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A nonpartisan legislative chamber: The influence of the Canadian Senate

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Abstract

Measuring relative legislative influence is notoriously difficult, particularly in bicameral systems where two chambers have similar formal powers. Recent changes to the Canadian legislature offer a unique opportunity to understand how an upper house liberated from party constraints impacts that house's legislative influence. I leverage an original panel data set matching lobbyist activity to parliamentarian characteristics and responsibilities and, using a difference-in-differences design, compare Members of Parliament to Senators, both independent and partisan. I find that independent Senators receive disproportionately more attention from lobbyists both after the changes and as the independent composition of the Senate grows. This article offers a time-variant measure by which perceived influence can be evaluated and contributes to the extant literature on intercameral relationships, partisanship, the legislative process, and party discipline and cohesion.

Keywords

bicameralism, Canada, lobbying, party cohesion, party discipline

Bicameralism has been a popular approach for parliamentary institutional design, particularly in those countries that have internal regional, linguistic, or ethnic divisions that require some form of power-sharing arrangement; approximately one-third of countries and over one half of democracies today have two chambers. Existing scholarship has identified a variety of features that contribute to lesser or more influential upper houses and has repeatedly pointed out the significant role played by political parties in mediating, resolving, and sometimes stifling competing interests. While the partisan composition of two chambers is often similar or perfectly congruent, recent changes to the Canadian system have produced a Senate increasingly unaffiliated with political parties and the constraints such an affiliation brings. The consequences of this unusual Canadian arrangement have yet to be explored. This article highlights the emergence of this nonpartisan chamber and provides an early assessment of its legislative influence. Specifically, I evaluate upper chamber perceived legislative influence pre- and post-institutional change and find that increasing partisan independence has led to more lobbying directed at the Senate writ large, and independent Senators in particular. I further find that lobbyist attention is driven by the growing proportion of Senators that are independent.

The emergence of a nonpartisan legislative chamber

The Canadian Senate has historically been positioned as fulfilling roles similar to those found in other systems with bicameral legislatures: primarily representing regional concerns in the national policy process (Russell, 2001).[1] However, this function has historically been hobbled by a patronage nomination process wherein influential party members and benefactors were often appointed to the Senate as a reward for a partisan career (Kunz, 1965). While the appointments are for lifetime (retirement is mandatory at 75) and thus Senators are somewhat isolated from partisan and electoral pressures, they have not acted in an independent manner except in a few historical episodes (Docherty, 2002). And yet, the Senate has considerable power on paper: it can introduce bills (except those related to taxation or expenditure) and has similar enumerated

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powers as the House of Commons. While its formal powers extend beyond its model institution, the House of Lords in the United Kingdom, it operates in a similar manner with delaying and negotiation being its primary tactics. However, the Canadian Senate has a strong tradition of deference, even when there are partisan differences between the chambers. For the majority of legislation, it passes a bill identical to that of the House of Commons.[2]

Given this historical weakness, and following many years of popular and academic discussion of reform, the 2014 Conservative government indicated a desire to either reform or abolish the Senate. Notably, they submitted *Reference Re: Senate Reform* (2014) to the Supreme Court which asked for clarity on the powers of Parliament with regard to Senate reform and abolition. The Court ruled that a Constitutional amendment was required for any major reform—a politically challenging endeavor in the Canadian context. Also in 2014, the Liberal Party, a major Canadian political party and one of only two that have appointed Senators, removed all sitting Senators from their caucus. The Liberals went on to win the subsequent Federal Election and assumed office in early November. Part of the Liberal platform had been a promise to create a nonpartisan and merit-based process to recommend Senate appointments, which the newly formed government implemented on January 19, 2016. The Independent Advisory Board for Senate Appointments (IAB) began its work right away and its first set of recommendations were appointed to the Senate on March 18, 2016. Meanwhile, on March 10, 2016, a permanent parliamentary group entitled the Independent Senators Group (hereafter ISG) had been established by six previously partisan Senators. Over the next 3 years, many previously partisan Senators joined the ISG or dropped their party affiliation, and most of the IAB-appointed Senators also joined the group. In early 2018, the Senate became majority independent and, in 2019, two new nonpartisan groups emerged in the Senate: the Canadian Senators Group and the Progressive Senate Group. These Senate parliamentary groups resemble the crossbenchers[3] in the UK House of Lords in that they are not party-affiliated, nor are they whipped, yet they retain a formal organization with regular caucus meetings.

