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Working in a Cage: The Evolution of Constitutional Restrictiveness in U.S. State Legislatures

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Abstract: The U.S. states have been characterized as "laboratories of democracy" for their ability to formulate public policies aimed at solving some of the most pressing public policy issues. The study of both public policy and legislative politics in the states has been quite robust. However, vitally missing from our understanding of policymaking and the legislative process in the states is the role of constitutional provisions. Many state constitutions contain directives that severely limit the ability of the legislature to act. Some of these directives are procedural while others are more substantive. This is relevant because constitutional rules are more difficult for members to alter than chamber rules and should lead us to question whether or not reform is needed. In previous research (Martorano Miller, Hamm and Hedlund 2009; 2010; 2011; 2014a; 2014b) we developed a quantitative measure of constitutional restrictiveness and explored current variation in this measure across the fifty state legislatures and the U.S. Congress. In this paper, we seek to expand upon our previous research by assessing provisions found in each state's constitution in terms of the historical context surrounding the constitution's adoption. We find that this "setting" has a significant impact on the constitutional provisions regarding the legislature's powers restrictions and mandates. These features in turn create the "constraints" (a type of "cage") limiting the legislature.

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Constitutions have long been of interest to legal scholars. The bulk of this research has focused on the U.S. Constitution as well as the comparison of the U.S. Constitution to the constitutions of other nations. Legal scholars have given far less attention to the constitutions of the U.S. states and political scientists have given them even less attention. To our knowledge, there has been no systematic attempt to study state constitutions and their impact on policy-making and politics in the states. This lack of attention is interesting given that some scholars have long acknowledged the important role of a state's constitutional document. Daniel Elazar writes:

> "Thus, the states remain significant determinants of the quality of life of the American people. The way in which each state frames and allocates powers through its constitution reflects certain conceptions of government and understandings of the two faces of politics – power and justice. That is, state constitutions are important determinants of who gets what, when and how in America because they are conceptual and at times, very specific statements of who should get what, when and how (Elazar 1982: 17)."

State constitutions also differ from our federal constitution in the manner in which legislative power was originally perceived. The U.S. Constitution clearly delineates the Congress' legislative powers in Article I, Section 1 and limits the Congress to only those "legislative Powers herein granted." The Tenth Amendment further limits the federal government by granting the states the power not delegated to the federal government or prohibited to the states. Given the relative brevity of the national document, this granted substantial, non-delineated power to the state governments. The constitutions adopted by the states reflected the vast nature of what was left unwritten in the federal Constitution and largely conceived of state government power as plenary and granted significant plenary powers to the legislative branch in particular (Tarr 1998; Elazar 1982). Tarr explains,

> "…state governments have historically been understood to possess plenary legislative powers – that is, those residual legislative powers not ceded to the national government or prohibited to them by the federal Constitution. As the Kansas Supreme Court has observed: 'When the constitutionality of a statute is involved, the question presented is, therefore, not whether the act is authorized by the constitution, but whether it is prohibited thereby (Tarr 1998: 7).'"

Elazar also writing about the plenary nature of state governments explains that in comparison to the U.S. Constitution, the state constitutions need to be more comprehensive and explicit about limiting and defining the scope of governmental powers to prevent their growth and expansion (Elazar 1982).

Scholarship on state constitutions often focuses on illustrating through examples the great variability that exists across the states in their constitutional documents (Tarr 1998; 2014; Williams 2009). The most prolific of these scholars is G. Alan Tarr, who in a recent article describes the great flexibility that the federal government gave to the states by noting:

> "If one compares the "constitutional space" available to state constitution-makers in the United States with that available to their counterparts in other federations, there are far greater opportunities for constitutional innovation and experimentation in the United States than in most other federations (Tarr 2014: 2)."

He further goes on to discuss in general terms how the states have used this "power" to innovate and experiment – by citing the fact that the 50 states have adopted 145 constitutions and the current state constitutions have been amended over 10,0000 times (Tarr 2014). Tarr's assertions regarding the great diversity in state constitutions is shared by John Dinan (2009) who believes that historically the states have been better at revisiting their constitutions and revising their institutions and governing principles based on past experiences or fundamental shifts in culture, etc., and thus have allowed state governments to evolve in ways that make them more responsive to modern problems.

Tarr (2014) also asserts that the ways in which the states have chosen to alter their constitutional documents differ significantly from the ways in which our little-changed federal constitution has been altered. In particular, he points to the many provisions in state constitutions that are directed towards the state's legislative branch. Our past research (Martorano Miller, Hamm and Hedlund, 2009, 2010, 2011, 2013, 2014a; 2014b) has focused on identifying and assessing in a systematic manner these provisions in current state constitutions that impact the legislative process. In this paper, our goal is to explore the extent to which a state's original constitution reflects the context in which the constitution was written/adopted and informed the legislative process.

Powers, Mandates, Restrictions and Constitutional Restrictiveness

Most of the studies of state constitutions conducted by legal scholars have focused on a single aspect of state constitutional law or on a deep understanding of the constitutional evolution of a single state.[1] There are a handful of political science studies of state constitutions. However, these studies have focused largely on generalizations and descriptions of periods of state constitutional development (Elazar 1982; Sturm 1982; Tarr 1998; Kincaid 2014) and not on a constitution's development and evolution.

As far as we know, there have been no systematic attempts to study the content of state constitutions in a comparative context. Our most recent research endeavors have aimed to rectify this gap in our understanding of how the constitutional document might influence the state legislature and ultimately the adoption of public policy. This past research has focused on constitutional provisions that currently affect legislative

[1] In the Oxford Commentaries on the State Constitutions of the United States series, each state's constitutional history is given an in-depth book-length treatment.

processes and procedures (Martorano Miller, Hamm and Hedlund 2009; 2010; 2011; 2013; 2014a; 2014b).

As that research has evolved we began to view constitutional provisions as creating a cage within which the legislature must operate. We chose the cage metaphor, since these provisions have been determined external to the body and create boundaries for legislative action. We also have taken the lead of Tarr (1998) and have begun to think of these provisions as impacting the legislature in three distinct ways; a provision either grants the legislature a power, mandates that the legislature act or restricts the legislature from acting (Martorano Miller, Hamm and Hedlund 2014b). In our view mandates and restrictions are complementary in that both limit the "free will" of the legislative body by either forcing it to act or preventing it from acting. Using these three types of provisions, we have created and measured the concept of *constitutional restrictiveness*. Constitutional restrictiveness is the number of powers found in the constitution minus the mandates plus restrictions – (Powers – (Mandates+Restrictions)). We found that in some states, the cage of operation is quite small – meaning that mandates and restrictions far outnumber powers, while in others the cage is significantly larger where there is either more parity in the number of powers versus mandates and restrictions or more powers relative to mandates and restrictions. This research also found that that adopted their current constitution most recently are also more likely than states with older constitutions to restrict their legislatures by adopting more mandates and restrictions than powers (Martorano Miller, Hamm and Hedlund 2014b).

