

PUBLISH AND COLLABORATE: AN INVITATION

I INTRODUCTION: ‘PUBLISH OR PERISH’ OR ‘COLLABORATE OR CRUMBLE’?

On 7 December 2015, the Commonwealth Government announced the \$1.1 billion National Innovation and Science Agenda (‘NISA’).¹ Aimed at embracing innovation, technology and science as critical components to powering the economy so as to provide jobs and higher living standards for all Australians, the NISA ‘[set] a focus on science, research and innovation as long-term drivers of economic prosperity, jobs and growth’.² Following this announcement, then Prime Minister Malcolm Turnbull suggested that the NISA would mean that ‘publish or perish will be replaced by collaborate or crumble’.³ Christopher Pyne, then Minister for Industry, Innovation and Science, added that the government would ‘abolish publications as the chief reason why you attract research grants’ and flagged an intention to ‘change that into research impact’.⁴ In a press conference on 18 December 2015, Malcolm Turnbull extemporised at length about the benefits of this new approach:

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¹ Commonwealth of Australia, Department of the Prime Minister and Cabinet, *National Innovation and Science Agenda* (Report, November 2015) <<https://www.industry.gov.au/data-and-publications/national-innovation-and-science-agenda-report>>; Minister for the Department of Industry, Innovation and Science, ‘Agenda to Transform the Australian Economy’ (Media Release, 7 December 2015) <<https://www.minister.industry.gov.au/ministers/pyne/media-releases/agenda-transform-australian-economy>>.

² ‘Boosting Innovation and Science’, *Department of Industry, Innovation and Science (Cth)* (Web Page, 1 March 2019) <<https://www.industry.gov.au/strategies-for-the-future/boosting-innovation-and-science>>.

³ Stephen Matchett, ‘UWA Cuts Controversy Continues’, *Campus Morning Mail* (online, 11 December 2015) <<https://campusmorningmail.com.au/503726-2/>>, quoted in National Tertiary Education Union, ‘Changing Australia’s Research Agenda: From ‘Publish or Perish’ to ‘Collaborate or Crumble’ (Briefing Paper, 18 December 2015) 4 <<http://www.nteu.org.au/article/Changing-Australia%E2%80%99s-Research-Agenda%3A-From-%E2%80%98publish-or-perish%E2%80%99-to-%E2%80%98collaborate-or-crumble%E2%80%99.-18270>>.

⁴ ‘Wednesday 9 December’, *Richo* (Sky News Australia, 2015) <<https://www.pyneonline.com.au/media-centre/transcripts/sky-news-richo-09-12-2015>>, quoted in National Tertiary Education Union (n 3) 4.

We seek to be better and a lot of this is to do with culture. I mean the point I made about the level of collaboration between industry and universities is an important one. Now, we, there are various explanations for that. I think the incentives are wrong. Academics have been, in terms of getting research grants and so forth, their, the primary motivator has been to publish and make sure your publications are cited in lots of other publications, hence the term ‘publish or perish’. So we want to, we’re adding another criterion for success in achieving grants which is to demonstrate the degree of collaboration that you’re undertaking with business, with industry, so you can add ‘publish or perish’ or perhaps ‘collaborate or crumble’ as well. So you’ve got two incentives there. Japan clearly is an example of enormous industry-led innovation and that’s really the high point but even if you look at academic business cultures that are very similar to Australia’s and the United States or the [United Kingdom], the level of collaboration is much higher. ...

You know if you change the paradigm, if you change the debate, if you change the discourse, things will happen. ... So this is, we’re not just talking about pulling some important levers and it’s a big package the National Innovation and Science Agenda across many fields but it’s not just those particular levers, we’re talking about cultural change, a change to, a change to a more innovative approach where you are prepared constantly to challenge the way you’ve been working and be prepared to do things in a different way because that, in this century, is absolutely the key to success. Sorry if I’ve spoken for too long. I’m very passionate about this.⁵

Indeed. In the case of the legal academy, the idea, if I understand the erstwhile Prime Minister correctly, is that our incentives are wrong — that what we have been doing for too long is writing to each other and not to the industry which, I assume, must mean practising lawyers and judges. What we need to do more of, then, is produce work that will allow us to influence and therefore impact legal change, and that means collaborating.

