

purpose of effecting a transition from the old government to the new, and of putting the provisions of the new constitution into effect,¹⁰ but the provisions thereof, adopted as a part of the constitution, may be equally binding with it.¹¹ A constitutional convention, in the adoption of ordinances, is subject to the limitations on the power of the states contained in the federal constitution and amend-

¹⁰ Del.—Wilmington Trust Co. v. Baldwin, 38 Del. 595, 195 A. 287 (1937).

Mo.—First Nat. Bank v. Buchanan County, 356 Mo. 205 S. W. 2d 726, 1204 (1947)—CORPUS JURIS quoted in State ex. rel. Aquamsi Land Co. v. Hostetter, 336 Mo. 391, 79 S.W. 2d 463, 467 (1934).

Okl.—CORPUS JURIS quoted in Mann v. Osborne, 128 Okl. 32 261 P. 146, 148, (1927).
Pa.—Commonwealth v. Clark, 7 W. & S. 127 (1844). Commonwealth v. Harrison, 51 Pa. D. & C. 139, 54 Dauph. Co. 395 (1943).
12 C.J. *Constitutional Law* § 34 n. 35 (1917).
Schedule presumed temporary.

A provision found among the temporary provisions in a schedule is generally presumed to be temporary.

Mo.—State ex. rel. Aquamsi Land Co. v. Hostetter, 336 Mo. 391, 79 S.W. 2d 463 (1934).

¹¹ Del.—Wilmington Trust Co. v. Baldwin, 38 Del. 595, 195 A. 287 (1937).

Mo.—State ex. rel. Aquamsi Land Co. v. Hostetter, 336 Mo. 391, 79 S.W. 2d 463 (1934). *Permanent effect.*

In order to hold that a provision of the schedule has a permanent effect, to the extent of setting aside a section of the constitution, there must be not only the language which compels such a decision, but a situation which requires it.

Pa.—Commonwealth v. Harrison, 51 Pa. D. & C. 139, 145, 51 Dauph. Co. 395 (1943).

Numbering of new section or article.

The specific requirement of schedule of constitution relating to numbering of new section or article pertains solely to legislative acts and not to amendments to the constitution.

Mo.—Marsh v. Bartlett, 343 Mo. 526, 121 S.W. 2d 737 (1938).

ments,¹² and also, it has been held, to provisions contained in the bill of rights of both the old and the new constitution.¹³ In those states in which the constitutions themselves must be ratified by the people, the validity of such ordinances depends on their submission to the people and their ratification in due form;¹⁴ conversely, in those states in which new constitutions need not be submitted to the people, valid ordinances may be adopted and proclaimed by constitutional conventions without such submission.¹⁵

“Generally, a constitutional convention’s authority to pass ordinances and give them validity depends on powers conferred on the convention by the law which authorizes their assemblage, and where such law does not provide that the convention shall have the power of independent legislation, the validity of convention ordinances depends on their submission and ratification by the people.¹⁶ To the extent that an ordinance has been legally adopted, it is a part of the supreme law of the state, and, within the scope of its meaning, it is beyond the control of the legislature,¹⁷ but it

¹² N.C.—State v. Keith, 63 N.C. 140 (1869). 12 C. J. *Constitutional Law* § 34 n. 36 (1917).

¹³ N.C.—State v. Keith, 63 N.C. 140 (1869).

¹⁴ Ala.—*Ex parte* Birmingham & A. Ry., 145 Ala. 514, 42 So. 118 (1905).
12 C.J. *Constitutional Law* § 34 n. 38 (1917).

¹⁵ Va.—Willis v. Kalmbach, 109 Va. 475, 64 S.E. 342, 21 L.R.A., n.s., 1009 (1909).
12 C.J. *Constitutional Law* § 34 n. 39 (1917).

¹⁶ Tex.—Bass v. Albright, Civ. App., 59 S. W. 2d 801 (1933) (error refused).

¹⁷ Okl.—CORPUS JURIS SECUNDUM cited in Cox v. Okla. Tax Comm’n, 197 Okla. 12 168 P. 2d 634, 645.

Tex.—Bass v. Albright, Civ. App., 59 S.W. 2d 891 (1933) (error refused).
12 C.J. *Constitutional Law* § 34 n. 40 (1917).