



A New Paper Chase



Michael Madison / September 4, 2019 / [Future Law Works](#)



This is about books. It's about legal education casebooks. A lot of what follows comes out of my experience as a law professor and speaks to law schools and law students and the legal profession. A lot of it dovetails with closely related questions about books and teaching and education in colleges and universities generally.

But I'm not writing principally for the benefit of my faculty colleagues. I'm writing principally for the benefit of practicing professionals, who often know little of the inner workings of their own educational systems, and also for the benefit of present and future students, who often know even less.

In writing the occasional essay about the futures of law, and uncertain as I am about what, exactly, those futures look like, I'm drawn inherently to big themes and big visions. This essay begins a series with a narrower focus, one that explores links between opportunities and barriers at the macro scale, on the one hand, and some seemingly small scale, micro questions, on the other hand. I surmise that the smaller questions tell us a lot about the character of the larger ones.

On a shelf in my office, I keep a collection of the books that I studied with during my three years in law school, beginning 35 years ago. I keep another collection of the books that my father studied with during his three years in law school, beginning almost 65 years ago. And I keep an eye on my copies of

the books that I used to assign my own students, beginning a little over 20 years ago and continuing up to about 5 years ago.

For all practical purposes, in form, format, tone, and much of their content, the three collections are identical.

Casebook publishing goes through its own eras and styles, of course, and the law itself has changed, in many small ways and in some large ones. Today's casebooks are not carbon copies of yesterday's. But the central idea of the casebook has endured, and not just from the 1950s to the present day. The casebook was one of C.C. Langdell's signature innovations at Harvard Law School in the early 1870s. As a teaching device, the casebook remains universal. As a physical embodiment of the legal domains that law students are expected to master, the casebook — literally, a book of cases, or published judicial opinions, edited and annotated by one or more law professors — is the one and only unit of measurement. No artifact of the modern legal profession better embodies the profession's identity and durability.

And while the law, lawyers, the legal profession, and law schools chip away at the difficult processes of adapting themselves to the 21st century — with initial efforts at regulatory reform that promise to expand access to legal information and legal services (hello, Utah, Arizona, and California); new training modalities here and there that emphasize competency-based learning (hello, the T-shaped professional); and educational certifications beyond the JD (hello, IFLP) — the material foundations of this entire system remain anchored in the 19th century.

Which is to say: the casebook.

Here's a first cut at why the casebook matters, and why taking a deeper dive into casebooks is a useful exercise.

To a sizable extent, a profession is simply a group of people that perpetuates its collective identity by restricting admission to membership.

Membership criteria — rituals, practices, training and knowledge, certification, access to and use of special artifacts and special places — matter enormously. If you want to know where and how a profession is changing, or not, or if you want to move a profession in one or more new directions, look at those criteria. Look at debates and fights about whether and how they should change. Who is coming in, and (to borrow a bit of management jargon), how are they on-boarded?

In my view, if we want to bring change to law and the legal profession, then modifying membership practices in both large and small ways is likely to be much more effective than trying to re-wire the beliefs and behaviors of existing members of the group, especially over the long run. If you think that change is a bad idea or that the virtues of the present system outweigh its drawbacks, then fight to keep present membership systems essentially intact.

For example: want people to take full and beneficial advantage of new regulatory flexibilities in the delivery of legal services? First, find and enable positive deviants, and build communities and institutions around them. Second, train a horde of people who think differently about the purposes of the profession. The first group will knock down the walls. The second group will populate the landscape.

Let's focus on that second piece, training the horde differently. What's the central special artifact that defines becoming a lawyer, the thing that unites every single licensed attorney in the US and in much of the rest of the world? Right now, the answer is, as it long has been, the casebook. In just about all law schools and in just about all law classes, no matter what you paid for your law degree and no matter where or when you went to law school, you shared the casebook experience. Not just reading cases but reading cases in casebooks – that's how you first became a lawyer.

Which is to say, for almost everyone, students and law teachers alike, expensive, printed casebooks, supplied by a small number of academic publishers.

Therein lies the key conflict, a front line in whether and how an entire profession defines itself and — maybe — should change itself.

For several years, a small but energetic “open access” publishing movement has taken root in certain corners of the legal academy, borrowing techniques from online publishers and producing and supplying low cost and even free casebooks and other teaching materials. Open Access publishing in law has become part of a larger Open Educational Resources (OER) movement in education generally. Some of these newer open books are, for all practical purposes, low-cost, adaptable, and primarily electronic versions of classic casebooks. Some are low-cost, adaptable, and primarily electronic — other things.

Either way, and other things being equal in a market economy, one might expect that these cheaper materials, which often cost \$20 to \$30 or even less in print form, would sweep away the landscape of legacy printed casebooks, which often retail for \$250 to \$300 per new copy.

The evidence, to the surprise of just about no one, suggests exactly the contrary. Yes, there is slow progress on the OA and OER fronts in law, with more titles and more adoptions by current law teachers. But the slow progress to date falls far short of a crescendo.

Why the continued marginalization? And at what costs, and benefits?

The answers are not all staring us in the face, and they open windows on larger worlds.

There is more to come.

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Hitting the Books



Michael Madison / September 18, 2019 / [Future Law Works](#)



My occasional series about the law school casebook continues. [\[First post here.\]](#) This is about the future of law, law practice, the legal profession, and legal (and higher) education, filtered through the lens of contemporary law's most essential artifact, the teaching tool that unites every professor, every lawyer, every judge, and every student, regardless of field, in a shared experience. The casebook.

Law professors love to write things like “I use this as a lens for that,” because it makes them feel and sound like their academic colleagues in other parts of the university. “We’re researchers, too!,” we like to think, even if we rarely say so out loud.

That micro bit of casual academic sociology is the key to this installment, which is in other respects an effort briefly to explain where casebooks come from and why, despite generations of legal professionals complaining about them, neither their fundamental forms (including prices) nor their contents seem to change much.

By design, casebooks are set up rarely to give readers the contents of legal doctrines, but instead to provide students with an annotated set of primary source materials from which students are expected to discern the rules. As teaching texts, as a rule casebooks are guides for the soon-to-be-initiated rather than actual summaries of law. They are devices for migrating generations of students out of

“student” mode, in which they are presumed to enter law school, and into “practicing professional” mode, in which they exit it.