Collaboration is never defined by the NISA or by Turnbull. In this short article, though, I suggest that in one key aspect of our work in the academy — the law review — it is not the legal academy that is to blame for the failure to collaborate, but the profession and the judiciary. The law review, as both concept and reality, is intended, at least so far as the academy is concerned, to play a role in legal development through both comment on and critique of the way law is, and normative argument as to how it ought to develop. And yet, as a vehicle of legal change, it sometimes appears to be ignored by the practising profession and judiciary. As I suggest in this article, that may not be altogether true. Nonetheless, I also think there is substantial accuracy to this claim.

⁵ Malcolm Turnbull, ‘Press Conference at Miraikan, National Museum of Emerging Science and Innovation’ (Press Conference, 18 December 2015) <<https://www.malcolmturnbull.com.au/media/press-conference-at-miraikan-national-museum-of-emerging-science-and-innova>>.

I present my reflection in three parts. In the first, because Turnbull raised the United States as a supposed comparator in terms of university-industry collaboration, I look very briefly at the place of the law review in American legal culture, and specifically, at the way in which the law review represents a tool of which explicit use is made by practitioners and judges. The second part presents a case study, which demonstrates that while the Australian profession and judiciary may seem to make use of the law review in their work, upon closer inspection that use is minimal, if not non-existent. In order to commemorate volume 40 of the *Adelaide Law Review*, my case study focuses on two articles which discuss Torrens title pursuant to the *Real Property Act 1886* (SA), published by two of my colleagues — Anthony P Moore, in volume 11,⁶ and David Wright, in volume 16.⁷ Although admittedly small, my sample size of two demonstrates how in some cases, when the most obvious invitation and opportunity for ‘collaboration’ is issued by the academy, practitioners and judges seem to overlook it. Far from it being the case that the Australian legal academy has failed to collaborate with industry — the profession and the judiciary — it is industry that seems to fail to turn to the academy for an obvious source of input in the development of the law. Yet, the story may not be entirely gloomy. The courts do, it is true, make some use of the legal academy’s work in law reviews. But it could be so much more, so much richer, a collaboration. And so I conclude in the final part of my article with an invitation to lawyers and judges to explore what the academy has to offer in the form of the law review, and to make explicit use of it. Only in accepting this invitation will a *true* collaboration result.

II COLLABORATE: THE AMERICAN LAW REVIEW

It is perhaps not well known that the American law review is a largely student-run endeavour. There is very little, if any, involvement on the part of academic staff or faculty members; rather, students solicit, consider, select, edit, and publish the whole of the content of almost every American law review. This model began with the first publication of the *Harvard Law Review* in 1887 and continues today with the hundreds of flagship (those carrying the university’s name, eg, the *Harvard Law Review*) and specialist (eg, the *Harvard Civil Rights-Civil Liberties Law Review*) legal periodicals.⁸ There are no doubt differences of opinion concerning the validity

⁶ Anthony P Moore, ‘Interpretation of the Real Property Act’ (1988) 11(4) *Adelaide Law Review* 405.

⁷ David Wright, ‘Forgery and the *Real Property Act 1886* (SA)’ (1994) 16(2) *Adelaide Law Review* 227.

⁸ On this history, see Richard S Harnsberger, ‘Reflections About Law Reviews and American Legal Scholarship’ (1997) 76(4) *Nebraska Law Review* 681, 682–6. And see generally Fred Rodell, ‘Goodbye to Law Reviews’ (1936) 23(1) *Virginia Law Review* 38; Fred Rodell, ‘Goodbye to Law Reviews: Revisited’ (1962) 48(2) *Virginia Law Review* 279; Natalie C Cotton, ‘The Competence of Students as Editors of Law Reviews: A Response to Judge Posner’ (2006) 154(4) *University of Pennsylvania Law Review* 951; Bernard J Hibbits, ‘Last Writes? Reassessing the Law Review in the Age of Cyberspace’ (1996) 71(3) *New York University Law Review* 615; Ira C Lupu, ‘Six Authors in Search of a Character’ (1994) 70(1) *Chicago-Kent Law Review* 71.

of the American model. Former Chief Justice of California, Roger J Traynor, widely considered one of the handful of great American jurists not to have sat on the Supreme Court of the United States⁹ (along with Judges Learned Hand and Henry Friendly of the United States Court of Appeals for the Second Circuit, and Judge Richard Arnold of the United States Court of Appeals for the Eighth Circuit),¹⁰ said this in support of the student-edited model:

There is in no other profession and in no other country anything equal to the student-edited American law review, nurtured without commercial objective in university law schools alive to the imperfections of the law, and alert to make space for the worthy commentary of an unknown student as well as for the worthy solicited or unsolicited manuscript of renowned authority. ...

