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**Fixed versus Flexible Election Cycles: Explaining  
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J. Stephen Ferris and Derek E. H. Olmstead

Carleton University

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**Department of Economics**

1125 Colonel By Drive  
Ottawa, Ontario, Canada  
K1S 5B6

# **Fixed versus Flexible Election Cycles: Explaining innovation in the timing of Canada's Election Cycle\***

J. Stephen Ferris  
[steve.ferris@carleton.ca](mailto:steve.ferris@carleton.ca)  
(corresponding author)

and

Derek E. H. Olmstead  
Derek.Olmstead@carleton.ca

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## **Abstract**

This paper argues that there is an efficiency gain underlying the recent adoption of legislation calling for a fixed four-year governing term by the federal and most provincial governments in Canada. The efficiency gain arises from foreclosing an externality produced by the constitutional provision that sets a maximum length for a legislative term (five years) while allowing the governing party (through the Governor General) to dissolve the House early. Because the opportunistic use of surprise can improve the governing party's probability of winning, strategic choice can lead to elections being held at times that most disadvantage the incumbent's rivals. Evidence from Canada is introduced suggesting that federal elections became less predictable through successive reductions in the campaign time given to competitors, thus raising the cost of this externality. The same reasoning suggests that the party most likely to propose this legislative innovation will be the party in opposition rather than in power and/or the new leader of an established party facing loss in the upcoming election. By fulfilling the fixed term even when it could benefit by calling the election early, the party establishes a precedent that raises the political cost to others of cancelling the fixed term legislation.

JEL Categories: H1, D7, D8.

Key Words: Fixed election dates, discretionary election times, time inconsistency, institutional externalities

Department of Economics  
Carleton University  
Ottawa, Ontario Canada

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## 1. Introduction

In Canada, as in other countries with parliamentary systems of government, there has been a recent trend for the governing political party to surrender its right to choose the timing of the next election in favour of a system that permanently fixes the next election date and thus the length of future governing tenures.<sup>1</sup> Beginning with British Columbia in 2001, nine of ten provincial governments (Nova Scotia being the sole exception), two territorial governments and the federal government have all enacted legislation adopting a fixed four year term.<sup>2</sup> Whether or not the election term is truly fixed, however, is currently ambiguous. Using the case of federal legislation as representative, *An Act to Amend the Canada Elections Act (Bill C-16)* was passed in 2007 by the Conservative Party government requiring that “[s]ubject to an earlier dissolution of Parliament, a general election must be held on the third Monday in October in the fourth calendar year following a previous general election, with the first general election to be held on Monday, October 19, 2009”.<sup>3</sup> This declaration of a fixed election date, however, was immediately followed by a clause stating that “[n]othing in this section affects the powers of the Governor General, including the power to dissolve Parliament at the Governor General’s discretion.” Exactly how legislation that fixes governing duration can be reconciled with a constitution that requires the governing party to maintain the confidence of the House of Commons (House) poses a challenging accountability versus stability trade-off for political

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<sup>1</sup> Other countries that have adopted fixed terms recently include South Africa, Australia, New Zealand, Ireland and the United Kingdom.

<sup>2</sup> All jurisdictions in Canada have picked a recurring four-year election cycle, with most dated to take place sometime in the fall. The exceptions are British Columbia with a fixed date set in May while Alberta has a three month window between March 1 and May 31. See the Data Appendix for greater political detail.

<sup>3</sup> Provincial legislation is often more explicit. For example, Section 23 of British Columbia’s Constitution Act reads: (1) The Lieutenant Governor may, by proclamation in Her Majesty’s name, prorogue or dissolve the Legislative Assembly when the Lieutenant Governor sees fit. (2) Subject to subsection (1), a general voting day must occur on May 17, 2005 and thereafter on the second Tuesday in May in the fourth calendar year following the general voting day for the most recently held general election.

theorists and ultimately for the courts.<sup>4</sup> Nevertheless in current practice, the enacted legislation has circumvented inconsistency through general agreement on the primacy of the principle that the governing party can continue to term only with the confidence of the House (implicitly making the concept of a fixed term applicable only to majority governments). Taking this to mean that the fundamental system of representative parliamentary government remains unaltered, this paper is concerned with the narrower question of why a majority government in a Westminster parliamentary system would ever choose to give up the right to pick the most opportune moment to call the next election.<sup>5</sup>

The reason this question is of interest is that a large number of studies have shown that governing parties in Westminster parliamentary systems behave as if the right to choose the timing of the next election has strategic value [Smith (1996, 2003), Kayser (2005), Roy and Alcantara (2012), Dickson, Farnworth and Zhang (2013)]. By showing that historically the timing of federal elections in Canada has responded to the peaking of the business cycle, Voia and Ferris (2013) show that federal political practice is consistent with the strategic choice of an appropriate re-election date rather than waiting out the full term. Even when the governing party has a minority position in the House, and so can continue to govern only with the cooperation of other parties, the ability to prorogue parliament in combination with its ability to initiate an election call gives the Prime Minister and his/her party additional electoral flexibility over their

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<sup>4</sup> Because the minority Conservative Party that formed the government passing this bill chose twice to dissolve the House before the end of the designated four year term, it is currently unclear whether or not the Act has effectively fixed governing durations. However in its third term the Conservative Party did establish the precedent for majority federal governments, upholding the scheduled four year term despite encountering economic turbulence that might otherwise have led to an early election call. Whether the current majority Liberal government chooses to retain that legislation or enact its own preferred preferential voting legislation remains to be seen. See also Tremblay (2008/2009) and Stoltz (2010).

<sup>5</sup> While a number of provincial governing parties have called elections earlier than the projected fixed election date, none have continued governing past the set date (that is shorter than the constitutional limit of five years).

rivals. Hence it seems counter-intuitive for the governing party to surrender voluntarily such an advantage.

In general there are two types of reasons why such an institutional innovation such as the adoption of a fixed term would be adopted. The first is that a fixed election term could generate efficiency gains relative to discretion. Many have argued, for example, that a fixed governing term provides greater election predictability and hence organizational and operational benefits that lower election costs and make the process more efficient for both voters and competing political parties (see, for example, Hazell, 2010, p. 10). In such a case the governing party would have an incentive to adopt the superior rule if it could benefit from doing so electorally. However to explain why this is happening now, a reason is needed for why the net benefit of having a fixed term has recently become more valuable.

For an economist, the adoption of a rule that fixes an election date relative to the practice of allowing the governing party to set the date through discretion suggests the solution to a time inconsistency problem. That is, even if greater transparency and predictability make it efficient *ex ante* for competing political parties to commit to hold elections at fixed intervals, the ability to treat governing durations as having a maximum with no necessary minimum gives the governing party *ex post* the ability to choose a more appropriate earlier date at which to call the next election. Given the multitude of reasons for why an unexpected election call could be beneficial to the governing party, the ability to use discretion and hold elections earlier could well result in elections being held too early from the perspective of all electoral participants (other than the governing party). The cost of holding more frequent elections, the foregone benefit of leaving term promises unfulfilled, initiated programs incomplete, and the disadvantage that surprise puts its rivals could be prevented by establishing a governing length that is longer on average and/or

more predictable in timing than that arising under discretion.<sup>6</sup> Establishing the desirability of a change in the election rule such as this requires the demonstration either of the emergence of new efficiencies arising under the fixed rule or the growth of efficiency losses arising under discretion. The latter would be signalled by the greater ability under discretion to use election calls to shorten the time available for rivals to adjust to an election call and the electorate to absorb the alternatives provided by competing parties.

