

From Genteel Pluralism to Hyper-Pluralism: Interest Groups and Supreme Court Nominations, 1930-2017

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Abstract

The last century witnessed a staggering rise in the number of interest groups active in American politics. While this fact is well known, we lack a comprehensive study of the number of groups, the identity of groups, the timing of their births, their mobilization decisions, and their tactical choices, beginning before the transformation and continuing to the present day. In this paper, we use Supreme Court nominations to conduct precisely such an analysis. Analyzing new data on the 52 nominations from 1930 to 2017, we document a sea change in interest group politics. Prior to the 1970s, nomination politics were characterized by a small number of active groups, infrequent opportunistic mobilization, and somewhat restrained inside-oriented tactics. The 1970s saw a surge in both liberal and conservative groups, while the 1980s saw a continuing surge, largely on the conservative side. Moreover, the types of groups shifted from labor unions, core civil rights groups, and “old right” groups, to public interest, ideological, and identity politics groups. By the late 1980s, nomination politics was characterized by a large number of groups, routine ideologically driven mobilization, and extremely vigorous outside-oriented tactics. In sum, the data show a transformation from relatively genteel pluralism to street-fighting hyper-pluralism.

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1 Introduction

Peter Odegard, reviewing Pendleton Herring's 1928 book *Group Representation Before Congress*, painted a disturbing portrait of Washington:

Washington is overrun with representatives of innumerable groups, from the American Agricultural Association to the Zionist Organization Union. "The cast iron dome of the Capitol has strange magnetic powers [wrote Herring]. It is the great hive of the nation to which each busy big and little association sooner or later wings its way." No conclusive statement as to the total number of organizations so represented can be given. Mr. Herring lists about five hundred and says there are easily a thousand. Their membership varies from a mere handful to millions. Hundreds of them are fakes whose sole *raison d'être* is the collection of dues and subscriptions. Some of them, like the National Association of Manufacturers, the Anti-Saloon League, and the Chamber of Commerce, speak with the voice of Stentor. The weaker sisters, like Chanticleer, go on the theory that when they crow Congress cringes, although their squawkings have as little to do with legislation as the cock's crow with the dawn. But when the "big fellows" speak it behooves congressmen to listen, and an order from the Bliss Building may be as effective as one from the White House. (Odegard 1929, 469-70)

A contemporary reader encountering this description is apt to smile and think *plus ça change, plus c'est la même chose*—the more things change, the more they stay the same. But that would be a mistake. Modern-day scholars of the Washington community, walking in the footsteps of Herring, find not 500 to 1000 groups but approximately *14,000* (Schlozman 2010, 434). This is a huge change in scale. More than that, it may be a change in kind. Today we stand on the far side of one of the most striking developments ever in American politics: a radical transformation of civic associational life. Given the magnitude of the change, it is hard not to agree with Skocpol (2007, 41) that this shift constitutes a "momentous reorganization of U.S. civic activity and institutions."

As is well-known, this transformation involved two elements (see Aldrich et al. 1994, Fiorina and Abrams 2009, Minkoff 1995, Schlozman 2010, Skocpol 2003, *inter alia*). The first was the decline of very large, multi-purpose, participatory membership organizations

(like the Elks Club and the Grange). The second was an explosion in the number of small, narrow-purpose, donor-funded, professionalized advocacy organizations, typically headquartered in Washington, D.C.—though one may observe something similar in many states (Gray and Lowery 2000). The decline of big participatory multi-purpose groups occurred over an extended period but particularly after the 1950s. The growth of narrow professional advocacy groups was a phenomenon primarily of the 1970s and 1980s, though an earlier growth wave during the Progressive Era created the world so vividly documented by Herring (see Tichenor and Harris 2005).

The core scholarship on the great interest group transformation relies heavily on counts and profiles assembled from association encyclopedias. Unfortunately, these sources came into existence only fairly late. For example, the earliest year of the Washington Representatives Study (Schlozman et al. 2017) is 1981. The much more compendious *Encyclopedia of Associations* (2016) began publishing in 1956, though its counts may not be reliable until rather later. To be sure, scholars have supplemented these counts with snap-shot surveys of many groups (e.g. Caldeira and Wright 1998, Heinz et al. 1993, Kollman 1998, Strolovitch 2008, Walker 1991). But virtually all of these surveys were conducted either toward the end of the transformation or after it had taken place. In addition, a small number of studies examine the policy behavior of groups at a moment in time within particular policy domains (Laumann and Knoke 1987) or with respect to a random sample of legislative proposals (Burstein 2014) or lobbying efforts (Baumgartner et al. 2009). But, again, these studies focus on recent years.

We thus have a picture of a massive transformation of the interest group world after the late 1960s, coupled with considerable scholarship on the political behavior of interest groups more recently. What we lack, however, is a portrait of the interest group transformation embracing the identity of the groups, their mobilization decisions, and their tactical choices, beginning before the great transformation and continuing through it, up to the present.

In addition, it would highly desirable if the political event sparking the groups was the same event repeated multiple times, to permit investigation of the changing make-up of the participants, their mobilization choices, and their tactical decisions within one specific “political laboratory.” Such a study would cast new light on what Tichenor and Harris (2005, 253) call the “lost years” of interest group politics prior to the 1960s (2005: 253). It would also complement the contemporary count and survey-based studies by offering both greater historical continuity and additional factual detail.

In this paper, we offer precisely this missing study. Our political laboratory is Supreme Court nominations, and our time period comprises the nine decades from 1930 to 2017, from Pendleton Herring’s day to our own. Hence, we begin prior to the great transformation, continue through it, and move up to the present day. The event of a new Supreme Court nominee has occurred some 52 times since 1930, at an average of 18 month intervals. We employ the same measurement instrument throughout, namely, newspaper coverage of interest group activities during nominations. Our measurement strategy is thus reminiscent of that typically employed to study “contentious politics” over time (Earl et al. 2004, Tilly 2008). We offer several validity checks on the reportage data. We also supplement the core reportage data with additional information on the groups and nominations.

With this new and expansive dataset, we document changes in the following:

- The levels of mobilization, including the extent of supportive mobilization as well as oppositional mobilization;
- The types and identities of interest groups that mobilize (i.e. the “ecology” of groups);
- The size and composition of liberal and conservative ecologies of groups over time;
- The birth and deaths of participating groups over time;
- The tactics employed by the groups;
- The timing of participation during the nomination process; and,
- The determinants of overall mobilization levels.

The result is not only the most detailed picture of interest group involvement in Supreme Court nominations over an extended period of time, it is (to the best of our knowledge) the most complete portrait of interest group participation in any repeatedly occurring political event in American history over an extended period.

Most strikingly, the data reveal a sizable increase in interest group activity over time. From 1930-1970, there was relatively little mobilization, with many nominations seeing zero interest group activity (though there were some notable exceptions). After 1970, and particularly after Robert Bork's nomination in 1987, mobilization became routine and of a sizable magnitude for most nominees. We also see changes in the type of mobilization. Early on most mobilization was done in *opposition* to a nominee; now mobilization occurs in roughly equal numbers on both sides. We also find that the calculus of interest groups appears to have changed significantly in the pre- and post-Bork periods, with a shift from "opportunistic mobilization" based on a nominee's qualifications for the high court to a more routine mobilization that is more heavily influenced by the ideology extremity of the nominee.

In addition, the data reveal significant shifts in both the *types* of groups that routinely mobilize and the *tactics* employed by mobilized groups. Whereas the earlier period was dominated by labor unions, "core" civil rights groups, and groups affiliated with the "old right," the modern period is dominated by public interest/citizen groups and "identity" groups. In some sense, the classic "blue-black alliance" on the left was replaced by a "rainbow alliance." On the right, we see a shift from old right groups to modern conservative interest groups, focused on policy areas like gun rights and cultural issues (such as abortion). We also find a universal shift among all types of groups from more traditional "inside" tactics to the heavy use of "outside/grassroots" mobilization tactics. Thus, the overall density and scope of mobilization has changed significantly over the nine-decade period we study.

Taken together, our results illustrate how the interest group environment moved from a relatively sparse ecology characterized by occasional, generally opportunistic mobilization of

a relatively closed form, to a dense ecology characterized by routine, intense, highly ideological and very visible contention. In a nutshell, the politics moved from relatively genteel pluralism to vicious, street-fighting hyper-pluralism. While our focus is on the context of Supreme Court nominations, we believe this paper contributes significantly to our understanding of the changing roles and influence of interest groups in American politics more broadly.

2 Interest Groups and Supreme Court Nominations

Interest group involvement in Supreme Court nominations is not a new phenomenon. The Grange played a role in the wild nomination of railroad attorney Stanley Matthews in 1881 (Ainsworth and Maltese 1996). During the political donnybrook sparked by Woodrow Wilson's nomination of Louis Brandeis in 1916, individuals connected to railroad commissions, newspapers, manufacturers, and unions participated actively, though typically as individuals rather than formal representatives of organizations *per se*. Herbert Hoover's 1930 nominee John J. Parker famously sparked opposition by the American Federation of Labor (AFL) and the fledgling National Association for the Advancement of Colored People (NAACP), leading to Parker's rejection by the Senate (Watson 1963, Goings 1990). But many other nominations in this period failed to ignite group interest. For example, Danelski's (1964) detailed case study of Pierce Butler's confirmation in 1922 reveals very little group involvement, despite a degree of controversy. These examples suggest long-standing though intermittent involvement of interest groups in Supreme Court nomination politics. On the other hand, the seemingly routine mobilization of groups in most recent nominations points to an expansion or even transformation of their role.

What does the political science literature on Supreme Court nominations tell us about the role of interest groups? Importantly, the broader literature on interest groups discussed above has run on a parallel track to the study of the role of interest groups in Supreme

Court nominations. To be sure, the importance of interest groups has not gone unnoticed by scholars of the Supreme Court confirmation process. But in contrast to the macro view taken by many of the studies cited in the introduction, most studies of interest groups and nominations have tended to focus on a particular set of nominations.

One set of articles by Caldeira and Wright (and co-authors) have used fine-grained data on interest group activity to study the linkages between mobilization and senatorial voting on Supreme Court nominees. Caldeira and Wright (1998) combine survey data of groups with newspaper reporting to examine mobilization and tactics in the nominations of Robert Bork, David Souter, and Clarence Thomas. Caldeira, Hojnacki and Wright (2000) extend this invaluable work to the nominations of William Rehnquist and Anthony Kennedy. These studies find that lobbying by groups (in both directions) appears to have influenced senatorial voting on these nominees.¹ And, relatedly, Austen-Smith and Wright (1994) show that the lobbying patterns during the Bork nomination are consistent with the theory of “counter-active lobbying.”

A few additional papers have examined interest group activities beyond the direct lobbying of senators. O’Connor, Yannus and Patterson (2007) examine several tactics of interest groups during the three nominations under President George W. Bush (Roberts, Miers, and Alito), including position taking, advertising, and mailing. Closely related is Vining Jr. (2011), who for those same nominations examines how interest groups used e-mail solicitations to mobilize supporters. In addition, Gibson and Caldeira (2009) study the relationship between exposure to interest group advertisements during the Alito nomination and the public’s views on his nomination. Finally, there are many case studies of particular nominations that provide highly illuminating accounts of interest group strategies.²

¹Taking a less nuanced but more historical view, Segal, Cameron and Cover (1992) and Cameron, Kastellec and Park (2013) find that increased interest group activity on nominations is associated with a nominee receiving more nay votes in the Senate, *ceteris paribus*.

²Most notable are Pertschuk and Schaetzel’s (1989) and Mayer and Abramsom’s (1995) comprehensive accounts of the Bork and Thomas nominations, respectively. Maltese (1995) also provides case studies of

These micro-oriented studies are essential for gaining an in-depth understanding of one or a few nominations or for the close study of group tactics at one point in time. However, they cannot gauge changes over a longer period. The only longitudinal analysis of interest group activities has come in the form of (relatively brief) analyses of participation before the Judiciary Committee during nominee hearings (Maltese 1995, 90-1, Epstein and Segal 2005, 96, Farganis and Wedeking 2014, 102). While important, as we discuss below, participating in hearings is only one of the many types of tactics that interest groups employ during nominations. Moreover, the bulk of activity tends to occur *before* hearings take place. Hence, participation in the hearings offers a very partial picture at best of actual group mobilization and tactics.³

Thus, for Supreme Court nominations we know little about changes in mobilization practices over time; changes in the ecology of groups over time; and changes in tactics over time. We also do not know whether any such changes are similar to those seen in the broader interest group environment, or whether group participation in Supreme Court nominations has been qualitatively different in important ways.

3 Data and Analysis

To answer these questions, we require a data source that is relatively consistent and reliable over time. While the survey-based approach employed in studies such as Caldeira and Wright (1998) and Walker (1991) might be first-best in theory, it obviously cannot be backdated. Accordingly, we follow the lead of other scholars and use newspaper coverage to measure interest group mobilization over time (see e.g. Burstein (2014) for a recent and

the role of organized interests during several controversial nominations dating back to the 19th century.

³There also exists a smaller literature on the role of interest groups in lower federal court nominations. Scherer, Bartels and Steigerwalt (2008) show that interest group opposition is strongly associated with unsuccessful nominations to the Courts of Appeals, while Bell (2002) and Scherer (2005) offer wide-ranging quantitative and qualitative examinations of the growth of interest groups in lower federal court appointments. While valuable, the political context for lower court nominations differs vastly from that of Supreme Court nominations, given the inherent greater salience of the latter.

excellent example).

Specifically, we conduct a content analysis and coding of all articles in the *Los Angeles Times* covering specific Supreme Court nominations, from 1930 to 2017. Using Proquest's historical newspaper electronic archive, we first identified every *Los Angeles Times* story that discussed a nominee, with a nomination defined as the period between the announcement of a new nominee and the final disposition of the nomination (i.e. when a nomination officially ended, either in confirmation or defeat/withdrawal).⁴ We then coded the relevant *Los Angeles Times* stories in detail, identifying each group, its indicated position relative to the nominee, the tactics reported used by the group or its actions (discussed in detail below), and the timing of the action. We used the articles to identify the total number of stories with interest group mentions, the number of stories mentioning each group, and each unique group mentioned in at least one story. Some stories reporting interest group activity did not specify the identity of the groups, e.g., "environmental groups" or "anti-abortion groups." These stories contribute to the counts of stories reporting interest group activity and to counts of different types of tactics but do not contribute to the counts of interest groups themselves, which are based on an identification of specific groups. To classify the groups into categories, we also compiled organizational profiles of each group, mostly from Internet searches but also the scholarly literature. All told, the data reveals that interest group mobilization occurred for 35 of the 52 nominations in our time period.⁵ Among these 35 nominees, we uncovered mobilization by 193 unique interest groups.

As we show below, the data offers a rich and unique lens into interest group mobilization

⁴This approach obviously does not allow us to measure any role for interest groups in the *selection* stage. We note how this role has changed in the discussion section below.

⁵For completeness, we include the nominations of both Homer Thornberry in 1968 and Douglas Ginsburg in 1987. Thornberry was nominated by Lyndon Johnson to take Justice Abe Fortas' seat upon Fortas' elevation to Chief Justice in 1968—but Fortas' nomination to become Chief was blocked in the Senate and thus Thornberry's nomination became moot. Ginsburg was nominated by President Reagan immediately after Robert Bork was defeated, but Ginsburg quickly withdrew his nomination after a scandal emerged; his name was never officially submitted to the Senate for confirmation.

over a time span of nearly a century. At the same time, the data have important limitations. First, unlike Caldeira and Wright (1998), we cannot see whether and how groups target specific senators or media markets; thus, we cannot extend their analysis to the entire period of study. Second, the data are dependent on the *Los Angeles Times* sufficiently covering each nominee to capture the breadth and depth of interest group involvement in nominations, as well as the types of tactics employed. We acknowledge that the coverage will surely miss some groups who participated. However, the goal of our analysis is to capture the broader temporal trends in mobilization (as opposed to say, precisely estimating the causal effect of interest groups on senatorial voting), and we are confident the *Los Angeles Times* reporting suffices on this dimension. (In the appendix, we further discuss and present evidence for the validity of the measure.)