The essence of my argument is that casebook writing, editing, publishing, and selling practices are emblems and functions of an analogous distinction between education and vocation. They are almost entirely creatures of the professionalized academic publishing industry — the marketplace side of education — and only to a very modest extent creatures of legal education, as a subdiscipline of higher education, meaning research and publishing scholarship — the generation and transmission of knowledge side of education. And that distinction is a feature of the contemporary legal education and legal profession landscape, an intended result, rather than a bug.

As I noted in the last installment, I’m writing here primarily for practicing professionals and present and former students, rather than for my faculty colleagues. From inside a law faculty, little that follows is new, or news. I find, however, that in bits and pieces it surprises others. It seems especially to surprise others who imagine that all of the institutions and practices of law, like all of the institutions of other professions, either should be busily engaged in re-examination and re-assessment to determine their suitability for present and future application (on the one hand) or are already well-suited to carrying on (with resilience) what are sometimes assumed to be essentially eternal forms (on the other hand).

What is happening around casebooks tells us that in each case, don’t be so sure! Or, in other words, if you are trying to understand the causes of and solutions to innovation and improvement problems that beset the law, the casebook is a pretty good place to look.

For starters, I’ll note that it can be unfair to write about “the casebook” as if there were some single, ideal form of the thing. That’s obviously not true. Every casebook has its own authors and editors, and its own history, form, goals, styles, and contents. There’s a lot to be learned from close examination of a particular book. Readers with a historical sensibility will recall Mary Jo Frug’s powerful feminist reading of the Dawson, Harvey, and Henderson Contracts casebook (Mary Jo Frug, *Re-Reading Contracts: A Feminist Analysis of a Contracts Casebook*, 34 Am. U. L. Rev. 1065 (1985)). Even casebook titles let on modest hints regarding differences. Some casebooks are titled “The Law of X,” some are “Cases and Materials on X,” and still others are “Notes and Problems in X,” or just “Problems in X.” At key moments in 20th century legal education history, titles and contents of casebooks and similar teaching materials have changed the course of pedagogy (and more!), at least for a while. Hart & Sacks and “The Legal Process: Basic Problems in the Making and Application of Law,” for example. That list of sample titles doesn’t exhaust the range. The point is clear.

Despite that variation, my goal is to draw some inferences from what I believe are fair generalizations. I've been a casebook author for a long time, used a lot of different casebooks in my courses, and talked extensively not only with colleagues about their casebook experiences but also with a lot of people in academic publishing, from acquisition to editing to sales to management. I think that most law professors would agree that there are some clear, common patterns.

The first thing to know about casebooks is that they're a business, and in many cases, at least in their traditional printed and bound form, a pretty good business. Many casebooks, particularly in major fields like Constitutional Law and Criminal Law and Contracts (initial capital letters to indicate that these are also titles of standard law school courses), have been around for a long time, with groups of authors and editors that evolve slowly as editions of the same book accumulate. A pair or trio of faculty members may have launched the book some time back. (Almost all casebooks are produced by full-time law faculty, and almost all casebooks are produced by teams.) Individual participants may retire, pass away, or lose interest; new (often more junior) colleagues are recruited to take their place, and/or to expand the team and share the workload. These "franchise" books are widely adopted across law schools, often across the spectrum of the USNews rankings hierarchy. At a price point of \$250/\$300 per new copy, they generate a nice revenue stream for the publisher — and virtually all casebook publishers are for-profit entities, either in stand-alone form or as part of larger academic publishing empires — and a decent royalty stream for each author. The royalties are usually not enough to live on, but they can be healthy supplements to a faculty salary, particularly if the check isn't split too many ways. In fields that are largely stable over time, such as Contracts, new editions appear every three or four years not to signal important updates to the law but instead largely to keep the second-hand market at bay and preserve demand for new copies.

The point to take away here is that authors' incentives and publishers' incentives for these books are aligned in a classic book publishing way. The faculty authors involved may or may not be motivated to participate primarily by the fact that they get paid a reasonable amount of money, but it's plausible to assume that financial rewards play a role. It's almost certainly true that the economics of these franchise books play a central role in the publishers' business models. If 35,000 new students enroll in US law schools each Fall, and each of them is expected to have a copy of a Contracts casebook (because Contracts is almost always a required first-year course), then at \$250 per new copy that's almost \$9 million of revenue for the publishing industry to share. For one course. The actual amount of "Contracts" revenue is likely less, but again. The point is clear.

The majority of casebooks likely don't fall into this "franchise" category. They may address fields that are comparatively new or that undergo a more than typical amount of change in the law on a regular basis, or a given book may compete with a relatively large number of other books in the same field.

Barriers to entry in casebook publishing are relatively low, and a casebook publisher may bring a book to market even if it is expected to sell only a few hundred copies per year, or even fewer.

For authors and editors of these books (and perhaps even for some authors of “franchise” books), money is almost never the point. The likely number of books sold means that the amount of royalties paid is not large, even if it’s not trivial, and it is almost certainly not large enough to constitute a reasonable rate of return on the hours spent assembling the book. Producing a casebook rarely involves intellectual heavy lifting (it can; it need not), but it is undoubtedly time-consuming, and only so much of the work can be shared with student research assistants, administrative assistants, professional librarians, and professional editors.

That raises the question: if it’s not primarily for the money, then why would authors (law professors) produce such a thing?

If there is a benefit to the authors and editors, the first thing to know is that it is mostly reputational, with reputation circulating among their peers, and to a lesser extent among soon-to-be lawyers and practitioners, and judges.

To understand that, we need to take a detour over to the business side. For the publishers of these books — companies like Wolters Kluwer, for example, which succeeded Aspen Publishers, which itself was heir to Little, Brown, which published the very first modern casebook in 1871 — the lower sales figures for these non-franchise books mean that they pursue aggressive sales efforts not only to secure and protect their “franchise” businesses but also to get steps ahead in the niche markets. For example, assume that 15,000 law students per year take an introductory course in Intellectual Property law. At \$250 per new copy, that’s not quite \$4 million in revenue to divide up among all IP books and publishers — and there are a number of those, some of which cost much, much less than \$250 per copy.

