"Process Sections"

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POLS 4620E
Lecture #25
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Legislative History Overview

__Legislative History__ - In order to demonstrate an understanding of the historical policy-making process, students are required to complete a paper analyzing the consideration and passage of a major piece of American legislation. After filling out the background survey discussed above, each student will be assigned to one of his 15 legislative history ``teams.''

While students are encouraged to work with their legislative history ``teammates,'' they are not obligated to do so.

Each student will be assigned differing questions and duties related to the legislative history and graded separately. Students are also encouraged to use material from their exams in compiling their legislative histories. The legislative history assignment will count for 50% of the final course grade, broken up accordingly (more detailed discussions of the assignment will be provided in class):

Above: After signing the Beer-Wine Revenue Act in the 73rd Congress, President Franklin D. Roosevelt (D-NY) famously declared "I think this would be a good time for a beer (Smith 2007)."

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Prompt Sheet: Process Notes

Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins.

#1. Senate Consideration of S 3246 (January 23-28, 1970)

On January 23, 1970, Senate Majority Leader Mike Mansfield (D-MT) asked for, and received, unanimous consent that the Senate "proceed to the consideration" of S 3246 (*Congressional Record*, 91st Congress, January 23, 1970, 972)."

#2. House Consideration of HR 18583 (September 23-24, 1970)

The bill was brought to the floor under a modified-closed rule, Hres 1216 that precluded amendments to Title III. This was justified on the grounds that this section dealt with the tax code and that topic is often closed for amending. It was met with some opposition on the floor. Rep. H.R. Gross (R-IA), for example, opposed the rule "for the reason that it does prohibit amendments to title III." He added: "I can think of no good reason why this rule should have been brought out, precluding as it does the opportunity to amend an important part of the bill (*Congressional Record*, 91st Congress, September 23, 1970, 33297.)" Despite Gross's stated opposition both the previous question motion and the rule itself were adopted by voice vote.

#3. Senate Consideration of HR 18583 (October 6-7, 1970)

On October 6, 1970, Senate Majority Leader Mike Mansfield (D-MT) asked for, and received, unanimous consent that the Senate "proceed to the consideration" of HR 18583 (*Congressional Record*, 91st Congress, October 6, 1970, 35050)."

#2. House Consideration of the Conference Report on HR 18583 (October 14, 1970)

#3. Senate Consideration of the Conference Report on HR 18583 (October 14, 1970)

LEGISLATIVE HISTORY PROCESS SECTIONS

Next will be "Process Sections."

Process Notes is going to include the sections you should be writing up. As with the background section, consult you assigned number.

This section might also include weird nerd points I found interesting (it's likely that you will not). **PLEASE, FEEL FREE TO USE MY NOTES!**

I know this feels like you're plagiarizing me. I view it as "co-authoring" with your professor.

What you should be plugging into each section will vary depending on your key questions/piece of legislation.

Not all the process points will be relevant for your legislative history, as you're only drafting one section. However, students are expected to be familiar with other process sections for the exams.

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Process Section

PROCESS SECTION: OVERVIEW AND STRUCTURE

For their legislative history project, students are required to complete a "Process Section" that analyzes committee and floor consideration of the measure during a specific period assigned by the instructor. This may involve House or Senate consideration of a bill or conference report and will likely necessitate the discussion of a given rule or legislative procedure. It will also likely necessitate analyzing a roll call vote.

You will be assigned one or two process sections that correspond to either House or Senate consideration of a bill or conference report that is related to your landmark law. Again, pull up your prompt sheet, find the number assigned to you (under Assignments) and locate that number or numbers in the Process sections. Students are encouraged to consult Bioguide, the Congressional Record, Voteview and the "Historic Newspapers" resource for background information.

Median word count on this section from past classes is 1400. Median word count for an A is 2009. Does this mean you have to hit these numbers? Of course not, had A's that were much shorter and low grades that were much longer. But students have asked about length on these sections.

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Process Sections

Links
Summary
Background
Initial House Consideration (June 18, 1986)
Initial Senate Consideration (August 14-15, 1986)
Secondary House Consideration (September 12, 1986)
Presidential Veto (September 26, 1986)
House Override (September 29, 1986)
Senate Override (October 1-2, 1986)
Aftermath
Overview
Citations
Footnotes

PROCESS SECTIONS: OVERVIEW

I'm calling any section between Background and Aftermath "process sections." You might have as few as two of these, but you might also have many more.