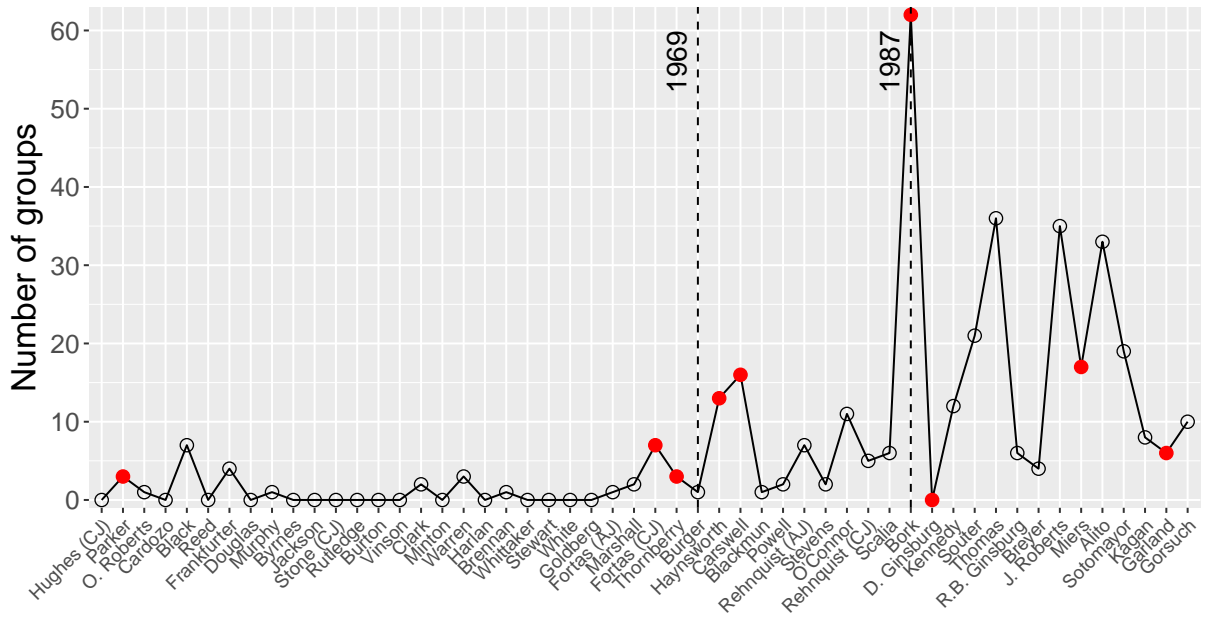
3.1 Levels of Mobilization

We begin our analysis by examining levels of mobilization. For each nominee, we first calculated the number of unique groups mentioned by the *Los Angeles Times* as participating in the nomination process. Figure 1A displays this data; note, to make the graph more readable, the horizontal axis displays each nomination separately, and is thus not perfectly scaled to time.⁶ The solid (red) dots denote unsuccessful nominees, while the open dots denote confirmed nominees.

Figure 1A reveals a clear change over time. The number of groups that mobilized in the 29 nominations from Charles Evans Hughes to Warren Burger (1930-1969) was typically few; indeed, more than half (16) of these nominations witnessed zero mobilization, with the mean level at 1.2 groups in this period. The nomination of Haynsworth (1969) seemed to mark a change, with higher levels of mobilization subsequent to his controversial nomination. From 1969 to 1986, the year in which William Rehnquist was promoted to Chief Justice and

⁶Some years comprise multiple nominations, while the gaps between nominations are irregular. For reference, Figure A-3 in the appendix presents the “timeline” of nominations in our period of study.

A) Interest group mobilization over time



B) Interest group mobilization, support and opposition

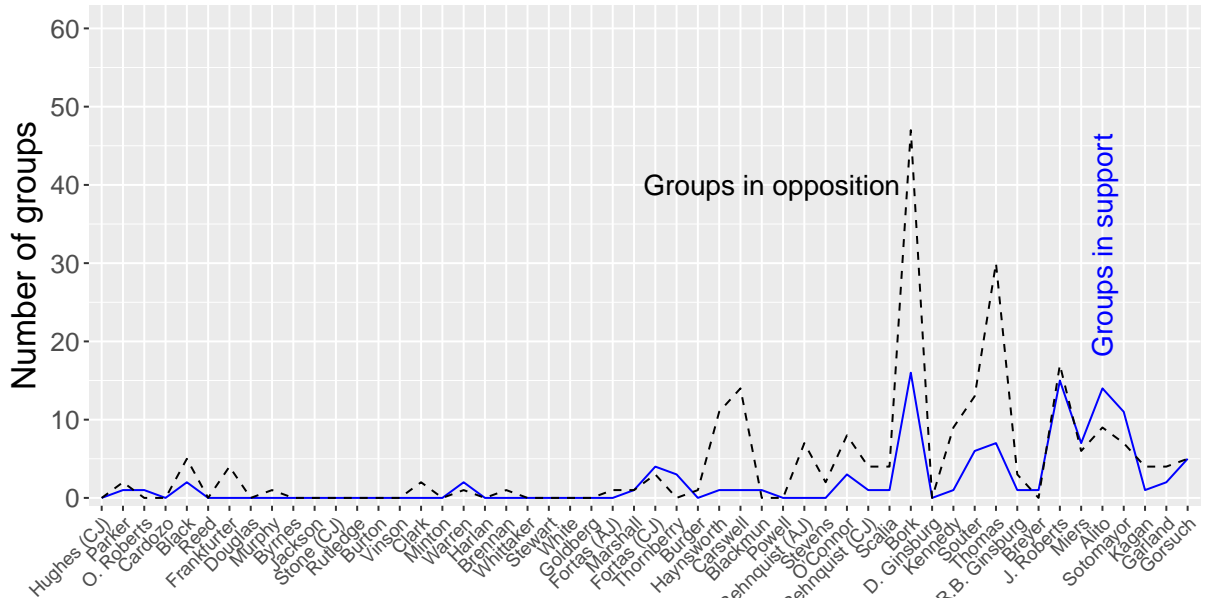


Figure 1: A) Interest group mobilization over time. The points display the number of unique groups mobilizing for each nominee; the solid (red) dots denote unsuccessful nominees, while the open dots denote confirmed nominees. The vertical dashed lines at the Burger (1969) and Bork (1987) nominations demarcate what we contend are three distinct eras. B) The dotted line depicts mobilization by groups opposed to the nominee, while the solid (blue) line depicts mobilization by groups supporting the nominee.

Antonin Scalia was appointed, the mean number of groups mobilized was 5.7. The nomination of Bork occurred in 1987; Figure 1A shows that the level of mobilization during the

Bork nomination was—and remains—unprecedented, with more than 60 groups taking part. Since the Bork nomination, the levels of mobilization have fluctuated, with the nominations of Thomas, Roberts, and Alito triggering a large number of groups. The mean number of groups in the 1987 to 2017 period was 19.2 (15.9 if Bork is excluded).

Mobilization, of course, occurs on both sides of a nomination fight. Figure 1B disaggregates the data into the number of groups who mobilize in support of the nominee and the number who mobilize in opposition. The graph shows that until very recently, mobilization against a nominee was typically larger than mobilization in support of a nominee. Indeed, the latter is a relatively recent phenomenon, and hardly existed until the Bork nomination. Since then, supportive mobilization has become more common; moreover, the ratio of supportive to opposing mobilization has virtually equalized in the last few nominations. This equalization may reflect a growing sophistication of the president in organizing what are virtually political campaigns on behalf of a Supreme Court nominee.⁷

3.2 Who Participates: One-Shotters, Repeat Players, and the Changing Nature of the Groups

While Figures 1 and A-4 establish the increase in aggregate mobilization, it also of interest whether the *types* of groups that participate in Supreme Court nominations have changed. Given the broader changes in nomination politics over this time, we would expect the composition of groups to change as well.

First, our data reveal an important pattern in the overall *distribution* of mobilization by different interest groups. For each group in our dataset, we calculated the number of

⁷ Examining the number of unique groups per nomination may mask variation in the *intensity* of activities. For example, the liberal group People for the American Way was mentioned seven times by the *Los Angeles Times* during the Bork nomination, indicating the rigor of the group’s effort to defeat the nominee. Figure A-4 in the appendix is similar to Figure 1, except it shifts the unit of analysis to the number of “mentions” of interest group activities per nomination; in other words, the number of instances in which the *Los Angeles Times* depicts an interest group being involved. The overall patterns in Figure A-4 are similar to those in Figure 1 (note the scales of the vertical axes are different), and they make clear that when groups mobilize, the extent of mobilization is often substantial.

Distribution of number of nominations participated in

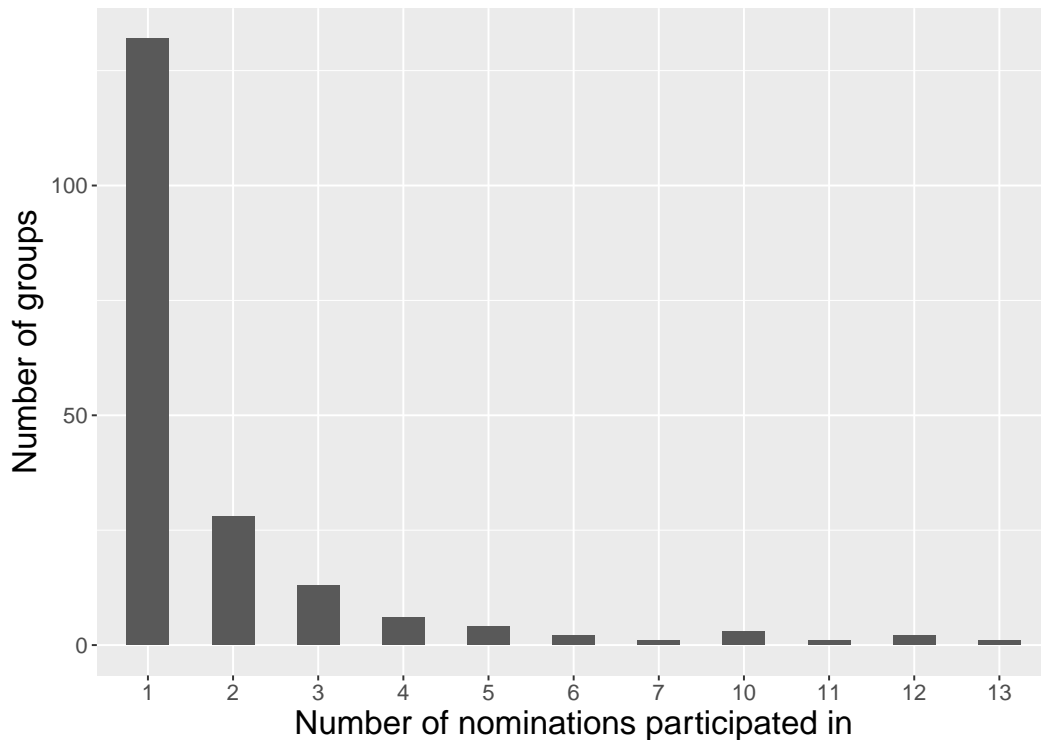


Figure 2: The frequency of mobilization across interest groups. The horizontal axis depicts the number of nominations participated in, while the vertical axis depicts the aggregate number of groups for each level of participation.

nominations in which they participated. Figure 2 depicts the distribution of these rates of participation—the horizontal axis depicts the number of nominations participated in, while the vertical axis depicts the aggregate number of groups for each level of participation. The graph shows that the majority of groups (132, to be exact) are “one-shotters”—they mobilize in one and only one nomination. Conversely, there are a smaller number of “repeat players”—groups who have mobilized across multiple nominations.⁸

The repeat player groups are of greater interest for our longitudinal analysis. Table 1 shows who these groups are. The top panel depicts the 10 most frequently appearing groups (in descending order) that mobilized across our entire time period, while the next three

⁸One concern is that the large proportion of one-shotters may be an artifact of the *Los Angeles Times* coverage; in particular, the *Times* might be picking up a group in one nomination but missing its mobilization in other nominations. As a robustness check, we repeated this analysis using the number of groups that take part in the Senate Judiciary Committee hearings on nominees (see Appendix Section A.1 for details). The distribution of participation rates in the hearing data is presented in Appendix Figure A-5. Importantly, while the *levels* of mobilization are higher in the hearing data—as we discuss in the Appendix, this is not surprising—the distribution looks very similar.

Table 1: Lists of the ten most active groups, first across the entire time period, then in each era. The groups appear in descending order of total mobilization; the numbers in parentheses depict the number of nominees the groups mobilized for. The nature of mobilized groups has shifted dramatically, from industrial unions, core civil rights groups, and old right groups, to public sector unions, the Christian right, life-style activists, new style liberal groups, and staged pro-administration front groups.

All
NAACP (13) NARAL (12) People for the American Way (12) LCCR (11) ABA (10) AFL-CIO (10) NOW (10) National Right to Life Committee (7) Alliance for Justice (6) UAW (6)
Hughes to Burger (1930-1969)
ABA (3) AFL (3) Liberty Lobby (3) American Airlines Lobbyist (2) UAW (2) American College of Trial Lawyers (1) American Defense Society (1) American Federation Against Communism (1) American Liberty League (1) American Rally (1)
Haynsworth to Scalia (1969-1986)
LCCR (6) NAACP (6) NOW (5) AFL-CIO (4) Americans for Democratic Action (3) UAW (3) ABA (2) ACLU (2) National Education Association (2) National Women's Political Caucus (2)
Bork to Gorsuch (1987-2017)
NARAL (12) People for the American Way (11) Alliance for Justice (6) NAACP (6) National Right to Life Committee (6) ABA (5) American Conservative Union (5) Family Research Council (5) Judicial Confirmation Network (5) LCCR (5)

panels break down the data into the three time periods indicated in Figure 1: Hughes (1930) to Burger (1969); Haynsworth (1969) to Scalia (1986); and Bork (1987) to Gorsuch (2017). The numbers in parentheses depict the number of nominations in which each group mobilized in the respective time period. Looking first at the entire period, Table 1 reveals that the most frequent participants are liberal groups such as NARAL (the National Abortion Rights Action League), People for the American Way, and the NAACP.

Perhaps more illuminating, however, is the transformation in the *types* of groups seen

in the bottom three panels of Table 1. The three most frequently appearing groups in the early period were the American Bar Association, the American Federation of Labor (AFL), a core industrial union; and the Liberty Lobby, a conservative anti-communistic bulwark of what we label the “old right.” In the middle period, extremely prominent groups were the Leadership Conference on Civil Rights (LCCR), the NAACP, and the National Organization of Women (NOW). Finally, the third period sees the rise of the aforementioned liberal groups that focus on social issues and identity politics.

How then might we characterize interest groups more systematically? Scholars have attempted to organize the interest group system using a number of different typologies, each presenting their own difficulties. Most divide the interest group universe based on the policy areas in which groups operate or the constituencies they represent (see e.g. Walker 1991, Baumgartner et al. 2009). We began with a fine grained classification scheme that would allow us to better discriminate between the types of groups whose political participation is based largely around the unique phenomenon of Supreme Court nominations. Categories in this scheme include, for example, groups involved in environmental and health politics, as well as abortion and gay rights groups. Using this micro-level taxonomy as a starting point, we then aggregated certain categories in order to generalize about larger collections of similar organizations. (The complete taxonomy can be seen in Appendix Table A-1.)

