Rosenthal, *Drawing the Line*, 7-8.

<sup>4</sup> Jennings, “The Institutionalization of Ethics in the U.S. Senate,” 6; Rosenthal, *Drawing the Line*, 7-8.

<sup>5</sup> Charlene Wear Simmons, “Thoughts on Legislative Ethics Reform and Representation,” *PS: Political Science and Politics* 24, no. 2 (June 1991), accessed December 11, 2016, <http://www.jstor.org/stable/419929>.

<sup>6</sup> *Ibid.*

<sup>7</sup> Rosenthal discusses the notion of the responsibility of legislatures to the legislature as an institution (Rosenthal, *Drawing the Line*, 71-72).

<sup>8</sup> Simmons, “Thoughts on Legislative Ethics Reform and Representation,” 194-196; Rosenthal discusses the notion of the responsibility of legislatures to the legislature as an institution (Rosenthal, *Drawing the Line*, 71-72).

create practical obstacles to resolving legislative conflict of interest problems.”<sup>9</sup> Simmons explains that legislative conflicts of interest can be viewed from the perspective of two traditional models of representation—the delegate and trustee.<sup>10</sup> Both models entail legitimate functions of representation, but they place different emphasis on the way in which the public interest is realized in the policy process, which has implications for ethics. The delegate model is grounded in shared interests, while the trustee model relies on independent judgement.

In the delegate model the elected official ably serves her constituents because she shares their “backgrounds and interests.”<sup>11</sup> For example, in the delegate model it is desirable for a legislator from a ranching community to represent livestock interests, and her ability to do so is enhanced by her occupation as a rancher. As Dennis F. Thompson explains, when serving as a delegate “a legislator cannot adequately represent the interests of constituents without also representing some of his or her own.”<sup>12</sup> In this model particular interests are translated into the more general public good by delegates assuming the role of “broker.”<sup>13</sup> Thus representation involves sharing and advocating for the interests of constituents since a “clash of interest against interest” will arguably promote the public interest or at least keep one group from dominating the policy process.<sup>14</sup>

The delegate and broker roles, however, are often viewed with skepticism. The criticisms are rooted in suspicion of human nature as well as the feasibility of all interests being represented in policymaking. The fear about human nature is that a delegate’s “personal interest will supersede the public interest when the two become intertwined.”<sup>15</sup> For example, whose interest is the rancher legislator representing when legislation is proposed that may affect the pool of

labor available to ranchers? Her own interests, her rancher constituents, or the workers?

Critics would argue that the temptation is that she will represent her own interests which are aligned with her rancher constituents, but she may not be the best advocate for the state or country or workers. A related criticism is that the mechanism for achieving the public interest does not function in the manner suggested since not all interests are represented and heard in a system of “delegates” and “brokers.” The more powerful and wealthy interests prevail in a system based on influence. As E.E. Schattschneider famously remarked “the flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent.”<sup>16</sup>

The traditional alternative to the delegate is the trustee model. The trustee is a representative who demonstrates independent judgement and is unbiased.<sup>17</sup> The elected official relies on her judgement rather than that of her constituents’ to do what she believes is in the best interest of her constituents, the state, or the nation as a whole. The trustee embraces state or national interests rather than interests of specific groups, and ideally she acts as statesperson.

The trustee model, however, cannot be disassociated from concerns about human nature either. Critics of the trustee model cite the middle-class professional bias of trustees who may substitute their middle-class judgement for that of those they represent, and leave the interests of a large segment of the population without a voice.<sup>18</sup> Thus the trustee model does not control for human nature nor does it resolve the problem of unequal influence by groups with more resources.<sup>19</sup> For practical purposes, members of Congress and state legislatures may not be strict

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<sup>9</sup> Simmons, “Thoughts on Legislative Ethics Reform and Representation,” 195.

<sup>10</sup> Ibid, 194-196. Simmons focuses on representation as it relates to conflicts of interest.

<sup>11</sup> Ibid, 195.

<sup>12</sup> Thompson, “The Ethics of Representation,” 11.

<sup>13</sup> Ronald M. Levin, “Congressional Ethics and Constituent Advocacy in the Age of Mistrust,” *Michigan Law Review* 95, no. 1 (October 1996): 8, accessed December 11, 2016, <http://www.jstor.org/stable/1290131>.

<sup>14</sup> Ibid, 8.

<sup>15</sup> Simmons, “Thoughts on Legislative Ethics Reform and Representation,” 195.