Overall, the emergence of these independent parliamentary groups and the phenomena of independent Senators more generally appear to have strengthened the independence and efficacy of the Senate. There have been several high-profile amendments on key pieces of the Governments legislative agenda and there is a sense among the Canadian political elite that the Senate is becoming increasingly empowered. Among the more contentious bills during the 42 Canadian Parliament were C-14 (Assisted Dying), C-44 (the Federal Budget), C-45 (Cannabis Act), C-49 (transportation), and S-3 (sex-based discrimination in Indian status).

Upper chambers and party constraints

Where lower chambers are generally democratically elected and empowered, upper chambers have been historically appointed/indirectly elected and are generally weaker, although there are notable exceptions (Russell, 2001). Nevertheless, there are numerous instances within the legislative process that present potential conflicts between the upper and lower houses where each body and their constituent parliamentarians' relative legislative influence is relevant for understanding legislative outcomes. I draw upon a long tradition in political science (Downs, 1957; Tsebelis and Money, 1997) by beginning with the assumption that parliamentarians, including those of historically less empowered upper houses, seek to influence policy outcomes to advance their own interests, subject to relevant limits (such as party discipline). Influence follows as the ability of a group or individual to realize their interests through the legislative process. To understand this relative influence, scholars have focused almost entirely on formal institutional arrangements and specifically on written constitutional enumeration of powers (Heller and Branduse, 2014; Lijphart, 1999). This approach is useful for comparative purposes but is generally time invariant and thus struggles to explain within-country variation in intercameral relations; students of legislative politics will note that relative influence can wax and wane depending on the subject matter and the relationship between the houses. Others have thus chosen to highlight the impacts of shifting partisan differences between the houses (Russell and Sciara, 2009). Political parties are said to play a central role with relative partisan balance and partisan veto players structuring the negotiations between the houses (Tsebelis and Money, 1997).

Party discipline and cohesion (Norton, 2003) and the general deference of upper house party members to those who have been directly democratically elected have meant that upper chambers infrequently exercise their often considerable parliamentary powers. These party-based considerations include both formal punishment or sanctioning (e.g. removal from the caucus) and less formal but still consequential considerations (e.g. value alignment, friend networks). When parties are removed from a legislative body, new nonpartisan members are freed from party-based considerations and constraints. One Canadian Senator, upon being removed from the Liberal caucus, stated: [these actions] set us free and allow us to do the job we're here to do—without any interference or direction from colleagues in other places (Cudmore, 2014). As the power of these party-based considerations wanes, we should anticipate increased legislative autonomy and ultimately influence.

However, legislative influence is notoriously difficult to observe. First, strategic actors adapt their behavior to existing institutional rules, which renders the interactions in a

bicameral legislative process invisible; a visible conflict is unusual and may represent a negotiation process failure (Lehnert et al., 2008). Thus, approaches that study formal votes and amendments may only be identifying failures of compromise as opposed to genuine moments of influence (Evans, 1996). Second, even if there is visibility into the legislative process and behind-the-scenes activity, it is often unclear what outcomes would be under different levels of intercameral power relations. These dual challenges led Heller and Branduse (2014) to remark that while bicameralism is common, its effects are challenging to measure. Here, I approach the measurement challenge by asking what behavioral shifts would be observed if the (perceived) influence of the Senate has changed?

Lobbying parliaments

There are numerous stakeholders in any legislative process and these stakeholders have been shown to be responsive to shifts in relative influence of legislative actors (Berry, 2015; Campos and Giovannoni, 2007). A key set of stakeholders are collectives of individuals who have formed and joined interest groups and attempt to realize their interests through the political system through lobbying (Lijphart, 1999).[4] When interest groups lobby, they may be engaging in both policy building and/or self-interested activities. Self-serving lobbying activity is well-documented in the literature, particularly in American politics (Gilens and Page, 2014; Schlozman et al., 2012). Interest groups are also often considered as key elements of policy networks and communities (Atkinson and Coleman, 1992; Berry, 2015), wherein they serve as an integral part of an elite pluralist arrangement (Coen, 2007) through providing an information-giving and public-support building role.