In the absence of an efficiency reason, institutional change would be promoted by the governing party if the fixed-term rule allowed for a more effective opportunistic strategy for pursuing re-election. As institutional alternatives, the ability to choose the election date allows the governing party to “surf” on favourable (to it) exogenous events, while a fixed election term allows the governing party to better “manipulate” (deliberately use) public policy to achieve a favourable outcome (Khemani, 2004).<sup>7</sup> Hence a governing party would surrender voluntarily the right to set the next election date if certain foreknowledge of the upcoming election date allowed better strategic timing in the implementation of public policy. By improving voters’ economic outcomes in the period leading into the upcoming election, the governing party could expect to achieve a greater likelihood of electoral success. For opportunism to drive institutional change there would need to arise a fall in the perceived gains from surfing relative to the gain that could be made from manipulating policy for strategic advantage.

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<sup>6</sup> It is interesting to note that Sweden changed its Riksdag term from three to four years in 1994 and New Zealand, which has a fixed maximum term of three rather than the more usual four years, has recently attempted to extend the term limit back to four years. See *The Dominion Post* C8 March 2 2013. For a discussion of the term length debate in Australia, see <http://www.australiancollaboration.com.au/pdf/Democracy/Electoral-terms.pdf>

<sup>7</sup> While parliamentary governments with discretion can also be expected to use policy to influence election outcomes, policies must be timed to target “expected” election dates that are often revised to take advantage of unanticipated circumstances. Given that monetary policy, for example, takes up to two years before generating its expected effect, this makes the effective use of policy for electoral advantage less reliable (Ferris and Voia, 2012).

These alternatives are considered in this paper in relation to Canada's gradual adoption of a four-year fixed election term at the federal and provincial levels. The first—the ability to capture the efficiency gains from institutional change—relies on the initiating party being able to internalize a portion of a net efficiency gain. The second reason—the adoption of a superior mechanism for political opportunism—requires a demonstration that the net benefits of surfing have fallen relative to manipulation. Finally, it should be noted that these two reasons may not be mutually exclusive. In particular, the possibility of foreclosing another party's comparative opportunistic advantage could well be the factor precipitating the adoption of a superior long-run institutional outcome. Such a possibility would tie together the concepts of political competition and political innovation, as championed by political scientists such as Lowi (1963) and economists such as Douglas North, Manfred Streit, and Harold Berman (see the volume by Bernholz, Streit, and Vaubel, 1998).

## 2. An efficiency case for moving from discretion to a rule

Models of election timing within a Westminster parliamentary system typically view the governing party as choosing an optimal stopping point by trading off the certain value of remaining in office against the uncertain advantage of holding the election now versus later [Balke (1990), Smith (1996, 2003), Kayser (2005), Ferris and Voia (2009)]. Given that the Canadian constitution fixes only a maximum term (at five years), the governing party holds an advantage over its opposition by being able to surprise its rivals by calling an election earlier should external events unexpectedly improve its re-election prospects. Examples of such events would include the emergence of internal dissent within the main opposition party, the renewed popularity of the governing party arising from the choice of a new party leader, the warm glow of entering the upper stage of a business cycle and/or the expectation of encountering a recession

towards the end of the current mandate. Since it is also usual for a government to introduce its priority legislation earlier rather than later in its term, the cost of leaving some of its election promises unfulfilled becomes smaller towards the end of the mandate. Hence when one considers the interests of the governing party alone, it is not surprising to find them choosing to serve less than a full term.<sup>8</sup>

While the governing party can be expected to choose an election date by trading off the benefits and costs to it, it is quite clear that the benefits and costs to society do not coincide. In particular, while the party and the voting electorate both lose from the premature termination of a promised legislative program, the incumbent's private advantage secured by disadvantaging the preparation of its rivals is not similarly socially beneficial.<sup>9</sup> Opportunism is by definition redistributive rather than socially productive. This implies the existence of an externality built into discretion, one that could lead to elections being held too early from the opposition's point of view and with too little notice from a social rather than private perspective. While the incentive to go early may lead to elections being held too frequently with overly excessive operational election funding costs, the hidden but likely higher cost generated by surprise will appear as a type of incumbency advantage--the re-election of incumbent candidates, parties and perpetuation of party platforms that would not otherwise have succeeded in the presence of more meaningful electoral competition.<sup>10</sup> A surprise election call can foreclose opposition parties' ability to field their best set of candidates, truncate the time available to develop and propose

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<sup>8</sup> Note that a constitutional maximum prevents the governing party from being able to avoid unexpected bad events at the end by surfing beyond the term limit. Hence discretion here allows only one-sided re-adjustment, an asymmetry that prevents the average governing duration from rising to meet the permitted governing interval.

<sup>9</sup> This is not inconsistent with the co-presence of some social advantage. For example, election timing may be used to signal competency which would provide useful information to the electorate. See for example Rogoff and Sibert (1988) and Smith (1996).

<sup>10</sup> To use an Alchianism, haste need not make waste, haste makes for higher cost.

policy alternatives, prevent the articulation of counter arguments to newly proposed programs and reduce the time available for effective debate.<sup>11</sup>

In many cases intertemporal externalities have been internalized by the promiser developing a reputation for innovation and winning credibility by maintaining its promises (Kein and Leffler, 1991), establishing a brand name for judicious, socially productive governance. What makes such a strategy difficult to implement is that the promise to innovate is typically made by the party while in opposition, making the commitment time-inconsistent once the party is elected. That is, the electorate knows that once in power the value to the governing party of maintaining its promise not to hold a surprise election will fall relative to the value of having that promise maintained when in opposition. Once in power, the strategic value of renegeing and surprising its opposition can overcome the electoral value of maintaining its commitment.<sup>12</sup> Foreknowledge of the predictable change in the incentives that underlie the use of discretion can then undermine the credibility of the promise.

To what extent does the data suggest that election calls are too frequent under discretion? In Canada's case, while the constitution allows governments to last for up to five years, very few of Canada's governing parties have chosen to remain in office for their full mandate (Ferris and Voia, 2009). Indeed, between 1867 and 2007 Canada had thirty nine federal elections, implying that elections were held, on average every 3.6 years. Hence federal parties have typically used only seventy percent of their permitted governing tenure. Similarly, most of Canada's provinces

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<sup>11</sup> Note that the existence of an externality need not mean that the externality should be corrected--the externality becomes a meaningful social cost only when the cost of correcting it becomes lower than the problem itself.