<sup>16</sup> E.E. Schattschneider, *The Semisovereign People: A Realist’s View of Democracy in America* (Ft. Worth: Harcourt Brace Jovanovich College Publishers, 1960): 34-35.

<sup>17</sup> Simmons, “Thoughts on Legislative Ethics Reform and Representation,” 195.

<sup>18</sup> Ibid, 195-196.

<sup>19</sup> Simmons argues that neither the trustee nor delegate role “avoids the conflict of interest problems associated with self-interest” (Simmons, “Thoughts on Legislative Ethics Reform and Representation,” 196).

adherents to only one model. They may be a trustee on one issue, but a delegate on another.

Additionally, Thompson argues that the trustee-delegate dichotomy is not especially useful for developing ethical standards or principles.<sup>20</sup> There is, however, value in the dichotomy inasmuch as it moves the discussion of ethics reform beyond a narrow concern regarding conflicts of interest to the moral obligations of elected representatives to promote justice and seek a “just representation of interests.”<sup>21</sup> Representation is not only about the “one-to-one relation between constituents and legislators, but a collective process involving systematic interactions among many people holding different roles,”<sup>22</sup> which may include legislators, special interests, and citizens.

In addition to using traditional constructs of representation such as the delegate and trustee, other standards can be employed to analyze legislative ethics. Alan Rosenthal explores traditional standards for examining political ethics and proposes some of his own standards in his book *Drawing the Line: Legislative Ethics in the States*. First, Rosenthal explains that the notions of autonomy and publicity are often standards employed by ethicists.<sup>23</sup> Autonomy calls for legislators to act independently and make judgements that are “informed, unbiased, and uncoerced.”<sup>24</sup> Similarly, publicity is a commonly embraced standard since legislators are supposed to be accountable to the citizens who elect them and whom they serve.<sup>25</sup>

Rosenthal, however, argues that both autonomy and publicity suffer from being difficult to operationalize.<sup>26</sup> Autonomy rests on defining “improper” influence, which is a slippery slope in politics, and publicity may inhibit the type of compromise required by democracy.<sup>27</sup> Rosenthal, instead, argues that appearance, fairness (primarily to the legislators), and responsibility (for the

maintenance and functioning of legislative institutions) are the standards that should be used.<sup>28</sup>

All of the standards discussed by Rosenthal are evident in the writings of Congressman Richard Bolling. These standards as well as the trustee and delegate models will be used to examine Bolling’s approach to legislative ethics.

### Missouri Congressman Richard Bolling

Congressman Richard Bolling served Missouri in the U.S. House of Representatives for decades, and was an ardent reformer. His philosophy about ethics reform and representation often aligns more closely with the trustee model, but elements of the delegate model are evident as well. His tendency toward the trustee model is noticeable in his 1965 book *House Out of Order* in which he quotes Edmund Burke’s 1774 speech in which Burke claims that a “representative owes you not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.”<sup>29</sup>

On one hand Bolling’s trustee leanings may reflect the national stage he operated on, but, on the other hand, it may indicate a pattern of preference for independent judgement. The ethical standards outlined by Rosenthal<sup>30</sup> also run throughout Bolling’s writings, but emphasis is placed on the standard of autonomy which is compatible with the trustee role.

Bolling’s ideas about reform had theoretical underpinnings, but he crafted a pragmatic approach to representation and ethics which was guided by his experience as “lieutenant and legman” to powerful House of Representatives Speaker Sam Rayburn.<sup>31</sup> His notions about reform were further sharpened with time in Congress, particularly with his experience serving as chairman of the influential House Rules Committee. Bolling’s ideas represent an interesting combination of both political theory and practical

<sup>20</sup> Thompson, *The Ethics of Representation*, 12.

<sup>21</sup> *Ibid*, 12.

<sup>22</sup> *Ibid*, 13.

<sup>23</sup> Rosenthal, *Drawing the Line*, 64-66.

<sup>24</sup> Rosenthal, *Drawing the Line*, 64 quoting the Hastings Center.

<sup>25</sup> Rosenthal, *Drawing the Line*, 65.

<sup>26</sup> *Ibid*, 65-66.

<sup>27</sup> *Ibid*, 64-66.

<sup>28</sup> *Ibid*, 66-72.

<sup>29</sup> Richard Bolling, *House Out of Order* (New York, Dutton & Co, Inc., 1964): 46, quoting Edmund Burke (1774).

