ing with) reform. Law professors who do that work must be sensitive to, perhaps even greatly assist with, the work of other academics, but should not forget the real limitations of their training and understanding. As Mark Tushnet once wrote, we are subject to the "lawyer as astrophysicist" myth, that any lawyer can read a physics book over the weekend and send a rocket to the moon on Monday.

State constitutional law was roundly ignored until, beginning in the late 1970s, liberal law professors retreated in despair to state supreme courts, hoping to find them more receptive to activism than the Burger Court had become. Today state constitutional law has become the haven for arguments rejected in the federal courts. Why not invert the analysis—why not see whether federal constitutional law might profitably borrow from arguments accepted by state courts in interpreting state constitutions? For example, the Supreme Court has fallen into a morass attempting to decide issues associated with the separation of powers (for example, the nondelegation doctrine and the legislative veto). In doing so, the Court gave no hint of being aware that some state supreme courts have had interesting things to say on such subjects under their own constitutions. It might seem demeaning for constitutional scholars to dirty their hands with state cases, but ultimately it might be more valuable than many of the other things we routinely do.

CARL A. AUERBACH[34]

My dissatisfaction with the constitutional scholarship of law professors is long-standing. That scholarship is devoted primarily to the analysis of Supreme Court opinions, yet generally neglects the critical examination of their legislative fact assumptions and social consequences. In this Bicentennial year, I know of no work by a law professor evaluating the structural foundation which the Constitution erected for a democratic republic.

When the Constitution was adopted, we were an underdeveloped nation with a small homogeneous population living mostly on farms. Little, if anything, has been written on whether the Constitution's structure of federalism and the separation of powers continues to suit a large, pluralistic nation that spans a continent and possesses the most developed economy functioning in an interdependent world—a nation that has assumed global responsibilities. Yet there has been a spate of writing on whether *Garcia v. San*

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Antonio Metropolitan Transit Authority should have overruled *National League of Cities v. Usery.*

Despite general talk of a "new federalism," we have heard little from law professors about how, and within what legal framework, powers, resources and activities should be divided among federal, state, and local authorities so as best to serve the diverse needs of our people.

I also think that constitutional scholarship commands a disproportionate share of scarce, intellectual resources in the law schools. After all, the Supreme Court is not the most important maker of public policy. The legislatures that created the welfare state and protected civil rights have done more to promote equality than even the Supreme Court. Too little attention, relatively speaking, is being paid to their work or the political processes that account for it. For example, there is much more writing urging the Supreme Court to read an economic bill of rights (not President Reagan's version) into the Constitution than about the legislation and administrative structure that would be needed practically to guarantee to all people jobs, health care, education, and the other necessities that the advocates of an economic bill of rights have in mind. It is a shame, too, that the debate about the social functions of private law has been left almost entirely to the adherents of Law and Economics and Critical Legal Studies.

KIRK EMMERT[35]

It is difficult, if not impossible, to foresee the issues, political configuration, and constitutional direction which will dominate the Supreme Court in the next decade or more. But there is little doubt that one of the most important questions underlying the activities of the Court, and scholarship about it, will be its role in our constitutional liberal democracy. In recent years this question has been explored in greater depth than at any other time in our history, with the exception perhaps of the New Deal, the Civil War, or the Founding. Among the more immediate causes of this are the nomination or appointment of controversial Justices, interest in our institutions kindled by the Bicentennial, increased scholarly concern during the last two decades, particularly among political scientists and historians, with American political thought and institutions, and widespread public and scholarly questioning of the dominant, liberal consensus regarding the rule of the Court and the nature of constitutional jurisprudence. But whatever the immediate causes

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