<sup>12</sup> Robert Ghiz, the Premier who introduced fixed term legislation in Prince Edward Island (PEI) in 2008 is quoted as seeing its introduction as his biggest mistake once he was in power. See the Wayne Thibodeau interview in *The Guardian*, December 19, 2014.

and both territories have averaged less than four years between general elections.<sup>13</sup> A first view of election frequency is then not inconsistent with the hypothesis that discretion led to overly short governing durations in Canada. The adoption of a fixed four year term would have increased duration on average and lowered average election costs.<sup>14</sup>

However, it is quickly recognized that the Westminster parliamentary system allows a government to last only as long as it can maintain a voting majority in the House. The historic inability of minority governments to do so has meant that the governing durations of minority governments are typically much shorter (1.4 years on average). Moreover because the legislation setting the four-year governing term for majority governments does not affect the confidence provisions of the constitution, the dynamics and durations of minority governments would be largely unaffected. Hence a more appropriate measure of the governing duration arising under discretion would be the average duration of majority governments. When minority governments are excluded, the average duration of a federal government rises to 4.2 years.<sup>15</sup> In the case of the provinces, this is much less dramatic. The incidence of minority governments in Canada's provinces has been much less frequent (most provinces having had had between 1 and 3 minority governments over the post-confederation period), leaving the average length of a provincial governing term only slightly less than 4 years.<sup>16</sup>

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<sup>13</sup> New Brunswick (4.0) and Saskatchewan (4.08) form the two exceptions, with most provinces in the range of 3.6-3.7 years between elections. Newfoundland and Labrador (Nfld) is the outlier on the low side, with elections held on average every 3.4 years. See the Data Appendix for more detail.

<sup>14</sup> Roy and Alcantara (2013) consider and reject the possibility of a connection between changes in campaigning financing rules and the adoption of fixed terms.

<sup>15</sup> Only six of Canada's forty two post Confederation federal governments lasted as long as 4.8 years and two of these were during the two world wars, 1917 and 1940 (Elections Canada, Appendix 3).

<sup>16</sup> The outliers are Manitoba and Ontario with 8 and 6 minority governments prior to fixed term legislation.

It follows that for post-Confederation Canadian governments, federal and provincial, the adoption of a four year term would not greatly change the length of governing durations.<sup>17</sup> This in turn means that the data is inconsistent with the hypothesis that significant operational savings could be realized by the early adoption of a fixed election dating rule. From an institutional perspective, then, political competition through the governing party's use of discretion has not unduly shortened governing tenures on average nor is there much evidence to suggest that a downward trend in term durations was experienced in the period leading into the adoption of fixed term length.<sup>18</sup>

Even though governing durations have not fallen under discretion, evidence consistent with growth in the size of the surprise externality would appear if either governing durations were becoming more variable (less predictable) and/or if the length of time given opposition parties to prepare for upcoming elections was being shortened in the period leading into the establishment of fixed governing lengths. In Figures 1a and 1d we show term durations and the time available for campaigning in each of the eleven elections that led into the passing of fixed term legislation in four major Canadian political jurisdictions--the federal government (Canada) and the three largest provinces by population: Ontario, Quebec and British Columbia (BC).<sup>19</sup>

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<sup>17</sup> It has been argued that the four year term may have been chosen precisely because it most closely mimics current practice. As Professor Blackburn is quoted as arguing, 'The proposal for fixed term Parliament as a whole should fit as closely as possible into existing constitutional expectations, and the idea that four years is about the right length of time between elections is very prevalent' (Hazell, 2010, p.14).

<sup>18</sup> There is some suggestion at the federal level that governing durations have fallen through time. For example, regressing federal durations across consecutive parliaments (p\_number = 1..39 from 1867 to 2008) while controlling for minority government status, partisanship (using the more liberal of the two major party types) and the percentage of seats won by the governing party, we find,

$$\text{Governing Duration} = 2.49 - 0.016 \text{ p\_number} - 1.92 \text{ Minority} + 0.356 \text{ Liberal} + 0.029 \text{ Seats}$$

(2.68) (1.77)                      (4.62)                      (1.15)                      (2.20)

with Adj R<sup>2</sup> = .627 and D.W. = 2.4 and where duration is measured in years. The absolute value of the t-statistic is included in brackets below the OLS coefficient estimate. Here the time effect is significantly different from zero only at the ten percent significance level. There is no evidence of a similar time effect arising for the provinces.

<sup>19</sup> BC was the first jurisdiction in Canada to establish a fixed four year term, while BC, Ontario and Quebec together incorporate seventy five percent of Canada's population.

--insert Figures 1a and 1b about here--

It is apparent from Figure 1a that duration variability under discretion has been significant in all of Canada's political jurisdictions. However, while the variance of future governing terms will necessarily fall once a fixed term is adopted so that surprise will become less of a factor, there is no evidence that the variability of governing durations did increase in the period leading into the adoption of fixed terms. To the extent that unpredictable governing lengths have been a concern for opposition parties and the electorate as a whole under discretion, the scale of that problem does not appear to have increased. On the other hand, there is evidence that the number of days allotted for campaigning--the days arising between the laying down of Writs (dissolving parliament) and the next election date--have fallen across the eleven elections leading into the legislation of fixed terms.<sup>20</sup> As can be seen from Figure 1b, the length of time given to election campaigning has trended downwards in all four jurisdiction over the last five elections and, except for Quebec, in all other jurisdictions for the six elections preceding that. The case of the federal government is perhaps the most striking with the number of days allowed for campaigning falling roughly in half between 1965 (the 11<sup>th</sup>) and 1996 (the 3<sup>rd</sup>) when the length stabilized at 36 days. Perhaps unsurprisingly, the constancy at 36 days of the three election periods prior to Stephen Harper's election in 2006 followed a change to the 1996 Elections Act that reduced the minimum campaign length from 47 to 36 days.

In the period following the establishment of fixed election dates, provincial campaign lengths have not increased, typically remaining at their now shortened levels.<sup>21</sup> However,

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<sup>20</sup> The *Canada Elections Act* imposes a limit on all election expenses during the election period 'to facilitate a level playing field among candidates'. Prime Ministers have traditionally imposed the minimum period both to constrain the time available to rivals and to constrain rival expenditures (since increasing the election beyond the current 36 day minimum increases the daily amount that can be spent by rivals by 1/37 of the limit set for the minimum).

<sup>21</sup> BC and Quebec campaign lengths remained constant at 28 and 34 days respectively, while Ontario's stayed at 30 except for the early election call of the Wynne government in 2014. The main exception to constancy is in the

foreknowledge of when the election campaign will begin is very different from either being surprised by its sudden start or knowing, when in opposition, that the upcoming election will be held at the worst possible time. Foreknowledge gives the parties in opposition more opportunity to enter the campaign period prepared, allowing the campaign period to elicit a higher quality of opposition and standard of debate. This implies that candidates can be better chosen and more highly prepared, existing programs made subject to more informed critique and new policy alternatives better articulated. The result is the opportunity to create a more informed electorate and better opposition that in turn will raise the standard of performance expected from the incumbent party and result in higher quality governance.

If, as we have been arguing, the externality associated with discretion has increased in the period leading into the adoption of fixed term legislation, the associated fall off in candidate competency, alternative program evaluation and incentive to innovate should result in a loss of candidate quality and Parliamentary efficiency. The difficulty is finding ways of measuring this. One metric of a rise in the scope of this externality would be a reduction in legislative work undertaken across successive governments.<sup>22</sup> Figure 2 plots for the federal government the number of bills passed by the House and by the Senate in the thirty parliaments that followed the 11<sup>th</sup> Parliament in 1908. As illustrated, there has been a persistent decline in the number of bills passed across successive Parliaments and the same pattern is repeated if we had look at the number of bills passed per year.<sup>23</sup>

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federal government where the first campaign period that followed the first 4 year majority government rose dramatically from 37 to 78 days.

<sup>22</sup> Aggregate data on bills initiated and passed are readily available only for the Parliament of Canada and only from the second session of the 11<sup>th</sup> Parliament onward (November 1909). See the website listed in references. Note that while bills can be introduced and passed separately by both the House of Commons and the Senate, a bill must be passed by both before proceeding to receive royal ascent from the Governor General.