Figure 3 presents a more systematic look at this change by graphically indicating the shifting mobilization of particular types of groups. We begin with the top three panels, which show, for each nominee, the number of groups mobilized in three categories: labor, civil rights, and abortion. Also shown is the fit from non-parametric loess lines. As can be seen, labor groups have been active over the entire period, but their mobilization rates have declined in the last two decades. Civil rights groups also have a long history of involvement, though their prime period of involvement was from the 1960s to the 1980s. Finally, the sizable rise of abortion groups is indicative of the transformation in groups now active in nomination

Types of group mobilization over time

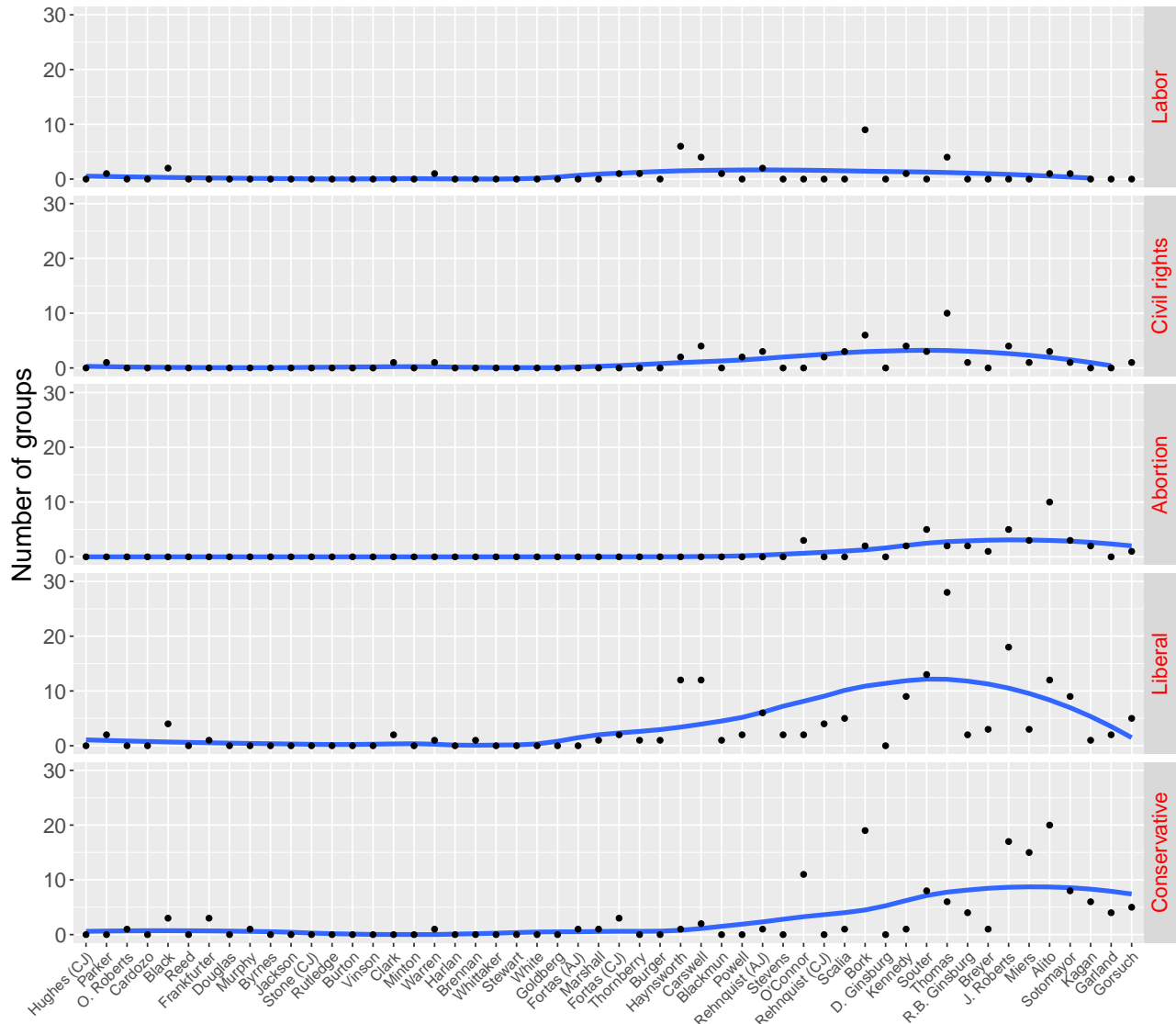


Figure 3: The shifting composition of interest groups. The graph depicts the number of groups mobilized in five (overlapping) categories: labor, civil rights, abortion, liberal, and conservative. The (blue) lines are loess lines. Note we truncate the vertical axis height at 30 to allow for better discernment of the trends over time—42 liberal groups mobilized during the Bork nomination.

politics. Taken together, the first three panels show sequential “peaks” in mobilization for labor, civil rights, and abortion groups, respectively.

In addition to characterizing groups by their policy mobilizations or favored industry, we can also characterize many groups by their ideological polarity. For example, active abortion groups include liberal organizations such as NOW and NARAL and conservative groups like the National Right to Life Committee. The bottom two panels in Figure 3 depict the trends

in mobilization by liberal and conservative groups. The figure reveals a general increase in participation over time on both sides. But, interestingly, in the last period conservative mobilization has often outpaced liberal mobilization (which has trended downwards since the Bork nomination), a pattern consistent with the increased emphasis in the conservative legal movement on the importance of courts and judicial selection (Teles 2008).

Moving from the specific to the general, it is also useful to categorize groups by their broader purposes. For every interest group that appears in our data, we placed them in the following categories: corporations/businesses; state/local groups; occupational groups; identity groups; public interest/citizens group; and a residual category (“other”). Although professional and occupational groups have always outnumbered other organized interests in the larger pressure group universe, citizen groups now represent a larger proportion of national lobbying organizations in existence than ever before (Walker 1991). According to Walker, citizen groups emerged at roughly twice the rate of occupational groups in the two decades following 1965. Walker (1991, 39) attributes this rise to a number of causes, including the growth of a large, educated middle class, the emergence of new sources of political patronage willing to subsidize political organizations, and the steady expansion of the power and responsibility of the federal government. We refer to this distribution of different types of groups as the “interest group ecology.”

Do we see similar patterns in confirmation mobilization? Figure 4 examines the shift in the ecology over time. Each graph breaks down mobilization by group type and by era; the horizontal axis features the three eras of mobilization. In the top graph, the vertical axis depicts the *total* amount of mobilization in each period, for a given class of groups. For example, in the 1930-1969 period, the total mobilization among occupational groups was 20 (with the mobilization defined at the level of the nominee, and not the overall number of activities). Thus, changes in the top graph across time will also reflect the larger secular increase in mobilization over time. To account for this, the vertical axis in Figure 4 depicts

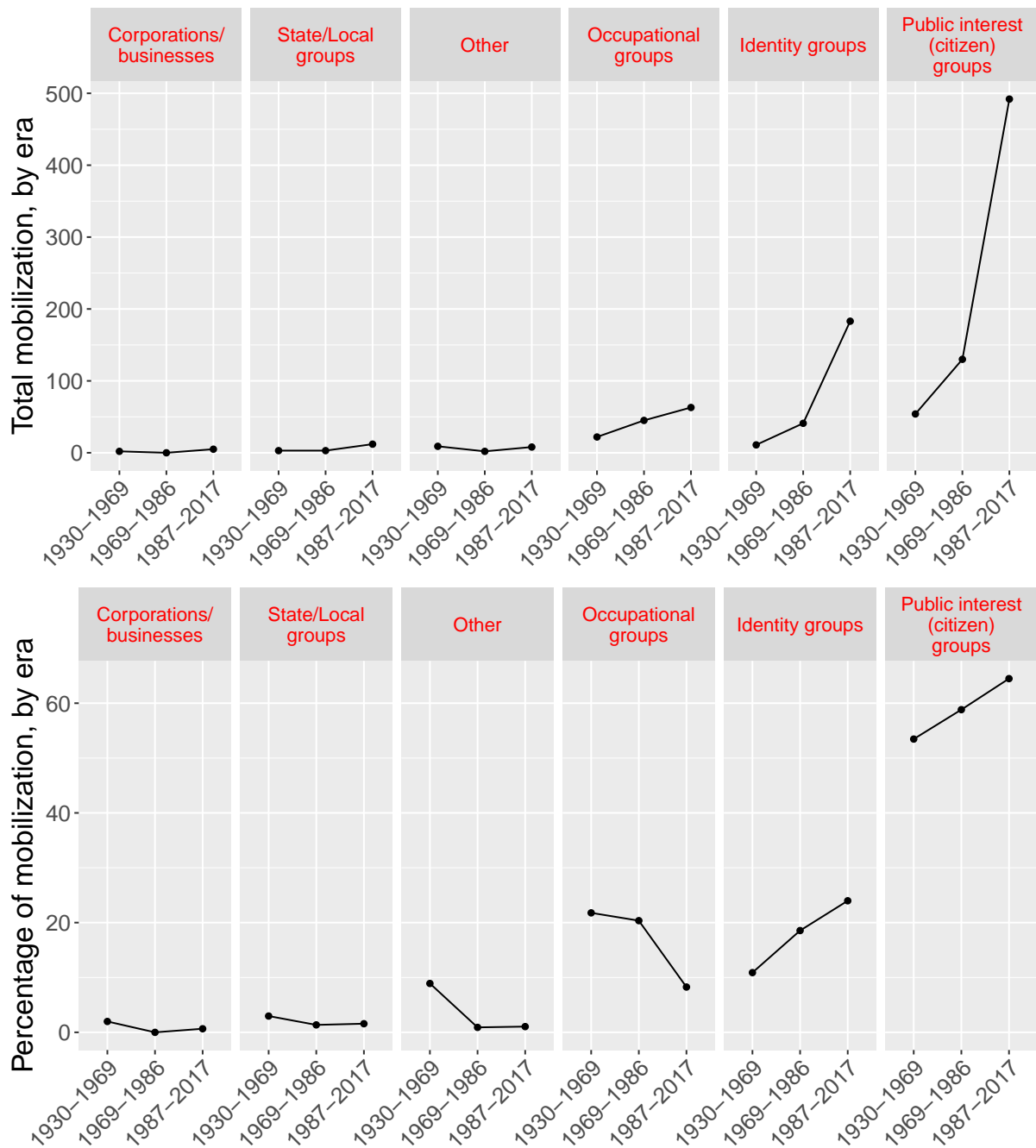


Figure 4: Changes in interest group ecology over time.

the total amount of mobilization for a given class/era pair, divided by the total amount of all mobilization in that era. Accordingly, the percentages are “normalized” by era.

Figure 4 shows that the patterns seen in Walker’s analysis of the interest group community at large also hold with respect to Supreme Court nominations. In particular, the figure reveals the striking increase in mobilization by identity and public/citizen interest groups; in

the 1987-2016 period, these classes of groups account for about 90% of all mobilization. On the other hand, while corporations and associations representing groups of businesses actively lobby the Supreme Court through the filing of amicus briefs, we find very little involvement by these groups in the confirmation process. Although unions and labor organizations have long been active in the process, groups on the business side have only recently entered the fray. The U.S. Chamber of Commerce, for example, did not issue its first statement formally supporting or opposing a nominee until 1991 (during the Thomas nomination). Given this ecology, it is perhaps not surprising that in the modern period confirmation hearings tend to focus heavily on hot-button social issues like abortion rights.

3.3 Waves of Creation and Activation

The mobilization and participation data indicate a massive increase in interest group activity over time, with a changing cast of characters. However, we can go much farther and map out exactly when groups came into existence and when they began to participate in nominations. Did the same groups just participate more (or less) over time, was there a slow and steady accretion of groups, or were there distinct waves of creation and activation into nominations politics?

To answer these questions, for every interest group in our data, we attempted to collect the “birth year” of the organization (i.e. the year in which it was founded), along with a “death year” for organizations that closed their doors during our period of study.⁹ Of the 193 groups in our data, we were able to determine the birth date of all but 42 groups and the death date of all but 32 groups. As it turns out, of the 42 groups for which we do not have birth dates, 40 of the groups are one-shotters. This makes sense—the one-shotters are often smaller groups who happen to mobilize for a single nominee. Accordingly, we focus on groups who participated in at least two nominations in our sample.

⁹To do so, we cross-referenced our groups against both the data contained in the Washington Representatives Study (Schlozman 2010) and the Encyclopedia of Association (Bevan et al. 2013), both of which list birth and death dates for the groups contained therein. We also employed Internet searches when necessary.

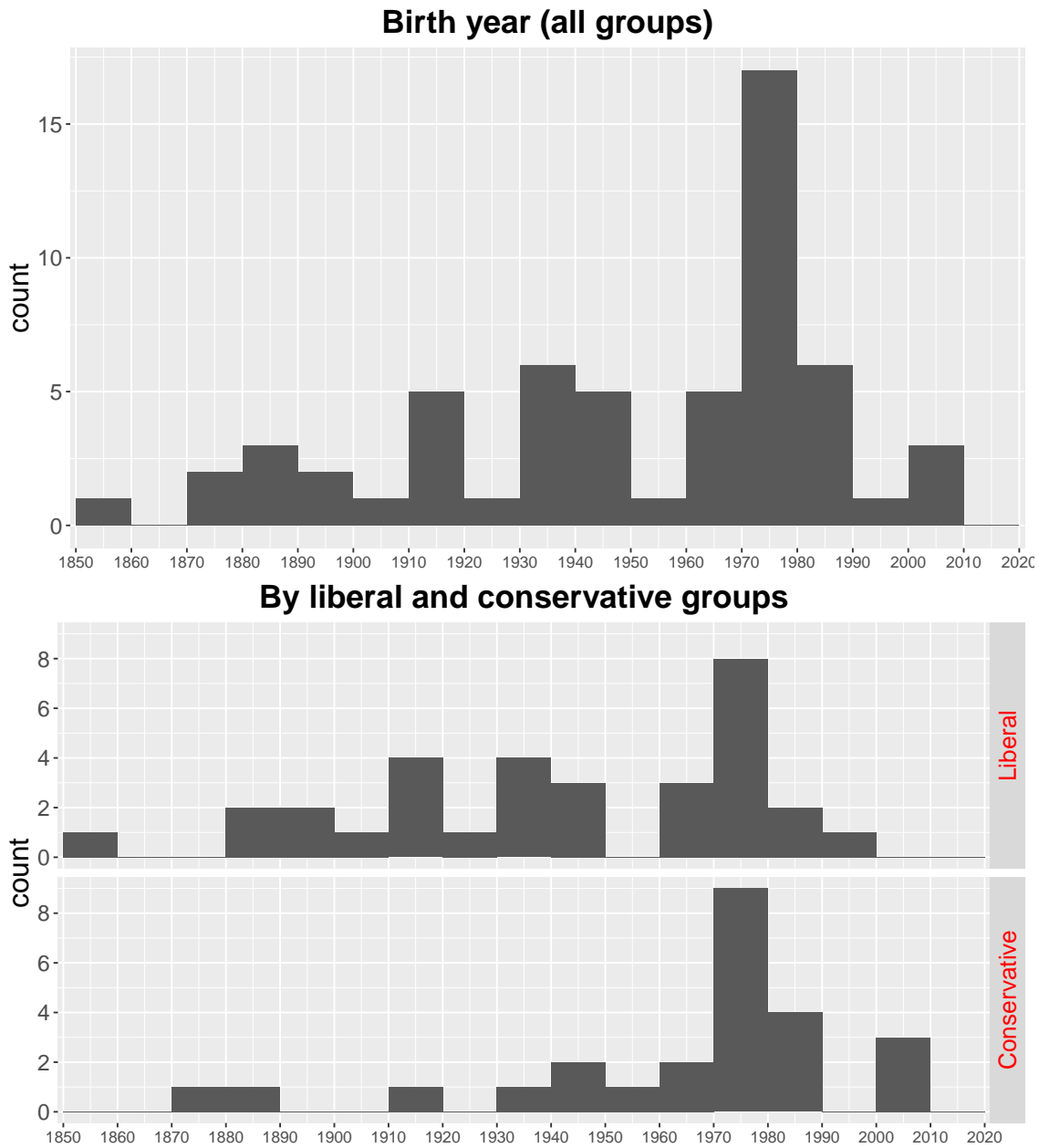


Figure 5: The distribution of birth years for all groups (top) and liberal versus conservative groups (bottom).

Figure 5 depicts histograms of the birth year of the repeat players in our dataset. The top panel includes all such groups, while the bottom panel breaks down groups according to whether they have a general liberal or conservative viewpoint. As shown in the far left tail of the top panel, a small number of participating groups began their existence in the 19th century. These groups include the National Education Association, the National Rifle Association, the American Bar Association, the AFL, and the Anti-Saloon League.

But these groups are the rare exception; most were created later. In fact, from 1930 until 1970, the count of groups created each decade varied from one to five. However, something extraordinary occurred in the 1970s: the number of new groups exploded, reaching some 17. In fact, the count of group births in that one decade exceeds the total count from the preceding three decades.¹⁰ The “big bang” continued into the 1980s, with that ten-year period seeing the birth of another 20 participators. These two extraordinary decades saw the creation of some 38% of all the groups in our data. Conversely, following the two extraordinary “wave” decades of the 1970s and 1980s, the creation of new participating groups plummeted. In fact, the rate of new groups fell to pre-1930 levels. We return to these remarkable patterns in the discussion.

Turning to the bottom panel of Figure 5, we see that the pattern of births for liberal and conservative groups is broadly similar, with two important exceptions. First, both liberal and conservative groups participated in the surge of the 1970s, though the number of new conservative groups was slightly higher. But the second wave decade, the 1980s, was more tilted toward new conservative groups, with very few liberal participators being born. The subsequent decline in new births affected both liberal and conservative groups. Thus, the first wave decade was both a liberal and conservative phenomenon; the second wave decade of the 1980s was more of a conservative phenomenon.¹¹

Interest Group Avalanches: Activation Dates and Attractor Nominations We have seen the distribution the formation dates of interest groups who subsequently participate in Supreme Court nominations. But when do groups first mobilize? For each group in our data, we calculated their “activation date”—the date of the nomination in which they first mobilized. Figure 6 depicts the distribution of activation dates (again focusing on repeat

¹⁰The numbers are much starker if we include all interest groups in the data for which we have birth years, and not just repeat players—overall 38 new groups arose in the 1970s, just two fewer than the prior three decades combined.