<sup>30</sup> Rosenthal, *Drawing the Line*.

<sup>31</sup> Richard Bolling, *House Out of Order* (New York, Dutton & Co, Inc., 1964): 12.

politics.

Bolling began his career in the U.S. House representing Missouri's 5th District in 1949. After 16 years in Congress, Bolling wrote *House Out of Order* in which he proclaimed:

“. . . the House has revealed itself to me as ineffective in its role as a coordinate branch of the federal government, negative in its approach to national tasks, generally unresponsive to any but parochial economic interests. Its procedures, time-consuming and unwieldy, mask anonymous centers of irresponsible power. Its legislation is often a travesty of what the national welfare requires.”<sup>32</sup>

In *House Out of Order* Bolling set about outlining a three-pronged approach for remedying the problems of the House through: 1) Redrawing the boundaries of Congressional districts, 2) Implementing reforms that affect individual members by eliminating conflicts of interest, disclosing financial holdings, limiting influence on executive and regulatory bodies, and campaign finance, and 3) Reforming the procedures in Congress.<sup>33</sup>

*House Out of Order* explains the foundation of Bolling's position on conflicts of interest, lobbying, and campaign finance reform, all of which articulate some concern about the role of representatives who may not see beyond self-interest or be able to untangle themselves from powerful moneyed interests financing their campaigns. The book also previews Bolling's plans for committee reform which is a window into his views on representation as well as early concerns about deteriorating party discipline in the House of Representatives.

## Conflict of Interests

Bolling's position on conflicts of interest reveals an underlying concern about the ability of members of Congress to regulate their own behavior when self-interest is involved. It also illustrates his preference for creating independent bodies to monitor behavior, and an emphasis on transparency as a tool. The standards of fairness, publicity, and “unbiased” judgement<sup>34</sup> are all evident in Bolling's approach to conflicts of interest.<sup>35</sup>

For Bolling the two central questions related to conflicts of interest are: 1) “What kinds of outside employment and income are compatible with what kinds of committee assignments?” and, 2) “How far should a Member go in voting on matters in which he has some personal stake?”<sup>36</sup> On the subject of outside employment, Bolling's solution was a practical one that emphasized fairness to his colleagues.<sup>37</sup> Bolling proposed mitigating the influence of outside employment on congressmen by reducing their need for outside income. He acknowledged the inadequacy of the \$22,500 salary for members in 1964 for meeting the demands of family and their jobs.<sup>38</sup> He suggested increasing salaries, travel allowances, and pensions to ensure that their service in Congress is a full-time job.<sup>39</sup> Bolling also recommended that members of Congress should be required to file a publicly available report of their income, gifts, assets, contributions, real estate, securities, and relatives employed by the federal government.<sup>40</sup>

In answer to the question on conflicts of interest in voting, Bolling believed in adherence to the “Jefferson Rule” which was in effect in the House until the 1870s.<sup>41</sup> The “Jefferson Rule . . . requires that if ‘the private interests of a member are concerned in a bill or question, he is to withdraw’—that is, step aside and not vote.”<sup>42</sup> He preferred the “Jefferson

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<sup>32</sup> Ibid, 221.

<sup>33</sup> Ibid, 222.

<sup>34</sup> Rosenthal, *Drawing the Line*, 64 quoting the Hastings Center. The Hastings Center describes “autonomous agents” as those who make decisions based on “unbiased” judgment.

<sup>35</sup> Rosenthal, *Drawing the Line*, 64-72.

<sup>36</sup> Bolling, *House Out of Order*, 224.

<sup>37</sup> See Rothenthal's discussion of fairness as it applies to how legislators are treated (Rosenthal, *Drawing the Line*, 70-71).

<sup>38</sup> Bolling, *House Out of Order*, 227.

<sup>39</sup> Ibid, 229. For a discussion of citizen legislatures versus career politicians see Rosenthal, *Drawing the Line*, 78-80.

<sup>40</sup> Bolling, *House Out of Order*, 229.

<sup>41</sup> Unidentified Manuscript in “Playboy Article Regarding House Reform” folder, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 367, folder 25. See also Bolling, *House Out of Order*, 224.