Time is with the law reviews. An age that churns up problems more rapidly than we can solve them needs such fiercely independent problem-solvers with long-range solutions.¹¹

Richard A Posner, retired Judge of the United States Court of Appeals for the Seventh Circuit (and also one of that handful of great jurists not to have served on the Supreme Court of the United States),¹² however, famously said ‘[w]elcome to a world where inexperienced editors make articles about the wrong topics worse’.¹³

Clearly, there will be those who support the free market approach to the dissemination of novel ideas fostered by the American student-edited law review, and those who will denigrate its failure to make use of peer review in that dissemination. I take no position on the validity or usefulness of the student-edited model and its value in the development and advancement of legal scholarship. My concern here is the role

⁹ Bernard Schwartz, ‘The Judicial Ten: American’s Greatest Judges’ (1979) 4(3) *Southern Illinois University Law Review* 405, 407.

¹⁰ See Gerald Gunther, *Learned Hand: The Man and the Judge* (Oxford University Press, 2nd ed, 2010); David M Dorsen, *Henry Friendly: Greatest Judge of His Era* (Belknap Press, 2012); Bruce A Ackerman, ‘In Memoriam: Henry J Friendly’ (1986) 99(8) *Harvard Law Review* 1709, 1727; Polly J Price, *Judge Richard S Arnold: A Legacy of Justice on the Federal Bench* (Prometheus Books, 2009). See generally Stephen E Hessler, ‘The Story of Benjamin Cardozo, Learned Hand and the Southern District of New York’ (2003) 47(2–3) *New York Law School Law Review* 191.

¹¹ Roger J Traynor, ‘To the Right Honorable Law Reviews’ (1962) 10(1) *UCLA Law Review* 3, 8–10.

¹² See William Domnarski, *Richard Posner* (Oxford University Press, 2016); Edmund Ursin, ‘How Great Judges Think: Judges Richard Posner, Henry Friendly, and Roger Traynor on Judicial Lawmaking’ (2009) 57(4) *Buffalo Law Review* 1207. See generally Michael Boudin, ‘Judge Henry Friendly and the Craft of Judging’ (2010) 159(1) *University of Pennsylvania Law Review* 1.

¹³ Richard A Posner, ‘Against the Law Reviews’ (November–December 2004) *Legal Affairs* <www.legalaffairs.org/issues/November-December_2004/review_posner_novdec04.msp>.

that the American law review plays in the development of law, as effected by the legal profession and judiciary. Let me make two points about this.

First, consider this — the very fact that Traynor and Posner would say anything about American law reviews, good or bad, demonstrates the important place held by these periodicals in the American legal system, and certainly among judges themselves.¹⁴ This is of course nothing more than an impression, but one worth keeping in mind when one thinks about the Australian counterpart to the American law review. With the exception of Michael Kirby,¹⁵ it is rare to hear senior jurists, or anyone in the profession or the judiciary for that matter, say anything — good or bad — about Australian law reviews. It seems they are simply ignored.

Second, while both the legal academy and the practising profession and judiciary express concern about attempting to chart a middle course between, on the one hand, providing cutting-edge interdisciplinary scholarship and, on the other hand, more traditional doctrinal development, it is clear that law reviews *do* play both roles.¹⁶ There is no need for evidence of the former — the law reviews are full of novel scholarship and one need only open any recent issue of any review to see this. But even a cursory look at the evidence of the latter reveals that as a means of collaboration between the American legal academy and the practising profession and judiciary, the American law review appears to be a success. I want to look at two pieces of evidence for this: First, the way that the law reviews themselves see their role; and second, a very cursory examination of the way the courts see that role. Richard Harnsberger summarises the former:

[Most schools] recognize that their primary mission is the training of students to become lawyers. That is what the majority of the students expect when they arrive to study. Law reviews play an important role in the pursuit of that goal ...

[A]ll branches of the profession extensively delve into law reviews. When confronted with a problem, my lifelong habit is to first browse the law review literature.

