and an intellectual orphan to the behavioral revolution in historical methodology.

ROBERT FAULKNER[13]

The next task for constitutional scholarship, it seems to me, remains the grand old task kept alive by a few scholars: taking the Constitution seriously. Preserving the general government in its constitutional vigor and limits, and individual rights in their Constitutional extent, was long understood to be the constitutional duty of officials. It should also be the lodestar of American students of law and politics. So to speak in 1987, however, subjects one to bitter attacks, not to mention ridicule. An orientation by the original Constitution is repudiated in effect by a majority of the Supreme Court—and openly by most judges and scholars. It has become a party matter, and Attorney General Meese's exhortation to abide by original intent has evoked a torrent of indignant repudiation. Another sign: the Bicentennial seems unenthusiastically backed, awkwardly excused, and just plain embarrassing to most judges and legal scholars. It is something like the exhumation of a distinguished elder whom a zealous village establishment would like thought dead of natural causes.

There continue to appear, of course, first-rate studies considering the prudent application of constitutional provisions. I think of Robert Scigliano's examination of "The War Powers Resolution and the War Powers" (in *The Presidency in the Constitutional Order* (J. Bessette & J. Tulis ed. 1981)), Robert Steamer's assessment of the Chief Justices (*Chief Justice* (1986), James W. Ceaser's *Presidential Selection* (1979), and James Q. Wilson's "Does the separation of powers still work?" (*The Public Interest*, Winter 1987). If other scholars take such works as models, we should rejoice.

There are grave obstacles to such a happy future, however. First and foremost is the dominant progressive scholarship of more than a half-century, which has declared obsolete the old constitutionalism of limited government and equality of opportunity. It is now joined to a bastard relative disillusioned with progress and yet determined to progress beyond. Radical or rad-lib scholars are at once politically complacent, since they are assured that history has disposed of the merits of the old, and politically zealous or peculiarly principled, since they suppose that equal dignity and liberation are alone right and historically fitting. We face a scholarly mix of historical assurance and moral zealotry that inclines to corrode

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all political authority, including constitutional institutions. Skeptical about governmental and economic hierarchies, permissive about traditional morality, the mixture caters to the hollow idealist and the crowd. It promotes an idealistic universalism that barely covers a weak political nihilism ("peace," "respect for all lifestyles," "nonjudgmental"), and that encourages the perennial democratic aversions to authority, foresight, civic virtue, and self-restraint. Governing becomes harder and guilt-ridden; indulgence and vice, easier and loud. Big subsidies, big deficits, a weakened presidency, bluff and weakness abroad, the power of public opinion and the media, democratization of elections and of the Congress, vulgar public taste, the erosion of families and real community—follow or are aided. This is the crisis of American constitutionalism.

Scholars can help by defense, by attack, and, in both, by wise constitutional exposition. They can defend the old constitutionalism by accounts of particular institutions and of the general working of our constitutional republic. In such a spirit historical studies are indispensable—for we need to recover what is disdained or forgotten. More obviously useful are applications of constitutional principles to practical problems—such as the extent of Congress's rightful controls over executive war making, or over legislative redistricting. Judges and lawyers do it every day; the problem is to encourage them, as Walter Berns has done, to take seriously constitutionalism, rather than an ignoble and impolitic egalitarianism. Last, but not least, one must reveal the foolishness of the enemy. One must show the difference between preoccupation with the status of the so-called disadvantaged, and the real health of individual rights, of equality of opportunity, of school, city, and church, of the economy, and of, in general, a constitutional republic or democracy.

NORMAN ROSENBERG[14]

When considering "What Next?" in constitutional history, a 1987 *New Republic* piece, decrying scholarship-overload and proposing a partial moratorium on publication of "new" works, came to mind. The journal's editors, foregoing Crit-bashing for a moment, singled out sociology as the most egregious example of hyperpublication, but many of us living in the aftermath of the Bicentennial may have briefly thought that constitutional history could provide an appropriate area in which to test the feasibility of a *limited* Anti-Publication Control Treaty or ABCT. (The more descriptive

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