¹¹A relatively small number (16) of participating groups “died” during the time we study, such as the Anti-Saloon League and the Liberty Lobby.

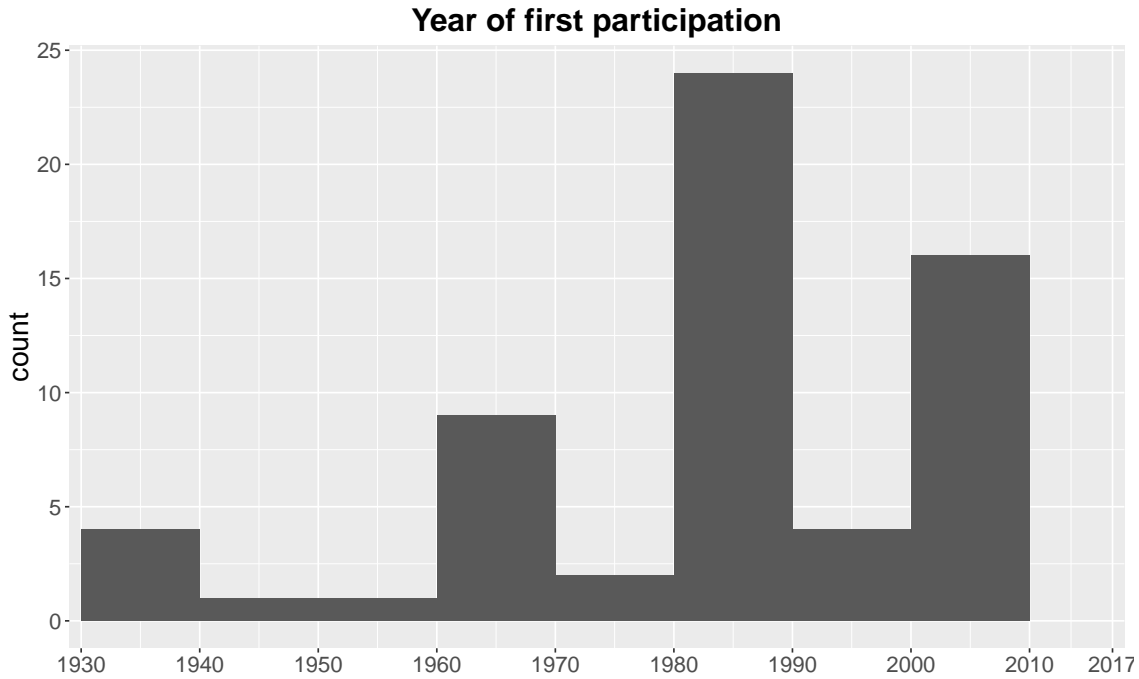


Figure 6: The distribution of activation years.

players). In contrast to the pattern of births seen in Figure 5, the pattern of activation looks quite different, indicating three activation decades—the 1960s, the 1980s, and the “aughts” (2000-2010)—in which many groups began their participation in Supreme Court nominations. By far the largest of these was the 1980s, followed by the aughts and the 1960s.

What explains this pattern? In essence, potential participating groups accumulate over time, as shown in Figure 5. But many of these groups do not participate in Supreme Court nominations. Then, a large accumulation of groups suddenly jumps into nomination politics in specific periods. This process is analogous to an accumulation of snow in high mountains, which builds and builds and then suddenly explodes downward in a furious avalanche.

We can identify the historically important “attractor” or initiating nominations that provoked an avalanche of activism. In descending order, the top attractor nominations were the Bork nomination of 1987, the Haynsworth/Carswell nominations of 1969 and 1970 (combining the two fast-paced events into one episode), and the Roberts/Alito/Miers nominations of 2005, again treating these fast-paced nominations as a single event. The Bork nomination brought into play primarily liberal groups, those created in the 1970s wave. The

Haynsworth/Carswell event mobilized the liberal groups that had slowly accumulated over a period of decades. But the Roberts-Miers-Alito event brought onto the scene many conservative groups, mobilized to support the nominees. These included many groups created in the conservative “second wave” of the 1980s.

Reaction vs. Spill-Over Groups By combining the birth and activation dates, we can discern two different dynamics in the proliferation of nominations groups. First, previously existing groups may decide that the time has come for them to weigh in on a Supreme Court nominee (or nominees). We call such organizations “spill-over groups”—pre-existing groups subsequently drawn into nominations activism because judicial decisions are important for the group or its patrons. For example, the National Rifle Association was formed in 1871 but only first mobilized in a Supreme Court nomination in 2009, a year after the Supreme Court found an individual right to possess a firearm in *District of Columbia v. Heller*. This lengthy period between birth and activation suggests a change in the orientation of the group, or new forms of judicial or legislative activism that impel new activism.

The second potential dynamic involves interest groups who arise in reaction to either specific judicial decisions or doctrinal trends that affect the group’s patrons and/or members, and whose main purpose is activism that influences the makeup of the Supreme Court and the federal judiciary. We call such organizations “reaction” or “blow-back” groups. Examples include the liberal Alliance for Justice (AFJ) and the conservative Judicial Confirmation Network (later called the Judicial Crisis Network), both of whom focus nearly exclusively on nomination politics. Because they exist only to participate in nominations, the birth and activation dates of these groups should coincide (or nearly coincide). Conversely, spill-over groups are distinct from groups like the AFJ because they existed prior to court decisions implicating their interests and become involved in nominations as an activity ancillary to the group’s central purpose.

The data on birth dates and activation dates affords an obvious way to distinguish re-

action from spill-over groups. For each group, we denote the interval between activation and birth as the “mobilization gestation period.” Reaction groups should have very short gestation periods, while for spillover groups, the mobilization gestation period should be lengthy.¹²

Figure 7 presents information on when groups form and when they mobilize. The solid (blue) horizontal lines depict the years in which each group was active; groups that still existed as of 2017 extend all the way to the right side of the plot. The groups are ordered on the vertical axis in chronological order of formation; note that the horizontal axis begins at 1900 to conserve space. The (red) triangles indicate the dates of nominations in which groups participate. Finally, the three vertical dotted lines indicate the three years with the attractor nominations discussed above: 1969 (Haynsworth and Carswell), 1987 (Bork), and 2005 (Roberts, Miers, and Alito).

Figure 7 reveals a good mix of spill-over and reaction groups. In particular, the Haynsworth nomination activated many pre-existing groups, such as the National Education Association. On the other hand, more recent years have seen the greater emergence of reaction groups. We show this systematically in Figure 8. The horizontal axis depicts the birth year of each interest group that participated in at least two nominations; the vertical axis depicts the gestation period for each group; that is, the year in which the group first participated minus the group’s birth year. Thus, groups who appear higher on the vertical axis took longer to initially mobilize (relative to the year of their founding), while groups who appear lower mobilized more quickly.

The figure reveals several notable patterns. First, spillover groups numerically dominate reaction groups in the politics of Supreme Court nominations. In the figure, reaction groups lie very close to the horizontal zero-gestation period line. Most groups in the figure lie consid-

¹²We should note that because the newspaper data may miss some early activism from a new group, reliance on the mobilization gestation period may somewhat undercount reaction groups and over-count spillover groups.

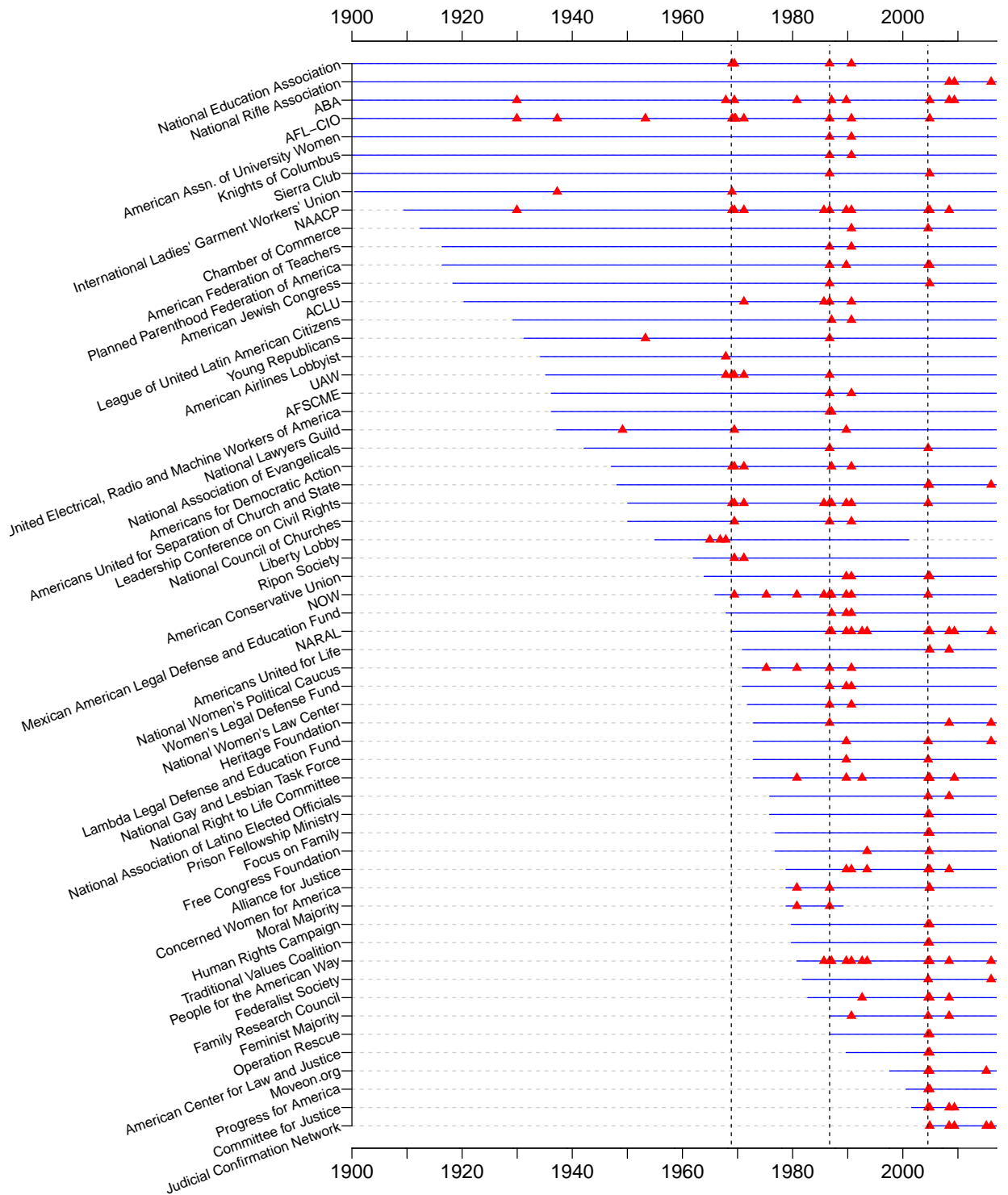


Figure 7: The timeline of interest group formation and participation. We only include groups with two or more nominations (and for which we have data on start/end dates). Triangles indicate the dates of nominations in which groups participated. The horizontal axis begins at 1900 to conserve space, but the earliest formation occurred in 1860. The three vertical dotted lines indicate the three years with the largest amount of initial mobilization by groups: 1969 (Haynsworth), 1987 (Bork), and 2005 (John Roberts, Alito, and Meyers).

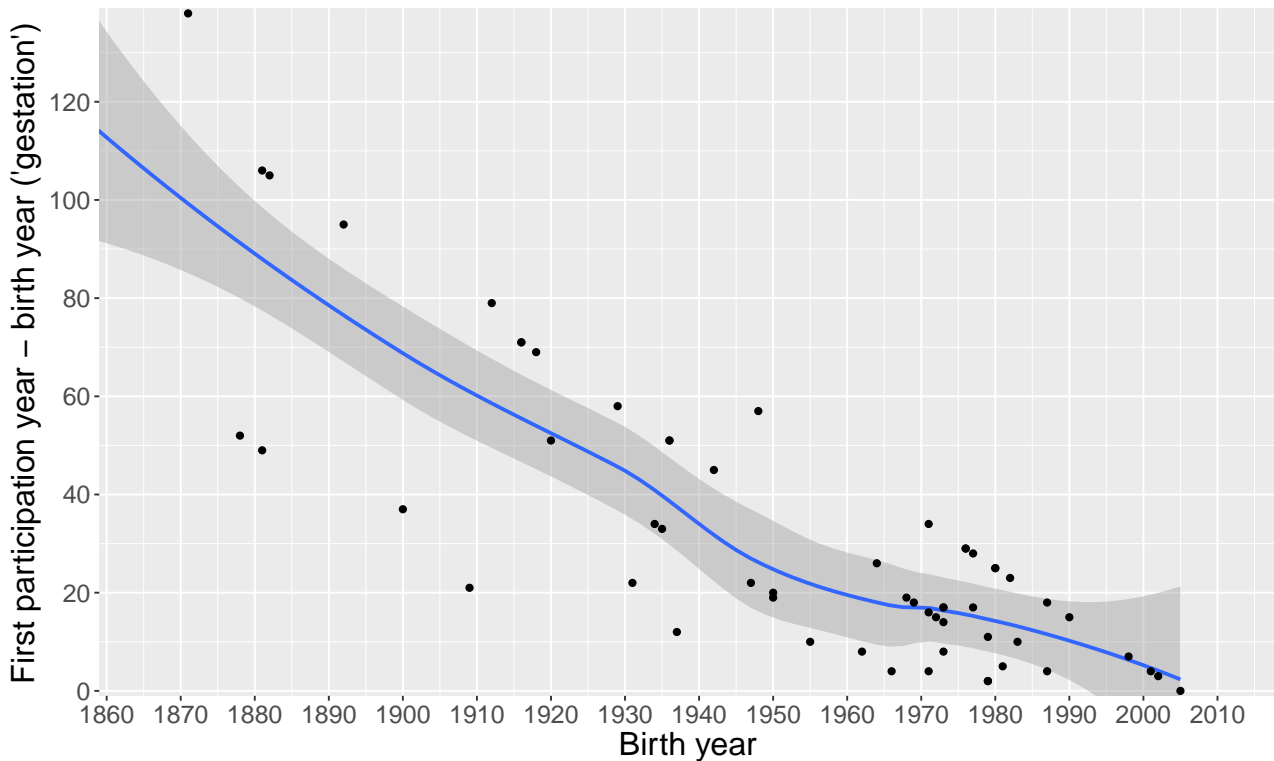


Figure 8: The relationship between birth year and “gestation” of interest groups. The horizontal axis depicts the birth year of each interest group who participated in at least two nominations; the vertical axis depicts the “gestation” period for each group; that is, the year in which the group first participated minus the group’s birth year.

erably above the zero-line. Second, some reaction groups (like the NRA) had extraordinarily long gestation periods. Such an interval may suggest a change in the orientation of the group, so that it suddenly sees the Supreme Court as relevant to its mission. Or, new forms of judicial or legislative activism may impel a previously quiescent group into new-found nominations activism. Third, gestation periods drop dramatically over time, as shown by the dark (blue) loess line in the figure. To some extent, this pattern reflects a kind of truncation in the data—quiescent groups that exist today but that eventually will participate in nominations in the future are not displayed in the figure. Nonetheless, what is clear is that reaction groups are primarily a modern phenomenon. Reaction groups thus appear to reflect an interaction between controversial Supreme Court decisions and the surges in group creation during the wave decades of the 1970s and 1980s.

3.4 Interest groups' choice of tactics and timing

In addition to changes in the distribution of groups over time, changes in technology and politics over our period of study likely meant significant changes in the types of tactics that interest groups employed when mobilizing. Scholarly accounts of interest group lobbying tactics generally delineate between *inside advocacy* involving direct personal access and contact with legislators, and *outside advocacy*, usually defined as a strategy by interest groups to mobilize citizens outside the policymaking community to put pressure on public officials inside the policymaking community. For example, inside advocacy would include contacting a member of Congress personally, testifying in a congressional hearing, or contributing to a member's campaign. Outside advocacy, on the other hand, would include speaking with the press or running an advertising campaign. Finally, though similar in spirit to outside advocacy, we can also distinguish *grassroots* advocacy, in which groups directly mobilize the public to participate; for example, via a demonstration or letter-writing campaign.