Research Design

The analysis in this paper replicates our earlier analysis of constitutional provisions (Martorano Miller, Hamm and Hedlund 2014b) by focusing on a state's original constitution rather than on its current document. Just as in the previous paper, we are focusing only on those provisions that impact the structures and procedures via which the legislative bodies consider and pass legislation. One author read the legislative article of each original state constitution, and the relevant provisions were recorded and coded as a power, mandate or restriction. The coding author conferred with the other two authors in cases when interpretation and coding of a provision was unclear.[2] We coded a provision a power if it provides the legislature the ability to act at its discretion. Provisions that state that the legislature "may" or "can" act are treated as powers. In contrast, provisions that state that the legislature "will" or "shall" act are considered mandates. Finally, provisions that state that the legislature "may not," "must not" or "shall not" are treated as restrictions.

The analysis in this paper is largely descriptive and establishes the baseline by which to begin an analysis of how constitutional provisions have evolved over time. However, we will also explore the extent to which the historical time period in which the original constitution was adopted may impact the content of original constitutions as well as provide a cursory comparison of the current state constitutions to the state's original document.

[2] Appendix A contains a chart that lists the year of adoption for each state's original constitution. For all but one (CT) of the 13 original colonies, the adoption of the original state constitution is prior to the adoption of the federal constitution and these documents – especially those from 1776 or 1777 are much closer to colonial charters in nature rather than constitutions as we think of them. We include the federal constitution in our analysis and treat it as equal to the other 50 states.

Historical Patterns and the Constitutional Nature of Legislative Provisions

The context created by the historical time period in which a state adopted its original constitution appears to be a significant determinant regarding the extent to which the legislative process is guided by constitutional directives. A number of scholars have addressed the historical development of state constitutions (Elazar 1982; Sturm 1982; Kincaid 2014), and assert that the political, social and economic context of a time period impacts how these documents evolve. In our study, we adopt the historical time periods used by Albert Sturm (1982). He identifies five periods of state constitutional development:

1. The First State Constitutions (1776-1780) – These constitutions were marked by the establishment of strong legislatures with significant plenary powers. The new states experience with colonialism under British rule left them distrustful of executive power and the legislative branch benefitted.

2. Early 19th Century Developments (1800-1860): This period marked the rise of Jacksonian Democracy. It coupled with public discontent with legislative corruption[3] led to the diminishment of legislative power and the strengthening of the governor.

3. Civil War, Reconstruction and Its Aftermath (1860-1900): The influences of the Civil War and Reconstruction led to additional constitutional limitations on the legislative branch in the states

4. Beginnings of Reform (1900-1950) – Further limitations on legislatures were adopted in this period as the result of revelations of corruption in public agencies and the Progressive Movement push for more public control of government.

5. Post-1950 – Events like mandatory reapportionment and reform movements that aimed to enhance the capacity of states to govern led to efforts to strengthen the legislative branch.

[3] The public became disturbed by legislative enactment of excessive special legislation for the benefit of private or sectional interests

Sturm makes a very compelling argument for the role that history and historical context plays in the development of constitutional traditions. It is clear that the political forces and events of the day likely had a significant impact on the choices made by those designing original state constitutions or determining the changes needed to an existing constitution. This notion that the starting point and subsequent choices regarding institutions are connected is not new. Many scholars have asserted that political institutions and processes are by their nature path dependent and that any attempt to account for phenomenon associated with these institutions and processes must take this path dependency into account (Pierson 2000a, 2000b; Jervis 2000; Thelen 2000; Bridges 2000). Comparative politics scholars studying democratization and the adoption of other governing institutions as well as scholars studying American political development have long acknowledged the importance of path dependency in their work (e.g., Lipset and Rokkan 1967; North 1990; Schickler 2001; Skocpol 1992; Collier and Collier 1991; Ertman 1996; Hacker 1998).

Figure 1 looks at the mean number of total provisions found in original state constitutions by the historical era they were adopted.[4] The later an original document was adopted, the greater the number of provisions informing the legislative process. In states that adopted pre-1800, the average number of provisions was nine. The mean number of provisions increases by 78 percent to 16 for states that adopted their original constitutions between 1800 and 1859. Relative to pre-1800, states that adopted between 1860 and 1899 experienced a 167 percent increases in provisions with an average of 24. States that adopted original constitutions during the height of the Progressive Era (1900-

[4] States are not evenly distributed across the five historical eras. The number of states adopting their original constitutions in each era are: 1) Pre-1800=15; 2) 1800-1859=20; 3) 1860-1899=11; 4) 1900-1949=3; and Post-1950=2.

1949) experienced the largest growth in mean provisions (233 percent) relative to the pre-1800 era with an average of 30 provisions. In the two states that are part of the post-1950 era, there is a small drop (to 25) in the mean provisions found. Table 1A presents the mean differences in total provisions across the five historical periods as well as the results of difference of means tests. Almost all of the mean differences are statistically significant indicating that the historical time period can partially account for differences in the total number of provisions in a constitution that inform the legislative process.

[Figure 1 and Table 1A about here]

Earlier we indicated that not all provisions are necessarily created equal. Rather, some provisions bestow power to the legislature over the legislative process, while others mandate or restrict legislative action. Do similar patterns emerge regarding the connection between era of constitutional adoption and mean numbers of powers, mandates and restrictions? Figure 2 displays three clusters of bar graphs – one for powers, one for mandates and one for restrictions. The bars represent the historical time periods. Overall the general pattern is for later constitutions to contain more of everything. In particular, the pattern is to include more mandates and restrictions rather than powers, although the mean number of powers present doubles by the post-1950 period versus the pre-1800 period. However, the rate of change is much greater for mandates and restrictions. Relative to pre-1800, the mean number of mandates increases by 200 percent (to 6) for constitutions adopted during 1800-1859 and 450 percent (to 11) for those adopted during 1860-1900 and 1900-1949. A similar pattern of change holds for restrictive provisions. Difference of means testing also confirm the patterns seen in Figure 2 (see Tables 1B, 1C and 1D). Figure 3 presents the distribution of the different

types of provisions by time period – clearly over time, the trend has been to reduce grants of power to the legislature and include a greater number of mandates and restrictions. In states that adopted constitutions pre-1800, on average about 54 percent of the provisions granted the legislature power. In states that adopted their original constitutions between 1860-1899 and 1900-1949 that average drops to about 25 percent.

[Figures 2 and 3 and Tables 1B, 1C and 1D about here]

Tarr (1998) makes the assertion, and we agree, that mandates and restrictions are similar in their consequences for the legislature – both limit the legislature by either requiring the body to act regardless of if it wants to or not (mandates) or by preventing the body from action, even if it seeks to do so (restrictions). The averages displayed in Figure 4 show the growth in mandates and restrictions combined over the course of the five historical eras. The period of greatest growth was during the 1900-1949 time period, in which constitutions adopted during this stretch contained on average 22 mandates and restrictions, a 450 percent increase from the average of 4 mandates and restrictions found in the pre-1800 constitutions. The difference of means testing in Table 1E further confirms this dramatic rate of growth.