<sup>42</sup> Unidentified Manuscript in “Playboy Article Regarding House Reform” folder, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City,

Rule” over the more lenient practice instituted in the House of Representatives in 1874 which allowed a member of the House to “vote his private interests if the measure is not for his exclusive benefit.”<sup>43</sup> Bolling questioned, “Where is the Member to draw the line? Or should it be drawn for him? And, if so, by whom?”<sup>44</sup> Bolling advocated for a reasonable, but relatively bright line for members of Congress which does not allow members to “be a judge in [their] own cause.”<sup>45</sup> To help remedy conflicts of interest Bolling supported a commission on legislative ethics with at least half of the members from outside Congress which would study conflicts of interest and issue public reports.<sup>46</sup> Again, Bolling saw wisdom in monitoring by external parties and scrutiny by the public.

## Lobbyists

Bolling’s writings on lobbying demonstrate an appreciation for the role of interest groups, but through a practical lens. Bolling considered lobbying “an indispensable adjunct of the legislative process.”<sup>47</sup> He respected the functions that lobbyists play by providing information to members of Congress and the rights of lobbyists under the First Amendment.<sup>48</sup> However, he also recognized the influence that lobbies have in providing campaign support to candidates who favored their agendas, and in getting “friendly” candidates on key committees.<sup>49</sup> Bolling believed that “It is the gray area in the lobbying picture that must be clarified.”<sup>50</sup> Bolling pressed for transparency and regulation of lobbying activities,<sup>51</sup> and, once again favored the

standard of publicity.<sup>52</sup> In testimony before the Standards of Official Conduct, Bolling stated that “As one who has long advocated opening up the business of the Congress to the public, it is my firm belief that efforts to influence legislation are an important part of that business of which the public has the right to know.”<sup>53</sup> In the early 1970s, Bolling called for lobbyists to file reports with the attorney general and provide more detailed reports of expenditures and contributions. He also wanted the attorney general to review the reports and recommend action for inaccurate reports and failures to file, with the information being publicly available.<sup>54</sup>

Later in 1977 Bolling served as floor manager when the House of Representatives adopted a code of ethics which regulated, among other things, gifts from lobbyists.<sup>55</sup> The measure prohibited gifts over \$100 from lobbyists and required disclosure of virtually all gifts, regardless of the source.<sup>56</sup> As argued by Rosenthal, such limits are in line with the ethical standards of appearance and responsibility.<sup>57</sup>

Bolling’s opinion on lobbyists reflected another aspect of his thinking on representation—his desire for a system in which all voices in the policy process are politically informed, active, and represented.<sup>58</sup> Bolling conceded that the “lobbies are as diverse as our society”<sup>59</sup> but also lamented that the leaders of the lobbies may be out of touch with their membership and become interested in “self-perpetuation”<sup>60</sup> rather than representation. Additionally, he expressed concern for the “regular constituents” who were more “acted upon than acting,” but who could play an important role in the democratic process by becoming

Box 367, folder 25: 2b-2c. See also Bolling, *House Out of Order*, 224.

<sup>43</sup> Bolling, *House Out of Order*, 224.

<sup>44</sup> *Ibid*, 225.

<sup>45</sup> *Ibid*, 224 quoting Thomas Jefferson (1801).

<sup>46</sup> Bolling, *House Out of Order*, 226-227.

<sup>47</sup> *Ibid*, 131.

<sup>48</sup> Bolling Press Release, October 8, 1970, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 83, folder 13; Bolling, *House Out of Order*, 133.

<sup>49</sup> Bolling, *House Out of Order*, 138-140.

<sup>50</sup> Bolling Press Release, October 8, 1970, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 83, folder 13

<sup>51</sup> *Ibid*.

<sup>52</sup> Rosenthal, *Drawing the Line*, 65-66.

<sup>53</sup> Bolling Testimony Before Standards of Official Conduct (Reading Copy), March 16, 1971, 3, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 83, folder 13.

<sup>54</sup> Bolling Press Release, October 8, 1970, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 83, folder 13.

<sup>55</sup> Independence Examiner Article, “Here’s What New House Code of Ethics Provides,” March 4, 1977. LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 205, folder 7.

<sup>56</sup> *Ibid*.

<sup>57</sup> Rosenthal, *Drawing the Line*, 137.

<sup>58</sup> Bolling, *House Out of Order*, 142-143.

<sup>59</sup> *Ibid*, 133.