Scholars of Canadian politics have long connected lobbying behavior with perceived influence (Presthus, 1973; Pross, 1992). This literature importantly observes that, in the Canadian context, interest groups have historically focused their efforts on key players central to the legislative process (Eagles, 2013; Savoie, 2008). Due to party discipline, interest groups have historically put little or no effort into lobbying the Canadian Senate even on major legislative initiatives and the literature on policy communities and pluralism in Canada has paid little attention to the activity of the Senate (Boucher, 2015, 2018). And yet if the autonomy and influence of the Senate had increased vis-à-vis the lower house, we would expect a commensurate change in the amount of lobbying directed toward them.

I thus anticipate two meaningful relations to emerge from the data. First, the establishment of the IAB sent a strong signal to lobby groups that indicated an increased independence for that body and a consequent need for lobbyists to push their interests to the Senate. Second, the increasing proportion of the Senate that is nonpartisan is similarly relevant with the relaxing of party constraints associated with increased attention.

> **H1**: The establishment of the IAB (A) and subsequent growth (B) in the partisan independence of the Senate caused an increase in lobbying activity directed toward the Senate.

While the entire Senate should be the subject of increased lobbying, independent Senators are those with the highest potential to be persuaded by lobbyists. For both the Conservative Senators and those who choose to continue to sit as Liberal Senators, lobbying should be less likely to occur due to the highly controlling nature of political parties; a cohesion that has been shown to exist even in a situation with no explicit powers for whips (Norton, 2003). Those Senators unaffiliated with a party are also less likely to have a clear ideological position relative to their ideologically appointed peers (Kam, 2009).

> **H2**: The growth in lobbying activity after the establishment of the IAB (A) and subsequent growth in the partisan independence of the Senate (B) will be most concentrated among independent Senators.

Research design

To evaluate these hypotheses, I employ an original data set that contains information on lobbyists and their activities paired with legislator-specific information. The data set is a merge of the records of the Office of the Commissioner of Lobbying of Canada with legislator information compiled by the Canadian Library of Parliament.[5] The Lobbying Commissioner requires all registered lobbyists to report every oral and arranged communication initiated by a lobbyist with designated public office holders. These data are paired with scraped Library of Parliament information on all individuals who have served in the Canadian Parliament along with any legislative positions they have held. The data are merged into an unbalanced panel, with the unit of time being month and the unit of observation being each individual legislator. The panel runs from September 2010 to August 2019 (the last full month of the 42 Parliamentary Session), which is 107 month periods. There are a total of 173 active Senators and 651 Members of Parliament during the period, with a total number of time-unit observations of 44,450, of which 10,166 are Senator observations.[6]

Here, I employ two modeling strategies. The first is the use of a difference-in-differences design (DID) to compare the Members of Parliament to Senators (hypothesis 1) and independent and partisan Senators (hypothesis 2).[7] The logic of the DID is employed by comparing (to-be) treated units with control units across the pre- and post-treatment periods (Angrist and Pischke, 2008). This strategy accounts for overall lobbying trends and helps identify within-group changes over time. Note that the pre-IAB period includes