[Figure 4 and Table 1E about here]

Considering each of these types of provisions in isolation makes it difficult to consider how the legislative process may be impacted by their presence. Rather, we need to consider each of these types in their totality. To achieve this we calculated a constitutional restrictiveness score discussed earlier by subtracting from a state legislature's constitutional powers, the combined number of mandates and restrictions found in the constitution. Figure 5 presents the mean constitutional restrictiveness score

for the original constitutions adopted during each of the eras. The averages are pretty dramatic. In only one period (pre-1800) did the number of powers outnumber the number the mandates and restrictions. During the 1900-1949 period the average increases to -15, a 4,445 percent increase from pre-1800. The transition to mandates and restrictions outnumbering powers is not unexpected during this period given the influence of the Progressive Movement, which called for more transparency and openness in government. It is not surprising that states that were joining the United States during this period included many provisions that aimed to achieve these goals – such as the adoption of the initiative and referendum, open meeting provisions, and requirements regarding bill reading and committee referrals. The difference of means test in Table 1F confirm that these increases were statistically significant.

[Figure 5 and Table 1F about here]

Stickiness of Constitutional Provisions

Our focus on the content of the early constitutions extends beyond a simple cataloguing of the specific provisions.. Our main concern is to ascertain the extent to which the provisions found in a state's earliest constitution are still part of the current document. In other words, how sticky are the original powers, mandates, and restrictions? Which provisions were most likely to be removed? Finally, what states were most or least likely to remove these original provisions? Do they vary by the time period in which they were adopted?

To answer these questions, we compared the legislative provisions in the oldest and current constitution. All told, there were 846 individual powers, mandates and

restrictions dealing with the legislative process in the 51 original constitutions, including the U.S. Constitution. Comparing the earliest with them most recent constitution in each state, we found that 110 of the original provisions, or 13.0%, are not part of current documents.

The first unanticipated finding is that the excised provisions do not deal mainly with legislative powers. Powers and mandates each account for roughly 39% of the deleted provisions while the remaining 22% are made up of legislative restrictions. The surprise is that a majority of the deleted provisions are not isolated events. They occur in more than one state. In fact, over one-half of the deleted provisions relate to just eight topics. In terms of legislative powers, six states deleted provisions that dealt with the all powers necessary for a branch of the legislature of a free and independent state. This language, while appropriate in early colonial times or when a territory is being admitted to the union, seemed unnecessary as time elapsed. Five states altered the provision regarding the chamber closing sessions if the matter requires secrecy. Six deleted provisions related to who may call a special session and the content of the bills discussed during that period.

A major change focused on appropriations. In fact, 10 states changed the mandate language dealing with money being drawn from treasury by bill only or appropriation by bill only. Another frequent change (N=9) involves revenue bills. Four states dropped the mandate that revenue bills must originate in the house while five states dispensed with senate power to alter or reject revenue bills from the house. This latter development will require more intensive analysis to see why this change was made.

The provision that is most deleted from the current constitutions (N=11) relates to the timing of the reading of each bill. Four states dispensed with the requirement that bills must be read on a specific number of different days while seven states modified the requirement that the majority can advance a bill from second to third reading on the same day. Six states deleted the restriction that a quorum must involve the presence of two-thirds of the membership. Obviously, this power was not eliminated but simply modified.

Do constitutional provisions develop more or less stickiness depending on the time period in which the original document was adopted? Figure 6 makes a brief comparison of a state's original constitution to its current constitution. The three bar graphs depict the percentage of powers, mandates, and restrictions, respectively, that are exactly the same between the original and current constitutions. The percentages are quite high for all three types of provisions. This infers that generally once a provision is entered into a constitution, the likelihood that it will be significantly modified or removed is fairly rare and provides additional empirical support to notion that institutions exhibit a certain degree of stickiness (Schickler 2001) and once adopted a path has been set upon that "travellers" are reluctant to veer too far off. The only real difference across the time periods involves mandates and restrictions found in states with the earliest constitutions. They are less likely to have survived in the current constitutions.

[Figure 6 about here]

Figure 6, however, masks some of the variation that does exist among the states. For example, nine states account for 55 of deleted provisions, or 50% of the total exclusions, with just four states (i.e, Montana, Illinois, Nebraska and North Dakota) having 30 of the deleted provisions. On the other hand, eight states and the

United States, did not have any change in the original provisions over time. While they may have added powers, mandates and provisions, they did not remove any of the original elements.

Discussion and Conclusions

Far too often when we consider the legislative bodies, we wash over the role that time and history have played in determining the process via which these bodies conduct their work. Rather, an implicit assumption exists that the rules and processes employed by state legislative bodies are changed as necessary depended upon the incentives and needs of the members at any given point in time. The analysis of original state constitutions and their comparison to current constitutions in this paper underscores the important role that history plays in determining how legislatures consider and adopt legislation. It also must make us appreciate the important role of institutions that are external to legislative bodies.

In this paper, we found that original state constitutions exhibit a significant degree in variation with regards to provisions that grant legislatures power, mandate they act or restrict them from activity. Further, in a basic, but robust analysis we find that the historical time period in which a state's original constitution was adopted was meaningful. Specifically, original constitutions adopted during the early years of the republic had fewer provisions overall and were more likely to favor grants of power over mandates and restrictions. Original constitutions adopted during later historical periods contained more provisions, and were more likely to favor limiting legislative action through mandates and restrictions rather than granting specific powers. Overall, state

constitutions are more inclined to include a set of provisions that restricts/limits legislative action rather than empower it, evidenced by constitutional restrictiveness scores that average mostly in the negative.

Finally, we found that there is a certain degree of stickiness between a state's original constitution and its current constitution. More often than not, provisions regarding the legislative process included in the original constitution are still present. Further, the vast majority of the differences between original and current constitutions is found in just a handful of states.

The analysis in this paper is a small component of a larger study that seeks to systematically study the impact of constitutional content on a state's legislative branch. This paper has advanced our study by providing the initial baseline of powers, mandates, restrictions, and constitutional restrictiveness in the states. In future papers, we plan to test a series of hypotheses using pooled time series data that tracks each change to the constitution in each state from entry into the union until present with the goal of specifying a more exact model of constitutional restrictiveness on state legislative activity.