But students aren’t the authors’ and publishers’ direct customers; the direct customers are the professors themselves. Indirectly, but critically, casebook authors and editors are competing for mindshare among their fellow faculty. And casebook adopters are signaling their own status via their choice of casebooks for their courses. As a sometime Contracts teacher, I could choose one of the best-selling (most widely adopted) Contracts casebooks. That means that I would subconsciously (and perhaps consciously) adopt that team of authors as notable authorities in Contracts. (Sometimes, but not always, authors of these “leading” casebooks are — or were — also well-known scholars.) And I position myself as someone who is making the mainstream choice, even if I’m doing that positioning only in my own head, and perhaps for the benefit of my Dean and some of my faculty colleagues. That

may make me part of the “safe” crowd, which is often a good choice, especially for newer teachers. The variables of the reputational equation can be computed in different variations. I might know the identity of salient experts in my teaching field and therefore might choose a casebook authored by those people, as a way expressing my aspiration as a teacher and scholar. I, too, am part of the upwardly mobile “in” crowd.

(Somewhere in this, to be clear, virtually all professors, as both producers and customers, are also paying attention to what’s in the best interests of their students. What’s a well-constructed, comprehensible, usable book? What will support an effective teaching and learning experience? What book has been assembled with “good teaching” as a major goal?)

The publishers know all of this, and they play to the collective reputational insecurities of law professors. The leading publishers, Wolters Kluwer (WK, for short) and West, employ travelling sales representatives who make regular sales calls to individual faculty members. In my experience, these people are terrific at their jobs. They are often interesting, thoughtful, and fun in ways that great salespeople should be. They know their products, they know their territories and their markets, and they cultivate close, almost intimate relationships with individual professors. What are you teaching? What materials do you assign to your students? What are your career-related hopes and dreams? What are your colleagues up to, at your school and in your field? Here’s a tidbit about so-and-so at this other law school. The casebook salesperson can become a trusted friend, a source and a sympathetic ear with “inside academia” knowledge and grounded foundation outside of it. Using that book? That’s a great choice for you.

The second thing to know about the benefits of casebook publishing is that within the usual rhythms and patterns of higher education and legal education — hiring and promotion of faculty members; tenure; compensation; recognition within the field — little of this matters directly. The reputational ecology of casebook production and selection operates almost entirely outside the scope of what “counts” for professors’ career advancement. The publishers of casebooks are not the same firms as the publishers of scholarly monographs (i.e., research, rather than textbooks). The publishers of casebooks have little to no organizational relationship to the publishers of the journals in which most law professors publish articles.

And writing or editing a casebook or other textbook (a student hornbook, or a treatise that is short enough to use as a teaching text) is rarely regarded as the “scholarship” that is rewarded and recognized in academic tenure and promotion decisions.

That leaves us with questions. First: why not? And second: if not, then why do professors still do it — why produce casebooks? Because assigning motivation to the vague category of “reputation” is far from satisfying.

The second question is easier to answer first. A few professors do, indeed, do it for the money. That makes the most sense for senior faculty who are top of the authorial team and who still collect royalties while junior and newer team members do most of the editorial lifting on new editions. Others do it for ego gratification. Some do it because they enjoy it, and/or because they like having (and taking) an opportunity to frame a body of law that will, if assembled well, shape the baseline learning of a generation of new lawyers. Some, perhaps many, authentically like the idea of sharing good teaching materials with new lawyers and see it as part of their teaching identities. Some do it in the hope of secondary benefits. Authorship of a casebook may bring a degree of name recognition among students (and future practitioners), judges, and peers in adjacent fields (IP law isn’t taught only in law schools, for example) that may lead, eventually, to productive peer relationships, citations in judicial opinions, and even consulting contracts.

All of those things are often speculative, or rare and distant, and so rare and distant that they don’t meaningfully affect incentives in the first place. So I’m not suggesting that any of these considerations are combined in a rational actor model, or in some linear or formulaic way. But status rewards come in many forms. Casebook authorship or co-authorship can offer a less well-known law professor a stirrup for standing a little taller in the academic saddle. Name recognition matters in academia in many ways. If I’m a casebook author in my field, I’m betting that I’ll earn a tiny bit of extra attention, and, I hope, good extra attention, for the scholarship (law review articles, mostly) that does count at hiring, tenure, and promotion time. Law professors may not move laterally from school to school in the numbers that they once did, but a casebook-enhanced scholarly reputation likely cannot hurt in that context.

That leads us to the first question. Why don’t casebooks “count”? After all, if the legal profession and law schools and students want better and more modern teaching materials and teaching techniques, the obvious and easy solution would be to motivate and reward producing those things by making them count in the wallet and on the CV.

Yet history kicks in. Back to where I started above, with casual academic sociology.

For most of the 20th century, casebook production did matter to academic standing and status. Langdell, the founder of modern legal education at Harvard, was himself the author of the first modern casebook, in 1871 (Contracts — and the table of contents suggests that the book would still be pretty useful today). As recently as the late 1960s, I am told, new law professors were counseled by their

mentors affirmatively to consider going into a field where they could literally write the book, if the existing “book” appeared to be tired or out of date. That was viewed as job security. And a great way to master a field.

Casebooks used to matter, and now, most of the time, they don’t, or they matter much less. What happened?

The stakes changed, beginning in the 1970s. Up until that time, law schools were, on the whole, focused on teaching. Teaching directed to different swaths of future lawyers, but teaching, primarily, nonetheless. Calling law school “vocational education” wasn’t the notional criticism that it later became. Bringing forth new teaching materials, in the form of casebooks, was valued precisely because it aligned with the underlying mission of the institution.

Elsewhere, however, and across higher education, following World War II universities chased large-scale program expansion based on outside research dollars. To the extent that law schools continued to be modest, largely non- research-based units amid universities with big ambitions in medicine, the sciences, engineering, and even the social sciences, law schools were out of step. Training lawyers to practice law may be a noble thing, but without research to go with it, law schools’ identities aligned poorly with the changing mission of their institutional parents. Universities expressed skepticism of law schools; law schools expressed anxiety about their university-supplied budgets. Yes, in the old days, law schools often generated budget surpluses for their universities, which means that universities could safely ignore them — both for good and for ill. University investments in schools and departments then and now generally follow research productivity and prestige (which, today, often go hand-in-glove), and law schools had the latter — in some cases — but not the former.

To remedy the gap, during the 1970s and 1980s, law schools experienced a period of keeping up with the academic Joneses. Universities could have embraced more “vocationally”-based education, but instead, law schools became more like universities. Law schools transformed themselves, focusing more explicitly on research profiles and research productivity, aligning law professors’ identities as “scholars” with the scholarly identities of their close professional peers in academia: the social scientists. Social scientists get recognized and rewarded primarily for publishing in journals, not for publishing monographs. With intended irony, I’m cribbing here from a terrific journal article published in 1975 by the economist Paul Samuelson, titled *The Convergence of the Law School and the University*. The irony is this: Samuelson was the author of a legendary economics textbook.