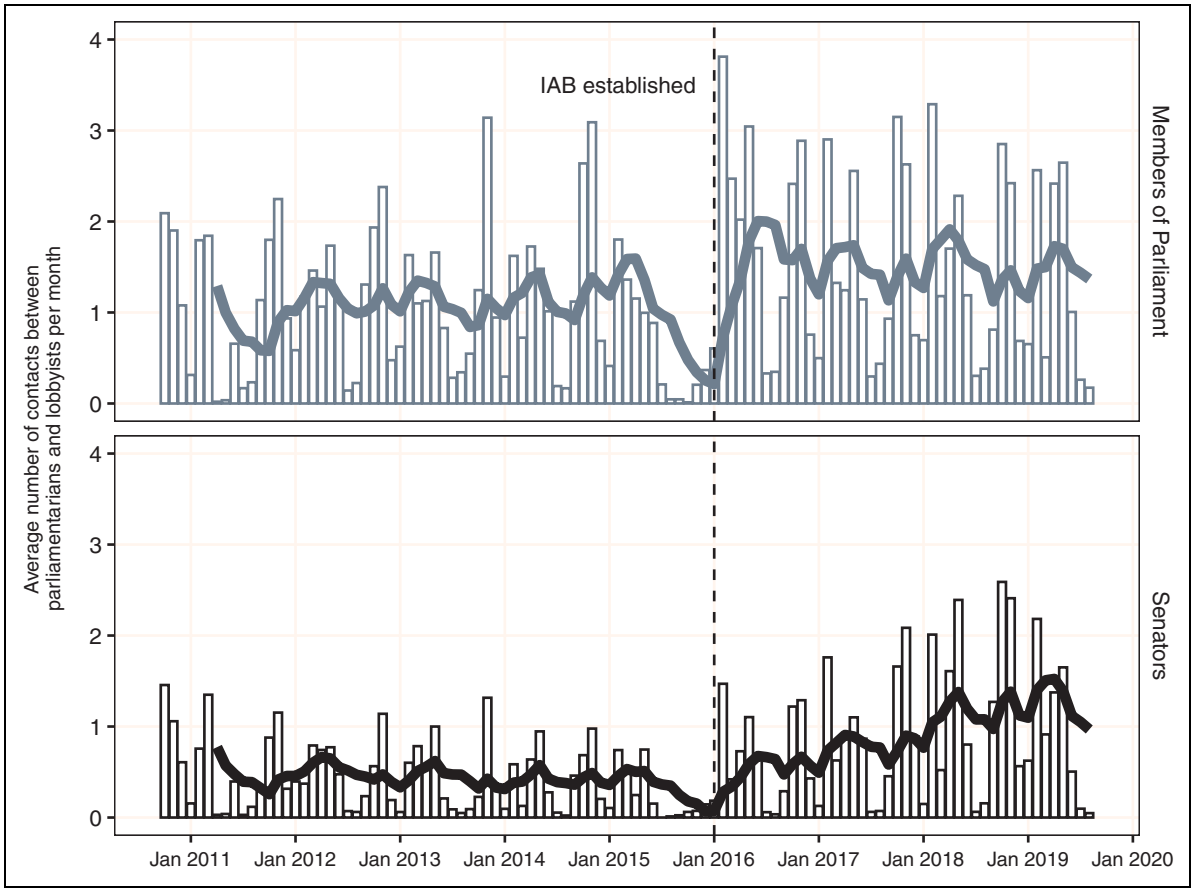

Figure 1. Annual lobbying directed toward Canadian parliamentarians, monthly counts and 7-month rolling averages.

numerous Senators who eventually go on to leave their party-affiliated caucuses—the group is not just composed of those who were appointed by the IAB. A second specification replaces the binary before- and after conditions with a month-specific measure of the proportion of the Senate that is independent in that month and models the growth of lobbying toward the Senate as a function of the degree to which the chamber is unencumbered by party constraints.

The outcome variable is the total contacts with lobbyists per parliamentarian month. Figure 1 shows the average monthly contacts per parliamentarian during the period for which data are available, with a 7-month rolling trend line also shown. At the beginning of the period under examination, Senators appear to receive approximately half the lobbying of their House of Commons peers but in the final months, they appear to receive an almost comparable amount of attention. Note the high degree of fluctuation in activity that corresponds with the legislative calendar. For example, the reduction of activity in Fall 2015 coincides with the campaign period for the 2015 Federal Election.

As the outcome is a sparse count variable with 0 being by far the most common value, I employ zero-inflated negative binomial regressions with ordinary least square as a robustness check, performed in `R` using the `pscl` package (Jackman, 2020). The primary explanatory variables are the DID interactions between the post-period and the treated group. The treated parliamentarians are Senators (with a differentiation between independent and partisan Senators for hypothesis 2) and the period beginning with the establishment of the IAB. As described above, I anticipate this interaction to indicate increased lobbying directed at Senators as compared to Members of Parliament (and independent Senators compared to their partisan peers) in the post-IAB parliament.