Appendix A: Year of Original Constitution Adoption
(States are in order of year of adoption)

State	Year Original Adopted	State	Year Original Adopted
Delaware	1776	Florida	1839
Maryland	1776	Rhode island	1842
New Hampshire	1776	Texas	1845
New Jersey	1776	Iowa	1846
North Carolina	1776	Wisconsin	1848
Pennsylvania	1776	California	1849
South Carolina	1776	Minnesota	1857
Virginia	1776	Oregon	1857
Georgia	1777	Kansas	1859
New York	1777	West Virginia	1863
Vermont	1777	Nevada	1864
Massachusetts	1780	Nebraska	1866
United States	1787	Colorado	1876
Kentucky	1792	Idaho	1889
Tennessee	1796	Montana	1889
Ohio	1802	North Dakota	1889
Louisiana	1812	South Dakota	1889
Indiana	1816	Washington	1889
Mississippi	1817	Wyoming	1889
Connecticut	1818	Utah	1895
Illinois	1818	Oklahoma	1907
Alabama	1819	Arizona	1911
Maine	1819	New Mexico	1911
Missouri	1820	Hawaii	1950
Michigan	1835	Alaska	1956
Arkansas	1836		

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Figure 1

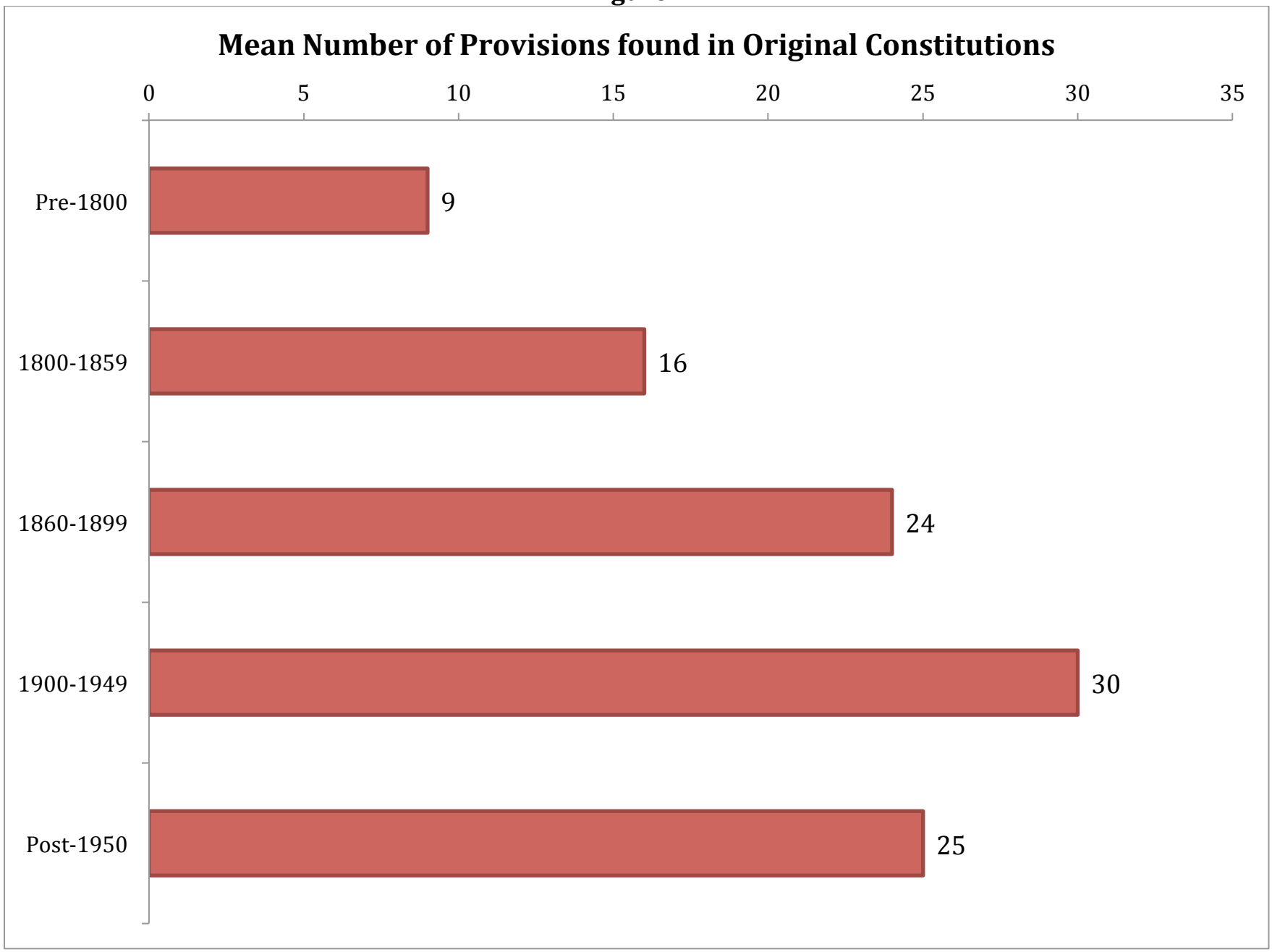

Mean Number of Provisions found in Original Constitutions
0
5
10
15
20
25
30
35
Pre-1800
9
1800-1859
16
1860-1899
24
1900-1949
30
Post-1950
25