<sup>60</sup> *Ibid*, 143.

more informed and involved.<sup>61</sup> Bolling saw the informed individual voter as part of the solution to the powerful lobbyists, but citizens would have to be more informed, willing to make small contributions to their national parties, and more engaged in politics.<sup>62</sup>

### Campaign Finance Reform

Bolling's position on the influence of money in the legislative process was consistent with his position on the influence of money in the electoral process. Freeing legislators from the perceived obligations of lobbyists and large donations could potentially make legislators more autonomous and enable them to make "unbiased, and uncoerced judgments."<sup>63</sup> In 1973, Bolling proclaimed that "I know of nothing more important than getting control of the whole problem of money in politics."<sup>64</sup>

The legislation that Bolling supported on campaign finance aligned directly with his preference for independent commissions and fuller representation by giving all a voice through smaller contributions. He became a supporter of the Clean Elections Act of 1973 which proposed an independent bipartisan federal elections commission with the ability to investigate violations of law, annual contribution limits for individuals and organizations, matching federal grants for small contributions, and blocks of time on television for candidates.<sup>65</sup>

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<sup>61</sup> Ibid, 142-143.

<sup>62</sup> Ibid, 142-144.

<sup>63</sup> Rosenthal, *Drawing the Line*, 64 quoting the Hasting's Center. Rosenthal explains that autonomy is enhanced when obligations such as money are reduced (Rosenthal, *Drawing the Line*, 182).

<sup>64</sup> Congressman Richard Bolling Letter Responding to Constituent, July 18, 1973, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 110, folder 15.

<sup>65</sup> "Facts About the Udall\*Anderson Clean Election Act of 1973," Attachment to a Letter from John B. Anderson, Morris K. Udall, et al., regarding legislation to effect campaign election reform, October 4, 1973, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 110, folder 15.

<sup>66</sup> Factsheet on the Bolling Committee Report H.R. 988, Attachment to Letter from John W. Gardner to Richard Bolling, February 29, 1974, LaBudde Special Collections,

### Congressional Committee Reform

Finally, Bolling is perhaps best known for his failed attempt to reform the House of Representatives committee system. Although indirectly related to ethics, Bolling's writings on committee reform reveal his philosophy about the restrained use of power and his emphasis on national concerns rather than parochial interests.

Bolling's proposal to change the House committee structure, H.R. 988, included provisions for rearranging the jurisdiction of specific House committees such as the powerful Ways and Means Committee. The measure also sought to concentrate jurisdiction for a subject in one committee and limit each member of the House to one major committee. Finally, the measure established a system of congressional oversight over executive branch agencies to monitor the implementation of Congress's programs.<sup>66</sup>

Bolling was keenly aware of power and the use of power. He undertook the redesigning of the House Committee system because of the influence committees wield. Bolling acknowledged that "I am a very power-conscious person who feels that he should be humble in the exercise of that power."<sup>67</sup> Bolling referred to standing committees as "strategic points of influence."<sup>68</sup> He recognized that committees control the substance of bills and the bills that get

Richard W. Bolling Collection, University of Missouri—Kansas City, Box 347, folder 2. Bolling's push to restructure the committee system was not purely ideological; it was also practical and political. He sought to alter the power structure since conservative Democrats, the minority in the Democratic Party, controlled key committee positions (Bolling, *House Out of Order*, 237). In Bolling's words, "Democrats put conservative foxes in charge of the liberal chicken coops" to the Republicans' delight (Bolling, *House Out of Order*, 237).

<sup>67</sup> Diane Kiesel, "Dick Bolling: Kansas City's Power in the House," *Kansas City Magazine*, July 1981, 38, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 404, folder 31.

<sup>68</sup> Richard Bolling, "The Challenge of Congressional Reform," Attachment to Letter from Gladys Uhl to Robert K. McDonald, *Missouri Law Review*, May 30, 1974, LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 367, folder "UMKC Law Review Article 1/2."

reported out.<sup>69</sup> Bolling also argued that the committee structure influences the interests that are represented in the legislative process. Committee structure determines which citizens have input, a committee's focus on narrow special interests or broader concerns, and whether Congress can address national problems comprehensively or in a fragmented manner.<sup>70</sup> In other words, committee structure influences the nature of representation. It dictates both the inputs and the outcomes of the policy process. Bolling also viewed the power of the committee system as competing with the Speaker of the House's power, and denying the speaker of the House the tools he needed for control.<sup>71</sup> Instead of power resting with the speaker, it rested in a few committee chairs who were "anonymous" and unaccountable.<sup>72</sup>