A good example of process sections can be found in the Comprehensive Anti-Apartheid Act of 1986 case on the Congress Project website:

- https://www.thecongressproject.com/comprehensive-antiapartheid-act-of-1986/#Initial-House-Consideration

These are the process sections for that bill. For most students, I will provide an outline with the process sections labelled beforehand. I recommend working off of that outline.

Questions to consider in the initial process sections (i.e. the first House and Senate consideration sections): When was the bill introduced? By whom? What committee or committees was it referred to? What happened in committee? When was it reported out?

How did it get to the floor? Was there a special rule in the House? A unanimous consent agreement in the Senate? Was debate over the initial process contentious?

Once on the floor, what happened? What did supporters of the measure say about it? What about opponents? I recommend pulling several quotes directly from the debate. Was there a key fight over an amendment? What was it? How did it pass (recorded vote, voice vote, etc…)? What was the vote total? How did newspapers discuss the House consideration?

Process Sections

PROCESS SECTIONS: STRUCTURE

In terms of length of the process sections, they will vary a great deal. Use notes from the instructor as a guide. I'll often tell you when to expect short process sections. Some of you may be dealing with highly complex pieces of legislation subjected to a great deal of debate. Accordingly, expect longer sections there. Again though, don't hesitate to quote directly from the Record.

Your first paragraph or two of the initial process sections will often focus on what happened to the bill in Committee. This is information will generally come from secondary sources like CQ Almanac and/or historical newspapers.

After this, the next paragraph or two will want to tell the reader how this bill reached the floor. House special rule? Unanimous consent agreement? Was there debate over this?

From there, you're going to want your next paragraph or handful of paragraphs to tell the reader about the debate and amending process. What were the arguments being made by opponents and supporters? Broadly speaking, I think you probably want to shoot for 2-3 direct quotes from the Congressional Record from both supporters and opponents.

Above: Senator Richard Lugar (R-IN) (above) sponsored the Senate bill and was credited with getting the measure through committee "with sheer political muscle (CQ Almanac 1987)."

Was there a key vote on an amendment that led to the bill's passage? For bills with a large number of floor amendments, a look through historical newspapers will help you identify the most important amendment votes.

Your *final paragraph* will recap the vote on passage. How did it pass? Who opposed it? Was it partisan? Ideological? You may want to use a figure from Voteview.com here.
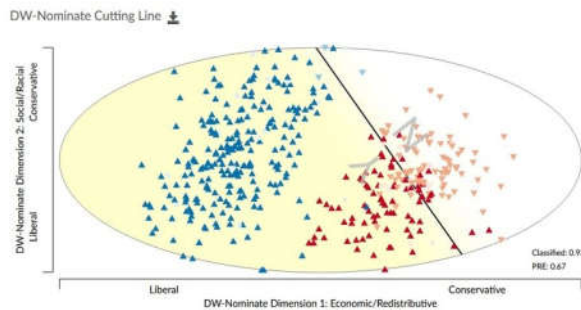
Process Sections

PROCESS SECTIONS: GOALS

Perhaps the most important aspect of the process sections is making sure you keep the consideration chronological (you want to do that for this entire project.) When it doubt, provide a date. You don't want to include quotes from a debate on May 7, 1986 in a paragraph and then jump back to May 3, 1987 in the next paragraph.

Generally speaking, you have two main goals in the process sections: (1) to explain how the policy this piece of legislation was originally viewed by lawmakers and (2) to identify key issues in the legislation. These two goals may or may not overlap. Often times, policies we associate with a bill were not the focal point of the debate.

Occasionally, the content of a law might be altered by procedural rules or tactics employed by members of Congress. For example, in the case of the Anti-Apartheid Act of 1986, a stronger measure proposed by Rep. Ron Dellums (D-CA) was adopted in part because conservative opponents of the bill felt it was "the worst [measure] possible" and it would doom any attempt to sanction South Africa.