Figure 2

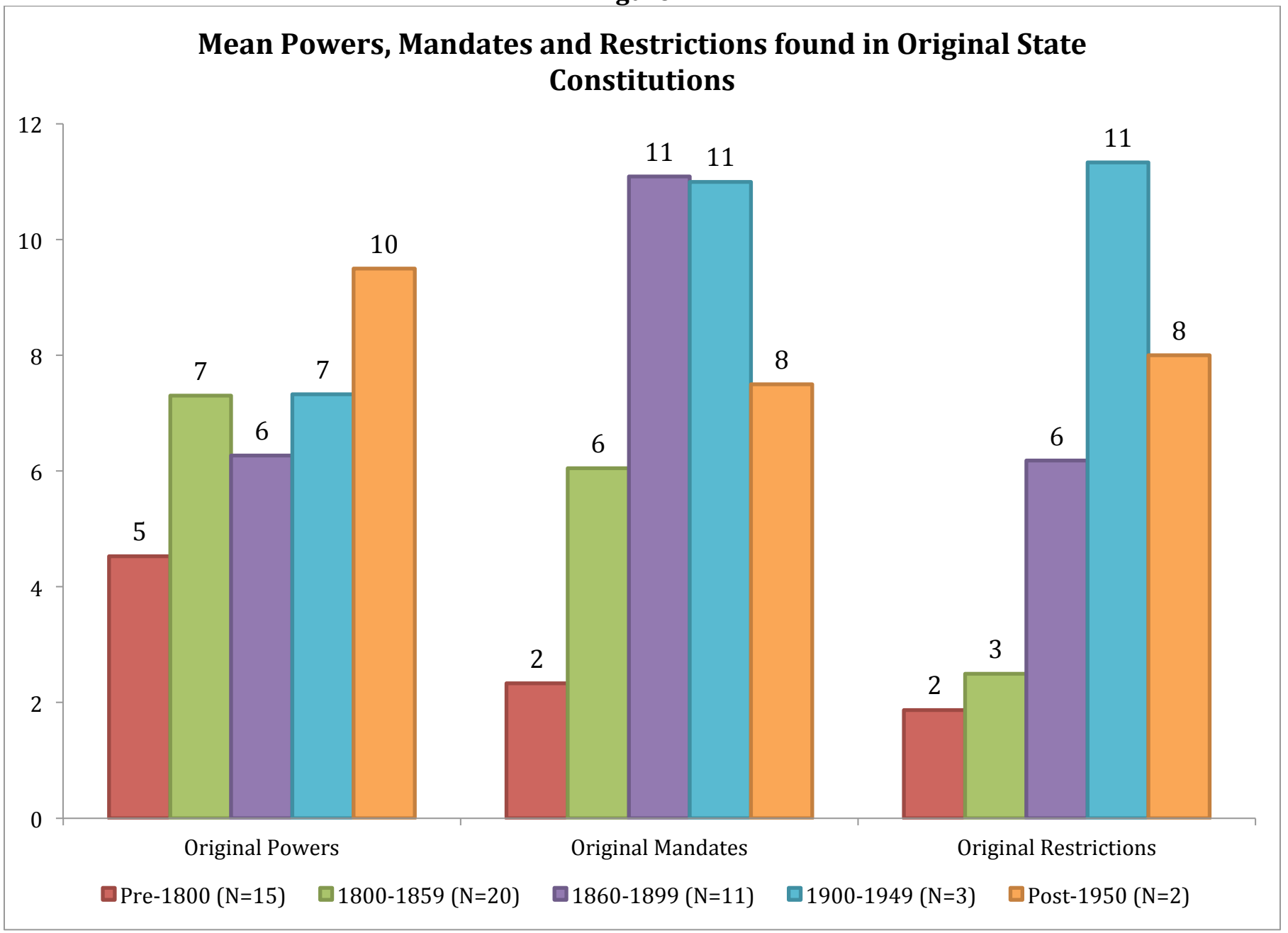

Mean Powers, Mandates and Restrictions found in Original State Constitutions
12
10
8
6
4
2
0
5
7
6
7
10
2
6
11
11
8
2
3
6
11
8
Original Powers
Original Mandates
Original Restrictions
Pre-1800 (N=15)
1800-1859 (N=20)
1860-1899 (N=11)
1900-1949 (N=3)
Post-1950 (N=2)

Figure 3

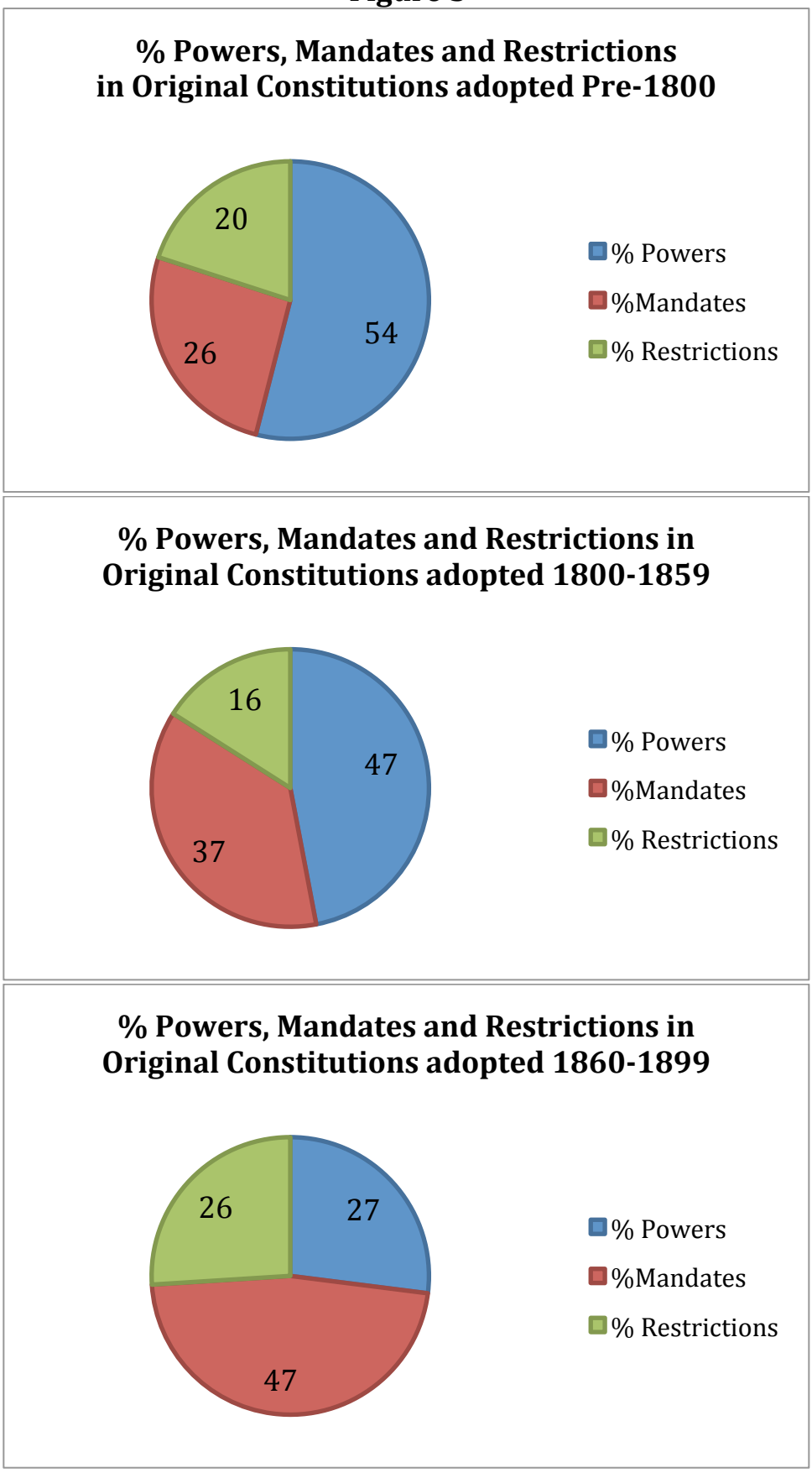
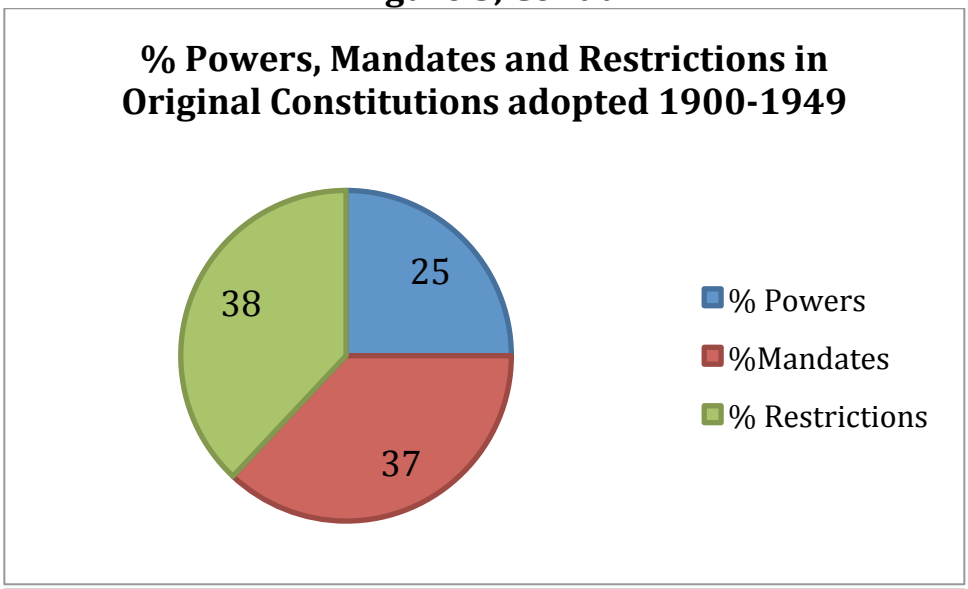