In addition to educational and research functions, the reviews help fulfil other objectives. They reflect contemporary scholarship and are repositories of knowledge that we pass from one generation to the next. Most importantly, law reviews represent the public interest by providing a forum for calm, well-reasoned, and thorough analysis of what courts and legislatures are doing and how well they are doing it.¹⁷

¹⁴ Harnsberger (n 8) 703–4.

¹⁵ Michael Kirby, ‘Welcome to Law Reviews’ (2002) 26(1) *Melbourne University Law Review* 1.

¹⁶ See Hibbitts (n 8) 646–8.

¹⁷ Harnsberger (n 8) 706.

Evidence that the law reviews do facilitate doctrinal development is found in the continued use of such scholarship by the Supreme Court of the United States.¹⁸ A brief review, in an admittedly completely unscientific way, of the 76 cases in which the Supreme Court of the United States delivered opinions in 2017 (its most recent full term) confirms this. In 76 decided cases, the Justices delivered 164 opinions (*per curiam*, majority, concurring, and dissenting), which cited law review articles 182 times.¹⁹ This means that on average, the Justices cited law review articles 1.11 times per opinion. I will return to this point at the end of part III.

III CRUMBLE: THE AUSTRALIAN LAW REVIEW

John Gava, my colleague and Co-Editor in Chief of volumes 29–36 of the *Adelaide Law Review*, took a particular view of Australian law reviews, one with which I do not disagree:

The proliferation of law reviews reflects the victory of quantity over thought, good teaching and the possibility of creating a vigorous community of scholars. This is a high price to pay to help judges. I am sure that Justice Kirby would hesitate to say that the cost is worth it. But unfortunately, that is the price to be paid. It simply is not worth it.²⁰

To be sure, the pressure to publish, and now to collaborate, too, means that we in the academy have little time to do the wide reading necessary to be good teachers, let alone good researchers. Still, I do see that there is a place for legal scholarship within the practice of law and the work of judges. My question, though, is this: even when that scholarship exists, do Australian judges make use of it? When I started this article, my initial sense was that they may not. Let me give you just one example of why I took that view. And having considered it, ask yourself whether it might not plausibly represent the attitude of the Australian profession and judiciary towards Australian law reviews.

Section 69 of the *Real Property Act 1886* (SA) provides that

[t]he title of every registered proprietor of land shall, subject to such encumbrances, liens, estates, or interests as may be notified on the certificate of title of

¹⁸ See Louis J Sirico Jr, ‘The Citing of Law Reviews by the Supreme Court: 1971–1999’ (2000) 75(3) *Indiana Law Journal* 1009; Brent E Newton, ‘Law Review Scholarship in the Eyes of the Twenty-First Century Supreme Court Justices: An Empirical Analysis’ (2012) 4(2) *Drexel Law Review* 399.

¹⁹ See ‘Opinions of the Court: 2017’, *Supreme Court of the United States* (Web Page, 30 September 2018) < <https://www.supremecourt.gov/opinions/slipopinion/17#list> >.

²⁰ John Gava, ‘Law Reviews: Good for Judges, Bad for Law Schools?’ (2002) 26(3) *Melbourne University Law Review* 560, 575.

such land, be absolute and *indefeasible*, subject only to the following qualifications ...²¹

Subsection (b) then sets out the following exception to indefeasibility:

[I]n the case of a certificate or other instrument of title obtained by forgery or by means of an insufficient power of attorney or from a person under some legal disability, in which case the certificate or other instrument of title shall be void: Provided that the title a registered proprietor who has taken *bona fide* for valuable consideration shall not be affected by reason that a certificate other instrument of title was obtained by any person through whom he claims title from a person under disability, or by any of the means aforesaid; ...²²

Notice that there are three exceptions to indefeasibility — for forgery, for insufficient power of attorney, and for legal disability. And notice further that there is an *exception* to those exceptions, or a proviso, for a registered proprietor who has taken *bona fide* for valuable consideration. But look again — does the proviso create *deferred* indefeasibility for all three exceptions, whereby immunity is granted only to a *bona fide* purchaser for value who has claimed title from a person who had previously obtained title by forgery, insufficient power of attorney or legal disability? Or does it create *immediate* indefeasibility for forgery and insufficient power of attorney, protecting a *bona fide* purchaser for value who obtains title by registration tainted with either of these two exceptions? It is not entirely clear on the words of s 69(b), and it all seems to turn on the final comma of the proviso — if the comma separates the two clauses, then the proviso creates *immediate* indefeasibility only in the case of forgery or insufficient power of attorney. If the comma does not separate the two clauses, then it would appear as though the proviso creates *deferred* indefeasibility for all three exceptions. This involves a complicated bit of statutory interpretation. And though there is case law on the meaning of that one little comma, even the judges involved in those cases were not clear about its interpretation.²³