Above: Rep. Ron Dellums (D-CA) viewed the House bill as a "step forward," but also "inadequate in response to what is evolving in South Africa at the very moment (*Congressional Record*, June 18, 1986, 99th Congress, 14276)." His full-text substitute amendment was adopted by voice vote.

Process Sections

FINAL PASSAGE VOTES:

EXAMPLE

The House debated the president's veto on September 29th and saw few new arguments, even by opponents of the bill who focused a lot of their attention on agriculture.

Representative Ron Marlenee (R-MT) said, "What a confusing world this congress creates… subsidizing our enemy so they will take grain, and yet a trading partner that takes cash, that has taken more grain than the Soviet Union, is going to be essentially embargoed." Rep. William Dannemeyer (R-LA) said the sanctions would cause problems for American exporters.

On the other hand, Solarz said it was hard to take Reagan's concern for black South Africans seriously, adding, "his expressions of concern make crocodile tears seem like Perrier water". Rep. Gary Ackerman (D-NY) added the rest of the world would be emboldened if America moved: "The leading nations of the world have balked at implementing any strict measure against Pretoria because of the United States' unwillingness to do so."

The House overrode President Reagan's veto 313-83 on September 29th, 1986. 82 Republicans joined 234 Democrats in support, with four Democrats joining 82 Republicans in opposition. As the figure below from voteview.com demonstrates, the vote was fairly ideological.

Process Sections

PROCESS SECTIONS: TIPS

For many students, I have provided some text describing procedural issues and/or other issues that occurred during consideration of the bill. Feel free to use that text, delete it or keep it as is. I recognize this can be a bit daunting, but you are the ultimate editor here. Decide whether or not its useful to you.

DW-Nominate Cutting Line ⬇
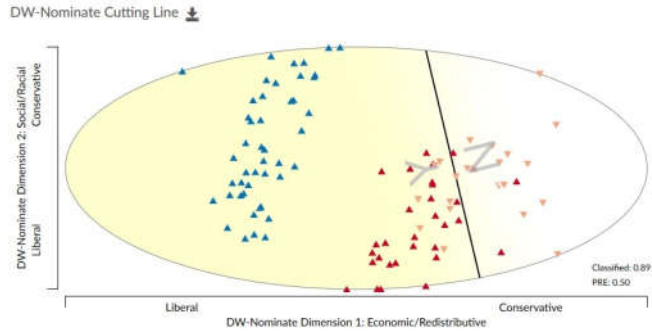
Above: The Senate vote to override President Ronal Reagan's veto of the Anti-Apartheid Act from Voteview.com. It was overridden 78-32, with all Democrats voting yes.

If you encounter a confusing procedural issue in the Congressional Record, you can either look up the procedure, e-mail me or quote it verbatim in your write-up. Please do not "guess" as to what might be happening.

When describing a final passage vote, roll call votes can be found using Voteview.com. You might find it helpful to include a Voteview figure. It is often helpful in characterizing whether the vote was partisan, ideological, etc.

It may be that your secondary process sections are longer than your initial process sections. This is purely dependent on how much floor debate occurred.

