PHILIP P. FRICKEY[33]

If the next generation of constitutional scholarship is anything like its forebears, we can anticipate another generous supply of Big Think. Grand Theory is great, perhaps even essential, but it gets messy in application. The same can be said for the interdisciplinary yearnings of some public law theorists. I have two humble suggestions. One is that constitutional scholarship retain the vitality, but recognize the vulnerability, of its interdisciplinary aspirations. The other is that we take Justice Brandeis's suggestion of fifty little laboratories of jurisprudence seriously. Since these proposals have little connection except for their humility, I will simply discuss them in turn.

Constitutional scholarship has an ever-increasing interdisciplinary component. Why this is so may be rather obscure. To be sure, some of us are really frustrated historians or political scientists, or unreconstructed deconstructionists. The interdisciplinarily unsated among us can play doctor for a day, all the while knowing that they will not be held to the standards of the "true" academic and will receive brownie points for trying. Interdisciplinary work may enhance the scholarly reputation of the law professor around the campus; heaven forbid, it might even tell us something really interesting.

For whatever it may be worth, I like and admire interdisciplinary work. On the whole, it is more intellectually rewarding, and more fun to read, than other-worldly Grand Theory or dreary doctrinal case crunching. Thoughtful interdisciplinary insights can reveal the world beyond law, through which we can understand law better. I would suggest, however, that legal scholars pay more attention to two problems. First, legal scholarship tends to be the garbage can or the bargain basement of academe. Constitutional scholars, in particular, tend to pick up on themes at just about the time of their demise in the allied fields that generated them. Second, such scholars should weave interdisciplinary insights into a legal fabric; if we fail to do that, we have not done the only thing for which we are especially qualified. For example, state institutions for the mentally retarded may be ghastly, but scholars other than law professors are better situated to evaluate all but the most obvious questions of treatment alternatives and other issues. Law professors, working in tandem with other academics, could make a unique contribution, however, by addressing legal issues such as the role which structural injunctions might play in helping (or interfer-

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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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