In a bit of evolving institutional isomorphism, during the 1970s and 1980s law schools and their faculties secured their places in their universities specifically and in higher education generally by

looking and acting more like (though never exactly like) economists, political scientists, and sociologists. Student-edited law journals and law reviews started to cast off their older identities as purveyors of mostly doctrinal examination and to acquire new patinas as homes for modern legal scholarship.

That evolution has paid off in a lot of ways both positive and negative, for higher education, for law, and for society. Here, I'm interested in only one implication: that it led to allocating "the casebook" to its present role as a component of the for-profit publishing world, an enabler of the older vocational identity of law schools, rather than as a component of the intellectual agenda and scholarly expectations associated with law professors and law schools in their new aspirational roles, citizens of the university. Casebooks are a part of a market economy that supports teaching, which the university, on the whole, prefers to keep at arms' length.

Here's an example of how that generality can turn specific.

When law professors publish journal articles and other scholarly works, it is almost unheard of for them to receive royalties — even though those same articles, bundled and distributed through West and other online services, generate thousands of dollars of revenue for West and for the journals themselves. To be clear, it's not that any individual article generates thousands of dollars, but rather that a given journal, especially a flagship law journal, is likely to receive thousands of dollars annually by virtue of its content being distributed through West. The journal distributes none of that income to authors; the journal's home law school keeps it. (Or, in the exceptional case, the independent publisher of the journal keeps it.) The ins and outs of scholarly publishing, including the allocation of that revenue stream, are parts of the grand bargain of serving as a university faculty member. The professor and the school share burdens and benefits.

By contrast, casebook royalties may be significant, but whether significant or not, they're a standard part of the authorship bargain, and with rare exceptions, faculty authors virtually never share their royalties with their institutions. For casebooks, we're on our own.

I'm not here to defend either the process that brought us to this point, or the result. It has virtues as well as drawbacks. For now, I'm just explaining. And in future posts, I'll explore and try to explain some of the "under the hood" nuances that I've skipped over above. I'm looking at you, clinical faculty, and at experiential education generally. I'm looking at you, costs borne by students. And I'm looking at you, reproduction of professional hierarchies and the status quo.

PREVIOUS

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[The Strangelovian Law School, Or: How I Learned
to Stop Worrying and Love the Casebook](#)

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The Strangelovian Law School, Or: How I Learned to Stop Worrying and Love the Casebook



Michael Madison / October 16, 2019 / Future Law Works



In this series of posts about the law school casebook [\[first post here\]](#) [\[second post here\]](#), I've suggested that the casebook is both emblem and instrument of how the legal profession perpetuates itself as a field.

The obvious subtext is that I believe (along with others) that the profession is overdue for some substantial re-thinking and re-implementing, and that change begins at home. [Since this series began, the chorus of similar calls has gotten louder and louder. See, for example, this post from Dan Rodriguez, "[Toward evidence-based legal education reform: First, let's experiment](#)," and [this announcement of an interesting new venture at the University of Pennsylvania](#).] Lots of time, attention, and money are flowing into re-regulation of law practice, legaltech solutions, and other things. Some good time and attention is being directed to modifying the edges of legal education, particularly via new forms of experiential education. Almost no time or money is going into re-thinking the intellectual backbone of law's entire system of systems. That's my interest in the casebook.

It's clear from my earlier posts that there is a lot to criticize in the law school casebook. In future posts, there will be more criticism, and more importantly, some ideas about change and novelty. In this post, I pause for some praise. As a form of teaching text, the casebook has endured for well over 100 years and is still in almost universal use today. There are reasons for that.

Some of those reasons are not so great: path dependence, switching costs, and the political economy of academic publishing. But here are some better reasons. In short: I've got a list of seven reasons why we can love casebooks, and why some people — even some law students — actually do.

- Convenience for students: One book per course, and one course per book, is an intellectually economical and pragmatically portable way for students to keep track of course content and expectations.
- Convenience for teachers: Preparing to teaching a law school course requires that the teacher do little more than simply pick their preferred casebook from among the texts on offer. (Often that's true; occasionally, it's not.) The convenience factor is especially important for faculty members, including adjunct faculty members, who are not experts in the subjects that they are asked to teach.
- Simplicity and standardization: Many if not most bodies of law taught in US law schools are trans-jurisdictional — they span the entirety of the US (and/or the Anglo-American tradition) or bodies of "international" law. The casebook approach helps to ensure that Basketweaving Law as taught in Miami is a close cousin of Basketweaving Law as taught in Seattle, so that Florida law graduates can

sit for the bar exam and begin careers in Washington — and vice versa. And law professors who move from Seattle to Miami can carry on their teaching careers more or less without interruption.

- Consistency in meeting student expectations: Generations of law students have been taught that almost all law school courses come in packages that align precisely with bodies of law, particularly those bodies of law that were codified (often by law professors) during the 19th century. The form of the casebook labeled “Contracts” aligns precisely with the expectation following that teaching, so that law school as experienced by students is mostly what students expect law school to be.
- Adaptability in terms of pedagogy: Many casebooks are blank slates, for all practical purposes, when it comes to pedagogy. So-called “Socratic” teaching, at least in its modern, modest sense, remains a norm in law schools, but contemporary law school casebooks are not uniquely suited to any version of Socratic performance. Casebooks can be formatted to suit different teaching styles, and even more traditional or conventional casebooks may be adapted by teachers to serve different pedagogical goals.
- Boundary setting: Legal fields defined by casebook titles and course labels reproduce and reinforce legal fields defined by areas of doctrine and practice. For law students and law professors, contract law and problems solved by contract law are clearly “other than” tort law and problems solved by tort law. Theory, doctrine, and law practice tell us so, and the casebook and the form of the law school course both reinforce and reproduce the distinction.
- Integration: As important as it is to keep Contracts and Torts in their proper places (and classrooms, and books), it is also important to synchronize them — together, and separately — with literatures and practices outside the law school. Practitioner literatures are divided and synchronized along complementary lines. West’s National Reporter System has long done likewise with judicial literature. Legal scholarship and communities of researchers and scholars are organized similarly. It is not a stretch to say that the entirety of the legal profession is integrated around its collective and shared embrace of a long-standing universe of the disciplinary categories that, in the aggregate, constitute “the law.” Casebooks didn’t create those categories; in some meaningful senses, casebooks simply represent them. Using casebooks to organize legal education ensures that legal novices are apprenticed intellectually in ways that align them with their seniors. They are primed to think and act as generations of lawyers have done.