For the first set of models, I run an interaction between parliamentary role and the establishment of the IAB. For the second set, I use the logic of the DID design but replace the binary pre- and post-IAB variable with an interaction between parliamentary role and the proportion of the Senate that is independent. Conceptually, this model does not take the establishment of the IAB as the event of interest per se but rather emphasizes the growing nonpartisan nature of the Senate. As the number of independent Senators grows, party constraints on the chamber relax and thus lobbying should increase. Individual controls are included in the model: gender, tenure, and committee

Table 1. Lobbying activity directed at Canadian parliamentarians.

	1: H1A	2: H1B	3: H2A	4: H2B
DID House versus Senate				
Senator	−0.18 (0.05) ***	−0.27 (0.05) ***		
Post-IAB	0.31 (0.02) ***		0.30 (0.02) ***	
Post-IAB × Senator	0.21 (0.07) **			
Z: Senator	−0.36 (0.09) ***	−0.28 (0.10) **		
Z: Post-IAB	−1.49 (0.09) ***		−1.50 (0.09) ***	
Z: Post-IAB × Senator	1.31 (0.16) ***			
Proportion House versus Senate				
Proportion Independent		0.22 (0.03) ***		0.21 (0.03) ***
Senator × Proportion Independent		0.43 (0.08) ***		
Z: Proportion Independent		−1.94 (0.18) ***		−1.92 (0.18) ***
Z: Senator × Proportion Independent		1.69 (0.24) ***		
DID Parliamentary role (relative to MPs)				
Partisan Senator			−0.61 (0.04) ***	−0.68 (0.04) ***
Independent Senator			−1.07 (0.08) ***	−1.20 (0.07) ***
Post-IAB × Partisan Senator			−0.32 (0.06) ***	
Post-IAB × Independent Senator			0.57 (0.09) ***	
Z: Partisan Senator			−0.44 (0.13) ***	−0.41 (0.14) **
Z: Independent Senator			−0.85 (0.32) **	−0.92 (0.33) **
Z: Post-IAB × Partisan Senator			−11.52 (355.30)	
Z: Post-IAB × Independent Senator			1.63 (0.41) ***	
Proportion Parliamentary role (relative to MPs)				
Proportion Independent × Partisan Senator				−0.20 (0.08) *
Proportion Independent × Independent Senator				0.97 (0.10) ***
Z: Proportion Independent × Partisan Senator				−0.41 (0.70)
Z: Proportion Independent × Independent Senator				2.36 (0.50) ***
AIC	120,518.32	120,929.89	120,811.66	121,194.30
Log likelihood	−60,238.16	−60,443.95	−60,384.83	−60,576.15
Num. obs.	44,450	44,450	44,450	44,450

Note: DID: difference-in-differences design; IAB: Independent Advisory Board for Senate Appointments. Zero-inflated negative binomial regression models showing log odds with standard errors in parentheses. Dependent variable: number of contacts with lobbyists per parliamentarian month. ***$p < 0.001$; **$p < 0.01$; *$p < 0.05$.

membership and leaderships held by the parliamentarian are accounted for.[8]

Findings

The results from all models for both hypotheses 1 and 2 are found in Table 1.[9] All models employ zero-inflated negative binomial regressions with all variables in both the zero- and count-predicting sides of the model. The coefficients for all models are log odds and can be interpreted in a similar manner to those of a logistic regression: the odds of an increasing count of contacts with lobbyists changes by `exp(coefficient)` for each unit increase in the predictor. Variables that begin with `Z:` are zero-predicting elements of the model. Models 1 and 2 show the results for hypothesis 1, and models 3 and 4 show the results for hypothesis 2. Models 1 and 3 use a binary before- and after-IAB in the DID design, whereas models 2 and 4 use the proportion of the Senate that is independent as the conditioning variable (rescaled from 0 to 1 for comparability with the binary post-IAB variable).

For all models, positive coefficients are expected on the interactions between the time period and the treated group. In model 1, this is the `Post-IAB x Senator` variable which confirms that Senators received a bump in attention after the establishment of the IAB. In model 2, this is the `Senator x Proportion Independent` variable which confirms that as the proportion of the Senate that is independent increased, so too did the lobbying attention received by Senators. Relative to the House of Commons peers, Senators received more lobbying after the implementation of the IAB and as the Senate became a more independent body.

