

vention has delegated, and no inherent, rights; that the authority delegated to the convention was the power to revise and amend the former Constitution, and did not include the authority to pass local legislation, and that such legislation, being unauthorized, could not become binding unless ratified by the people. While it is doubtful whether the case squarely supports the view that in the situation under discussion a legislature has power to limit the powers of a constitutional convention even with respect to matters concerning the amendment and revision of the Constitution, the language used in the opinion and the general theory upon which it is based seem to support such a view. Thus, in rejecting the contention that if the adoption of the ordinance was beyond the authority of the convention, it was nevertheless valid and binding because the Constitution was submitted to and ratified by the people, the court pointed out that the ordinance never was ratified and said: "The act formulating a call of the convention, and which was voted on by the people, provided only for 'amending and revising' the Constitution, and § 22 also required that the instrument framed should be submitted to the people for ratification or rejection. The people, therefore, in voting for the holding of a convention, not only limited the powers of the convention to the amendment and revision of the Constitution of 1875, but required that its action be submitted back to them. The convention, realizing the requirements placed thereon by the powers calling it into existence, provided by paragraph 4 of § 287 that the Constitution be submitted to the electors of the state for ratification or rejection, but no provision was made for a submission of the ordinance in question." And upon rehearing the court said: "The act so

clearly defined the purpose for which the convention should be held that we have every reason to conclude that the legislature did not, for a moment, anticipate that the convention would undertake to indulge in local legislation."

In *Wells v. Bain*, 75 Pa. 39, 15 Am. Rep. 563 (1873), under a constitution which contained no provision for a revision thereof by way of a constitutional convention, but only by way of adoption of amendments by the legislature and ratification by the people, the Pennsylvania Legislature passed an act of June 2, 1871, authorizing a popular vote upon the question of calling a convention to amend the existing constitution. After this question was answered in the affirmative by a majority of votes, the legislature passed an act of April 11, 1872, to provide for calling a convention to amend the Constitution, this act making provisions for the election of delegates, their assembling, their powers and duties, and the submission of the Constitution or amendments agreed upon to a vote of the people for adoption or rejection. In particular, with respect to the last point, it was provided that "the election to decide for or against the adoption of the new Constitution or specific amendments shall be conducted as the general elections of this commonwealth are now by law conducted." It was also provided that one-third of the members should have the right to require the separate and distinct submission to the popular vote of any amendment. Under this latter act the people voted for delegates to the convention. In disregard of the mandate in the Act of 1872, the constitutional convention, in an ordinance for submitting the amended Constitution to a vote of the electors, provided election machinery, and appointed election commissioners,