Process Sections

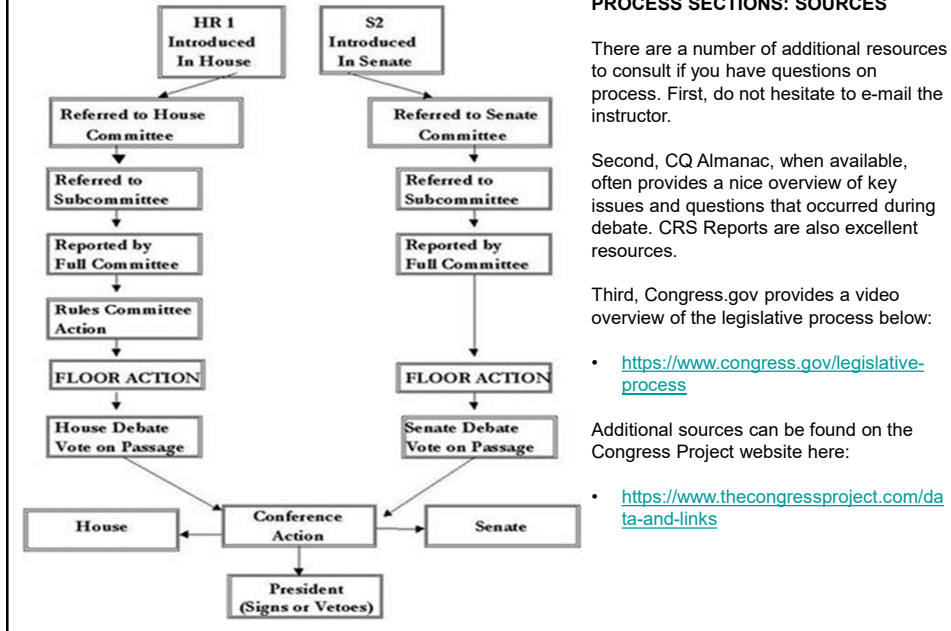**PROCESS SECTIONS: CITING THE CONGRESSIONAL RECORD**

When identifying good quotes from the Congressional Record, historical newspapers can help. Also, the identity of the member may be useful. Quotes from the bill sponsor, leading opponent, major amendment sponsor, party or committee leaders, moderate swing votes, etc., can all be useful in telling the story of this measure.

Give me at least a few quotes from both sides.

The *Congressional Record* should be cited parenthetically. It should take the following form: "Quote (*Congressional Record*, ## Congress, Month, Day, Year, Page #)." So, for example:

Senator Barry Goldwater (R-AZ) argued against the amendment: "Mr. President, I would like to suggest that we look at every amendment we have and ask ourselves, do we have to have this? [The] election is two years away. We do not have to start kissing this and rubbing that to get elected next time. And, thank God, I do not have to do it ever again (Congressional Record, 96th Congress, December 11, 1980, 16227)."

Above: Freshman Senator Mitch McConnell (R-KY), who argued: "Because I have chosen to stand with those who struggle for freedom, I must stand apart from my President."

Process Sections

PROCESS SECTIONS: SOURCES

There are a number of additional resources to consult if you have questions on process. First, do not hesitate to e-mail the instructor.

Second, CQ Almanac, when available, often provides a nice overview of key issues and questions that occurred during debate. CRS Reports are also excellent resources.

Third, Congress.gov provides a video overview of the legislative process below:

- https://www.congress.gov/legislative-process

Additional sources can be found on the Congress Project website here:

- https://www.thecongressproject.com/data-and-links

Legislative History Tips

Look to www.thecongressproject.com for examples! But don't kill yourself trying to match the style.

You have the flexibility to focus on aspects of the law/bill you find the most interesting...

You don't have to know anything about Congress to do this assignment. Just ask questions...

The goals of a legislative history

1. Explain to the reader why the issue matters
2. Explain why Congress acted the why they did
3. If the policy evolved afterwards, provide a brief explanation of how and why
4. Tell the reader where to find more information

Things you should take away

1. How to research federal laws and legislation
2. Greater knowledge of a specific policy and its evolution
3. More incite on the lawmaking process
4. How to use footnotes...

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General Points

I. Comments from me

1) Might be in a new document.
2) Turn on your comments feature.
3) More notes is NOT a bad thing!
4) Use what I'm giving you.

II. DON'T BE WRONG!

1) Be unsure, ask questions, say you don't know. But do **NOT** guess.
2) Part of the point is to ID confusing junctions in the lawmaking process. If you don't understand something, the odds are good readers won't either.

III. Really. The previous point.

1) There are no bad questions about process. There are, however, tons of bad answers. Do not give me the latter on this assignment.

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General Points

Above: Former Rep. Steve Gunderson (R-WI), the only Republican to oppose DOMA. Gunderson had been "outed" on the floor during a congressional debate years earlier. Speaking against DOMA, he asked: "Why are we so mean? Why are we so motivated by prejudice, intolerance and, unfortunately in some cases, bigotry? Why must we attack one element of our society for some cheap political again? Why must we pursue the politics of division, of fear, and of hate?