While the Senate has received more attention across the board, hypothesis 2 posits that it is independent Senators who receive this additional attention. Models 3 and 4 interact the post-IAB and proportion independent variables with a categorical variable that takes one of the following values: Member of Parliament, partisan Senator, or independent Senator.[10] The results indicate that it is independent and not partisan Senators who are receiving the bulk of the increased attention. Model 3 variable `Post-IAB x Independent Senator` is positive, indicating increased

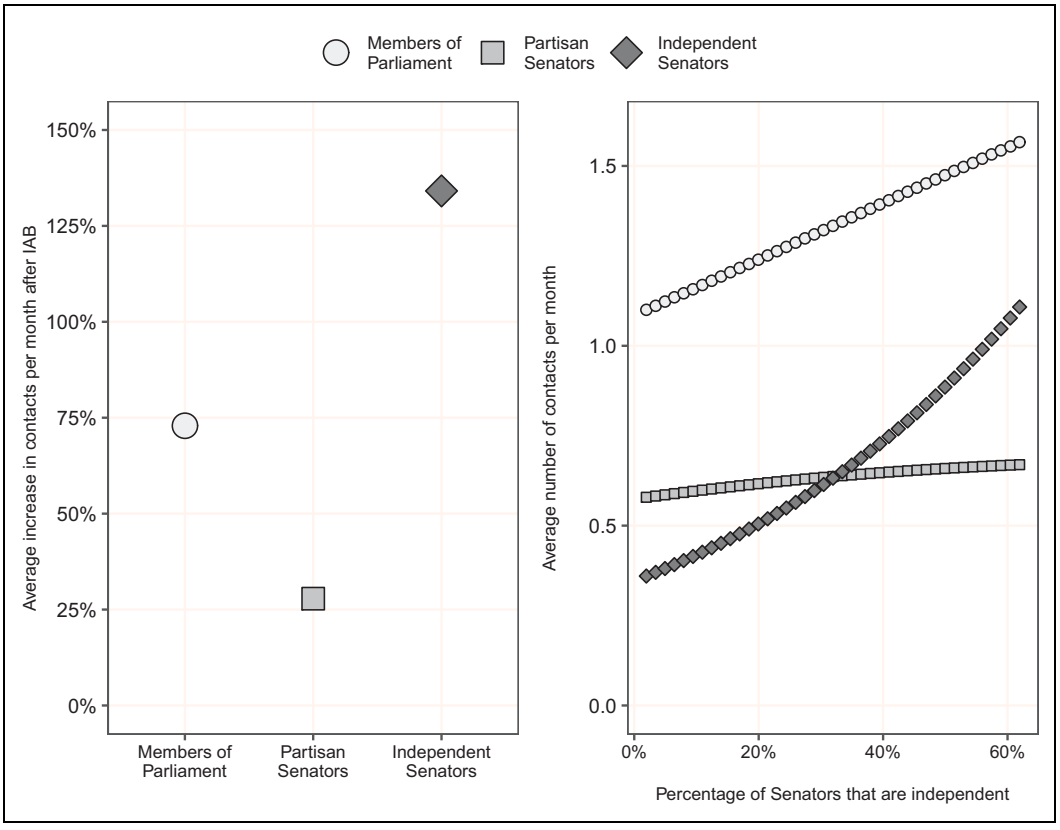

Figure 2. Increases in lobbying directed toward Canadian parliamentarians. Table 1, model 3 (left), and model 4 (right).

attention in the post-IAB period above and beyond what all parliamentarians received while `Post-IAB x Partisan Senator` is negative. Similar effects are found in model 4 looking at the proportion independent; as the proportion independent increased, independent Senators were lobbied much more.