As illustrated, Bolling's proposal for congressional committee reform highlights seemingly contradictory themes. He believes that power must be checked to create avenues for more voices to be heard, but legislators must have opportunity to exercise judgment in pursuit of the national interest and may not always listen to other voices. Similarly, legislators should exercise judgement, but should do so under the firm direction of the party leaders. Bolling attempts to mold and reconcile tensions in the political process with the twin purposes of being a politician pursuing political objectives and a statesman seeking to responsibly preserve the institution.<sup>73</sup>

### **Bolling's Brand of Legislative Ethics Reform**

Bolling's approach to ethics reform is a complex blend of the trustee and delegate models of

representation. His view of representation aligns with the trustee model in that he wants members of the House to use their own judgement<sup>74</sup> and embrace a national view over parochial interests. Bolling, however, seems skeptical that this will happen voluntarily and his writings reflect a Madisonian realism that those in government are not angels, thus external and internal controls are required.<sup>75</sup> However, Bolling's trustee leanings do not provide the groundwork for all of his thinking on ethics reform. At least one of Bolling's remedies to the problems of ethics more closely aligns with the delegate model. The notion that actions such as accepting gifts from lobbyists should be subjected to public scrutiny because elected officials are accountable to their constituents is closer to the delegate approach.<sup>76</sup>

Bolling's legislative ethics also incorporate many of the standards discussed by Rosenthal.<sup>77</sup> Bolling's writings feature autonomy as a goal with publicity as his preferred tool. There is also an undercurrent of concern for the House as an institution, and an understanding by Bolling that he is a "custodian[s] of representative democracy."<sup>78</sup>

Bolling seeks to restrain the self-interested behavior of individual congressmen during a time of eroding party discipline, while still allowing them to exercise judgment in policy concerns. He seeks to check the power of moneyed interests in the electoral and legislative processes to give all voices a chance of being heard, while still acknowledging that the policy "whole" has to be greater than the sum of the individual "parts" in the political process for national goals to be realized for the welfare of the country.<sup>79</sup>

<sup>69</sup> Ibid.

<sup>70</sup> Richard Bolling, "The Challenge of Congressional Reform."

<sup>71</sup> Richard Bolling, "Committees in the House," Reprint from the *Annals of the American Academy of Political and Social Science* 411 (January 1974): 1-14. LaBudde Special Collections, Richard W. Bolling Collection, University of Missouri—Kansas City, Box 350, folder "Committees in the House."

<sup>72</sup> Bolling, *House Out of Order*, 39. Bolling's observation about the dispersion of power in the House relates to ethics reform. As Jennings explains, within the Senate, the erosion of previous systems of control such as party discipline led to the need for ethics regulation. As traditional mechanisms of controlling Congressmen through the power of party discipline and an informal code of restraint, ethics regulation began to

become more institutionalized. (Jennings, "The Institutionalization of Ethics in the U.S. Senate," 9).

<sup>73</sup> See Rosenthal's discussion of responsibility as a standard (Rosenthal, *Drawing the Line*, 71-72).

<sup>74</sup> Bolling, *House Out of Order*, 46.

<sup>75</sup> Alexander Hamilton or James Madison, Federalist No. 51, February 8, 1788, accessed January 15, 2017, <https://www.congress.gov/resources/display/content/The+Federalist+Papers>.

<sup>76</sup> Thompson, *The Ethics of Representations*, 13-14.

<sup>77</sup> Rosenthal, *Drawing the Line*.

<sup>78</sup> Ibid, 71.

<sup>79</sup> As Thompson explains, "Implicit in the trustee-delegate dichotomy is an important issue that any code of legislative ethics ought to address, at least if the code is to go beyond proscribing conflicts of interest to promoting the just

Bolling searched for a means to promote a “just representation of interests”<sup>80</sup> which combines respect for particular interests inherent in the delegate model with a desire for the broader view of the statesman’s independent judgment inherent in the trustee model.

## State of Missouri Legislature

There are practical and theoretical challenges when comparing an individual congressman at the national level during one time period with an institution at the state level in another. For example, serving in the U.S. Congress is a full-time job, whereas state legislators may still be citizen-legislators in many places. In the area of ethics reform, however, there are common themes that cross units of analysis and boundaries of time. Conflict of interest, lobbying, and campaign finance continue to dominate questions of legislative and executive ethics due to the influence of money and the importance of power in the American system of government.

Moreover, the standards of autonomy, publicity, appearance, fairness, and responsibility<sup>81</sup> still apply to legislative ethics. Finally, Bolling was in Congress before, during, and after Watergate—a time when ethics reform resonated with the media and public. There was momentum for reform at the national level. Similarly, the current climate in Missouri is one in which ethics reform is salient to the public.