Some of these justifications and defenses are more persuasive than others. I’m not sold entirely on any of them, myself, but it’s important to give the world its due. And it’s also important that the list ends on the note with which the argument began, which is that casebooks embody institutional and professional continuity, for the individual lawyer and for the profession as a whole. We produce and reproduce our fields of practice via our materials as well as via our styles of thought and behavior.

Note something that is not on that list: effectiveness. There is no evidence (none that I’m aware of, at least) suggesting that students who are taught law via reading casebooks are better prepared for the bar exam, for the start of law-related careers, or for progressing through law-related careers than students who are taught otherwise. It’s a little difficult to imagine that existence of that evidence, of course, because for all practical purposes students are not taught otherwise. Earlier in this post, I put aside path dependence, switching costs, and the political economy of academic publishing. But any realistic appraisal of legal education and the legal profession needs to put those things front and center.

What might a different world look like, and why might we explore that?

The series will continue.

PREVIOUS

[Hitting the Books](#)

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[Bye the Book](#)



Bye the Book



Michael Madison / October 31, 2019 / [Future Law Works](#)



This occasional series about the law school casebook, for decades the fundamental teaching unit of American law students and many law students elsewhere, makes the case that micro changes in pedagogical expectations — what we teach with, rather than what we teach — have the potential to open pathways to macro changes in institutional culture both in schools and in the broader profession.

Earlier posts have outlined the broad claim, explored the motivations and incentives that drive the persistence of the casebook model, and even defended the uses of casebooks from the point of view of both students and professors. [\[First post here\]](#) [\[Second post here\]](#) [\[Third post here\]](#)

In this post, I want to turn the screws a little bit. The clearest and most direct argument in opposition to the current casebook model is economic, pure and simple. Casebooks cost students a lot of money, money that they often don't have, money that they shouldn't have to spend on teaching materials in law, and money that they might better spend on other things.

In crude, quick terms, the economics look like this. For people "inside" American legal education, as students, teachers, administrators, and vendors (publishers, mostly) much but not all of the following will be familiar. "Outsiders" – academics in other fields, professionals outside the academy, prospective students – may find something new. There's a twist at the end, however, and I'll give away the punch line now: Open Access, and Open Educational Resources.

A typical law school casebook, purchased new, costs approximately \$250. A typical law student enrolls in 5 courses per term, so if that student purchases 5 new books per term, or 10 books per academic year, that's an outlay of \$2,500 per year for books, or \$7,500 over three years of the usual JD program.

For all kinds of reasons, that raw arithmetic is misleading. Students may not take that many courses; they may take law clinics or work in internships and externships. Not every course requires a casebook, though most do. Some courses require not only casebooks but also additional texts, such as statutory supplements. Not every casebook costs \$250. Increasingly, for that \$250, sophisticated casebook publishers supply not only the printed volume but also access to digital editions and tools. Students often do not buy new copies of their casebooks. They may buy used copies online or from other students, and they may buy out of date editions that are still available online. The law changes, but it rarely changes so much that a student can't make do with the 5th edition and knowledge about how to access the new material added for the 6th. Finally, having paid for books up front, many students sell their books into the used book market after classes are complete. Buyers, particularly commercial used book buyers, may impose substantial discounts, anticipating that new editions of the books will undermine the used book market to a significant degree. For many students, any cash back is a win.

So, let's try to be realistic. Let's assume that many students expect to pay as much \$3,000 out of pocket for books over their three years in law school, and perhaps even less. Note, further, that students who receive grants and borrow money to attend law school may wrap the cost of materials into their financial aid packages, so in many cases the cost of books will be deferred and amortized over an extended post-graduation period. Repayment schedules and interest rates may vary, but given the massive amounts of tuition- and cost-of-living debt associated with attending law school, it might be said that borrowing a bit more for books doesn't add much of a burden — perhaps only \$20 to \$30 per month over the life of the loan(s). [[Pepperdine's Derek Muller works out the math more carefully, but consistent with the above.](#)] That doesn't sound so bad.

Nevertheless, students' subjective experiences of paying for casebooks differ from an objective review of the economics of their acquiring casebooks. If one assumes that law graduates' expected incomes over time will grow to accommodate the extra \$20 to \$30 per month carrying cost for buying the books, then objectively, that seems like a reasonable deal. Subjectively, though, students in school simply see money going out of their pockets and wallets (and PayPal accounts), and they vary widely in terms of their beliefs that they are getting good value in return. Many students like the digital bells and whistles that come with buying a \$250 casebook new from a commercial publisher. Some will keep their casebooks after graduating from law school, like I did. I also know that many students can't get rid of their casebooks fast enough, and get some money back, after their courses end. They are acutely

cash-sensitive. A few years ago, when I announced to my first-year Contracts students that I purposely organized the teaching materials so that students could access everything for free — no \$250 casebook; no casebook at all, in fact — I got a loud ovation. On the first day of class.

But I don't need to elaborate on that point. The easier point to make is that high quality free casebooks exist. Why should any customer pay for something that exists in comparable form for free?

Consider the small but expanding universe of high quality zero-cost alternatives to pricey commercial casebooks, in many fields. These are free casebooks (yes, for now staying with the casebook format and framework), produced by law professors, compiled, edited, and polished just like casebooks supplied by commercial textbook publishers.

Some of these alternative casebooks have their own house “brands”: [CALI, the long-standing Center for Computer-Assisted Legal Instruction, publishes a number of them](#) under the eLangdell brand. [Harvard Law School's “H20” project](#) houses many others. Entrepreneurially-minded law professors have set up or helped to support alternative publishing ventures, such as [Semaphore Press](#) and [LawCarta](#). A third group of law professors have started self-publishing their casebooks, simply distributing professionally-developed texts via their own websites. Even the Bluebook system has been re-implemented in a free product ([the “Indigo” Book](#)) that provides law students with training in citation rules without their having to buy copies of the Bluebook itself.

[The Law Library at the Touro Law Center has posted this incredibly useful list of these texts, clustered by teaching field.](#)

What these things have in common, despite their varied forms and distribution channels, is that they are Open Access — meaning that their digital contents are free to students and, for that matter, free to all. Because some students prefer print materials, print copies are almost always easy to obtain, but at low, low prices.

