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The Social Science Journal

journal homepage: www.elsevier.com/locate/soscij

Exploring voting behavior on American Indian legislation in the United States Congress[☆]



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ARTICLE INFO

Article history:

Received 20 May 2013

Received in revised form 24 January 2014

Accepted 24 January 2014

Available online 12 March 2014

Keywords:

Federal Indian policy

Voting behavior

Congress

ABSTRACT

Using roll call data from 1970 to 2000, this study explores the impacts of partisanship, regionalism, and Indian constituency on congressional pro-Indian voting in the U.S. House and Senate. This study incorporates and tests a new measure of constituency by accounting for the presence of a federally recognized tribe within congressional districts. The presence of an Indian nation has a positive effect on the voting behavior of elected officials concerning American Indian legislation, with a significant relationship observed between pro-Indian voting and congressional districts with Indian tribes. The results also suggest a strong partisan influence on the likelihood of voting with the pro-Indian position in both the House and the Senate, but with notable differences between the two chambers. Finally, partisan voting on Indian legislation intensified from the 1970s to the late 1990s, which led to more contentious voting patterns on Indian affairs in the legislative branch over time.

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1. Introduction

The unique government-to-government relationship that exists between American Indian nations and the United States federal government places the U.S. Congress at the center of Indian affairs and federal Indian policy (Utter, 2001). Indian nations are recognized as separate political entities with inherent sovereign powers that pre-date the founding of the United States as recognized in the U.S. Constitution, Supreme Court decisions, and multiple acts of Congress (Wilkins & Stark, 2010). As part of these agreements, the United States is argued to have a legal and moral obligation to respect the rights of tribes as part of the trust relationship born from the more than 4,000 treaties and statutes passed in the name of Indian affairs (Kickingbird, Kickingbird, Chibitty, & Berkey, 1999).

However, our understanding of the politics surrounding American Indian legislation remains limited, with a dearth of knowledge on what factors influence how members of Congress (MOCs) vote on legislation concerning American Indian populations (Turner, 2005).

The following study explores the politics of American Indian legislation in Congress by investigating what factors influence legislative voting behavior in both the U.S. House of Representatives and U.S. Senate. I argue that congressional voting on federal Indian legislation is influenced by a number of factors including constituency effects, partisanship, and regionalism. This is consistent with literature on congressional voting behavior, which postulates that MOCs are motivated to action for a number of reasons including the desire for reelection, the desire to make good public policy, the quest for power and prestige, and the influence of political party leaders (Arnold, 1990; Cox & McCubbins, 1993; Fenno, 1973; Hall, 1996; Kingdon, 1989; Krehbiel, 1993, 1998; Mayhew, 1974). We might expect, for instance, that the presence of a federally recognized tribe within one's congressional district will have an impact on the way MOCs vote on bills important to Native populations.

[☆] The author expresses gratitude to Charles Turner for sharing the data to make this project possible. This paper was presented at the 2012 American Political Science Association meeting in New Orleans, LA.

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This is consistent with research on substantive representation in Congress that focuses on the power of constituent interests on congressional action, especially for historically underrepresented groups. Substantive representation is defined as having a “representative with congruent policy views acting as an advocate” (Welch & Hibbing, 1984, p. 329). Literature on Hispanic representation in Congress finds mixed evidence of elected representatives championing legislation important to Hispanic populations (Meier & Stewart, 1991). For example, Meier and Stewart (1991) find that Hispanic constituencies have only modest influence on how legislators vote on matters important to Latinos in America. However, Hero and Tolbert (1995) find evidence that advocacy may be occurring through the collective efforts of parties in the form of bipartisan agreements. While there have been few American Indian MOCs over the past two centuries (11 according to Wilkins & Stark, 2010), the presence of American Indian tribes and populations across congressional districts in the United States indicates that such a study of representation is warranted (Turner, 2005).