The state of Missouri has, at times, had the distinction of being a state with some of the most lenient ethics requirements for legislators in the nation.<sup>82</sup> As

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representation of interests. In a properly functioning representative system, policies and decisions are not simply an aggregation of all the interests expressed in the political process” (Thompson, *The Ethics of Representation*, 12).

<sup>80</sup> Thompson, *The Ethics of Representation*, 12.

<sup>81</sup> Rosenthal, *Drawing the Line*, 64-72.

<sup>82</sup> “State Legislatures,” *Stateline* 42, No. 3 (March 2016): 12-13, Professional Development Collection Database. Dan Schnurbusch, “The Wild Mid-West: Missouri Ethics and Campaign Finance Under a Narrowed Corruption Regime,” *Missouri Law Review* 80, no. 4 (Fall 2015):1209, accessed January 15, 2017, <http://scholarship.law.missouri.edu/mlr/vol80/iss4/19>.

<sup>83</sup> Schnurbusch, “The Wild Mid-West: Missouri Ethics and Campaign Finance Under a Narrowed Corruption Regime,” 1210.

<sup>84</sup> *Ibid.* See specifically note 14.

explained by Dan Schnurbusch, at different points in history Missouri citizens and legislators have been committed to rooting out corruption and favoritism for special interests, but at other times the power structure has supported the status quo and even “roll[ed] back former efforts at reform.”<sup>83</sup> Lax ethics requirements have earned Missouri the moniker of “The Wild Mid-West.”<sup>84</sup> As Jason Hancock explains: “For years, Jefferson City’s reputation has been fueled in part by the fact that Missouri is the only state with no limits on both campaign contributions and lobbyist gifts. And as a result of that dynamic, six- and seven-figure donations to Missouri campaigns have become commonplace, and elected officials combine to accept hundreds of thousands of dollars in free meals, booze, trips and events tickets every year.”<sup>85</sup>

The recent history of campaign finance illustrates the political struggle over ethics reform that has taken place in the state among citizens, the legislature, governor, and the courts. Missouri voters have long been in favor of caps on campaign contributions. Over twenty years ago, in 1994, Missourians “overwhelmingly” voted for limits on contributions.<sup>86</sup> The Missouri legislature later passed a law in 2006 to repeal the limits and the legislation was signed into law by the governor.<sup>87</sup> The 2006 law was subsequently “struck down” by the Missouri Supreme Court due to procedural issues.<sup>88</sup> Shortly after the court’s decision, the Missouri Legislature responded by again passing legislation repealing campaign contribution limits, which was signed into law by the

<sup>85</sup> Jason Hancock, “Could 2017 Be the Year that Ethics Reform Takes Hold in Missouri?” *Kansas City Star*, November 28, 2016, accessed January 15, 2017, <http://www.kansascity.com/news/politics-government/article117558828.html>.

<sup>86</sup> Jason Hancock, “Voter ID, Campaign Contribution Limits Among Issues on Missouri Ballot,” *The Kansas City Star*, September 23, 2016, accessed January 15, 2017, <http://www.kansascity.com/news/politics-government/article103817916.html>.

<sup>87</sup> David Lieb, “Missouri Campaign Contribution Limits Repealed,” *Columbia Missourian*, July 22, 2008, accessed January 15, 2017,

[http://www.columbiamissourian.com/news/state\\_news/missouri-campaign-contribution-limits-repealed/article\\_0778898c-9e58-5e00-a6e9-dbcfcdeabd2c.html](http://www.columbiamissourian.com/news/state_news/missouri-campaign-contribution-limits-repealed/article_0778898c-9e58-5e00-a6e9-dbcfcdeabd2c.html).

<sup>88</sup> *Ibid.*

governor in 2008.<sup>89</sup> After eight years without campaign contribution limits in place, Missouri voters one more time cast their vote in favor of campaign contribution limits by passing Amendment 2 in November 2016.<sup>90</sup> As of December 2016, however, the challenges in the courts had begun with claims that the new limits place an unconstitutional burden on free speech and association.<sup>91</sup>

