

contest, in which a contestant by a new notice informed the respondent that after the service of his original notice he had discovered new facts specified therein, among them the fact "that the constitutional convention which was called for the purpose of proposing amendments to the Constitution of the state, in providing for an election of officers on the 22nd day of August, 1872, transcended the powers delegated to it by the legislature, and that the election was therefore illegal and void." In support of its holding that the facts stated were not newly discovered facts and hence could not be the subject of a new notice, the court said (6 W. Va. 708): "I have had no difficulty in reaching the following conclusions upon the constitutional questions presented in this specification,

viz.: First. That a constitutional convention lawfully convened does not derive its powers from the legislature, but from the people. Second. That the powers of a constitutional convention are in the nature of sovereign powers. Third. That the legislature can neither limit or restrict them in the exercise of these powers. . . ." In DODD, *Revision and Amendment of State Constitutions* 90, the decision in *Loomis v. Jackson* (W. Va.) *supra*, is commented upon as follows: "The decision was rendered by a special election court, which had no other function than that of deciding an election contest; in addition this court did not have before it any effort by the legislature to restrict a convention, so that its expression was purely dictum."

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