For every interest group mention in our database, we coded the type of tactic the newspaper reported, as well as whether the tactic is best described as inside, outside, or grassroots advocacy (or a residual category of "other").¹³ Figure 9 depicts the breakdown of tactics over time; the top panel depict raws counts of each type, while the bottom panel normalizes the counts by the total amount of advocacy in each period.

Figure 9 shows a dramatic change in the choice of tactics over time. In the 1930 to 1969 period, interest groups relied mainly on inside advocacy, which accounts for about sixty percent of the tactics employed in this time frame. The most common inside lobbying tactic was testifying before the Judiciary Committee in formal hearings on the nomination, which comprised about 23% of all activity in the early period. While outside advocacy accounted for only 18 percent of the lobbying activity in this time period, contact with the press was the third-most prevalent tactic, comprising 15 percent of all activity.

¹³A complete list of tactics appears in Appendix Table A-2.

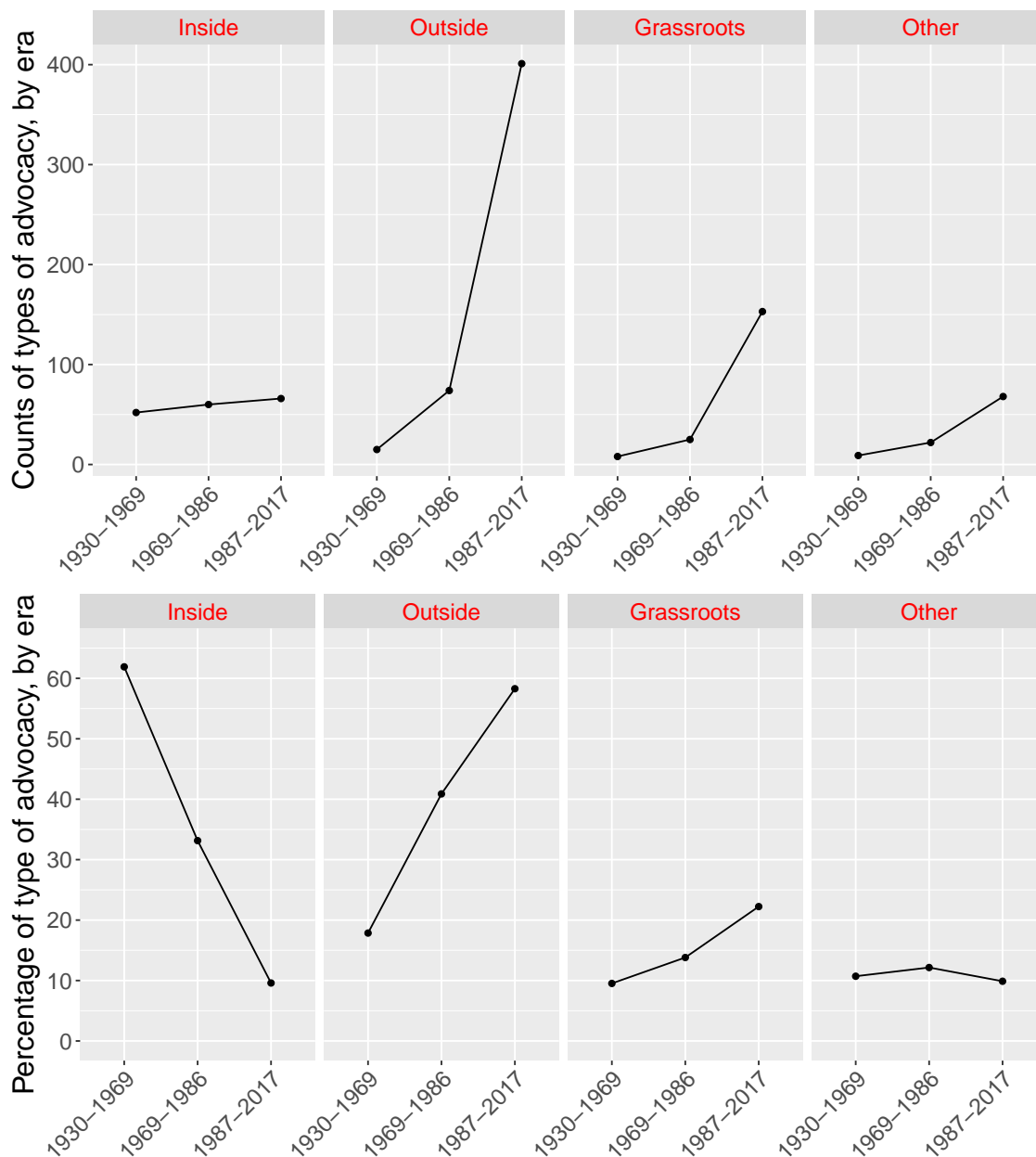


Figure 9: Changes in interest group tactics over time. In the top graph, the vertical axis depicts the total amount of mobilization in each period, for a given class of groups. In the bottom graph, the vertical axis depicts the total amount of mobilization for a given class/era pair, divided by the total amount of all mobilization in that era.

The ratio of inside lobbying to outside lobbying reversed in the period from Haynsworth (1969) to Scalia (1986). During this period, outside advocacy accounted for 41% of the tactics employed by interest groups, while grassroots activities comprised 14%. Contact with the press was the most prevalent lobbying tactic utilized by interest groups (33%),

Changing tactics over time, by group type

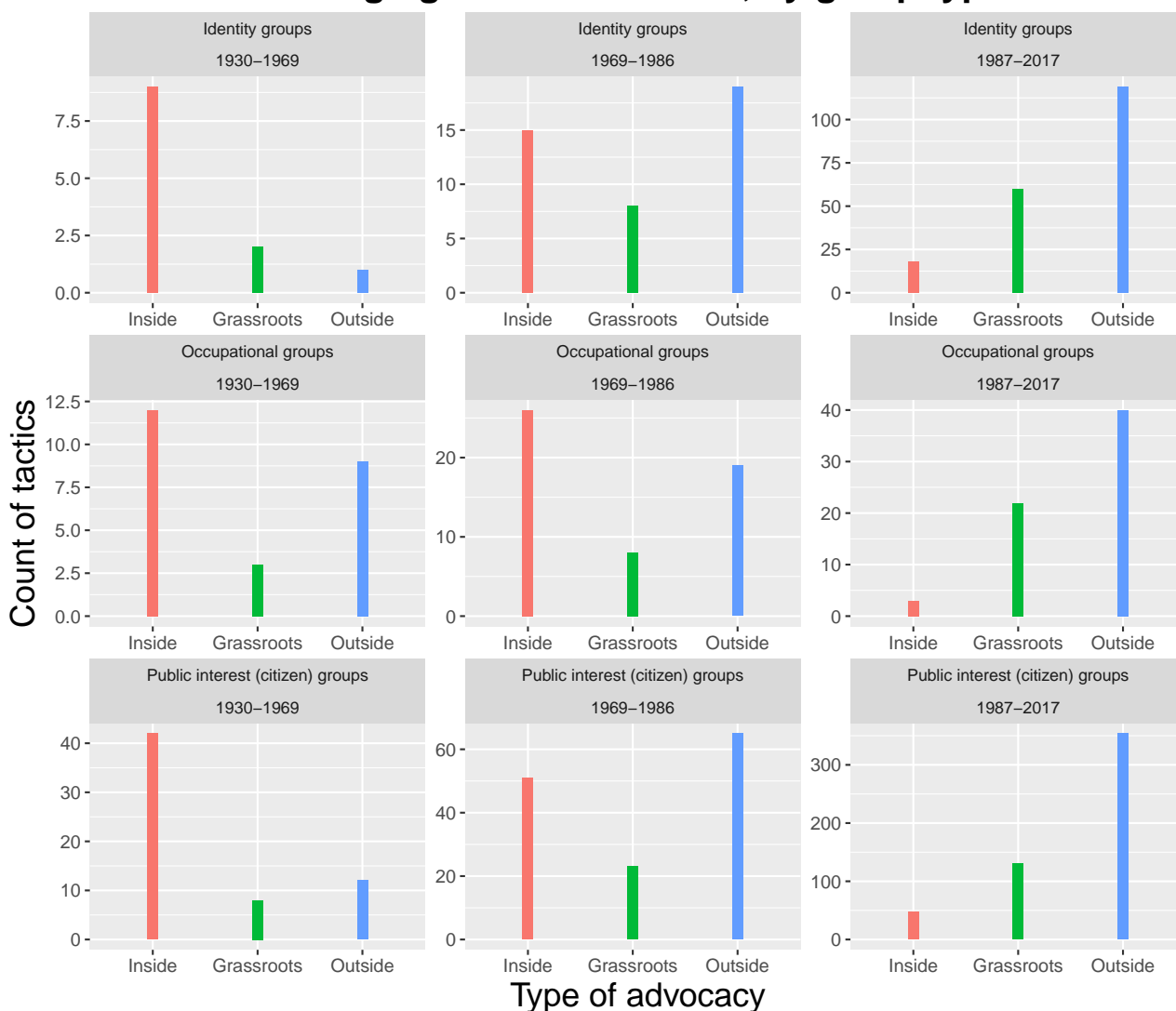


Figure 10: Changes in advocacy over time, by class of groups. For each panel, the vertical axes (which differ across the panels) depict the distribution of the total count of tactics (inside/grassroots/outside) chosen by the given group type/era combination indicated at the top of each panel.

while testifying before Congress remained an important tactic (22%).

Finally, the most recent period shows the shift from inside tactics to outside and grassroots tactics is nearly wholesale. From 1987 to 2017, outside lobbying accounted for a whopping 58% of the tactics employed, with direct press contact representing 42% of the total. In this period, grassroots lobbying comprised 22% of all tactics, with inside advocacy comprising less than 10% of all activities.

It is possible that the shift from inside to outside tactic is simply due to the changing composition of groups over time (discussed above). Figure 10 examines this possibility. It focuses on the three most prominent classes of groups: identity groups, occupational groups, and public interest (citizen groups). Each panel shows that the distribution of advocacy (inside/grassroots/advocacy) for a given class in a given time period. (Note the vertical axes vary in each panel). The figure shows a very similar pattern for each type of group. In the early period, inside tactics are predominantly used. The middle period sees a rough mix of all three. Finally, in the 1987-2017 period, outside and grassroots tactics are the predominant tactics among all three classes of groups. It is thus clear that there has been a secular change in tactics driven by factors common to all groups, such as changes in the costs or benefits of mobilizing using outside tactics and grassroots campaigns.

The timing of mobilization Another strategic choice interest groups must make is *when* to mobilize. Liberal groups, for example, famously mobilized against Robert Bork immediately after his nomination, rather than waiting to lobby closer to the Senate’s vote (Pertschuk and Schaezel 1989). For each activity mentioned in the *Los Angeles Times*, we coded the date of the activity in reference to the nominee’s timeline, dividing activities as occurring in three periods: before the Judiciary Committee hearings on the nominee, during the hearings, or after the hearing.

Figure 5 depicts the timing of mobilization in two ways. The top panel breaks down mobilization for each nominee. For each stacked bar, the darker portion depicts the proportion of mobilization that occurs in the pre-hearing period; the middle gray bar depicts mobilization during the hearing, while the lighter bar shows mobilization after the period. The bottom panel smooths the data by grouping mobilization into the three periods and showing the timing within each period.

The figure shows that until recently, there was not much differentiation in the timing of mobilization. In some cases, such as the controversial nomination of Fortas to become

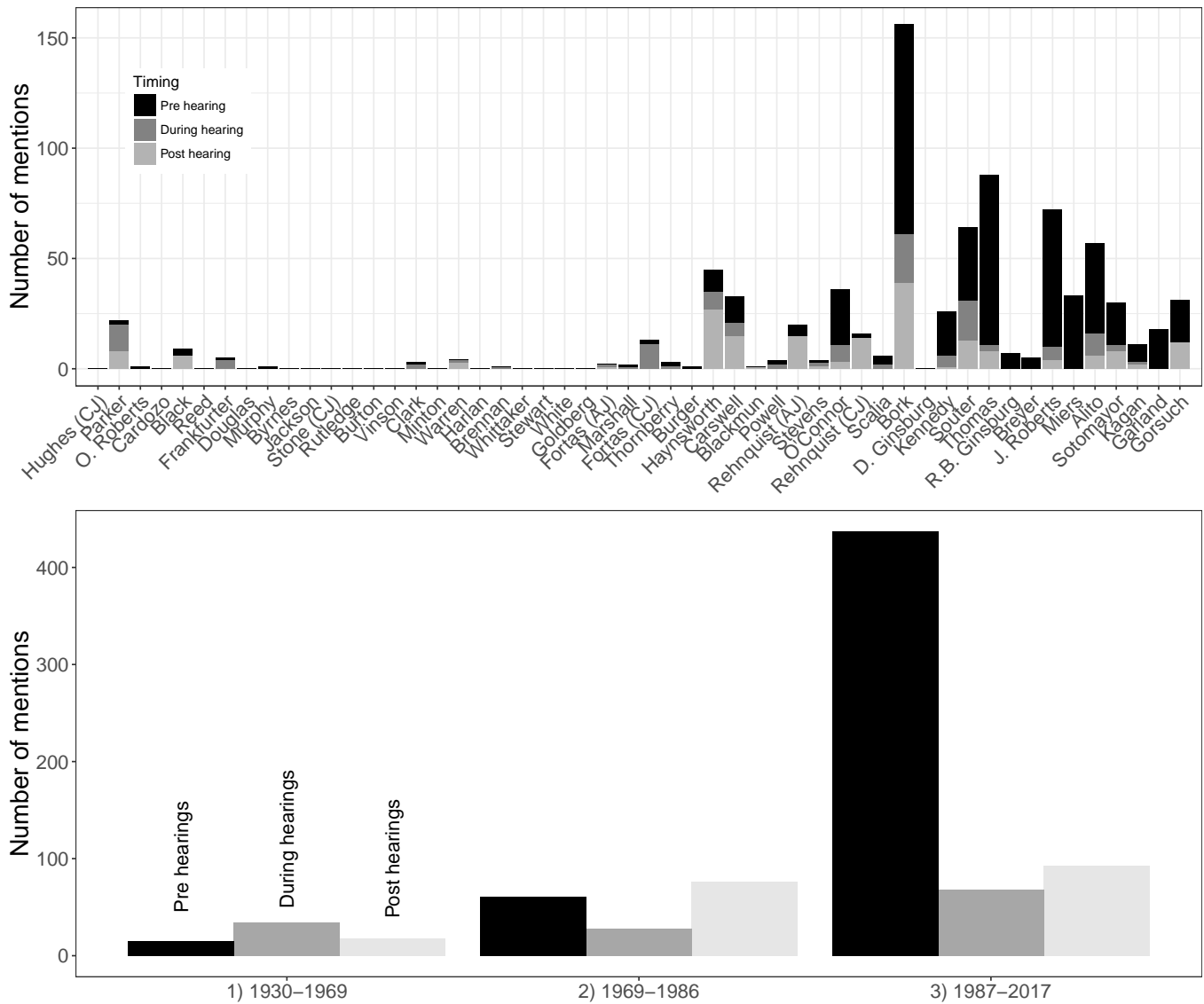


Figure 11: Changes in the timing of mobilization of interest group over time. The top panel breaks down mobilization for each nominee. For each stacked bar, the darker portion depicts the proportion of mobilization that occurs in the pre-hearing period; the middle gray bar depicts mobilization during the hearing, while the lighter bar shows mobilization after the period. The bottom panel groups the timing of mobilization into the three periods.

chief justice in 1968, most of the mobilization occurred during the hearings. In others, such as the Haynsworth nomination, mobilization occurred after the hearing. A very different picture emerges from the later period. Beginning with the nomination of Justice O'Connor in 1981, the bulk of mobilization occurred *prior* to the hearing. In the 1987-2017 period, 73% of mobilization occurred before the hearing, compared to well under 50% in the earlier

two periods.

Taken together, the tactics and timing data reveal three notable trends. First, over the eighty-year period we observe a shift from inside lobbying to outside lobbying. Second, we observe a steady increase in the prevalence of grassroots lobbying tactics. This may reflect in part of the technological advances that occurred over time. Third, groups have shifted toward immediate mobilization rather than waiting for hearings to commence.

What explains these shifts? In addition to changes in technology, we suspect they are attributable to the larger shifts in confirmation politics. Confirmation hearings during the earliest period represented important opportunities for senators to learn about the nominee and form or solidify their views. As such, the timing of interest group mobilization focused primarily on the hearing itself as the principal venue to lobby Congress and spread their message.