Directly interpreting these interaction terms is difficult, especially for the partisan Senators. Figure 2 visualizes the effects for model 3 (left panel) and model 4 (right panel). The left panel shows the predicted percentage increase for parliamentarians in the pre- and post-IAB period based on an in-sample counterfactual population. MP lobbying increased approximately 73%, whereas independent Senators saw a boost of 134%. Meanwhile, partisan Senators saw only 28% growth. The right panel shows the predicted average contacts per month by parliamentarian grouping moving from the minimum percentage of the Senate that is independent (approximately 2% in late 2010) to the maximum (approximately 63% in late 2019). While members of the House of Commons continue to be lobbied the most, independent Senators are rapidly catching up, whereas the slowest growing group are partisan Senators.

Taken together, these results confirm hypotheses 1 and 2 and indicate that lobbyists are increasingly perceiving greater influence in the Senate. The results are pronounced and indicate a fundamental restructuring of the Canadian parliamentary system is taking place.

Discussion and conclusion

I have estimated the effect of an institutional change that has produced a legislative body where political parties have little influence and have shown that lobbying directed at this increasingly independent body has experienced a commensurate increase. I have also shown that this lobbying activity has been disproportionately directed at independent members of the Senate. The Canadian legislative process is likely to become more complex and difficult to manage given the relaxing of party-based considerations. The stability of politics that has historically characterized the Canadian parliament (Montpetit, 2002) is also likely to diminish. Consequently, the changing bicameralism of the Canadian case offers an unusually rich opportunity to study parliaments without parties for scholars of bicameralism, party discipline and cohesion, and political parties.

Beyond the Canadian case, I have shown the consequences of relaxing party-based considerations on legislative bodies, how institutional changes can modify perceived influence in bicameral systems, and offered a measure by which perceived influence can be

measured in a time-variant manner. Given these findings, a renewed focus on partisanship and party cohesion in bicameral systems is an area of research that is particularly promising. Through extending the analysis of bicameralism outward from the core institutions themselves and examining their role more generally in the policy process, there are important insights into intercameral and interparty dynamics that can be teased apart.

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Supplemental material

Supplemental material for this article is available online.

Notes

1. The composition of the Canadian Senate overrepresents small provinces; this was by design and one of the key ingredients of the bargain struck during confederation (Docherty, 2002). However, the Senate's role as a mediator of central–peripheral relations has waned with the chief executives of subnational governments instead of organizing and being the primary voices of the provinces (Cameron and Simeon, 2002).
2. The full history of the Senate is not covered here; however, numerous monographs have been published detailing the history of the institution including Campbell (1978) and Smith (2003).
3. The crossbenchers represent a similarly unusual feature, wherein a sizable number of the Members of the House of Lords have chosen to be unaffiliated within an otherwise party-disciplined environment. The crossbenchers are an eclectic group of parliamentarians and rarely vote as a bloc, if they vote at all. Nevertheless, Russell and Sciara (2009) contend that they have a subtle but important influence on the legislative process.
4. Of course, interest groups do not exclusively engage in lobbying efforts; however, this is a primary mechanism by which the quantitative activity of interest groups can be measured; see Kollman (1998).
5. The Lobbying Commissioner of Canada data can be accessed here: https://lobbycanada.gc.ca/eic/site/012.nsf/eng/h_00872.html and the Library of Parliament here: https://lop.parl.ca/sites/ParlInfo/default/en_CA/People/parliamentarians (both extracts done September 2019).
6. Descriptive statistics for both samples are available in Online Supplemental Materials.
7. See a full discussion and tests for the assumptions of the DID design, including parallel trends, individual fixed effects, time fixed effects, leads, and alternative specification strategies in the Online Supplemental Materials. Results and the analytical strategy are well supported in these tests.
8. As shown in Figure 1s, there is significant variation in lobbying activity based on the legislative agenda and cycle; however, year-month fixed effects cannot be included in a zero-inflated negative binomial models as it leads to perfect separation of the data. The linear models shown in Online Supplemental Materials include year-month fixed effects and show that the results hold. Furthermore, individual fixed effects are ideally employed in a DID design; however, the same perfect separation would occur. I employ individual fixed effects in the linear specifications, again with the results holding.
9. Only coefficients of interest are shown. See Online Supplemental Materials for the full regression model alongside interpretation of control variables.
10. All Senators who come to self-declare as nonaffiliated or join the ISG at some point during the period under examination are considered independent. See Online Supplemental Materials for further discussion of the independent category.

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