Some other law professors self-publish their casebooks in different ways, not in digital Open Access formats but [at price points so low that the contrast between their new versions and older, \\$250 per copy versions remains striking.](#)

Readers who are aware of substantial and critical concerns about textbook prices across all of higher education will see quickly that Open Access casebook publishing in law is a cousin of the [Open Educational Resources \(OER\) movement](#) generally.

Given all of this activity, why do so many law professors still ask their students to buy expensive casebooks? More important, if students and professors are interested in expanding use of Open Access and OER materials in law, what might be done?

First, why does the traditional casebook system persist?

The previous posts in this series touched on many of the relevant points: inertia, path dependence, and the political economy of casebook publishing. Whether they are casebook authors or casebook assignors, many professors like the current casebook system, like the casebooks they assign, and appreciate the value(s) associated with those books and their publishers. Why change? Also, I find that many faculty are unaware of Open Access alternatives, or don't trust Open Access alternatives, or worry about the switching costs of moving to an Open Access alternative, or — if they've vetted an Open Access alternative — may have decided that the price-point benefit to students isn't worth the possible loss in pedagogical value. Casebooks aren't perfect substitutes for one another. Law professors might create OA materials for themselves and their own students, but for reasons mentioned in earlier posts — particularly lack of status and reputation benefits generally in terms of producing teaching materials, not to mention the time involved — that happens slowly rather than systematically, even if it seems to have picked up steam in recent years.

One additional point bears emphasis:

At present, law students themselves have almost no voice in the system. They're the customers in terms of buying the books, but they're not the customers in terms of choosing whether to use one book rather than another. Publishers know this. The commercial publishers encourage their casebook authors to listen to student feedback, but the publishers' sales representatives sell to the faculty, not to the students. In market terms, this might be considered a form of market failure. The professors who choose and assign the casebooks are in a sense agents for the students who purchase and consume them, and as in any agency setting there may be a mis-alignment of interests. The professor may choose a book that the students, had they had good information and an appropriate opportunity, might not have chosen.

Second, what might be done?

Students themselves have so many things to wrestle with before, during, and immediately after law school that it seems unfair to say that they should collect and distribute information about Open Access teaching materials to their fellow students and ask their schools and professors to consider taking steps to offer Open Access alternatives. Plus, the collective action problems are enormous. And the

agency problem is essentially baked into the structure of all formal education. Students have long been expected to trust the expert judgment of their teachers when it comes to curriculum and pedagogy.

It seems to me that the burden falls on professors themselves, at the collective or institutional level as well as at the individual level. I want to avoid getting into saying that particular law professors should do this or that when they choose materials for their students. I do think, however, that there are institutional players within each law school who could take on a bit of informational entrepreneurship. Possibly the biggest barrier to deployment of Open Access and cheap law texts in schools is familiarity: many faculty literally don't know that these books exist. That awareness will vary considerably by field. In my intellectual property disciplines, only a completely new or a completely naive professor would be unaware of high quality and low-cost and free choices in almost every overview course and domain-specific course in intellectual property law.

Librarians can help. They are in so many ways the unsung heroes of our knowledge-producing institutions, and identifying and creating access to Open Access and OER content aligns precisely with what they are trained to do. The challenge here is evolving ways in which librarians are comfortable institutionally and professionally in stepping a bit out of their stereotyped roles. Creating subject guides, access guides and finding aids are great and useful practices, especially for researchers, but all too often I find that librarians respond to but don't initiate conversations about "what teaching materials might I choose?" Individual faculty members don't think to ask the librarians; instead, they sit in their offices and get educated, by default, by publishers' sales representatives.

Faculty development deans can help, too. Law schools vary a lot in terms of whether they have faculty development deans, or research deans, or something similar, and whether these people are charged primarily with supporting faculty research and scholarship, or teaching, or both. Some schools have leadership appointments or committees that focus only on teaching. Whatever the school's organization, and whoever is in charge of advancing strategies for better teaching, OA and OER resources are topics to take up.

There's more: Law schools could adopt formal policies that confirm institutional commitments to prioritize OA materials across the entire curriculum. Deans could offer incentives and rewards to faculty members who teach with OA materials. Accreditation rules could examination schools' strategies for minimizing the cost of student attendance. I'm sure that there are more things to consider; that's just 10 minutes' worth of my own brainstorming.

Stay tuned for one, final installment on casebooks.

PREVIOUS

NEXT

[The Strangelovian Law School, Or: How I Learned
to Stop Worrying and Love the Casebook](#)

[Closing the Book](#)

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Closing the Book



Michael Madison / December 2, 2019 / [Future Law Works](#)



In this final installment of my occasional series on the past, present, and future of the law school casebook [\[first post here\]](#) [\[second post here\]](#) [\[third post here\]](#) [\[fourth post here\]](#), I'll return to some crumbs that I left on the trail earlier, then take some swings at connecting them into some bigger payoffs.

A 360-degree tour of the casebook, as one of the most durable tools in higher education (really!), yields some possibly interesting ideas about the future of legal education generally — and maybe even higher education.

First, let me briefly sum up the state of play, as I've laid it out up to this point. The law school casebook published by for-profit publishers and priced at \$250 or so per new copy remains the unquestioned gold standard of law school pedagogy. Although a community of Open Access and Open Educational Resource producers supplies quality alternatives that substantially reduce law student costs, that community remains small. Law professors in overwhelming numbers are wedded to the proprietary casebook model, for cultural and economic reasons. Why? Because its functional simplicity makes academic life easier. Specifically, time spent imagining how to teach a law school course using alternative materials, and time spent actually implementing such a course, is time spent away from the things that drive legal academics' economies of prestige: research and scholarship, directed to journals and scholarly books.

The overwhelming majority of OA/OER resources in law are modeled on the print casebook, meaning that the benefits of OER — while significant — accumulate entirely on the cost-of-attendance side of the ledger. They don't necessarily have any bigger impacts.

That explanation is consistent, I believe, with the fact that faculty and students who are more invested in other parts of the legal education enterprise than in scholarly research — law school clinics and other genres of experiential education; legal research and writing curricula — are far less likely than so-called “doctrinal” faculty to be wedded to the casebook. The casebook is a foundation of the current legal education status quo not only in the sense that it burdens law students with unnecessary financial costs. It's also a foundation of the current legal education status quo in the sense that it reinforces existing hierarchies that divide doctrinal faculty from clinical faculty and legal writing faculty. The casebook allows the former to economize on teaching costs and invest more heavily in research; the latter are expected to invest substantially in pedagogy, via both methods and materials. Research and scholarship in those communities may be possible, and it may be desired and desirable, but by design, it is made difficult.

