in the majority opinion that not the legislature, but the people themselves would limit the work of the convention if they would vote for it under the terms of the act, and that the people might confer upon it limited powers. Rejecting the objection that the two constitutional provisions above mentioned occupy separate fields, one dealing with revision of the Constitution as a whole and the other with altering a part or parts thereof, and that each within its respective field is exclusive of the other, the majority opinion stated that the provision allowing a constitutional amendment by submission thereof to the people did not impair the right of the people to bring about such an amendment by voting for the calling of a constitutional convention. The chief justice dissented on the ground that the legislature had no power to restrict the action of a constitutional convention called into being by the electors.[13]

[13] In the dissenting opinion the chief justice quotes from W. DODD, REVISION AND AMENDMENT OF STATE CONSTITUTIONS 80 (1910), to the effect that "the legislature cannot bind the convention as to what shall be placed in the constitution, or as to the exercise of its proper duties." It is believed that in stating this proposition the author did not intend to include a situation in which the limitations on the powers of the constitutional convention were submitted to, and approved by, the vote of the people. This appears from the following statement on page 77: "The presumption in favor of a convention's having full power to act in the framing of a new constitution would, of course, not apply where no constitutional revision had been in contemplation either by the legislature or by the people, but where a convention had been called by legislative act to determine a particular question of public policy, or to interpret a clause of the existing constitution, as in New York in 1801, in South Carolina in 1832-33, and in Mississippi in 1850-51." The view taken herein is supported also by the observation made on page 76, footnote 8, where in discussing the case of Wells v. Bain, 75, Pa. 39, 15 Am. Rep. 563 (1873), and Woods's Appeal, 75 Pa. 59 (1874), the author laid emphasis on the fact that the act which purported to limit the powers of the constitutional conventions there involved was not submitted to the people; and by the statement on page 92, footnote 34, that "the Constitutions of Oklahoma and Oregon by requiring that acts providing for a convention be submitted to the people, would seem impliedly to make the terms of such acts binding upon a convention when assembled."

See also the cases, *infra,* this division, under subhead "Louisiana cases."

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In some cases the power of the legislature to limit the powers of a constitutional convention has been sustained in a situation in which the act containing such limitations was passed after the people had voted for the calling of a constitutional convention, but before they had elected the delegates thereto. *Ex parte Birmingham & A. R. Co.,* 145 Ala. 514, 42 So. 118 (1905), followed in *Hawkins v. Taylor,* 149 Ala. 673, 42 So. 126 (1906), and in *State ex rel. Turner v. Shelby County,* 149 Ala. 674, 42 So. 126 (1906); *Wells v. Bain,* 75 Pa. 39, 15 Am. Rep. 563 (1873); *Woods's Appeal,* 75 Pa. 59 (1874).

In *Ex parte Birmingham & A. R. Co.,* 145 Ala. 514, 42 So. 118 (1905), after the people had voted for the holding of a constitutional convention, the Alabama legislature passed a statute by the terms of which the constitutional convention called thereby was required to submit all of its acts to the people of the State of Alabama for ratification. An ordinance providing for an additional courthouse in certain counties was passed by the constitutional convention, but was never submitted to the people for ratification, either separately or as part of the new Constitution. The ordinance was held invalid, two of the justices dissenting. The decision was rested on the theory that a constitutional con-