% Powers, Mandates and Restrictions in Original Constitutions adopted Pre-1800
20
54
26
% Powers
%Mandates
% Restrictions
% Powers, Mandates and Restrictions in Original Constitutions adopted 1800-1859
16
47
37
% Powers
%Mandates
% Restrictions
% Powers, Mandates and Restrictions in Original Constitutions adopted 1860-1899
26
27
47
% Powers
%Mandates
% Restrictions

Figure 3, Cont'd



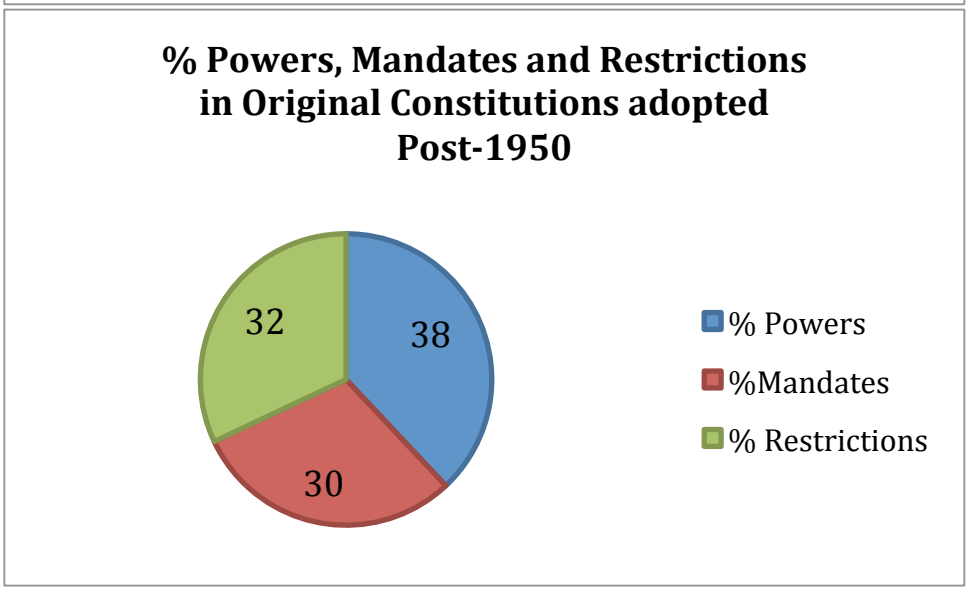


Figure 4

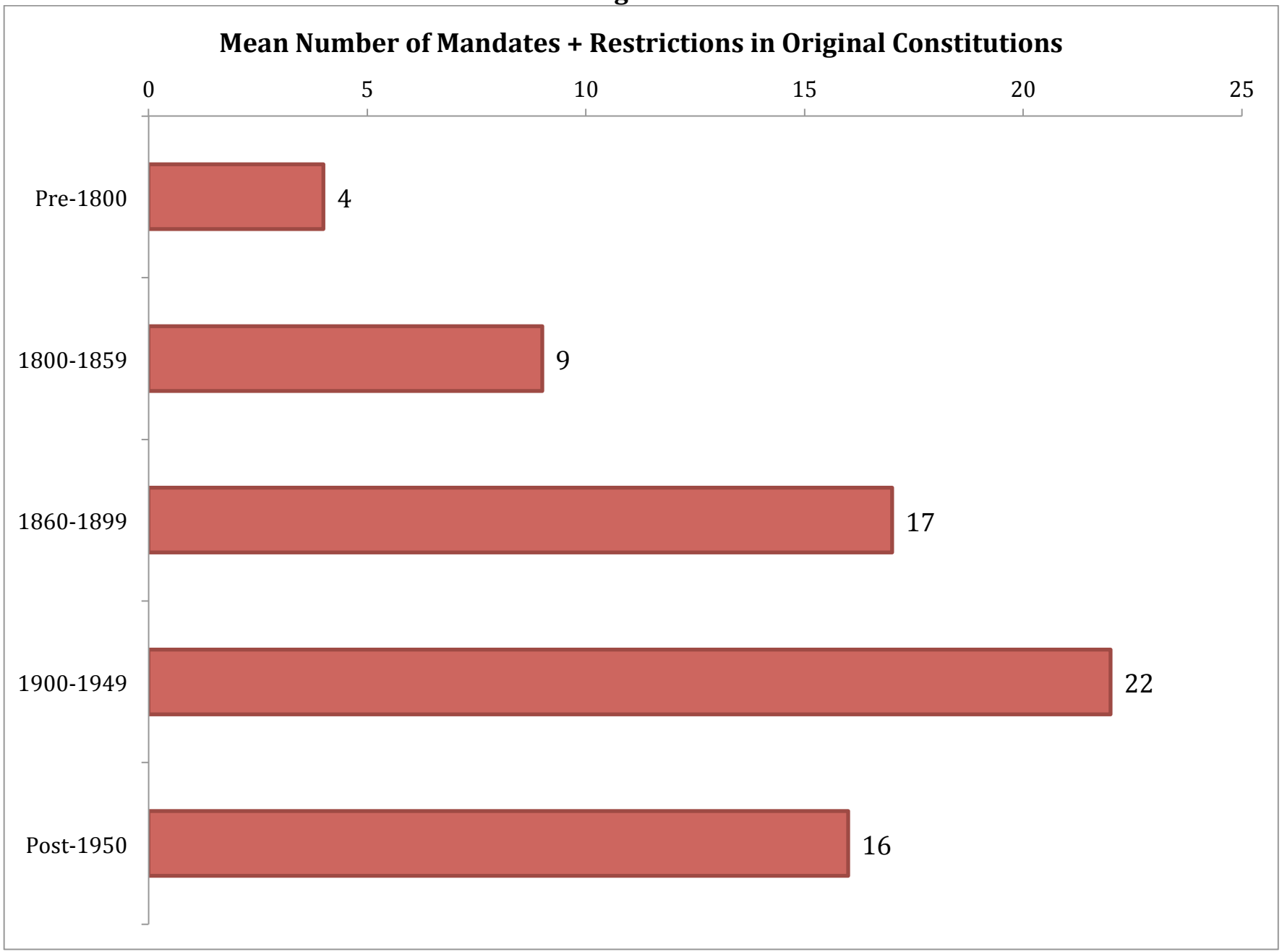

Mean Number of Mandates + Restrictions in Original Constitutions
0
5
10
15
20
25
Pre-1800
4
1800-1859
9
1860-1899
17
1900-1949
22
Post-1950
16