<sup>23</sup> The sharp troughs in the diagram correspond to parliaments with minority governments. Despite the appearance, the addition of minority status to the regressions presented below adds no explanatory power. This implies that the effect of minority status on bill passage arises primarily because of its shorter length.

-- insert Table 1 (Descriptive Statistics) and Table 2 about here --

To assess the trend in parliamentary performance more formally, we use regression analysis to examine two dimensions of federal legislative efficiency: the total number bills passed during each parliament and the number of bills passed per year by successive parliaments. The regressions then test the hypothesis that legislative efficiency has declined across successive parliaments controlling for the length of each parliament, the degree of competition in the House of Commons (the percentage of seats held by the governing party), the average degree of electoral competition within political constituencies (the average winning margin), and a measure of partisanship (whether the governing party was Liberal).<sup>24</sup> The regression results of these two tests are shown in Table 2 for the thirty successive parliaments on which we have data (the 11<sup>th</sup> Parliament through the 40<sup>th</sup> Parliament).

The results show that after controlling for the length of each parliament and minority status, the total number of bills passed and the number of bills passed per year have trended downward across consecutive parliaments leading to the present. Over the last thirty parliaments, the number of bills passed by the House has fallen by over 50 per year and 180 overall. If one extends the notion of efficiency to include the ratio of bills passed relative to bills introduced, this ratio has fallen by over 30 percent over the same interval.<sup>25</sup>

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<sup>24</sup> As emphasized by one of our referees, it is important to note that the regressions do not control for any change in the average content and quality of each piece of legislation. Hence the results imply an overall decline in federal legislative efficiency only if each piece of legislation did not increase in quantity sufficiently to offset the measured decline in quantitative performance. This became a particularly important consideration with respect to the Harper government (39<sup>th</sup> to 41<sup>st</sup> Parliaments) that tended to use large omnibus budget bills (of up to 321 pages in length) to guarantee passage of a bundle of traditionally separate, but controversial, bills.

<sup>25</sup> Where Ratio equals the ratio of bills passed to bills introduced,

$$\text{Ratio} = 0.305 - 0.012 \text{ Trend} + .055 \text{ Duration} + 0.530 \text{ ratio}(-1) \text{ where AdjR}^2 = .875 \text{ and DW} = 2.12.$$

(1.92) (2.90) (4.15) (4.34)

The absolute value of the t-statistic is in brackets below the OLS coefficient estimates.

The effects of the control variables are of interest in their own right. The importance of parliamentary length can be seen in the scale economies found for duration. The results suggest that not only do parliaments with longer durations accomplish more but also proportionally more—increasing the number of bills passed per parliamentary year. The controls also highlight some of the divergent effects of political competition found in other studies. For example, the regressions indicate that parliaments in which political competition within the House is lower (that is, the governing party has a larger governing majority) pass fewer bills in total and fewer bills per year. This is consistent with the hypothesis that less competition generates more rent seeking (Solé-Ollé (2006), Ferris, Park and Winer (2008)) where rent seeking appears here as less legislative effort. In addition, the larger is the average winning margin across electoral constituencies, the larger has been both the total number of bills passed and the number passed per year. This is consistent with the hypothesis that less competition within constituencies allows for greater individual autonomy, giving the parties less control over its individual members and resulting in more individual bill introductions and bill passages (Ferris and Winer (2013)). Lastly, there is some suggestion in the data that partisan type has played a role with respect to legislation passed but this effect is statistically very weak.

It follows that while many factors may have contributed to the quantitative decline in number of bills passed, the data are consistent with a decline in legislative efficiency and thus the hypothesis that the externality present in the incumbent's choice of election date has grown through time. To the extent this inefficiency is attributable to the more effective use of election dating, foreknowledge of the next election date allows the opposition to be better prepared for the next election, decreasing the disadvantage of being in opposition. By improving the relative position of opposition parties, the degree of competition in the political process is also increased.

In this sense, legislating a fixed governing term would also allow the governing party both to tackle and fulfill a larger proportion of its promised legislative mandate.

What is less clear, however, is what the incumbent political party gains from implementing this change. Even if a fixed election date generates a superior outcome overall, at least part of this improvement comes at the cost of improving the position of one's rivals. Unless the incumbent can gain sufficient electoral credit as the innovator of this institutional reform, the realized loss from generating greater predictability in election timing for rivals could easily dominate. The disadvantage of being unable to choose the most appropriate time for an election would at best delay the adoption of favourable institutional change and at worst could prevent its adoption.

3. Does policy opportunism under fixed terms offer a competitive advantage over surfing under discretion?

While we have argued above that discretion over election timing gives the incumbent party the ability to use surprise to disadvantage its rivals, it is well known that there is a recognition or credentialing factor present in all systems that provides the incumbent an electoral advantage (Gelman and King, 1990; Mayhew, 2008; Kendall and Rekkas, 2012). There is also a consensus, at least for the U.S. that this incumbency advantage has increased since WW2 (Ansolabehere and Snyder, 2001). For this paper, however, I assume that this "pure" incumbency advantage is independent of whether the election term is fixed or flexible.<sup>26</sup> Recent work by Kendall and Rekkas (2012) attributes the incumbency effect in Canada primarily to the personal

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<sup>26</sup> Note, however, that when comparing tenure/incumbency across alternative fixed length U.S. elected offices, Glazer and Grofman (1987) have shown that re-election probabilities are higher in shorter term offices so that U.S. "House and Senate members have had careers of virtually equal length" (p. 555).

characteristics of the legislator rather than to the characteristics of the political party, suggesting that this assumption is not implausible.

Aside from the recognition or credentialing value of being an incumbent, the leader and/or party in power has the advantage of being able to use the characteristics of the voting rule to its advantage—whether to surf on advantageous events under discretionary timing or to manipulate economic outcomes under a fixed term by its control over policy. Because our maintained hypothesis is that political parties and their leaders will use the opportunities available under their respective electoral rules to maximize their probability of re-election, one ordinal measure of the political effectiveness of a particular system in promoting re-election would be the existence of a long-run difference in the re-election rates across alternative electoral systems. Hence by comparing the success in re-electing federal party of the prime-minister in Canada since Confederation (in 1867) relative to re-electing a president of the same party over the same period we have one metric of the advantage given to the governing party of competing under flexible versus fixed electoral terms. In making that comparison it should be recognized that Canadian federal leaders have a policy coordination advantage in that Canadian prime ministers always control the largest party in parliament and hence can dictate policy. In the U.S. the president must often govern with the either or both of the Houses of Congress controlled by the opposition party. This implies that such a comparative test will be biased against fixed term superiority.

Turning first to Canada, of the 41 federal elections held since Confederation (through 2011) 25 were won by the incumbent governing party—a combination of surfing, incumbency, and policy manipulation leading to a success rate of 61 percent. The equivalent rate for successfully re-electing a U.S. president from the same party (following the 1<sup>st</sup> Grant administration of 1868)

has been only 58 percent, 21 of 35 opportunities. It would then appear that the fixed election term alternative has been less rather than more effective in producing successful outcomes for incumbent party leaders. On the other hand, the president's ability to use policy successfully to manipulate economic outcomes for election purposes depends strongly on whether the president has sympathetic policy partners within the House of Representatives and Senate (for analogous conditions under monetary policy, see Abrams and Iossifov (2006) and Ferris (2008)). Hence if we look only at instances when the president and the majority in the House of Representatives were from the same political party, the success ratio in U.S. presidential elections rises from 58% to 63% (12 of 19 cases). If this is the more relevant case for comparison, then opportunism has been practiced at the federal level with roughly the same degree of success under both sets of electoral rules.

