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## Foreword

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# WASHINGTON UNIVERSITY LAW QUARTERLY

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## FOREWORD

JOSEPH A. McCLAIN, JR.†

Jefferson's *dictum*, that the people have the inalienable right to revolt whenever their government becomes oppressive, was translated after the American Revolution by Jefferson himself into the principle that the constitution of a free people should provide within itself an opportunity for each generation to revise it completely. The "right to revolt," expressed as the right to revise, became a cardinal principle of American constitutional government. In most American states there was early provision for the calling of revisory conventions at the discretion of the legislature; and later there was provision for revision and amendment by the people through the initiative procedure. Pursuant to the first type of provision, most American states have had several constitutions or at least several opportunities to consider new constitutions; and under the initiative procedure most state constitutions are undergoing more or less continuous amendment. But the defects of too-long-continued piece-meal amendment are obvious, even if its scope were not restricted as it usually is. Experience has tended to demonstrate that state legislatures, elected under prevailing constitutional provisions, often thwart popular demand for constitutional revision by failing to call, or failing to submit the question of calling, conventions for that purpose. To obviate this—since he foresaw that very difficulty—Jefferson would have provided in the original state constitutions that the question of calling a revisory convention should be automatically submitted to the voters every twenty years. At about the turn of the century—during the Progressive Era—such a provision was adopted by several states. Among these, as is

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well known, was Missouri, which in 1920 amended its constitution so as to require the submission of the question of calling a convention in 1921, as was then done, and at intervals of twenty years thereafter. The first such regular interval will have elapsed by November of this year; and the voters of Missouri will have before them on the ballot the question:

“Shall there be a convention to revise and amend the constitution?”

Not every generation requires a wholly new constitution, nor indeed do most generations require even very great constitutional change. A great deal, of course, depends on the character of the existing constitution. But a strong case for constitutional revision in Missouri at this time can be made. The Missouri constitution, like that of most sister-states, is not phrased in merely the broad, fundamental provisions which have enabled the federal constitution to endure in workable form for over a hundred and fifty years. Yet the generation that lives under it has witnessed tremendous industrial and social changes which have necessarily profoundly affected our governmental machinery and procedures. These considerations should invite our serious study of the desirability of calling a convention, if the Jeffersonian principle is to be most completely realized.

Fortunately, as the changes in the social and economic areas which warrant a reconsideration of the machinery of government came about, there developed in this country a new type of specialist, the professional student of government, or political scientist. His studies and investigations have been responsible for a great deal of innovation in the techniques of government, especially on the state and local level. And even where no constitutional or charter changes were involved, the political scientist has contributed new processes and procedures in government, particularly in public administration. There is at hand, then, a new body of learning to use as the basis of approaching a new problem: the maintenance of popular, democratic government in a modern technological age. In appreciation of the need and its imminence in Missouri, the Staff of the Washington University Law Quarterly last fall asked various specialists in the field of state government to prepare brief articles which are presented in this issue.

Professor Faust of the Department of Political Science of the University of Missouri, who is well acquainted with the local situation from first-hand experience, has written on the use of the initiative and referendum in Missouri under existing constitutional provisions. Professor Steinbicker of St. Louis University, who, before coming to St. Louis to head the Department of Political Science, was engaged in study, teaching and research at Cincinnati, has written on the fundamental problem of the organization and procedure of the general assembly. Two members of the Department of Political Science of Washington University, Professors McKenzie and Norton, have written respectively on the problem of the executive branch and the problem of local government. And for the article on taxation and financial administration, we are indebted to the Director of the Governmental Research Institute of St. Louis, Dr. Charlton Chute, and one of his associates, Dr. Victor D. Brannon.

Abroad the political scientist and the lawyer are not as completely divorced as here—or, more accurately, the modern development of political science abroad took place within the legal profession and the law schools. A trend in that direction may be discerned here at the present time. Constitutional government is very much the product of the legal profession, initially in England and, because of our own history and institutions, even more significantly in the United States. Lawyers participate in government more perhaps than any other single group, not only because lawyers predominate in politics and administration but because the very objective of their practice as counsellors or advocates for private citizens is the maintenance of constitutional, that is to say, orderly government. Because of the lawyers' inescapable responsibility and to bring together the results of the study and investigations of political scientists and the results of the experience of the members of the bar in the actual administration of government, the Staff of the Washington University Law Quarterly is pleased to have its journal be the medium of expression to the members of the Bar and others for these specialists in the science of government.