

ORDINANCES AND SCHEDULES
INCLUDING METHODS OF TRANSITION
FROM THE

OLD CONSTITUTION AND GOVERNMENT TO THE NEW¹

A constitution may contain, in addition to organic law, other matters that do not make up the permanent foundation of government.²

"It is generally the rule that ordinances and schedules appended to a constitution, as distinguished from the permanent and fundamental law embodied in the constitution itself, are temporary enactments for the purpose of effecting a transition from the old government to the new, and of putting the provisions of the new constitution into effect . . ."³

Provisions found in a schedule are generally presumed to be temporary.⁴ Such a provision may, however, have a permanent effect if the language in the section compels such a decision, and the situation requires it.⁵ Since such ordinances are not generally intended to be a permanent and abiding part of the fundamental law, they are subject to change by an initiated law or by an act of the legislature when it is duly constituted under the new constitution.⁶

A constitutional convention should be given the authority to pass such ordinances.

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² *Starr v. Hagglund*, 374 P. 2d 316, 318 (Alaska 1962).

³ 16 C.J.S. *Constitutional Law* § 11 (1956).

⁴ *Id.* n. 92.

⁵ *Id.* n. 93.

⁶ *Starr v. Hagglund*, *supra* note 2, at 322.

"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 the convention ordinances depends on their submission and ratification by the people."⁷

Concerning the uses of "The Schedule" in constitutions, Jameson, in *The Constitutional Convention* wrote:

"The Schedule is that part of a written Constitution in which are comprised provisions deemed necessary—1, to ascertain the will of the people with respect to the adoption of the instrument, matured by a Convention, as the Constitution of the State; 2, to effect, without inconvenience or embarrassment, the transition from the old to the new order of things, and to save rights, acquired under existing laws, from lapsing by their repeal; 3, to set up and put in operation the institutions and agencies described in the Constitution, so far as not already in operation. These provisions are mostly temporary in purpose and effect; and although they are, some of them, of a character more or less fundamental, they seem incongruous with the permanent provisions of the Constitution, properly so called, and with the Bill of Rights. Beside these, which are the usual and proper contents of a Schedule, are

⁷ C.J.S., *supra* note 3.