If we turn from the federal to the provincial and state level, evidence on incumbency success is more mixed. The incumbency success rate is typically higher in the Canadian provinces than at the federal level, with Quebec (the lowest) at 61 percent, 63 percent for BC, 70 percent for Manitoba, and 75 and 83 percent, respectively, for Ontario and Alberta.<sup>27</sup> In the U.S., Besley and Case (1992) report that over the thirty years of their study (1960-1989), "there are only two years in which more than half of all incumbents [i.e., governors] were re-elected (p.4)." On the other hand, the Center on the American Governor (at Rutgers University) reports that the success rate of incumbent governors running for re-election has risen continuously from 63.5% in the 1960's to 80% in the 1990's and 2000's.<sup>28</sup> To the extent that state and provincial electoral races are comparable, the dramatically rising rate of incumbency success under fixed state governing

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<sup>27</sup> BC's number is calculated from the 10<sup>th</sup> election onwards and excludes two war year coalition governments while Manitoba is from the 4<sup>th</sup> election onwards. For more detail see the summary table in the data appendix.

<sup>28</sup> See <http://governors.rutgers.edu/on-governors/us-governors/when-governors-seek-re-election/>

terms could help to explain the timing of the trend towards fixed term adoption across the Canadian provinces. Indeed British Columbia, with the second lowest incumbency success rate (63%), was the first to adopt fixed terms while Alberta, with the highest success rate under discretion (83%), has been among the last to adopt fixed terms. On the other hand, there are too many exceptions. Quebec, for example, has the lowest provincial incumbency success rate (at 61%) and was the last province to adopt fixed terms while Nfld, with the second highest incumbency success rate (82%) was among the first. Thus while the evidence is somewhat mixed, there is no convincing pattern consistent with the belief that opportunism through policy manipulation under fixed election terms has been more successful than surfing under discretion.<sup>29</sup>

#### 4. The timing of institutional change: the confluence of efficiency and redistribution

If moving to a fixed election date carries no clear opportunistic advantage relative to discretion but imposes an immediate cost on the incumbent by forcing it to forego its current discretionary advantage, what would be the incentive for the governing political party to propose and initiate institutional change? One immediate answer is that the proposal to change the timing rule is less likely to arise when the initiating party is in power, more likely to arise when the proposing party is in opposition. But this response merely pushes the problem one stage onward by raising the question of why the opposition party would go through with its promise once elected. To some extent the answer must come from the ability of the initiating party to gain electoral credit for initiating an institutional change that the electorate recognizes as producing

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<sup>29</sup> The period leading into the adoption of fixed election dating in Canada (the late 1990s and early 2000s) coincides with the period of stable economic growth leading into the 2007/8 financial crisis and following recession. That period of stability—the Great Moderation—was often attributed to better informed policy and more effective control over the economy. To the extent that incumbent governing parties believed that control over the economy by means of fiscal and monetary policy was increasingly effective, the case for a fixed term would rise relative to discretion.

an efficiency advantage. A corollary is that after campaigning on the proposal, the initiating party recognizes that it faces a potential penalty from renegeing on its campaign promise.<sup>30</sup>

If political parties were equally adept at selling institutional reform to the electorate and equally adept at implementing policy, then we would expect a more or less random pattern of adoption by all jurisdictions at roughly the same time. The existence of a pattern to when and where fixed terms were adopted might then suggest circumstances indicating which political party would be the one to champion change and when such a change would take place. An extension of our approach to this problem suggests that the party instituting change will be the one with the most to gain by adopting fixed terms and foreclosing the use of discretion. The data appendix at the end of the paper provides a summary table of the circumstances within each jurisdiction at the time fixed election terms were established.

Beginning at the federal level in Canada, a fixed election term formed part of the package of electoral reforms that characterized the re-emergence of the Conservative Party out of the remnants of the Progressive Conservative Party and the grass-roots conservatism of the emerging Reform Party (later, Canadian Alliance). This followed the virtual disintegration of the Progressive Conservative Party in 1993 (representation in the House falling from 167 to 2 members) and a 10-year long period of the restructuring of conservative support in Canada, culminating in its consolidation as the Conservative Party under the leadership of Stephen Harper. The proposal to adopt a fixed election term then formed part of the strategy of the new Conservative Party to offer a platform of striking reforms to capture the interest of voters. The

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<sup>30</sup> The current Trudeau Liberal government finds itself in just such a position, having proposed dropping the first-past-the-post electoral system for proportional representation when in opposition and now having to deal with its revised evaluation of the two systems once in power.

strategy proved successful, leading to first of three successive Conservative Party governments in 2006.

Even without the need for new proposals to re-capture the attention of the electorate, a look at the historical record of re-election success in Canada reveals that of the 16 cases prior to 2006 when a ‘conservative’ government was incumbent, the conservative party succeeded in winning re-election only 8 times, for a winning percentage of 50%. Liberal governments, on the other hand, were successful in 15 of 22 cases or 68% of the time. It follows that foregoing the right to choose the next election date would constitute a lower cost for (be a greater benefit to) the Conservative Party in Canada. Featuring institutional reform as part of the party’s policy platform while in opposition would then be a relatively attractive strategy for the Conservative Party, especially if the fixed election date had an overall efficiency advantage and the party believed it had better policy credentials for managing the economy and perhaps manipulating policy. It is then no surprise to find that it was the Conservative Party that initiated the innovation in institutional rules governing Canadian federal elections.

This prediction for the characteristic of the party proposing institutional reform is consistent with Theodore Lowi’s hypothesis concerning the incidence of political innovation.<sup>31</sup> Lowi (1963) argues that there is little political incentive to advocate reform when elections are close and the result uncertain, but becomes a profitable strategy for the weaker challenger in a two party system when traditional success is less likely and the sale of reform has the possibility of overcoming an incumbency advantage. Not only do these circumstances fit the case of the Harper Conservative government but the theory also helps to explain the incidence and timing of fixed term adoption across Canada’s provincial governments. For example, Gordon Campbell’s

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<sup>31</sup> See Roy and Alcantara (2013) for an alternative complementary way of explaining the timing of the adoption of fixed terms across Canada.

Liberal government in British Columbia had been out of power for more than fifty years before winning election in 2001 by promising a set of dramatic tax and spending cuts along with fixed term legislation. Somewhat less strikingly Danny Williams's 2004 Progressive Conservative government in Newfoundland had been out of power for 4 elections and 15 years, while Dalton McGuinty's 2003 Liberal government in Ontario had been out of power for 4 elections and 13 years. All represent cases where a new (or relatively new) elected leader of a party that had experienced little recent electoral success offered a number of electoral reforms (including fixed election terms) while in opposition and then followed through to adopt them upon election. The situation in Saskatchewan (2008) follows the same pattern. There a new leader (Brad Wall) of a conservative party (the Saskatchewan Party) in a province where the last conservative government had been elected 16 years earlier adopted fixed election terms. Prince Edward Island (2008), Quebec (2013) and New Brunswick (2007) differ only in having relatively new leaders (Robert Ghiz, Pauline Marois, and Shawn Graham) of parties that had been out of power for a minimum of 2 terms and seven or more years.<sup>32</sup> Finally, the provincial exception to the adoption of fixed terms (Nova Scotia) is also consistent with Lowi's competitiveness prediction. That is, the balanced strength of the competing political parties in Nova Scotia can be seen in that the last five general elections have resulted in two Progressive Conservative (PC), one Liberal and one NDP majority government, together with one minority PC government.