In one of the most comprehensive studies of congressional behavior on federal Indian policy, Turner (2005) considers potential constituency effects on Indian legislation. Turner argues that politicians will have little incentive to take risks on legislation of “minor concern” such as federal Indian policy and follow party and regional lines instead. To capture the potential effects of representation on matters of Indian legislation, Turner uses the percent of American Indians in a congressional district. Consistent with his hypothesis concerning constituent effects on issues of lower salience, Turner finds no support that American Indians are successful in influencing legislative votes on American Indian legislation. This finding is similar to that observed in the substantive representation literature concerning Hispanic constituency effects (Hero & Tolbert, 1995). There are, however, several potential issues with this measure of constituency. First, given that American Indians make up roughly 1% of the U.S. population, the percentages across districts is miniscule, thus complicating a test of constituent effects in light of other more dominant interests. Furthermore, by focusing on the proportion of individuals who self-identify as Native American within a district, it is difficult to differentiate between members of a politically organized tribe with potential resources in which to leverage members of Congress, and those who may be members of tribes outside a particular jurisdiction or may lack an affiliation at all such as in larger urban areas. Literature suggests that some American Indian tribes, such as the Florida Seminole Indians and the Cherokee Nation, have invested considerable resources in lobbying Congress especially since the rise of Indian gaming, with some success noticeable in the type of legislation passed in the most recent decades (Light & Rand, 2005).

Research also suggests the importance of partisanship and regionalism on congressional voting behavior (Tyler, 1964; Weaver, 2002; Wilkins & Lomawaima, 2001). Traditional perspectives of American Indian politics in the United States holds that American Indian affairs in Congress is a less contentious and less partisan issue area that received more bi-partisan support than partisan

opposition (Tyler, 1964). However, Turner (2005) finds strong evidence to suggest that members of Congress typically vote along strict party lines when considering American Indian legislation. More recent literature on the partisan nature of federal Indian policy finds that this was especially true during the Termination Era of the 1950s under the Dwight Eisenhower Administration and following the 1960s and the Civil Rights Movement (Castile, 1998; Wilkins & Stark, 2010). The divides between the two parties are largely ideological in nature, with Republicans typically opposing Indian legislation on the grounds of economic libertarianism and Democrats supporting Indian legislation along lines of social welfare and civil rights concerns (Turner, 2005, p. 60). In a study of political realignment in Eastern Oklahoma, Min and Savage (in press) find that American Indians are more likely to vote Democrat based largely upon their economic interests, which has slowed a political migration toward the Republican party in the region. Based on this literature, we expect Democrats to demonstrate a more favorable record on American Indian legislation than Republicans.

Regionalism is another important indicator of congressional voting behavior as suggested in the American Indian politics literature. As early as 1964, Lyman Tyler observes that the “Indian vote” tends to follow regional patterns more so than party politics, with congressmen from the Eastern portion of the United States taking little interest in Indian policy, while those from the West find it to be a more salient issue. More recently, Wilkins (2006, p. 74) notes that “partisanship has historically had little significance in the way senators’ vote on Indian bills. Votes on controversial bills tend to follow regional rather than party lines”. This is arguably due to the nature of conflict and cooperation well documented in the literature between Indian and non-Indian jurisdictions in the western United States, where tribal and non-tribal actors share similar concerns across a wide range of substantive issues including environmental regulation, natural resource management, and fishing and hunting rights (Bobo & Tuan, 2006). As a result, Turner (2005) finds that congressmen in Western districts tend to vote more favorably on Indian policy than those in non-Western districts.

While theories of congressional behavior shine a considerable light on the type of politics we might expect with American Indian legislation, one major critique of the existing literature on congressional action is that most studies focus on only important pieces of legislation (Mayhew, 2005), and ignore bills of lesser concern, such as legislation relevant to Native populations. Using roll call data from 1970 to 2000 collected by Turner (2005), the following analysis examines what factors impact the voting behavior of MOC’s on federal Indian legislation in both the House and the Senate. Several factors are considered including the interests of constituents, party identification, and regionalism. Specifically, it is hypothesized that MOC’s with a federally recognized tribe in their jurisdiction vote more frequently in the pro-Indian camp than members without tribal governments. Furthermore, MOC’s from western states and democrats have a higher percentage of votes in the pro-Indian position for reasons noted previously. I also explore a recent trend noted in the American Indian

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