As the battles over Supreme Court nominations have become more ideologically driven and reflective of political campaigns, the hearings have more closely approximated a staged performance and taken on less significance as a result.¹⁴ The new groups that entered politics during the 1970s, and then became engaged in nomination politics, took a different approach. They began to treat a nomination as a campaign, waged from the moment a vacancy emerged on the Court. The hearings remained a centerpiece for this campaign, but the bulk of the action occurred in the run-up to that increasingly staged moment of political theater. Thus, in the latter period interest group mobilization has primarily taken place before the confirmation hearing and largely revolved around framing the nominee through calculated messaging disseminated in the popular press.

¹⁴As discussed further in the Appendix, this fact has implications for assessing empirical work based solely on interest group participation in the hearings. While this activity is undoubtedly important, to focus solely on the hearings is to miss most interest group activity on Supreme Court nominations.

3.5 The triggers for mobilization

For the final component of our analysis, we more systematically examine the changes over time in an attempt to understand the triggers for mobilization, and why they have changed over time. To do so, we begin with the theoretical foundation laid by studies of roll call voting on Supreme Court nominees, in particular the model developed in Cameron, Cover and Segal (1990). That model, as well as much subsequent work (see e.g., Epstein et al. 2006, Cameron, Kastellec and Park 2013) shows that senators are more likely to oppose nominees who are more ideologically distant, as well as those lacking in legal qualifications, or “quality.” We use these variables to uncover whether interest group mobilization follows similar tendencies.

Specifically, we return to the counts of mobilization shown in Figure 1. We run regression models based on two dependent variables. First, we examine the number of unique groups that mobilize per nomination. Second, because the imported theoretical expectations from the roll call literature may apply more neatly to mobilization in opposition to a nominee, we also employ that measure as a dependent variable. Both measures are counts, and both exhibit overdispersion; accordingly, we fit negative binomial models.

Our two main predictors are *ideological extremity* and *quality*. The former is based on the NOMINATE-scaled Perceptions (NSP) Scores developed by Cameron and Park (2009); the scores indicate a perceived ideology score for each nominee at the time of nomination, scaled into NOMINATE space. As with NOMINATE, more negative scores indicate more liberal nominees, while positive scores indicate more conservative nominees. To capture extremity, we take the absolute value of this measure, such that higher scores mean a more extreme nominee. For quality, we employ the standard measure based on content analysis of newspaper editorials first developed in Segal and Cover (1989) and Cameron, Cover and Segal (1990).

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
Intercept	1.24*	1.21*	3.00*	1.04*	0.81*	0.88*	2.33*	0.70*
	(0.17)	(0.25)	(0.36)	(0.21)	(0.20)	(0.30)	(0.56)	(0.25)
Quality	-0.96*	-1.21*	-0.17	-0.98*	-1.01*	-1.25*	-0.32	-1.03*
	(0.32)	(0.34)	(0.32)	(0.32)	(0.37)	(0.40)	(0.49)	(0.38)
Extremity	0.68	0.09	1.23*	0.33	0.86*	0.06	1.32*	0.32
	(0.36)	(0.49)	(0.28)	(0.44)	(0.43)	(0.58)	(0.44)	(0.53)
Amicus briefs	2.16*	2.72*	-0.53	1.63*	1.90*	2.94*	-0.62	1.73*
	(0.34)	(0.82)	(0.47)	(0.57)	(0.40)	(0.98)	(0.74)	(0.69)
Post-Bork				0.49				0.04
				(0.62)				(0.76)
Quality times				0.42				0.34
Post-Bork				(0.78)				(0.94)
Extremity times				0.72				0.94
Post-Bork				(0.72)				(0.88)
N	52	38	11	51	52	38	11	51
$\log L$	-112.33	-53.70	-20.54	-94.93	-94.04	-43.76	-16.69	-77.45

Standard errors in parentheses

* indicates significance at $p < 0.05$

Table 2: Negative binomial models of mobilization. In Models (1)-(4), the dependent variable is the overall number of groups mobilizing in each nomination. In Models (5)-(8), the dependent variable is the number of groups mobilizing in opposition in each nomination. * indicates significance at $p < 0.05$.

In addition to these main predictors, it is important to account for the number of interest groups in existence at each nomination. While there exist several studies that track the interest group environment at various points in time (see e.g. Schlozman 2010, Bevan et al. 2013), none appears to go back as far as 1930. As a proxy, we instead use the total number of *amicus* briefs filed in a given year with the Supreme Court, which should closely parallel the number of active interest groups.¹⁵

The results are presented in Table 2. We begin with the models (1-4), using total mobilization per nomination as the dependent variable. Model (1) includes all 52 nominations. In line with the expectations induced by the literature on roll call voting, we find that total mobilization significantly *decreases* as a nominee’s quality increases, and that mobilization increases as the nominee becomes more extreme; the latter coefficient, however, is not statistically significant. In addition, higher levels of amicus briefs are positively associated with

¹⁵See Appendix Section A.1 for details on how we collected this variable.

higher mobilization.

Of course, pooling all the nominees together may mask important changes in mobilization over time. Given the relatively small sample size we have to work with, we take the Bork nomination as a natural “breakpoint” in the nomination process, and examine whether we find significant changes before and after 1987. Model (2) includes the 38 nominations before Bork, while Model (3) includes the 11 nominations after Bork—because mobilization during the Bork nomination itself is a such a huge outlier, we exclude it from these regressions. Beginning with Model (2), we can see that the coefficient on quality is of larger magnitude compared to the pooled regression, while the coefficient on extremity is smaller and effectively zero. Model (2) thus suggests that prior to the Bork nomination, the principal trigger for interest group mobilization was low perceived nominee quality—which, in turn, was often driven by a nominee suffering a scandal, such as Fortas in 1968 and Haynsworth in 1969. Ideological extremism, on the other hand, was not a trigger.

Model (3) finds the reverse pattern in the post-Bork period: quality is an insignificant predictor of mobilization, while ideology extremity is an extremely strong predictor. Model (4) tests whether we can statistically distinguish between the predictive effects of quality and ideological extremity across the two periods, by employing interactions between the post-Bork period and both predictors. The interactive terms suggests that relative to the pre-Bork period, higher quality was associated with *increased* mobilization, as was higher ideological extremity. Neither interactive term is statistically significant, however; this is perhaps not surprising given that there are only 11 nominations in the post-Bork period. Finally, Models (5)-(8) show that these results are mostly unchanged when we employ opposition mobilization as the dependent variable.

Given the statistical imprecision in comparing the pre- and post-Bork periods, our substantive conclusions are necessarily tentative. Nevertheless, we believe the regressions, combined with the data on the change in tactics discussed above, suggest the following interpre-

tation. Prior to the mid-1980s, there were groups that opposed nominees made by presidents of both parties. But it appears that these groups mobilized *opportunistically*: intense mobilization occurred only when the groups could exploit an adverse shock to the nominee's perceived quality—for example, in response to a scandal. After the mid-1980s, this changed. Now groups ideologically hostile to the nominee almost invariably mobilize.¹⁶ And, in turn, groups who *support* the nominee have also joined the fray, giving us the rough parity in mobilization seen in Figure 1.¹⁷

4 Discussion

This paper has documented a sea change in the interest group politics surrounding Supreme Court nominations. The data show a transformation from what we call relatively genteel pluralism, characterized by a small number of active groups, infrequent opportunistic mobilization, and somewhat restrained inside-oriented tactics, to what we call street-fighting hyper-pluralism, characterized by a large number of active groups, routine ideologically-driven mobilization, and extremely vigorous outside-oriented tactics. Genteel pluralism prevailed until the late 1960s; the next 15 years or so saw a gradual transformation; while full-blown hyper-pluralism triumphed starting in the mid-to-late-1980s. It prevails today.

Two questions immediately present themselves: First, why the transformation? Why did the groups proliferate, why did mobilization become routine, and why did group tactics shift from inside to outside? Second, so what? What difference does the shift from pluralism to hyper-pluralism really make? Answering these questions fully lies well beyond the scope of this paper. But, we believe it is useful to offer some observations and conjectures to lay

¹⁶We note that modern presidents have paid much more attention to perceived nominee ideology when selecting nominees in the period after about 1960. The future behavior of Supreme Court nominees confirmed after 1957 is much more predictable than those confirmed up to that point (Cameron and Park 2009). This may have contributed to the evolution of nomination politics into a recurring political campaign in the more recent era.

¹⁷One natural question is whether liberal or conservative groups in the modern era have mobilized differently in response to variation in the ideological extremity of nominees. Unfortunately we simply do not have enough nominations to work with to answer this question statistically with any precision.

down markers for future work.

4.1 Why Did the Transition Occur?

The Growth in Groups The proliferation of groups involved in Supreme Court nominations is part and parcel of the astounding growth of advocacy organizations in American politics in general, as discussed in the introduction. Interest group scholars have suggested possible drivers for the jaw-dropping growth but somewhat surprisingly, no analysis we know of undertakes a careful, quantitative parsing of the differential impact of possible causes. No doubt part of the difficulty is assembling a sufficiently long time series. Nonetheless, we can summarize the most likely explanations—at least in an informal way.

By far the most obvious driver, and likely the principal one, is the growth of government itself (Skocpol 2007). When government is small and does very little, the return from affecting its collection and distribution of dollars and its regulation of behavior is also small. But when government is large and engaged in a plethora of consequential activities, the return from influencing its behavior can be enormous. Hence, growth in government leads to growth in advocacy groups—and then altered politics, a prime example of “policy feedback” (Hacker and Pierson 2010, Teles 2008, Campbell 2012).¹⁸ The timing of the modern proliferation of groups—occurring in the wake of the Great Society and the Nixon-era expansions (e.g., the creation of the EPA)—is consistent with the government growth hypothesis.

In turn, scholars have identified important drivers of government growth. The proximate causes appear to be war, economic crises, and social movements (Amenta et al. 2010, Gerstle 2017, Higgs 1989, Mayhew 2006, Saldin 2010). These events impelled—or created political openings that allowed—American policy elites to create a large activist government, albeit one deliberately constructed to disguise the size and expense of many programs (Mettler 2011). So in some sense, war, economic crises, and social movements are implicated in the

¹⁸The impact goes beyond the creation of groups, to radically altered conceptions of the appropriate role for government. Sparrow (2011) for example, is illuminating on the cultural and ideological impact on Americans of the rise of government due to World War II.

proliferation of advocacy groups in general.

Does this exceedingly simple story—government activity engenders advocacy groups—hold up when applied to the nominations groups? More specifically, do Supreme Court decisions stimulate new advocacy groups who then participate in judicial politics, including nominations? Our tentative answer is “yes”—but we suggest the process is more nuanced than one might initially suppose. Recall that we distinguished reaction groups (groups created for the sole purpose of nominations activism) from spill-over groups (those created for other purposes but which are subsequently drawn into nomination politics). Understanding the proliferation of nominations groups requires understanding the somewhat distinct dynamics of each class of groups. For reaction groups, the key is the birth of the groups: why did they come into existence? For spill-over groups, the key is the initial mobilization into nominations activism: why did the groups decide to involve themselves in nomination politics?

A closer look at two groups helps illuminate the two dynamics. First consider the liberal reaction group, the the Alliance for Justice (AFJ). Unlike some conservative reaction groups (such as the Judicial Crisis Network), which appears to rely on a single patron, the AFJ reportedly has been funded by several liberal-leaning foundations, notably the Ford Foundation, the Atlantic Foundation, the Susan Thompson Buffet Foundation, the Open Society Institute, and the Richard and Rhoda Goldman Fund.¹⁹ Thus, looming large in the creation of reaction groups are highly motivated, ideologically committed donors reacting to Supreme Court jurisprudence and threats to its jurisprudence. Ideologically-driven foundation patronage may seem unusual; but recall that Walker’s systematic survey of interest groups in the early 1980s uncovered exactly this pattern of financial support (Walker 1991).

By contrast, consider the spillover group, the National Rifle Association. A unique

¹⁹The initial motivation of Nan Aron’s AFJ involved increased public funding for “public interest” lawyering (Aron herself was a former head of the Women’s Legal Defense Fund). But it very rapidly shifted its focus to nominations, in response to the Bork nomination. So, one can see it as a reaction group dedicated to defending liberal jurisprudence. See www.activistfacts.com/organizations/529-alliance-for-justice/

combination of (effectively) the gun manufacturers' trade association and a mass membership organization, the NRA became active in nominations politics only after the Supreme Court found an individual right to gun ownership in *District of Columbia v. Heller*. Indeed, for much of its history the NRA was a hobbyist organization oriented toward gun safety and marksmanship. However, in the mid 1970s conservative activists grafted a political arm onto the group (the NRA's lobbying arm, the Institute for Legislative Action was founded in 1975), and then took over the NRA entirely in 1977 (Vinzant 2005, Burbick 2006, Winkler 2011). Even so, the group's political activities focused almost exclusively on the legislative and electoral arenas, not the judicial one. Once the Court created a new gun right, however, the NRA moved into that arena as well. It seems reasonable to assume that the organization's mass membership of gun enthusiasts, and its gun industry funders, virtually demanded action to protect or expand the new judicially created right.

While our argument is certainly speculative, we posit that the explosion of nominations groups in the surge decades reflected a kind of interaction between, on the one hand, judicial activism by litigant groups leading to novel Supreme Court decisions, and, on the other hand, wealthy ideologues and enthusiastic "checkbook members" who responded to the Court decisions by funding new groups or demanding new activism from existing ones. An increase in the sheer number of wealthy ideologues, concomitant with the growth of income inequality, also played a role. On this account, so long as the U.S. Supreme Court is prodded into contentious social issues by activist litigants, then wealthy ideologues and enthusiastic checkbook members of existing groups will support a dense ecology of groups involved in nomination politics.

Escalating Mobilization A second puzzle is the shift from relatively rare, opportunistic mobilization to routine mobilization. What explains the change? A careful analysis would need to examine the mobilization decisions of individual groups, not simply aggregate levels of mobilization. This ambitious undertaking lies outside the scope of this paper. Broadly

speaking, however, one can point to changes in the costs of mobilization and changes in the benefits of mobilization.

On the cost side, it is at least plausible that mobilization has become cheaper for many groups, particularly as the cost of communication has fallen. The spread of telephones, the advent of the Internet, and the use of social media offer possibilities unknown to (say) the Anti-Saloon League. Still, it is not clear whether the timing of cost changes and mobilization changes really sync up.

Changes on the benefits side are perhaps more compelling. First, if one conceives of the benefits of mobilization as an altered confirmation outcome—i.e., a defeated nominee or a confirmed nominee who would have been defeated—then it is hard to see how mobilization benefits have really changed much over time. But this may well be the wrong way to conceptualize mobilization benefits, especially for the groups that came on line in the 1970s and 1980s. Instead, consider mobilization from the perspective of the wealthy ideologues who finance virtually member-less groups like the Judicial Crisis Network. Opposition to hated enemies, and support of loyal friends, becomes an intrinsically satisfying activity, perhaps especially so if mobilization by other groups has inflamed one's passions. Similarly, consider the enthusiastic checkbook members of groups like the NRA or NARAL. How would these passionate enthusiasts respond if they see other groups mobilize into a heated confirmation battle but the leaders of their group say, "well we've decided to sit this one out even though the nominee is a stinker (or, a champion)"? A membership revolt might soon follow.

Again, these arguments are speculative. But if they are valid they suggest a theoretical reformulation of the mobilization decision, stepping away from the Olsonian obsession with free-riding in favor of a new focus on enthusiasm management, organizational maintenance, coordination, and tipping. Such a theoretical orientation may be essential for understanding the brave new world of hyper-pluralism; but it may also be useful for understanding group involvement in earlier social crusades like Prohibition, women's suffrage, and abolition.

Altered Tactical Choices The data indicate a pronounced shift from inside to outside lobbying. More specifically, not only did the amount of outside lobbying increase dramatically, the amount of inside lobbying appears to have decreased. As we noted, this shift occurred across many different groups but at approximately the same time. Why did this happen?

We turn to theory for possible hints. Here, we know of only one theoretical paper that explicitly analyzes the connection between inside and outside lobbying (Wolton 2016). In that model, inside lobbying is informational, and concerns a group’s willingness or ability to use outside lobbying. In other words, inside lobbying is a kind of threat or promise about outside mobilization. In turn, outside lobbying is a form of political pressure. Arguably, this model fits the circumstances of nomination politics rather well. Indeed, Caldeira and Wright (1998) argue that the “informational” component of interest group lobbying of senators about nominees refers not any particular information about the nominee *per se*, but rather the extent of grassroots support or opposition for the nominee. In addition, the Wolton model affords an immediate explanation for the shift in lobbying tactics: as outside mobilization became virtually routine, little room remained for inside threats about outside mobilization. From this perspective, the shift in lobbying tactics was driven by the same factors that led to surging mobilization in the first place.