There remain two important exceptions to the pattern exhibited above: Manitoba in 2008 and Alberta in 2011. The Alberta case is different in that a fixed election term was adopted by a party (the Progressive Conservative party) that was experiencing a long history (40 years) of continuous governance. The similarity arises in that fixed terms were adopted by a newly elected

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<sup>32</sup> Pauline Marois' minority government lost the next election following its call much earlier than its fixed next date.

leader (Alison Redford) in a party with internal dissent and one that was expected to lose the upcoming election to the opposition conservative party, the Wildrose Party.<sup>33</sup> Despite winning a surprise victory and establishing fixed terms, Redford soon lost the support of her party and was forced to resign as leader. Jim Prentice, the newly elected leader, then called an election one year before the fixed date and surprisingly lost to the previous third place party, the New Democratic Party (NDP). Manitoba, on the other hand, does represent a full exception to the general rule. Although Greg Selinger was a new leader of the Manitoba NDP when they adopted fixed election terms, the NDP was already well established in power, having been in office for the three previous terms (under Gary Doer) and being under no particular threat of internal dissent or facing imminent electoral defeat.

Despite this exception, the general pattern—fixed election terms proposed by the newly elected leader of a party that was typically in opposition and with little recent electoral success—is broadly consistent with Lowi’s hypothesis explaining the timing and identity of initiators of institutional innovation. For such an innovation to be retained, however, there must be an underlying efficiency gain. In the case of Canada, we attribute this to the creative use of a governance rule that can overcome the time-inconsistency externality associated with election dating discretion.

## 5. Conclusion

In this paper the circumstances surrounding the incumbent political party’s willingness to surrender its right to set the timing of elections in Canada’s federal and provincial jurisdictions are analyzed as a way of explaining the timing of innovation in the institutional rules governing

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<sup>33</sup> Here it could be argued that effective opposition was internal and that Alison Redford’s adoption of fixed terms (among other reforms) was part of a strategy for a newcomer to overcome the incumbency advantage of the old guard in the PC party in Alberta.

elections in a Westminster parliamentary system. What makes this institutional innovation of particular interest is that the change arises in the context of a constitution that requires the governing party to maintain the confidence of the House of Commons (rather than serve out a full term). In addition, the innovation must be proposed and supported through legislation by the party that will lose a significant electoral advantage once the fixed term rule comes into effect. While the long-lived nature of the two dominant political parties in Canada offers a mechanism through which social improvements can be captured through reputation and brand name, the imperfect ability to do so suggests that timely change can be thwarted or delayed by the time inconsistency created by discretion. That is, what may appear to be an optimal change when in opposition will no longer appear so once in power.

Theodore Lowi (1963, 575) has argued that political innovation, “coopting new interest, expressing new ideas, making changes in established commitments,” is most likely to arise in alternating two party systems where one of the two parties has been relatively weak. In Canada’s case the timing of the adoption of fixed electoral terms for majority governments at the federal and provincial levels is broadly consistent with just such an asymmetry. The long period in the political wilderness following the virtual disintegration of the Progressive Conservative Party in 1993 meant the new grouping that became the Conservative Party was more willing to innovate for success. The fact that historically the Liberal Party has had relatively more success in the use of election timing made its relinquishing of that right that much easier. Similarly, the adoption of a fixed term in British Columbia by a first-time successful Liberal Party, by a newly created and recently deposed Saskatchewan Party in Saskatchewan, and following the emergence of new leaders in parties that had been out of power for significant periods in Newfoundland, PEI and Quebec are all consistent that asymmetry.

That the political parties proposing fixed term legislation chose to fulfill their promise to legislate upon election and, when in majority, chose to maintain that promise throughout their governing term is an indication that there is an intermediate road for establishing credibility somewhere between the rigidity of a constitutional amendment and the complete lack of credibility in a typically unenforceable election promise. In Canada's case, the willingness of the majority Harper government to serve out its full term despite a looming economic recession (coming from a rapid decline in commodity, particularly oil, prices) is consistent with the belief that a precedent would be established that could reinforce the political cost of reneging on the recently established fixed term. Once the commitment to the rule is formalized in legislation and reinforced through precedent, reneging on that commitment would have undermined the credibility of all other party promises in a highly visible way. By not reneging, the initiator also increases the political cost to its rivals of breaking the established rule by requiring that party either to formally change legislation and/or explain to the electorate the special reasons for early dissolution. The fact that calls for premature dissolution under majority governments have been few and far between in Canada and, when undertaken early, have been largely unsuccessful is a sign that fixed governing terms are becoming a regularized feature of election practice. As such this suggests that significant innovation in rules requiring commitment can arise in cases that cannot command the enforceability granted by constitutional protection.

## Data Appendix

### Characteristics of Legislative Acts and circumstances surrounding Fixing Election Dates across Canadian Political Jurisdictions

Date of Enactment	Jurisdiction	Frequency	Circumstances Surrounding Enactment	Years out of power before legislation	New Party Leader as Premier?	Average governing duration prior to enactment	Minority Governments	Incumbent Success rate before fixed term
2011-12-08 27 <sup>th</sup> Legislature	Alberta	Between March 1 and May 31 every 4 years. The first fixed date election was held in 2012 and the second set for 2016 but was called earlier in 2015-05-05.	The policy was enacted by the new leader of the established PC Party majority government (Alison Redford) mid-way through the 27 <sup>th</sup> Legislature begun in 2008. After winning a surprise re-election in April 2012, Redford lost the support of her party and resigned as leader. The newly elected leader of the PC party, Jim Prentice, called an early election and lost to the previous third place party (NDP).	0	Yes (Alison Redford)	3.96	0	83%
2001-08-27 37 <sup>th</sup> Legislature	British Columbia	2 <sup>nd</sup> Tuesday in May every 4 years. The first fixed date election was held on 2005-05-16.	The policy was enacted by the Liberal Party majority government that was formed following the 37 <sup>th</sup> general election in 2001. Prior to this the Liberal Party had last been elected in 1941.	16 elections and 56 years	No (Gordon Campbell)	3.61	3	63% 10 <sup>th</sup> election onward
2007-05-13 39 <sup>th</sup> Parliament	Canada	3 <sup>rd</sup> Monday in October every 4 years. The first fixed date election was held on 2015-10-19. <sup>34</sup>	The policy was enacted by a minority Conservative Party government following the 39 <sup>th</sup> general election held in 2006. The Conservative Party had been out of office since 1993 (when it was the PC Party).	4 elections and 13 years	No (Stephen Harper)	3.56	13	61%
2008-10-09 39 <sup>th</sup> Legislature	Manitoba	3 <sup>rd</sup> Tuesday in April every 4 years.  The first fixed term election was on 2011-10-04.	The policy was enacted by the NDP majority government that was formed following the 39 <sup>th</sup> general election that was held in 2007. This was the third consecutive NDP majority government, with the NDP having been in office since 1999.	0	Yes (Greg Selinger)	3.61	8	70%

<sup>34</sup> Note that two Canadian federal general elections followed the enactment of fixed election dates that were held earlier than scheduled (in 2008 and 2011). These were both involved minority Conservative governments.