That is not a causal claim. I only suggest that the casebook helps to fix the current system in place. And that's a backward-looking view. From the start of the series, my real interest has been the future. What might a different world look like?

I've got a number of ideas here, all of them more or less speculative and all of them more or less descriptive (this thing might happen or could happen) rather than prescriptive (this thing should happen).

Premises

The premise is that casebooks are anchored in law schools and, for that matter, that textbooks are anchored in universities, because they are efficient teaching tools. “Efficient” in a time-saving and (traditionally) cost-saving sense, not in an “effective pedagogy” sense. The canonical or stereotypical university professor is expected to and wants to pursue a career of research and scholarship; teaching is the price of admission to that practice. Whether that's right or fair isn't the point; the point is that this is how US universities have been designed since their invention in the late 1800s. To be an effective and productive scholar, time invested in teaching has to be reduced to a manageable level, particularly when teachers are faced with classrooms filled with large numbers of students. Comprehensive textbooks suit that need perfectly.

[Observers of and participants in contemporary battles over “adjunctification” and casualization of teaching in US colleges and universities are presently experiencing the apotheosis of the “economize on teaching and prioritize research” concept. If you’re not in the privileged position of occupying a tenure-track or tenured position, then the university wants to squeeze every last penny out of the cost of supporting you as a teacher.]

The history of US law schools illustrates. Until the early 1970s, US law schools were largely teaching-driven. Writing and producing casebooks, teaching tools par excellence, were highly valued not only economically but culturally and politically within law schools and within the legal profession. Beginning in the early 1970s, as research universities generally turned toward valuing research and scholarship aligned with their post-war federal sponsorship funding model, law schools steered a path toward research and scholarship that had a more nominally social scientific character. Within law schools, casebooks lost their professional cachet; they are not quasi-social scientific scholarship. Instead of advancing the new-ish research-based mission of the school, casebooks became vehicles by which law professors could teach large numbers of students efficiently yet still produce scholarship to meet the university’s expectations.

I’ve painted with broad strokes; as a historian, I’m an Impressionist rather than a Photorealist. Every law school has followed its own somewhat unique path. But the portrait above tells us the following critical thing about the future of law schools specifically and about universities generally. Pragmatically speaking, and especially for readers who are not members of the legal education or higher education sectors (which is to say, practicing lawyers, legaltech entrepreneurs, disruptors of other sorts, and present and prospective students), any reform and reconstruction efforts have to keep research and scholarship top of mind, even if they do not necessarily have to occupy top priority in any actual institutional setting. “More experiential learning,” “more legaltech training,” “more experienced lawyers as teachers,” “shorter and/or less expensive time to degree” all make a lot of sense as prescriptions when it comes to the future of the legal profession, but in the university setting, the first mandate is: How does this advance the research and scholarship agenda of the institution?

Change *that* mandate, and we have a different ballgame. But change at that level would have to come from elsewhere, not from within law. Just about all US law schools have essentially zero leverage at the university-level bargaining table, because just about all US law schools are drains on university budgets, and just about all US law schools, with their student-edited, non-peer-reviewed, and non-sponsorship attracting research profiles, add very little to their parent universities’ scholarly reputations.

Payoffs

1/ How can we raise the stakes, the game, and the status of clinical faculty, other experiential faculty, and legal research and writing faculty? Outsiders critique US law schools for being insufficiently tied to professional practice; the faculty involved have often campaigned for improvements in their political and cultural status within legal education, meaning eligibility for tenure and inclusion in faculty governance, among other things. Paradoxically, this is an area where the casebook form could help. Tenure standards at almost all law schools are derivative of tenure standards at their parent universities (a handful of US law schools have no parent universities; their tenure standards are usually set with reference to what other law schools do, so universities' research expectations usually echo there as well). Universities' tenure standards almost always prioritize scholarly production and quality over other criteria. So in practical terms, the institutional status of experiential faculty and their political ambitions largely depend on their ability to produce scholarship, and their ability to produce scholarship depends on reducing the time they commit to teaching. Standardized materials — casebooks! — would be extremely helpful in that project.

I don't like that payoff, and I doubt that many others (especially experiential faculty) like it much, either. It's not a serious proposal. But I include it, even lead with it, because it illustrates this point: *An enormous amount of macro re-thinking of educational institutions depends on awareness of their micro-foundations.* If we simply work within or re-build on top of those foundations, there are gains to be achieved, but we may also be led to some places that many people don't want to go.

My more serious self-critique here is that I don't buy the assumption that there is a productive future of legal education built on its co-existing three faculty silos: doctrinal, clinical, and legal writing. Looking ahead, in the medium- to long-term, that co-existing siloed structure isn't economically viable; it's not useful to students, the profession or to society; and it's not likely to generate important research and scholarship. I won't defend those points here. I may come back to them in a future series.

2/ Instead of raising the stakes of inter-silo competition inside current law schools, I'd prefer to reorganize how and where different modes of teaching happen. (This is a pragmatic point, not an ideological one, but it's difficult to separate those two views neatly.) We might do that in different ways.

One, long on the table, is simply to divide teaching faculty from research faculty within a given law school, and/or to divide law students on a training-to-practice track from law students on a training-to-become-researchers track. Casebooks and similar tools would have their place on the research/training-to-become-researchers side of the house; one would expect to see more pedagogical innovation on the teaching faculty/training-to-practice side of the house. A handful of US law schools have started to experiment with these sorts of approaches.

A second would be to push the use of casebooks and a lot of introductory teaching further down into the earlier stages of the educational process to take advantage of economies of scale and to capitalize on the efforts of legal practitioners who want to teach but who neither need nor want to pursue full-time teaching, or research of any sort. For US legal education, that might mean moving a lot of the introductory material into undergraduate education. Both more sophisticated experiential training – labs and other things as well as clinics – and (some) robust teaching that aligns with research practices of full-time faculty would be reserved to one or more years of post-graduate professional or researcher education. Casebooks up front (simply to save on expense, not to privilege research), customized pedagogy in the back, so to speak. This strategy would have the virtue of offering some legal training to prospective graduates who want to work in the legal industry but who have no interest in the more advanced study needed to prepare to become licensed practitioners. I suspect that it would substantially reduce the cost of student attendance generally.