Of course, other explanations for the shift in tactics are possible. For example, changes in the relative costs of inside and outside mobilization may partially explain the shift in tactics. Adjudicating among possible mechanisms would be a worthwhile topic for future research.

4.2 What Difference Does Hyper-Pluralism Make?

The literature on the great interest group transformation says far less about consequences than one might expect. For example, Skocpol (2003) and Schlozman, Verba and Brady (2012) document skewed political participation resulting from the transformation but pass over changes in public policy or organizational performance. These changes plausibly range

from rent-seeking and distorted public policies, to extreme party polarization in legislatures, to public distrust of government.

The laboratory of Supreme Court nominations offers a concrete setting for considering the consequences of hyper-pluralism. Though speculative, we suggest impacts of the group transformation in five areas: 1) Altered party agendas concerning the Supreme Court and its make-up; 2) Altered presidential selection of nominees; 3) Increased contentious and polarization in confirmation voting in the Senate; 4) Increased ideological polarization on the Court itself, and 5) Increased danger of conflict between the Court and other branches. Needless to say, our brief discussion can only be suggestive

Altered Party Agendas Contemporary theories of political parties highlight the tight relationship between high-demanding organized interests and decision-making by political parties (Bawn et al. 2012, Cohen et al. 2009, Grossman and Hopkins 2016, Koger, Maskett and Noel 2010). One might expect, then, that groups desiring policies from the Supreme Court will not restrict themselves to *amicus* briefs, test cases, and nominations activism. They will also exert pressure within the parties themselves, laying down ideological and issue-based litmus tests for Supreme Court nominees.

What do we find if we examine party platforms and presidential acceptance speeches? In 1948, for instance, both party platforms endorsed an equal rights amendment for women, and gestured toward civil rights. But otherwise, they were largely silent about any judicially related topic and had absolutely nothing to say about the appointment of federal judges. The situation was quite different six decades later. The Republican Party Platform for 2012, for example, contained the following language:

The sole solution, apart from impeachment, is the appointment of constitutionalist jurists, who will interpret the law as it was originally intended rather than make it. That is both a presidential responsibility, in selecting judicial candidates, and a senatorial responsibility, in confirming them. ... We support the appointment of judges who respect traditional family values and the sanctity of

innocent human life.

In accepting his party's nomination, Mitt Romney then declared, "As president, I will protect the sanctity of life. I will honor the institution of marriage. And I will guarantee America's first liberty: the freedom of religion."

Bright-line statements about judicial nominees in party platforms, and explicit pledges in presidential acceptance speeches, seem clearly intended as quasi-commitment devices. They promise conformity to the wishes of specific groups—groups who are also active in nominations politics and Supreme Court decision-making. These oaths of fealty may indeed affect the selection choices of presidents and the voting decisions of senators.

More generally, the inter-penetration of the parties as a consequence of the great interest group transformation, the subsequent metamorphosis of party agendas, and the translation of those agendas into legislative, administrative, and judicial actions, is a topic ripe for study.

Nominee selection Prior to about the mid-1970s, presidential selection of Supreme Court nominees was often a strikingly haphazard and often purely tactical process.²⁰ Reviewing Nixon's selection process (one far more thoughtful than that of many of his predecessors), legal scholar Eric Posner (2011) writes in aghast tones, "One can only conclude that appointing a Supreme Court justice was of little interest to Nixon—seen only as an opportunity to make a modest political gain, akin to a small town mayor's appointment of the local water board."

Presidential selection of Supreme Court nominees changed rather dramatically subsequently. First, as shown in memoirs, case studies, and journalistic accounts, the selection process became more painstaking, systematic, and considered (see e.g. Yalof (2001), Greenburg (2007)). Second, the new process produced a new kind of nominee. The chosen were notably more "judicial"—experienced, professional jurists and graduates of elite law schools,

²⁰President Carter made no Supreme Court nominations. But his selection of lower court judges displayed concerted and thoughtful effort to alter the judiciary, particularly through appointing women, minorities, and jurists committed to Democratic Party objectives (Goldman 1997).

rather than elected politicians with heterogeneous backgrounds. (For example, compare James Burns with John Roberts). Third, the nominees' putative ideologies and subsequent behavior on the bench adhered more closely to presidential ideology and associated party agendas (Cameron and Park 2009).

At the time we write, the penetration of the presidential selection process by organized interests—particularly the Federalist Society—has engendered widespread comment (Toobin 2017). More generally, connecting the dots between the interest group transformation and altered presidential selection procedures and choices would be a fascinating, if considerable, historical task. But the links seem quite apparent, once one looks.

Contention in the Senate We have written elsewhere on the rise of contentiousness and polarization in confirmation voting in the Senate (Cameron, Kastellec and Park 2013). In a word, a process that once frequently culminated in a simple voice vote, now routinely ends with hotly contested, polarized votes. At the simplest level, interest group participation in hearings correlates with contentious votes (Segal, Cameron and Cover 1992). More subtly, interest group brawls over nominees may contribute to an altered confirmation dynamic, one with mobilized partisan opinion, interest group “scoring” of votes, and voting polarized along party lines. In addition, such contentiousness has spilled over into public opinion about Supreme Court nominees; support and opposition for nominees now routinely divides along partisan lines (Kastellec et al. 2015).

A Polarized Court The fact that Congress has become extremely polarized is well known. Less noticed is that the Supreme Court has as well. Using an axiomatic measure of polarization, Clark (2009) shows increasing levels of polarization on the Court over time, at least if one measures ideology with standard voting scores.

Suppose, as we suggest, interest groups alter party and presidential agendas and then demand ideologically conforming nominees, which presidents dutifully deliver (Cameron,

Kastellec and Park 2013). If this is true, it is easy to see that the U.S. Supreme Court is likely to become extremely polarized ideologically. To an even greater extent than at present, the Court will be stripped of moderates and dominated by two extreme and relatively homogeneous blocs. The relative sizes of the blocs would reflect party control of the presidency. If this scenario is at all realistic, the Court will increasingly resemble Congress and most state legislatures.

What are the policy effects of such polarization? Imagine a Court with an empty center and two ideologically disparate blocs. Under almost any theory of Supreme Court decision-making, a Court stripped bare of moderates and composed of two extreme blocs will likely produce extreme opinions. But the content of those opinions may be extremely volatile, particularly if dominance alternates between the blocks according to the vagaries of departures and party control of the presidency (Graber 2012).

Constitutional Crisis? A final sequela of hyper-pluralism may follow. Suppose one party retains control of the presidency for an extended period. Or, fortuitous timing may simply bless one party with an abundance of appointments to the high court. If so, the organized judicial interests intertwined with the party will pressure the president to make extreme appointments. As a result, one of the extreme blocs may dominate the Court, and via lifetime appointments may continue to do so for an extended period. Under such a circumstance, judicial self-restraint could stay the hand of the “boss bloc.” But self-restraint might prove too weak a reed, and judicial policy could lurch to one of the poles so favored by organized interests.

As an empirical proposition, extremes rarely dominate American electoral politics for long (Stokes and Iversen 1962, Wlezien 1995). So, the accidents of nomination politics might yield one-block dominance of the Court; but the presidential and congressional pendulums would surely swing back eventually. Such a configuration opens the door to a really bruising confrontation between a Court stuck at one extreme and the other branches temporarily

resident at the other. We do not predict a Lincoln-Taney or FDR-Hughes style constitutional crisis! But it is a logical possibility in an age of consistently polarized appointments.

5 Conclusion

The prominent role of interest groups in contemporary Supreme Court nominations politics is now obvious to even causal observers of the confirmation process. In this paper, we show that this prominence was not always so, and indeed was a direct consequence of changes that transpired largely in the 1970s and 1980s. In many respects, the revolution in nominations groups simply mirrored the dramatic transformation in the larger interest group world that occurred more-or-less contemporaneously. That great transformation has drawn the attention of other scholars. But our focus on the same regularly recurring event over nine decades lets us trace changes in the numbers of participants, their identities, their tactics, and their propensity to mobilize. We can chart when new groups came into existence, and when old groups launched themselves into nominations activism.

The transition from a fairly restrained pluralism prior to about 1970, to quite free-swinging, brutal hyper-pluralism today is almost certainly highly consequential. It matters not only for the sound and fury of the process. Rather, it signifies something: changes in who is selected, who is confirmed, and what the Supreme Court is likely to do. More generally, the origins and consequences of hyper-pluralism in nominations politics may well carry lessons—perhaps rather disturbing ones—for American politics as a whole.

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A Appendix

A.1 Validating newspaper measure

As discussed in Section 3 in the paper, our analyses are dependent on the *Los Angeles Times* sufficiently covering each nominee to capture the breadth and depth of interest group involvement in nominations, as well as the types of tactics employed. In this section we present evidence for the validity of the measure.

First, we compare our measure of mobilization to the number of groups that participate before the Judiciary Hearing. There are two types of participation: some groups will testify before the Judiciary Committee at the behest of the chair of the committee; other groups can submit a statement into the record noting their views on the nominee. While prior work (which is often based on the measure used in the *Supreme Court Compendium* (Epstein et al. 2015)) combines these measure, using them in tandem is potentially problematic because the number of groups testifying is subject to the discretion of the chair. Accordingly, we collected the number of groups who participated in the hearings by submitting a written statement.

Before turning to the comparison of this measure to ours, it is worth noting that we would not expect a perfect correlation between the two. First, participation before the committee is a relatively “cheap” activity for an interest group, compared to some of the “costlier” tactics like advertising and grassroots mobilization. By contrast, newspaper coverage of an interest group’s nomination activity is a higher bar that more strongly indicates which groups took meaningful (newsworthy) interest in a nomination fight. Thus, the hearings measure is likely to capture relatively smaller groups whose sole mobilization is done via that activity, rather than a broader-based mobilization strategy. (In addition, our impression is that the level of hearings participation for nominees in the 21st century reflect how easy it has become for interest groups, especially smaller/local groups, to simply email a letter to the committee to be included in the record). Second, as we showed in the paper, the majority of mobilization

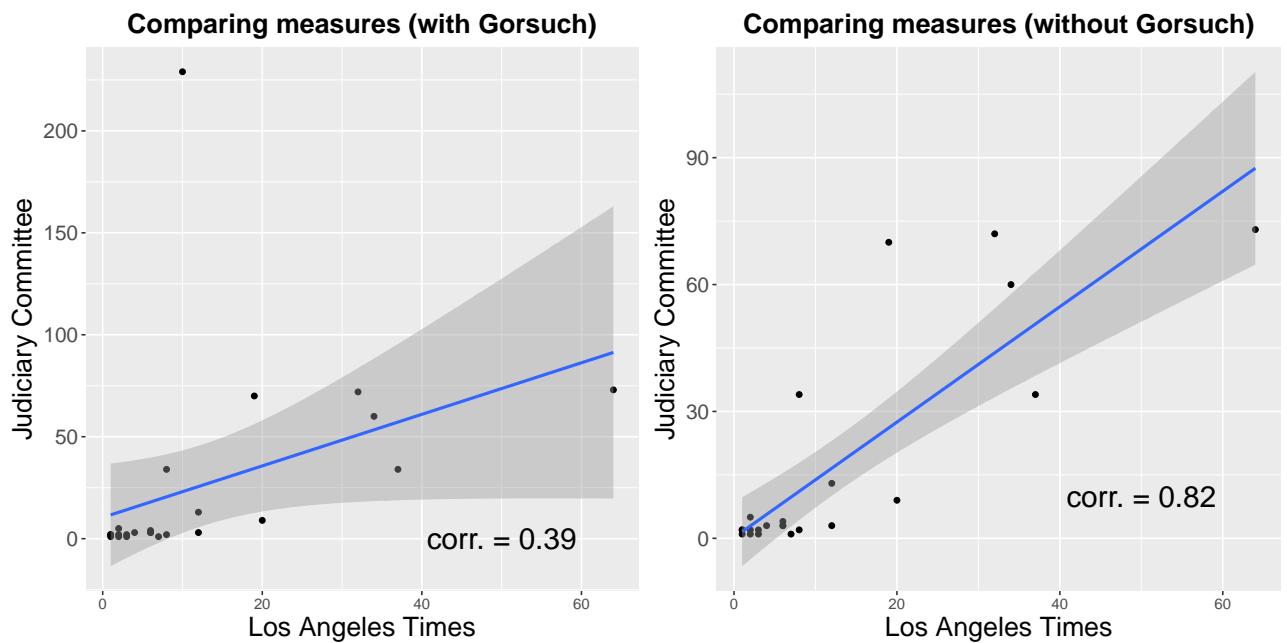


Figure A-1: Comparing the *Los Angeles Times* measure of group mobilization to the number of groups that submit statements to the Judiciary Committee. See text for details.

actually occurs *before* the hearings, meaning that the hearings data will miss much of the interest group activity that occurs over the course of a nomination fight.

Nonetheless, it is still useful to know whether our measures tracks with the hearing data. Figure A-1 presents two scatterplots comparing the *Los Angeles Times* measure of mobilization to the Judiciary Committee measure; the lines and shaded regions depict loess smoothed fit curve with confidence intervals. It turns out that the nomination of Neil Gorsuch in 2017 triggered an unusually large number of groups that submitted letters to the Judiciary Committee (our measure reveals more routine mobilization). Inspecting the hearing data reveals that there were more “joint letters” filed by a collection of like minded groups than usual—for example, 122 “money in politics groups” filed a single letter with the Committee. Accordingly, the left plot in Figure A-1 includes Gorsuch, while the right plot excludes him. Both plots reveal a positive correlation between the two measures; excluding Gorsuch, the correlation is .83, suggesting that our measure at least enjoys some degree of validity.

Rising number of amicus briefs over time

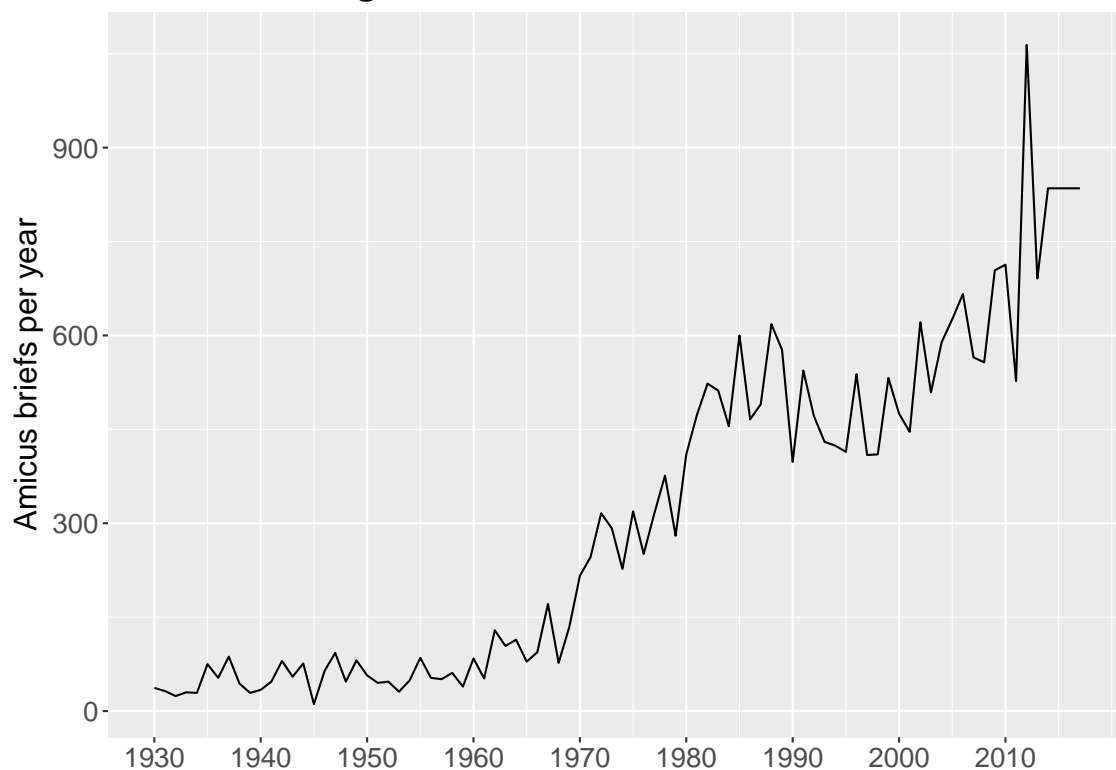


Figure A-2: The number of amicus briefs filed with the U.S. Supreme Court (at the merits stage), by year.