My objective here is certainly not an attempt to settle the interpretation of s 69(b). But interpreting that provision *was* relevant to the 2018 decision of Parker J of the Supreme Court of South Australia in *Permanent Mortgages Pty Ltd v Pastro*.²⁴ There is no need to recount in detail the facts of *Pastro*; suffice to say that in the completion of loan documentation for the creation of a mortgage, a question arose as to whether

²¹ *Real Property Act 1886* (SA) s 69 (emphasis added). See generally Douglas Pike, 'Introduction of the Real Property Act in South Australia' (1961) 1(2) *Adelaide Law Review* 169, 181.

²² *Real Property Act 1886* (SA) s 69(b) (emphasis in original).

²³ *Wicklows Enterprises Pty Ltd v Doysal Pty Ltd* (1987) 45 SASR 247, 260–1 (O'Loughlin J) ('*Wicklows*'); *Rogers v Resi-Statewide Corp Ltd* (1991) 29 FCR 219, 222–5 (von Doussa J) ('*Rogers*'). See also *Arcadi v Whitem* (1992) 59 SASR 51, 536 (Debelle J, Matheson J agreeing at 517), which seems to adopt the *Wicklows* position that the comma separates the two clauses.

²⁴ [2018] SASC 5 ('*Pastro*').

forgery had occurred. And that, of course, would directly involve a question of whether the registered mortgagee was protected or not by the proviso in s 69(b). Justice Parker, however, wrote as follows:

Section 69(b) creates an exception to the indefeasibility principle by providing that a certificate or other instrument of title that has been obtained by forgery is void. However, there is an important proviso included in s 69(b) which preserves the indefeasibility of title where the registered proprietor has taken *bona fide* for valuable consideration.²⁵

Having considered the evidence, Parker J concluded that forgery had not occurred. If it had, then the issue of whether the proviso applied to the party who became registered by way of forgery would seemingly have become live. But Parker J appears to have overlooked that entirely, concluding that the proviso in s 69(b) protects the *immediate* indefeasibility of anyone who becomes registered as a result of forgery, provided they do so bona fide and for valuable consideration, without referring to any of the prior authority of the Supreme Court of South Australia or, indeed, the binding authority of its Full Court. This is problematic. Had Parker J simply followed the advice of Harnsberger, that '[w]hen confronted with a problem, my lifelong habit is to first browse the law review literature',²⁶ he might have been rewarded for the effort by finding two articles, both published in the *Adelaide Law Review* — Moore's 'Interpretation of the Real Property Act'²⁷ and Wright's 'Forgery and the *Real Property Act* 1886 (SA)'.²⁸ In *Rogers*, von Doussa J made explicit use of the former to resolve the ambiguity in s 69(b) and conclude that the proviso created *deferred* indefeasibility for all three exceptions.²⁹ Both articles would have allowed Parker J to advert not only to the difficulty created by the comma in the s 69(b) proviso, but also to the relevant case law. Neither article was hard to find. A simple Google search readily produced both.

Most members of the Australian legal academy could likely recount stories of their own pieces published in Australian law reviews being overlooked by the judiciary in decisions directly on point. Still, it may not be as bad as my initial impression suggests. In fact, the available evidence seems to support the proposition that the Australian judiciary does actually make *some* use of the law review literature.³⁰ In order to provide a very rudimentary comparison to the evidence gleaned from my perusal of opinions of the Supreme Court of the United States during the 2017 term, I did the same with the High Court of Australia for its 2017 term. The High Court

²⁵ Ibid [72] (emphasis in original).

²⁶ Harnsberger (n 8) 706.

²⁷ Moore (n 6).

²⁸ Wright (n 7).

²⁹ *Rogers* (n 23) 222–3.