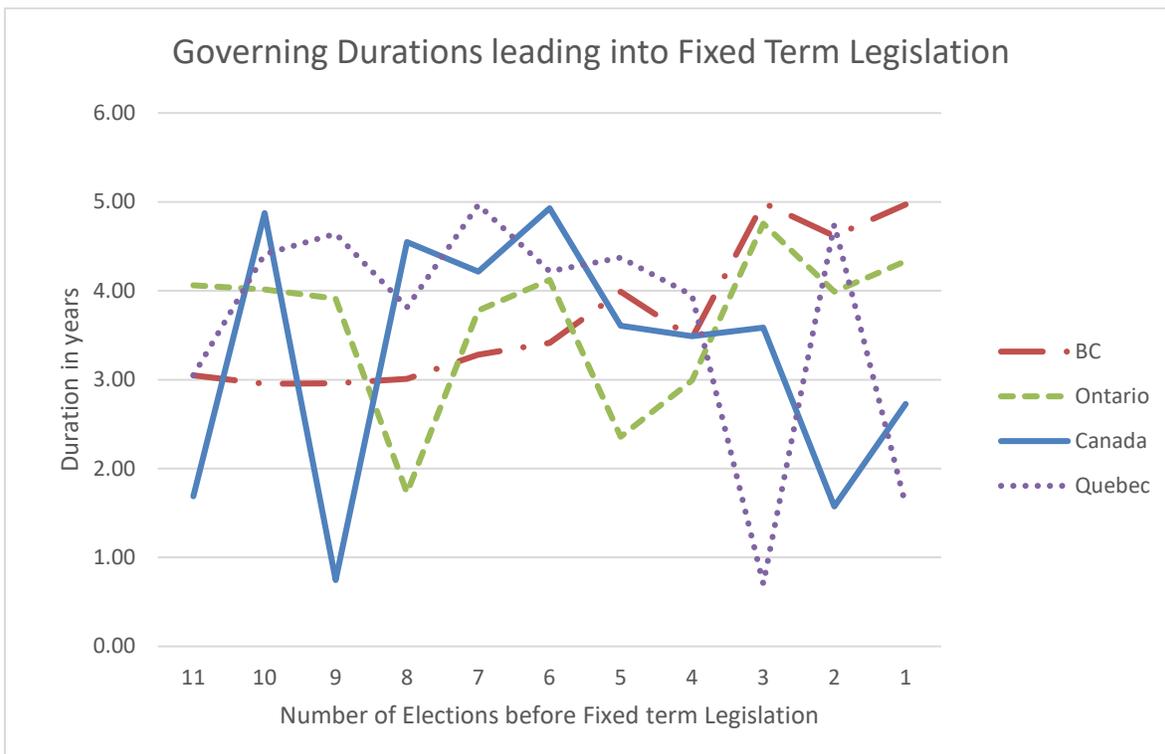
2007-06-26 36 <sup>th</sup> Legislature	New Brunswick	4 <sup>th</sup> Monday in September every 4 years. The first fixed date election was on 2010-09-27.	The policy was enacted by the majority Liberal Party government after the 36 <sup>th</sup> general election following Confederation. The previous two general elections were won by the PC Party.	2 elections and 7 years	No (Shawn Graham)	4	0	70.5% 19 <sup>th</sup> election onward
2004-12-16 17 <sup>th</sup> Legislature after joining Canada in 1949	Newfoundland and Labrador	2 <sup>nd</sup> Tuesday in May every 4 years.  The first fixed date election was held on 2007-10-09.	The policy was enacted by the PC Party majority government that was formed following the 45 <sup>th</sup> general election that was held in 2004, which was the 17 <sup>th</sup> general election following Confederation. The PC Party had been out of office since 1989.	4 elections and 15 years	Yes (Danny Williams)	3.375	1	82%
2006-11-02 15 <sup>th</sup> Legislature	Northwest Territories	1 <sup>st</sup> Monday in October every 4 years. The first fixed date election was held in 2007.	The electoral process in the Northwest Territories does not recognise political parties.	na	Yes (Joe Handley)	5	na	
2014-03-19 4 <sup>th</sup> Legislature	Nunavut	Last Monday in October every 4 years.	The electoral process in the Nunavut does not recognise political parties.	na	(Peter Taptuna)	na	na	
2005-12-15 38 <sup>th</sup> Legislature	Ontario	1 <sup>st</sup> Thursday in October every 4 years. The first fixed date election was held on 2007-10-10.	The policy was enacted by the Liberal Party majority government formed after the 38 <sup>th</sup> general election held in 2003. The Liberal Party had formed the government from 1987 to 1990 but before this had not been in office since 1943.	4 elections and 13 years	No (Dalton McGinty)	3.68	6	75%
2008-05-22 38 <sup>th</sup> Legislature	Prince Edward Island	1 <sup>st</sup> Monday in October every 4 years. The first fixed term election was held on 2011-10-03.	The policy was enacted by the Liberal Party majority government formed following the 38 <sup>th</sup> general election held following Confederation. The Liberal Party was last in office in 1996.	3 elections and 11 years	No (Robert Ghiz)	3.63	1	65%

2013-06-14 40 <sup>th</sup> Legislature	Quebec	1 <sup>st</sup> Monday in October every 4 years  The first fixed term election was held on 2014-04- 07.	The policy was enacted by the Parti Quebecois minority government that was formed following the 40 <sup>th</sup> general election that was held in 2012. The minority Parti Quebecois lasted less than two years.	3 elections and 9 years	No (Pauline Marois)	3.65	3	61%
2008-04-28 26 <sup>th</sup> Legislature	Saskatchewan	1 <sup>st</sup> Monday in November every 4 years.  The first fixed term election was held on 2011-11- 07.	The policy was enacted by the Saskatchewan Party—the main conservative-leaning provincial political party in Saskatchewan in the early 21 <sup>st</sup> century—a majority government formed following the 26 <sup>th</sup> general election in 2007. A conservative-leaning party had not formed government in Saskatchewan since the PC Party left office in 1991.	4 elections and 16 years (since the last conservati ve governmen t)	Yes (Brad Wall)	4.08	1	77%
No fixed date adopted	Nova Scotia and Yukon			na		3.74	3	

