

"A constitutional convention is not a co-ordinate branch of the government, but is a body of representatives of the people convened only on special occasion, and for the purpose of revising or framing a Constitution. The powers it has are usually expressly conferred upon it, together with such implied powers as may be necessary to carry into effect those expressly conferred. The authority of the constitutional convention to pass ordinances, which are temporary enactments, and give them validity, as a rule, depend upon the powers conferred upon them by the law which authorizes their assemblage. Where it is not provided that the convention shall have the power of independent legislation, the validity of such ordinances depends on their submission to the people and their ratification in due form. *Quinlan v. Houston & T. C. R. Co.*, 89 Tex. 356, 34 S.W. 738 (1896). The power, though, of the convention of 1875 to deal by ordinance with necessary incidental legislation without submission for adoption to a popular vote, appears, it is believed, clear and unmistakable."

Louisiana cases.

Under the Louisiana Constitution, which contained no provision relative to the calling of a constitutional convention,¹⁵ the restrictions imposed upon the powers of a constitutional convention by the terms of a statute calling such convention, which had been ratified by a vote of the people, have been held valid and hence provisions in the new Constitution which violated the mandate in the statute have been held

¹⁵ See *State v. American Sugar Ref. Co.* 137 La. 407, 68 So. 742 (1915), where it was said: "None of the Constitutions of the State of Louisiana contain provisions relative to conventions of the people, except the Constitution of 1812."

invalid in a number of cases. *State v. American Sugar Ref. Co.*, *supra*; *Foley v. Democratic Parish Committee*, 138 La. 220, 70 So. 104 (1915); *Hayne v. Assessor*, 143 La. 697, 79 So. 280 (1918) (recognizing rule); *Wunderlich v. New Orleans R. & Light Co.*, 145 La. 21, 81 So. 741 (1919); *Sheridan v. Washington Parish*, 145 La. 403, 82 So. 386 (1919); *Re Perez*, 146 La. 373, 83 So. 657 (1920).

Thus, a provision in the new Constitution which required that the members of the board of assessors should be elected at the same time as the parochial officers of the City of New Orleans was held to be invalid in *Foley v. Democratic Parish Committee*, 138 La. 220, 70 So. 104 (1915), as in violation of express prohibitions, in the statute calling the constitutional convention, of the enactment of any article or ordinance with respect to any public board or commission of the state or any political subdivision thereof, and with respect to registration or elections.

Similarly, a provision in the new Constitution which, as invoked by the plaintiff, would have conferred upon the district attorney for the Parish of Orleans a duty, theretofore not imposed upon him, to represent the state in civil suits, was held to be invalid in *State v. American Sugar Ref. Co.*, 137 La. 407, 68 So. 742 (1915), as in violation of an express prohibition in the statute calling the constitutional convention, of the enactment of any article or ordinance changing the duties or increasing the authority of any public officer. The court quoted from 6 R.C.L. 27 Constitutional Law § 18 (*see* 11 Am. Jur. 631 *Constitutional Law* § 27) as follows: "When the people, acting under a proper resolution of the legislature, vote in favor of calling a constitutional convention, they are