Figure 5

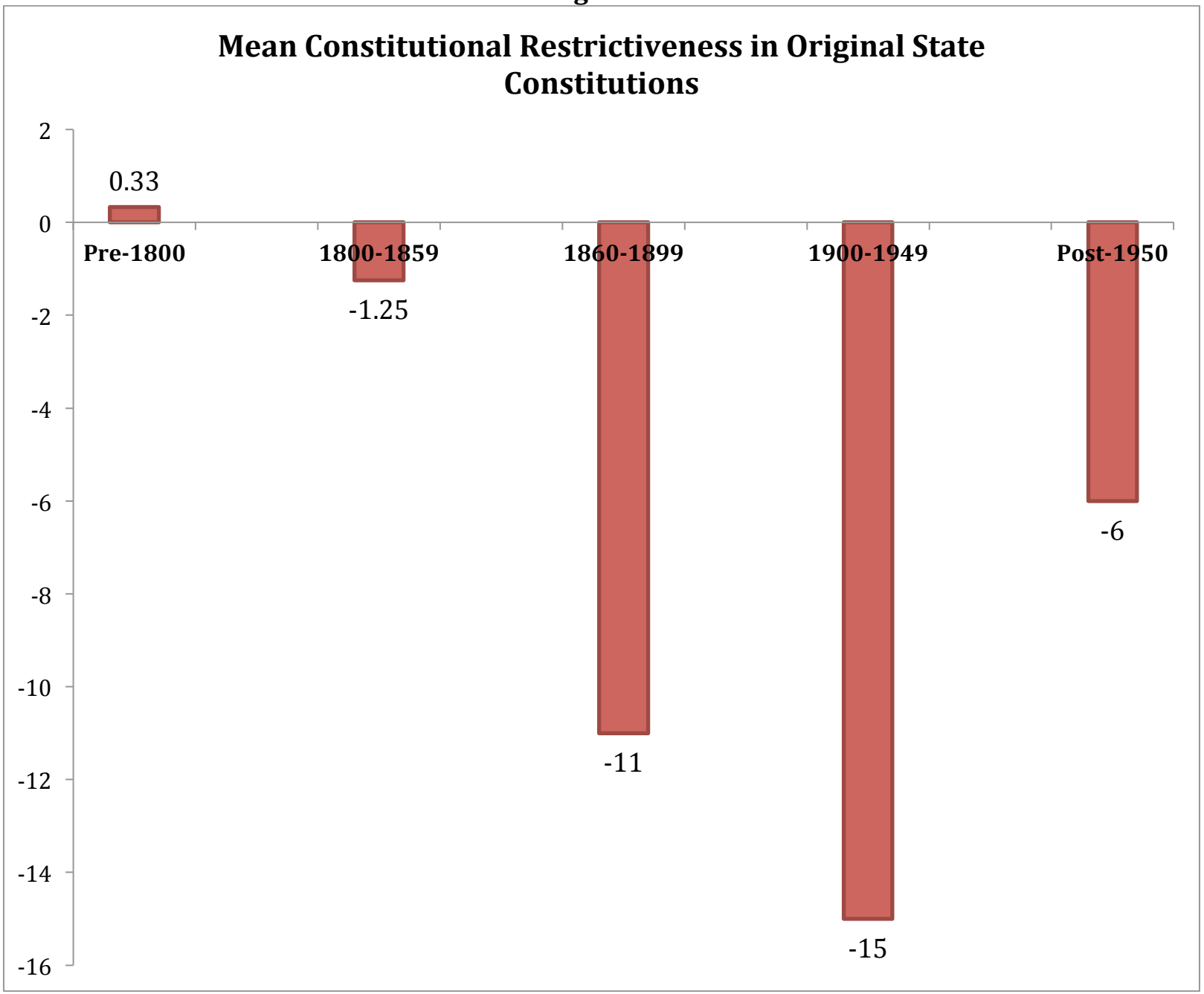
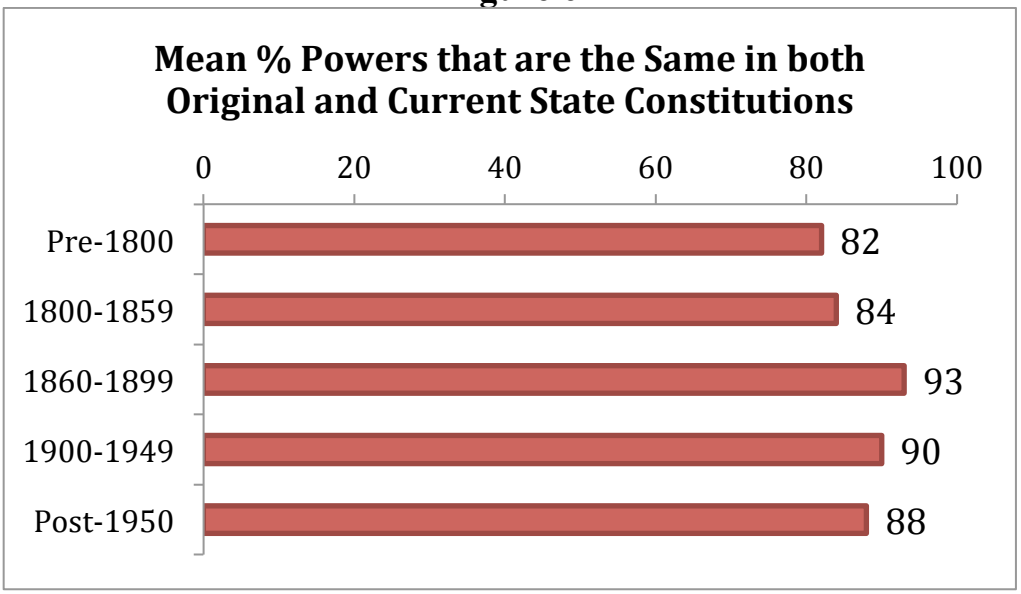
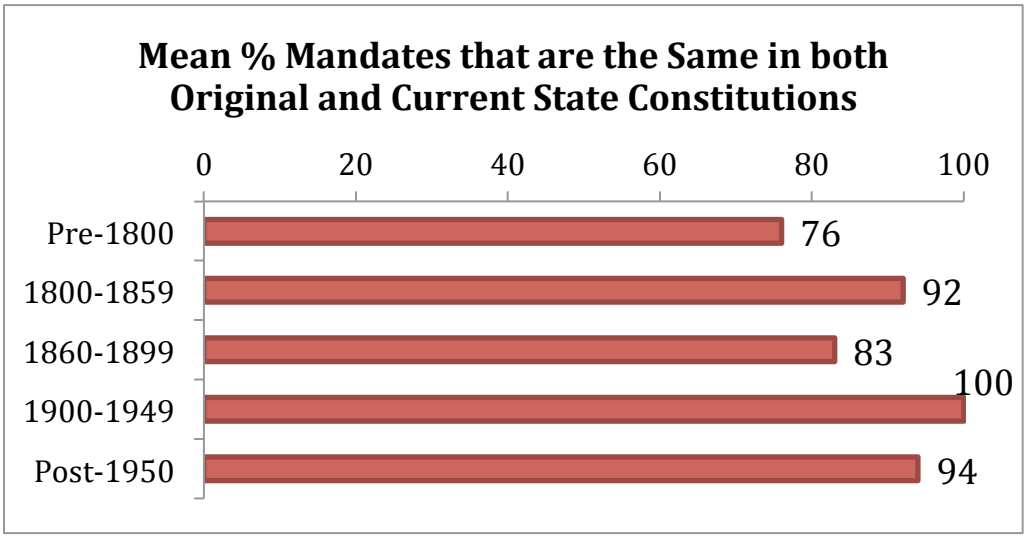