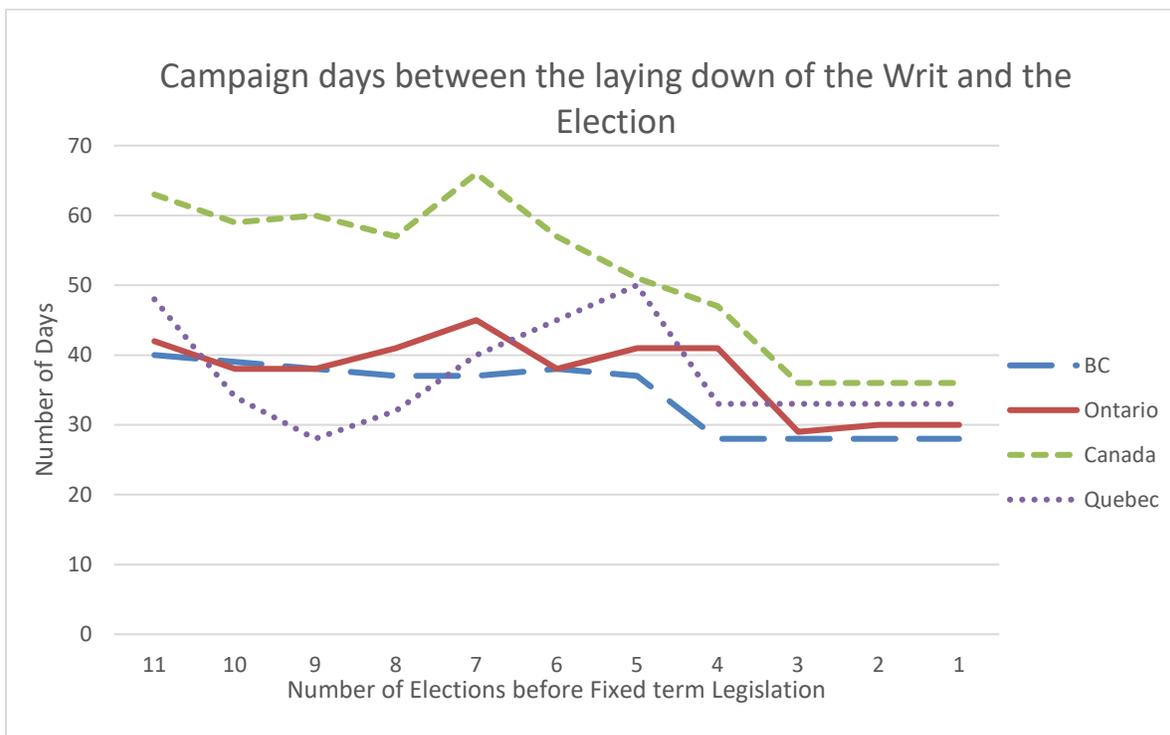
### Sources

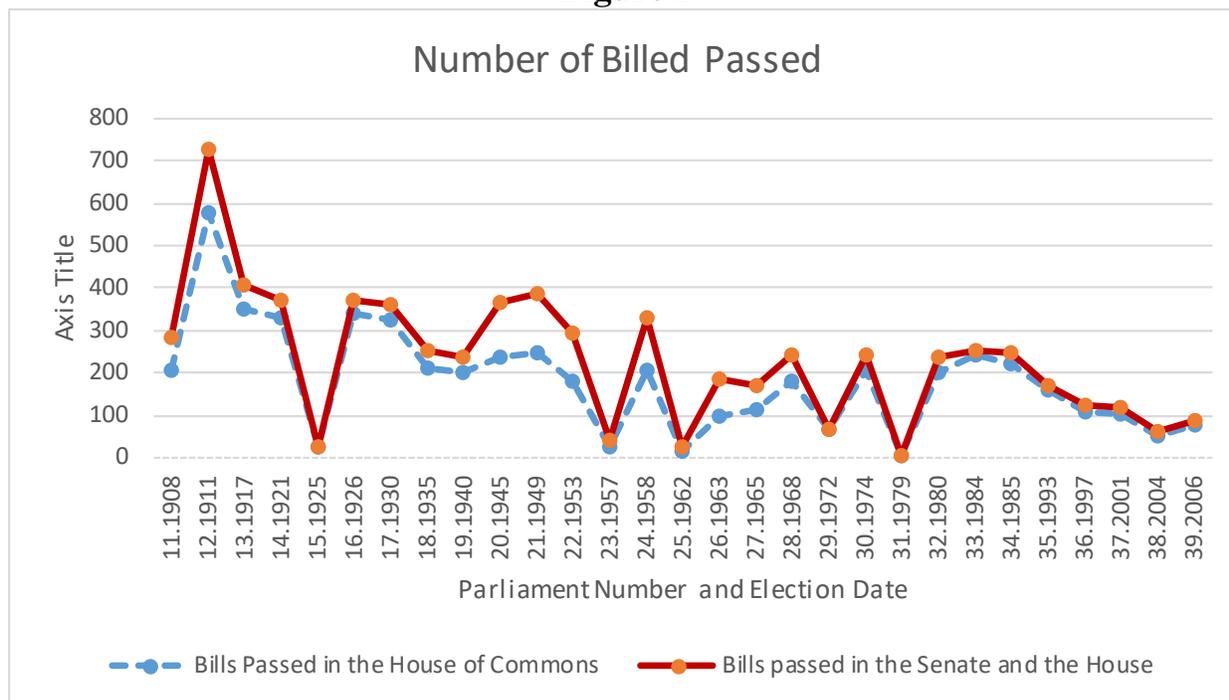
Date of Enactment by jurisdiction: “Fixed-date elections in Canada,” Library of Parliament, Canada. Available online at <http://www.lop.parl.gc.ca/ParlInfo/Compilations/ProvinceTerritory/ProvincialFixedElections.aspx?SortColumn=ResultDate&SortDirection=ASC>. Retrieved on 9 September 2016. Provincial election data available on line at Elections Ontario, Elections British Columbia etc.

**Figure 1a**



**Figure 1b**



**Figure 2**

**Table 1**  
**Descriptive Statistics**

Characteristics of Canadian Federal Governments: 11<sup>th</sup> through 40<sup>th</sup> Parliaments

Variable	Mean	Maximum	Minimum	Std. Deviation	ADF
Duration (in years)	3.25	6.00	0.50	1.49	-5.78
Minority Governments	0.323	1.00	0.00	0.475	-4.80
Liberal Party Governments	0.581	1.00	0.00	0.50	-5.05
Seats (percentage)	55.4	78.0	40.0	10.64	-5.14
Winning Margin (fraction)	0.200	0.451	0.128	0.058	-4.83
HOC_bills_passed	178.9	190.5	6.00	125.4	-5.38*
HOC_passed_per_year	50.63	96.5	12.0	21.03	-2.85
Ratio of bills passed	0.428	0.827	0.019	0.290	-2.81*

Mackinnon (1996) 1% (5%) [10%] critical values: -3.66 (-2.96) [-2.62]; \* constant and trend

**Table 2**

### Tests of Legislative Efficiency in Canada's Federal Parliaments: 1908–2008

(absolute value of t-statistic in brackets)

Observations are by successive Parliaments	Number of Bills passed by the House per year	House Bills passed per electoral term
Constant	84.2*** (5.08)	208.2*** (3.12)
Trend	-1.76*** (6.57)	-6.59*** (6.10)
Parliament duration (in years)	7.03*** (3.53)	73.89*** (9.20)
Proportion of seats held by the winning party	-0.535* (1.92)	-2.39** (2.08)
Winning vote margin	83.77** (2.17)	257.97 (1.66)
Liberal Party	-0.691 (0.158)	-33.08* (1.78)
Statistics		
Number of Obs.	30	30
Adj. R <sup>2</sup>	0.674	0.851
D.W.	2.11	2.5

\*\*\*(\*\*)[\*] significantly different from zero at 1% (5%) {10%}

Political Competition Variables:

Proportion of seats = percentage of seats won by the governing party in each parliament

Winning vote margin = the average winning vote margin across federal constituencies, where the winning margin is defined as the difference in vote shares received by the first versus second place finisher in each constituency.

Sources for the political variables:

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