There was skepticism regarding the effect of Amendment 2 well before the recent 2016 court challenges. Amendment 2 was passed against the national backdrop of the Supreme Court's 2010 *Citizens United* decision to eliminate the restrictions on independent expenditures by unions and corporations for advertisements to defeat candidates and the 2014 *McCutcheon* decision to eliminate the aggregate limits on the number of candidates and parties to which one individual can give.<sup>92</sup> As reported by Jessica Karins, the reason that the passage of Amendment 2 in Missouri is "unlikely to transform politics is that political money in Missouri may simply take other routes . . . Thanks to the U.S. Supreme Court's *Citizens United* decision, those PACs can't be stopped or silenced so long as they don't coordinate directly with candidates. So by taking big money out of individual candidate coffers, Amendment 2 may simply be opening the floodgates to massive expenditures from special interest groups or donors."<sup>93</sup>

Although Amendment 2 may not have a transformative effect on Missouri politics, the

passage of Amendment 2 by the citizens of Missouri signals a desire for reform on the part of the public. Additionally, some of the proposals "floated" for 2017 in the state of Missouri included bans on lobbyist gifts, extending the six-month waiting period for lawmakers to become lobbyists, and enhancing the power of the Missouri Ethics Commission.<sup>94</sup>

As with many issues in politics, leaders in Missouri government are in the process of balancing a variety of standards and values. Legislators must be able to make a living while serving in the state Legislature (fairness) and be able to finance their campaigns. However, they should also be free from undue influence of lobbyists (autonomy), consider the effects of appearance on the confidence of the public (appearance), and be mindful that they are stewards of democracy (responsibility).<sup>95</sup> Ethics reform is further complicated by questions such as the role of interest groups in the American system of government, the interplay between particular interests and the public interest, and representation.

Bolling's thinking on ethics reform may inform the state of Missouri if legislators revisit the state's approach to legislative ethics. Bolling's writings span the continuum of ethics issues from practical considerations of political power and control to more theoretical considerations about the nature of representation itself and ethical standards. Thus Bolling's thinking may help contemporary ethics reformers who desire legislative and electoral processes that are "open, accountable, and

<sup>89</sup> Ibid.

<sup>90</sup> Missouri Secretary of State, State of Missouri-2016 General Election-November 8, 2016, Official Results, accessed January 15, 2017, <http://enr.sos.mo.gov/>.

<sup>91</sup> Jeff D. Gorman, "Businesses Challenge Missouri Donation Limits," *Courthouse News Service*, December 28, 2016, accessed January 15, 2017, <https://courthousenews.com/businesses-challenge-missouri-campaign-donation-limits/>.

<sup>92</sup> *Citizens United v. Federal Election Commission*, accessed January 15, 2017, <https://www.supremecourt.gov/opinions/09pdf/08-205.pdf>; John Dunbar, "The 'Citizens United' Decision and Why It Matters," *The Center for Public Integrity*, October 18, 2012, accessed January 15, 2017, <https://www.publicintegrity.org/2012/10/18/11527/citizens-united-decision-and-why-it-matters>; *McCutcheon et al. v. Federal Election Commission*, accessed January 15, 2017, [https://www.supremecourt.gov/opinions/13pdf/12-](https://www.supremecourt.gov/opinions/13pdf/12-536_e1pf.pdf)

536\_e1pf.pdf; Michael Beckel, "The 'McCutcheon' Decision Explained—More Money to Pour Into Political Process," *The Center for Public Integrity*, April 22, 2014, accessed January 15, 2017,

<https://www.publicintegrity.org/2014/04/22/14611/mccutcheon-decision-explained-more-money-pour-political-process>; Schnurbusch, "The Wild Mid-West: Missouri Ethics and Campaign Finance Under a Narrowed Corruption Regime."

<sup>93</sup> Jessica Karins, "Campaign Finance Reform is Coming to Missouri—But Will It Change Anything?" *River Front Times*, November 14, 2016, Accessed January 15, 2017, <http://www.riverfronttimes.com/newsblog/2016/11/14/campaign-finance-reform-is-coming-to-missouri-but-will-it-change-anything>.

<sup>94</sup> Jason Hancock, "Could 2017 Be the Year that Ethics Reform Takes Hold in Missouri?"

<sup>95</sup> See the explanation of these standards by Rosenthal (Rosenthal, *Drawing the Line*, 64-72).

unbought.”<sup>96</sup> His brand of political pragmatism and ethical standards from the 20<sup>th</sup> Century may be instructive for 21<sup>st</sup> Century legislative reformers.

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<sup>96</sup> John Gardner, Speech Before The Washington Press Club, October 17, 1974, 3, LaBudde Special Collections, Richard W.

Bolling Collection, University of Missouri—Kansas City, Box 347, folder 1.