³⁰ See, eg, Russell Smyth, 'Academic Writing and the Courts: A Quantitative Study of the Influence of Legal and Non-Legal Periodicals in the High Court' (1998) 17(2) *University of Tasmania Law Review* 164.

delivered decisions in 56 cases, with a total of 114 separate judgments (majority, concurring, and dissenting) citing 106 law review articles — an average rate of 0.93 law review citations per judgment, as compared to 1.11 per opinion in the Supreme Court of the United States.³¹ The High Court does appear, then, to turn to the law reviews for assistance with some frequency. It might seem reasonable to assume that other courts do the same, although further research would be necessary to determine trends. But rather than accept the current state of affairs as good enough — why not leave well enough alone? — the point I want to make here is that if we are to take Mr Turnbull seriously (and I readily admit that because he is no longer Prime Minister, we might justifiably conclude that we need not), then we ought to take the current state of affairs as nothing more than a strong foundation on which to build a true collaboration between the academy and the practising profession. And so I turn to my invitation.

IV INVITATION: PUBLISH AND COLLABORATE

Benjamin N Cardozo, Chief Judge of the New York Court of Appeals and subsequently Associate Justice of the Supreme Court of the United States, wrote this in 1931 (approximately 30 years before the first volume of the *Adelaide Law Review* was published):

Judges and advocates may not relish the admission, but the sobering truth is that leadership in the march of legal thought has been passing in our day from the benches of the courts to the chairs of the universities. ...

This change of leadership has stimulated a willingness to cite the law-review essays in briefs and in opinions in order to buttress a conclusion. More and more, the law reviews are becoming the organs of university life in the field of law and jurisprudence. The advance in the prestige of the universities has been accompanied, as might be expected, with a corresponding advance in the prestige of their organs. ...

No longer is [a judge's] material confined to precedents in sheep-skin ... '[H]e may use *any* material' ... He may look to law or to literature, to economics or to philosophy, to saints or to sinners, to workers or to drones. If his seigniorship extends to fiefs not marked as legal, the impulse becomes the stronger to exert it in regions where the denizens are near of kin. Under the drive of this impulse, the law teacher and the law reviews are coming to their own.³²

³¹ See 'High Court of Australia', *Australasian Legal Information Institute* (Web Page, 13 December 2017) <<http://www.austlii.edu.au/cgi-bin/viewtoc/au/cases/cth/HCA/2017/>>.

³² Benjamin N Cardozo, 'Introduction' in Association of American Law Schools (ed), *Selected Readings on the Law of Contracts from American and English Legal Periodicals* (The Macmillan Company, 1931) vii, ix–x (emphasis in original), quoted in Harnsberger (n 8) 692–3.

Drawing upon Cardozo's sagacity, I conclude with a two-fold reflection/invitation — a *true* collaboration between the legal academy, and the legal profession and judiciary in Australia would involve the latter making better and more frequent use of the former's work. And in doing so, the academy would have greater engagement with the work of the courts, which would over time develop, in a perfect world, into a dialogue between the academy, and the profession and judiciary. Of course, the courts are not in the business of replying to the legal academy in their judgments: theirs is not to theorise and ponder, but to decide concrete disputes between real people. All the same, when the court speaks in the form of a decision, that can be taken as part of a conversation, in the way that Cardozo understood it, between the academy and the judiciary.

Thus, to my colleagues in the legal academy, continue to do what you have always done, and what the *Adelaide Law Review* has always made possible — publish cutting-edge legal scholarship. To the practising profession and to the judiciary — read what we in the academy have to say and make use of it, not merely for background knowledge, or without referring to or citing it, but for foreground guidance. Use it explicitly, in the framing of arguments and the crafting of judgments.

Whatever else one might think of it, and there is much that *could* be said, Malcolm Turnbull's call to 'collaborate or crumble' must really be one that requires proactive engagement from each of the academy, profession, *and* judiciary. For those of us in the legal academy, our contribution to that collaboration comes primarily through the law review. In response to our contribution, for those in the profession and in the judiciary, heed the words of Harnsberger — when confronted with a legal problem, make it your first habit to browse the law review literature.³³ As I said in relation to s 69(b) of the *Real Property Act 1886* (SA), the law review literature is not hard to find, and it just might prove useful in doing the real work of the courts — deciding cases. In this way, we in the academy can publish *and* collaborate without running the risk of perishing or crumbling as we do.

³³ See Harnsberger (n 8) 706.