Mean Constitutional Restrictiveness in Original State Constitutions
2
0
-2
-4
-6
-8
-10
-12
-14
-16
0.33
-1.25
-11
-15
-6
Pre-1800
1800-1859
1860-1899
1900-1949
Post-1950

Figure 6


Mean % Powers that are the Same in both Original and Current State Constitutions
0
20
40
60
80
100
Pre-1800
82
1800-1859
84
1860-1899
93
1900-1949
90
Post-1950
88


Mean % Mandates that are the Same in both Original and Current State Constitutions
0
20
40
60
80
100
Pre-1800
76
1800-1859
92
1860-1899
83
1900-1949
100
Post-1950
94

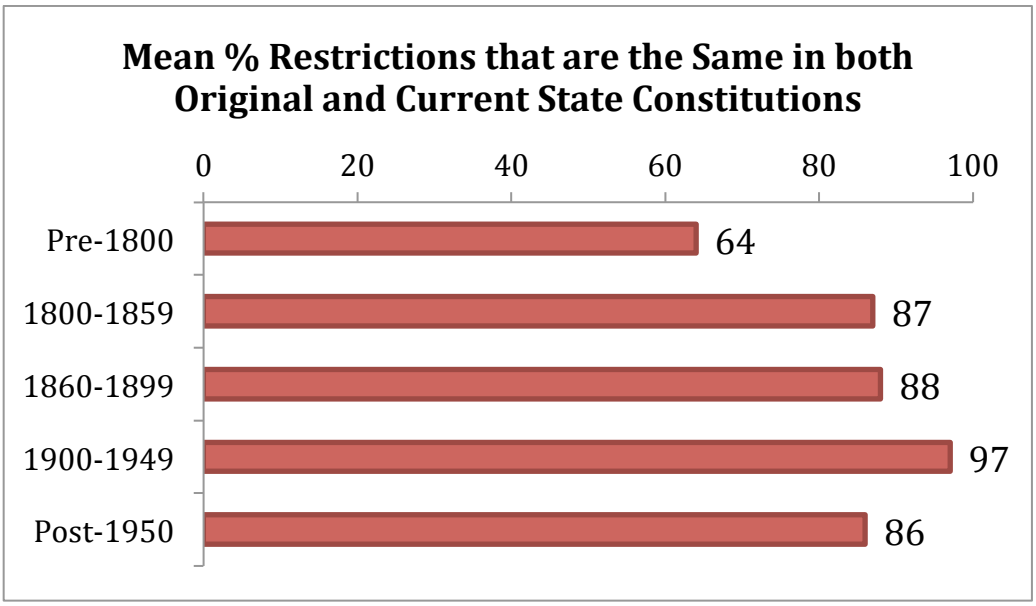

Mean % Restrictions that are the Same in both Original and Current State Constitutions
0
20
40
60
80
100
Pre-1800
64
1800-1859
87
1860-1899
88
1900-1949
97
Post-1950
86

Table 1
Difference of Means Testing in Original Constitutional Provisions

A) Total Provisions

	Pre-1800	1800-1859	1860-1899	1900-1949
Pre-1800				
1800-1859	**7.11*** **			
1860-1899	**14.81*** **	**7.70*** **		
1900-1949	**20.93*** **	**13.82*** **	**6.12***	
Post-1950	**16.27*** **	**9.15*** **	1.45	-4.67

Cell entries are mean differences. *p<.05, **p<.01, ***p<.001

B) Powers

	Pre-1800	1800-1859	1860-1899	1900-1949
Pre-1800				
1800-1859	**2.77*** **			
1860-1899	**1.74***	-1.03		
1900-1949	**2.8***	.03	1.06	
Post-1950	**4.97*** **	2.20	**3.23***	2.17

Cell entries are mean differences. *p<.05, **p<.01, ***p<.001

C) Mandates

	Pre-1800	1800-1859	1860-1899	1900-1949
Pre-1800				
1800-1859	**3.72*** **			
1860-1899	**8.76*** **	**5.04*** **		
1900-1949	**8.67*** **	**4.95*** **	-.09	
Post-1950	**5.17***	1.45	-3.59	-3.50

Cell entries are mean differences. *p<.05, **p<.01, ***p<.001

Table 1, cont'd

D) Restrictions

	Pre-1800	1800-1859	1860-1899	1900-1949
Pre-1800				
1800-1859	.633			
1860-1899	**4.32*** **	**3.68*** **		
1900-1949	**9.47*** **	**8.83*** **	**5.15*** **	
Post-1950	**6.13*** **	**5.50*** **	1.82	-3.33

Cell entries are mean differences. *p<.05, **p<.01, ***p<.001

E) Mandates + Restrictions

	Pre-1800	1800-1859	1860-1899	1900-1949
Pre-1800				
1800-1859	**4.35*** **			
1860-1899	**13.07*** **	**8.72*** **		
1900-1949	**18.13*** **	**13.78*** **	**5.06***	
Post-1950	**11.30*** **	**6.95***	-1.77	**-6.83***

Cell entries are mean differences. *p<.05, **p<.01, ***p<.001

F) Constitutional Restrictiveness

	Pre-1800	1800-1859	1860-1899	1900-1949
Pre-1800				
1800-1859	-1.58			
1860-1899	**-11.33*** **	**-9.75*** **		
1900-1949	**-15.33*** **	**-13.75*** **	-4.00	
Post-1950	**-6.33***	-4.75	5.00	**9.00***

Cell entries are mean differences. *p<.05, **p<.01, ***p<.001