Amicus briefs Second, as discussed in the paper, we use the yearly number of amicus briefs filed with the U.S. Supreme Court as a proxy for the size of the larger interest group environment. The data for 1946-2001 comes from Collins Jr (2008). We collected the data for 1930-1945, while John Szmer generously provided us with the data from 2002 on. Figure A-2 depicts the number of briefs over time.²¹

In addition to this function as a control, it is also useful to look at the over time trends in amicus filings, which also serves as a validity check for our newspaper-based measure of

²¹One compatibility issue is that Collins' data is at the docket level, and briefs that address multiple dockets are counted for every docket they address. To estimate the total number of unique briefs from the Collins (2008) data, we assigned to each (Lawyer's Edition) citation the maximum number of amicus briefs associated with one of its dockets. Not all briefs address all dockets, however: sometimes different dockets within a case will have different number of amicus briefs. Even if every docket is associated with the same number of briefs, one cannot rule out whether these are the same briefs for each docket. Hence, although it is impossible to tell the precise number of unique briefs from the docket-level totals, the highest number of briefs associated with one docket within a citation is a lower bound of the number of unique briefs for that citation. Our results are unchanged if we simply use the unadjusted Collins measure.

of interest group mobilization. The time trend is shown in Figure A-2, and shows that the trends in amicus filings are very similar to what we found for Supreme Court mobilization. From 1930 to the 1960s, we see a distinct “early period” with a lower number of filings. Beginning in the 1960s and 1970s, we see an explosion in the number of filings, followed by a leveling off in the last two or three decades. This trend, of course, does not prove that the *Los Angeles Times* is fully capturing group mobilization. However, because the amicus measure is completely exogenous to newspaper coverage but nevertheless exhibits the same basic temporal patterns, it gives us more confidence that our measure is capturing the most important trends in interest group participation in nomination politics.

A.2 Additional Figures and Tables

Timeline of nominations Figure A-3 depicts a timeline of the nominees we analyze. Successful nominations are at the top of the figure (in green text); unsuccessful nominations are at the bottom (in red text). Shaded regions indicate Democratic presidents.

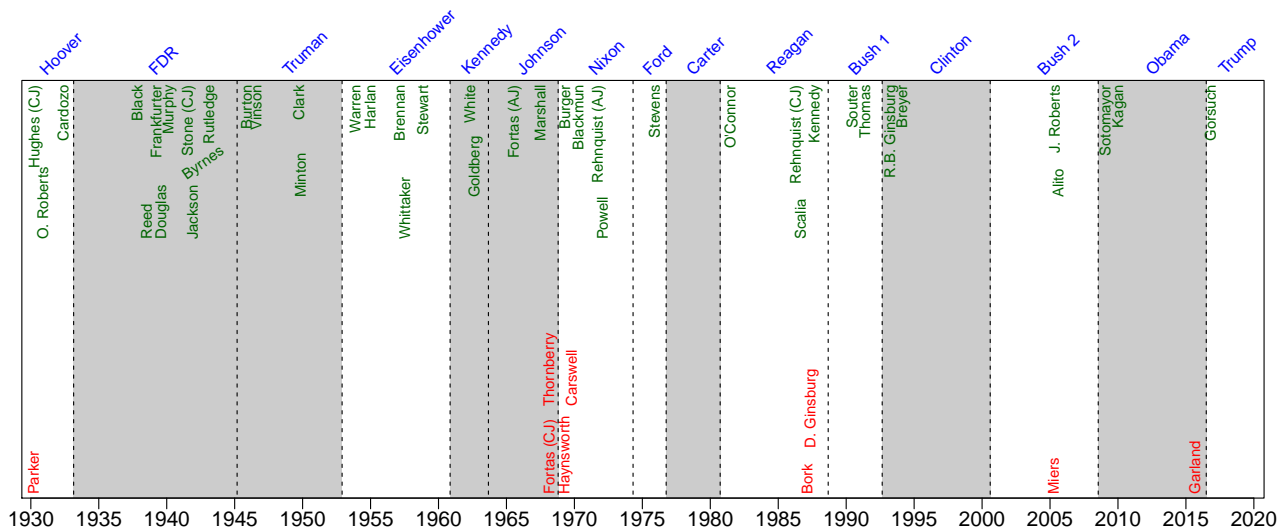


Figure A-3: Timeline of nominations, 1930-2017. Successful nominations are at the top of the figure (in green text); unsuccessful nominations are at the bottom (in red text). Shaded regions indicate Democratic presidents.

Levels of mobilization over time, based on newspaper mentions As discussed in footnote A-4, examining the number of unique groups per nominations may mask variation

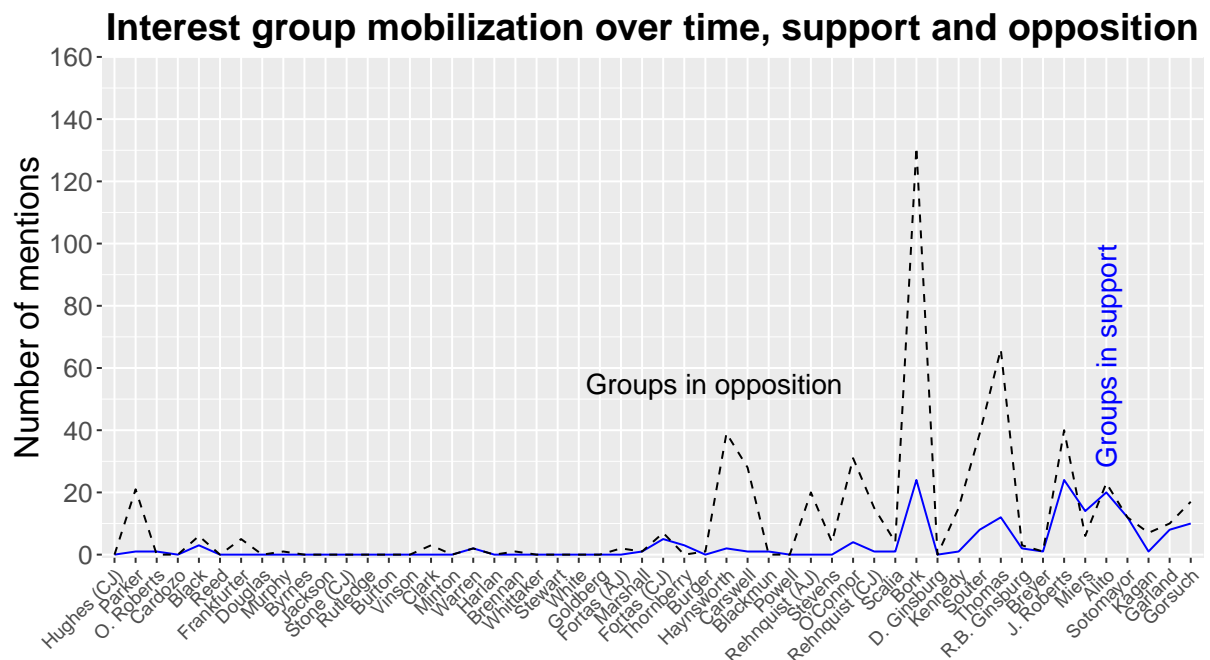
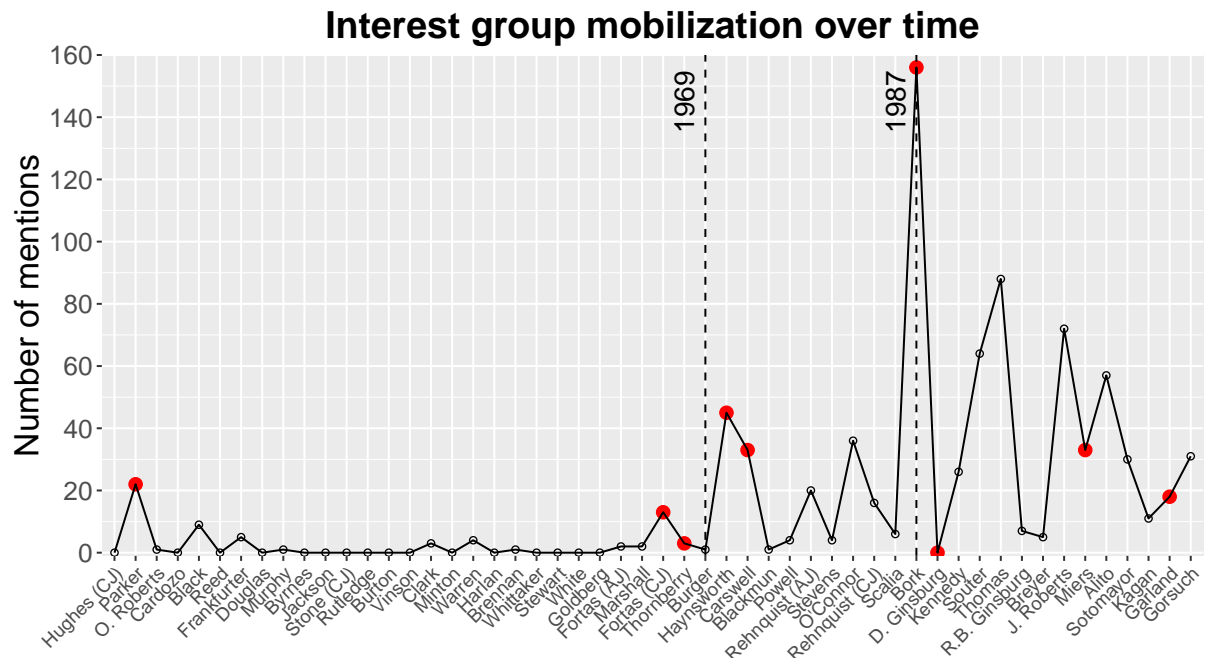


Figure A-4: A) Interest group mobilization over time (mentions). The points display the number of unique mentions of interest group activities; the solid (red) dots denote unsuccessful nominees, while the open dots denote confirmed nominees. The vertical dashed lines at the Burger (1969) and Bork (1987) nominations demarcate what we argue are three distinct eras. B) The dotted line depicts the number of mentions of groups opposed to the nominee, while the solid line depicts mentions by groups supporting the nominee.

in the intensity of activities. Figure A-4 is similar to Figure 1, except it shifts the unit of analysis to the number of “mentions” of interest group activities per nomination.

List of group taxonomy Figure A-2 presents the types of interest groups coded in the data, along with their respective “classes”—see Figure 4.

Type of group	Class
Corporations/Businesses	Corporations/businesses
Elderly/Disabled	Identity groups
Identity-African American	Identity groups
Identity-Latino	Identity groups
LGBT	Identity groups
Religious	Identity groups
Women’s	Identity groups
Think Tank	Occupational groups
Trade/Professional Associations	Occupational groups
Unions	Occupational groups
Other	Other
Abortion-choice	Public interest (citizen) groups
Abortion-life	Public interest (citizen) groups
Anti-Communist	Public interest (citizen) groups
Civil Rights/Civil Liberties	Public interest (citizen) groups
Conservative Ideological	Public interest (citizen) groups
Education	Public interest (citizen) groups
Environment	Public interest (citizen) groups
Firearms/Guns	Public interest (citizen) groups
Gov. Reform	Public interest (citizen) groups
Health	Public interest (citizen) groups
Liberal Ideological	Public interest (citizen) groups
Tax	Public interest (citizen) groups
State/Local	State/Local groups

Table A-1: Types of groups coded in newspaper data

List of tactics Figure A-2 presents the list of tactics coded in newspaper data.

<p>Inside</p> <p>Personal contact with members of Congress or staff (direct lobbying, personal meetings, direct phone calls) Disseminate in-house research to members of Congress or staff (or study, poll, etc.) Testify (or provide affidavit, submit written testimony, or accompany witness) Send letter/fax to member of Congress or staff Personal contact with White House official Campaign Contribution</p> <p>Outside</p> <p>Press conference/Press release/statement to press or journalist (quoted in article) Article in membership journal Television Ad Radio Ad/Interview Newspaper Ad/Editorial Internet Ad/create website Disseminate in-house research to public (or in-house polls, reports, memos)</p> <p>Grassroots</p> <p>Demonstration/Protest/Rally/picketing Letter-writing campaign (having members or constituents write congressional offices) Phone Banking (having members or constituents call congressional offices) Hold Grassroots Meeting Fundraising (depends what the fundraising is for) Poll of membership/study of constituency Formal Organizational Action (pass resolution, etc.) Mobilize membership through mass communication (email blast, fax blast, etc.) Grassroots Advocacy Unspecified (describe in comments section)</p> <p>Other</p> <p>Praise (unspecified) Denounce (unspecified)</p>
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Table A-2: List of tactics coded in newspaper data.

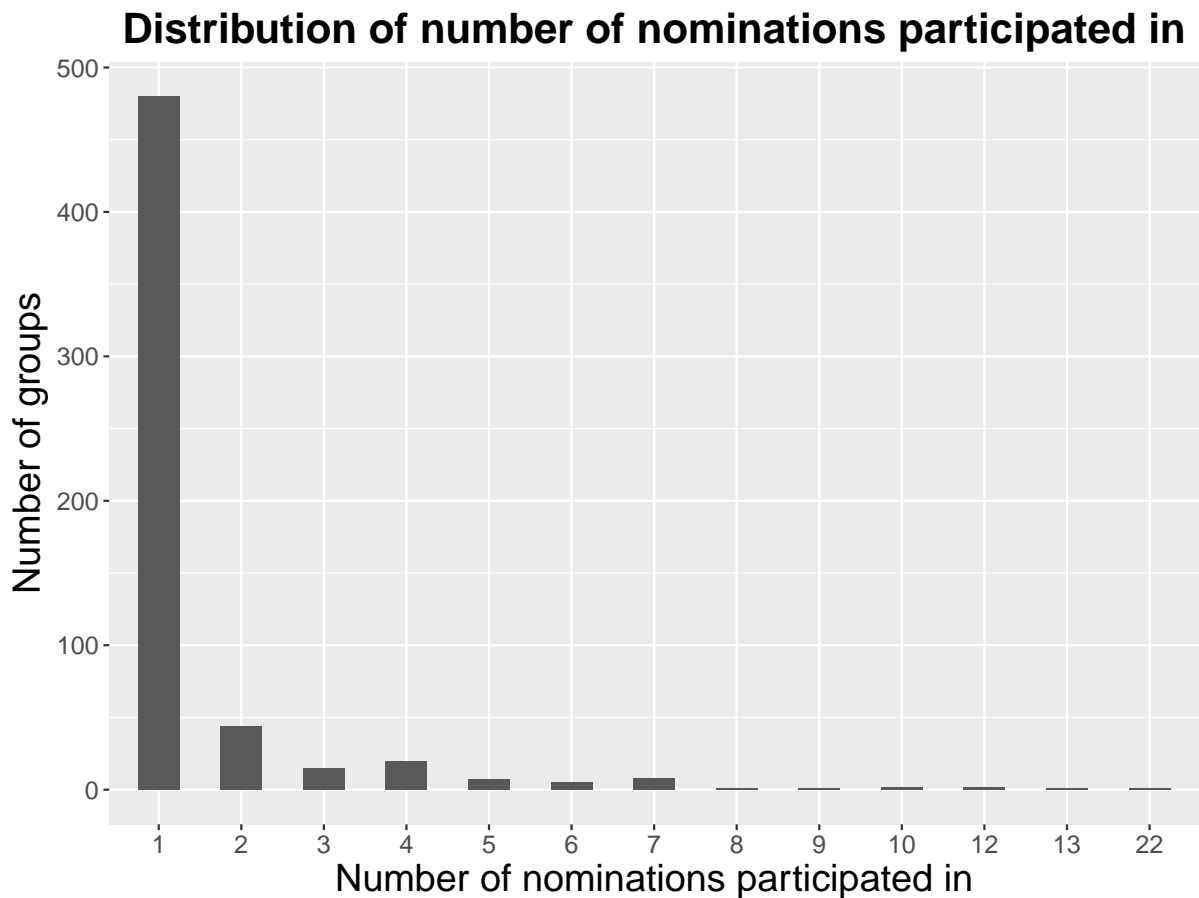


Figure A-5: The frequency of mobilization across interest groups, using participation in the Judiciary Committee hearings on each nominee. The horizontal axis depicts the number of nominations participated in, while the vertical axis depicts the aggregate number of groups for each level of participation.

Frequency of mobilization by groups in the Judiciary Committee Figure A-5 replicates Figure 2 in the paper, using the frequency of mobilization in terms of groups' participation in the Judiciary Committee hearings on each nominee. The distribution is similar, with most groups being “one-shot” participants.