IV. Find things that interest YOU.

1) Don't worry about making me happy. If there's a topic you find interesting, focus on that.
2) Policy impact, floor fights, member information, etc.
3) If you find a podcast or a video on your bill or topic, let me know!
4) Be flexible in the process sections

V. Google every member you quote

Who is this person speaking out against the bill? A liberal? A conservative? Are they someone respected in their caucus? Leadership? Do they have a personal connection or electoral motivation to break from their party here? Who are they speaking to?

Knowing this helps us understand the measure better. It's also interesting to readers as, for reasons unclear to me, they apparently find people more interesting then abstract legislative procedure.

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General Points

V. When in doubt, write it down!

1) Use a notes section to look at later
2) Put free to put it in a footnote.

VI. Other points

1) Link the bioguide and congress.gov if possible.
2) What parts of the debate to focus on? Use the newspapers and CQ Almanac.
3) Look for quotes on your topic.
4) Use voteview.
5) If you quote the CR—and you definitely should—give me the member's name, the page number, the date and the Congress (i.e. Rep. Alan Trammell (D-MI) argued "Freedom is probably good (*Congressional Record*, 88th Congress, July 4, 1964, 11125).

VII. Being objective is hard. Get over it.

1) Your job here is not to ask if something SHOULD have happened, but to explain WHY it did
2) Use the scholarly arguments to contextualize this
3) Sources, sources, sources

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General Points

VIII. Make an effort on the citation and footnote guidelines.

When referencing a bill, no periods are needed (i.e. HR, Hres, HJR, HCR, S, Sres, SJR, SCR).

With members, when you first reference them, cite the Position Firstname Lastname (Party-ST). So, for example:

Rep. Barney Frank (D-MA).

Afterwards, you can simply refer to them by their last name.

If you're not familiar with it, you can take capitalized text that you pulled from an article title, highlight it, then select the case size button in Word (it's next to the font size) and select "Capitalize Each Word." It saves some time.

Ugh. Please don't give me "Footers". Insert a footnote.

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General Points

IX. Use historical newspapers to bolster your conclusions

Newspapers will get insider quotes. These quotes will often contextualize whether the process that played out on the floor was "sincere" or "a show."

They will also help you focus on the most important amendments.

X. Link this to your Aftermath section.

What happened to the vocal supporters and opponents of this bill? Was the issue Congress focused on a problem in the years to come?

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Additional Sources: ProQuest Congressional

2) ProQuest Congressional offers a wide-range of congressional documents from 1789 to present. It also includes fairly robust legislative histories that includes related bills, regulatory histories and assorted references. To find it, select "ProQuest Congressional" from "Articles and Databases" off of the University Library Website. Then select "Legislative Insight." A list of congresses will be on your left. Select your relevant Congress and find your bill.

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Citations and Scholarly Sources

Above: At this point in this class, you should probably know who these people are.

ON CITATIONS:

Newspaper sources should be cited in footnotes. Scholarly citations should be presented in a Citations section at the end of the paper.

Consult the citation guide for questions and examples.

HOW TO FIND & ACCESS SCHOLARLY SOURCES:

Don't hesitate to broaden your search terms.

Second, more broadly, don't get discouraged if you whiff on a search. You might need to try and number of different phrases if the first one doesn't provide satisfactory. There's so much out there in policy, political science and legal journals but it's tough to find because often times they're using different phrases.

In terms of accessing academic sources, I love google scholar as a search engine and I think it's tough to top it. But not everything will be available. Here are some tips: First, start with google scholar. If you run into articles that are highly cited or have titles that sound like they might be relevant, click on the citation button (the quotation button under the article). Then copy and paste it into a word document. Maybe grab a couple of them if there's more than one.

To find the article, my next step would be to run a straight google search. For more recent articles, many faculty will have versions on their website despite the fact that these often violate publishing agreements. If that doesn't work, the odds are good UGA has a subscription to the journal the article was published in. J-STOR is probably the best bet for this (you can find it on the University's website). For law review pieces, take a look at heinonline's law journal library. It's located at the same spot you'd find the Congressional Record. A third option would be to plug the journal name into the UGA library search function.

Finally, if you go through the Wikipedia on your bill, or do a simple google search on it and skim some material, you'll find citations to scholarly sources. That's another good way to drum up relevant work.

An Example?

Let's Walk Through one!

Questions, Concerns, Angry Rants?

Don't hesitate to e-mail me.