A third would be to divorce the training-for-licensure legal educational process entirely from its current home in the university, or at least from its current home in the professional training ground of the post-graduate law school. The casebook model persists because it underwrites the scholarly expectations of the university. Yet licensing rules currently bind to US law students university-based legal education in all but a handful of contexts (i.e., passing a bar exam is essentially mandatory in every jurisdiction; sitting for the bar exam almost always requires a JD from an accredited law school; and almost all accredited law schools are affiliated with universities). Change licensing pathways, and institutional redesign becomes easier to imagine. Licensing reform movements are at last starting to get underway in the US. In Canada, the UK, and Australia, the legal profession has made more progress in either stepping away from the bar exam, and/or stepping away from a university-based legal education as a prerequisite for licensure. An enormous amount of this post relies on the existence and priorities of research universities as intellectual and economic infrastructure for undergraduate and post-graduate education. But much of US higher education is undertaken in institutions that still prioritize teaching over research (or say that they do) — universities further down the status hierarchy, colleges of many sorts. More US legal education could live there, rather than in research universities. (Some does; some US law schools are parts of universities that host only a handful of other graduate or PhD programs.) US legal education could be provided in stand-alone “training to licensure” institutes.

Those ideas aren't entirely new, nor are they tractable in the near term. (The fact that they've been around for a while in one form or another offers a hint as to their tractability.) They all involve big institutional redesign of one sort or another. They all come with substantial transition costs, political barriers, and equity concerns. Under any of these models, many US JD programs, which are already quite small, might get smaller still.

So here's something at a smaller and less obviously disruptive scale, a way to get past casebooks and chip away at the political economics of law school faculty silos. It's entirely anecdotal and personal to me, and I share it primarily to illustrate the idea that there are things that individual professors can do, if they want to do something new and different (many do not) or if they have new and different thrust upon them (as some increasingly do). Other professors are inventing new identities and pathways for themselves, and I'm interested in hearing about their stories, too.

Again, I begin with the fact that the economics of time allocated to teaching rather than research tend to support the casebook economy. If I'm rewarded for publishing rather than teaching, I'll cut down on time in teaching, and that means using a casebook. Even if I use OER or OA materials, if I use materials other than OA casebooks then I've simply added to my teaching time. I can take that time away from scholarship — or from other things, such as family, or sleep, or health, or fun.

If, however, time in teaching is the same as time in research — not “time invested in quality teaching is counted toward tenure and promotion,” not “syllabi and teaching materials are scholarly products equivalent to journal articles,” but “what I do is develop intellectual infrastructures and resources that pay off concretely and concurrently in both teaching materials and scholarly works” then I've gone some ways down a path that effectively (if only conceptually) abolishes the traditional distinction in academic time commitment between “teaching” and “research.” I've created a path that potentially integrates traditional legal analysis and thinking (both in teaching and in research) with modern inter-, cross-, multi-, trans-, and post-disciplinary professional expectations. That blend can be applied in the classroom, in the field, and in the journal. That is: how many problems these days are simply and purely “legal” problems?

Notably, I still get publications out of the deal.

That's highly conceptual, and as concept it may be a puzzler, so let me give the illustration from my own experience.

A number of years ago, I gave up traditional, print casebooks. I still teach courses in IP law that give every outward appearance (in the course catalog, and on transcripts) of being “standard” law school doctrinal courses. [As all academics know, once the course is in the catalog, it's a lot easier unilaterally to change its contents than to change the course title or the course description.] And I teach from and with judicial cases, along with other primary legal materials. Increasingly, I blend those materials with a host of “found” materials from “non-legal” sources. Also, I don't give comprehensive final exams; I assess my students based on short open-ended, problem-based writing assignments. What looks

“traditional” on the outside has gotten progressively more atypical on the inside. Everything is still a work in progress.

My own take on my teaching product and process is that I’m headed back to the future, in a very 1930s “Law and Society,” Willard Hurst sense. I’m not inventing anything truly new. I’m simply evolving my teaching flexibly, given my not feeling tethered to the casebook code and aim of pursuing what I perceive to be the needs and interests of the profession, broader society, and my students.

Essentially at the same time (so: what is cause? what is effect?), my research and scholarship have taken on a quite explicitly heterogeneous cast, to the point that in writing and speaking I sometimes feel only loosely tethered to my legal training. For a time, I felt as if I had a dual identity, one as a law professor (in the classroom), and another as a researcher (in journals and books), increasingly in partnership with colleagues, rather than solo. I’ve come to believe that I’m part of a group of law faculty — and faculty in other fields, as we find one another over shared interests in futurism and blended work — who sense that the essentially 19th century disciplinary structure of modern education is failing us and our students. I’ve wandered into conversations with colleagues in law and elsewhere whose primary interests lie in experiential education. And into other conversations with colleagues whose primary interests lie in design, leadership, emotional intelligence, and collaborative work and project management.

To bring this back to my initial point about silos, here’s the thing: The hours that I spend reading, thinking, and writing for my research turn out to be the very same hours that I spend updating and evolving my courses. There’s a classic line that better researchers and scholars make better teachers, because they develop passion, depth, and sophistication about their fields that they can use to inspire their students. That may be right. But my observation differs a bit. My observation is that my research *is* my teaching, and vice versa. I’m learning that teaching isn’t a cost of my research, or vice versa. What I pursue is one investment, multiple applications. I haven’t developed a seamless strategy for this, and I don’t even always do it well. But it’s the trajectory that I’ve been on for a while.

I’m atypical (I think) and even speculative in a lot of this thinking and its effects. But I’m not alone. I’m a little disruptive. I have a growing community of disruptively like-minded teachers and researchers. I have an institutional home in a law school. My intellectual and cultural home lies in an unformed, emerging academic and professional collective both inside and outside of law schools.

Is any of our collective imagineering likely to come to anything? Is my experience generalizable in any way? Or better in any ways? Am I right in predicting that the casebook is an emblem of what is keeping legal education — even higher education — from evolving into its future self?

I only know two things: Frustrated as I obviously am with a lot of the legacy institutions of legal education and higher education, I'm having as much fun teaching (and researching) as I ever have, more than 20 years into this career. And my students and graduates seem to like what I do a great deal.

[PREVIOUS](#)[Bye the Book](#)[NEXT](#)[The Several Futures of the Law School Casebook:
Of Changing Legal Education, Universities, &
Hierarchies](#)

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