

REQUIEM OR RESURGENCE?

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I. INTRODUCTION

In the mid-1980's, I asked Bob Coulson, then president of the American Arbitration Association ("AAA"), to envision the future of alternative dispute resolution ("ADR"). Without hesitation, he replied, "These delicate flowers are bound to wither in our careless hands." The flowers of which he spoke were varieties and hybrids of negotiation, mediation, and arbitration. Not known for pessimism and hyperbole, much less hackneyed poeticism, Coulson's response surprised me.

It wasn't long before I began to appreciate Coulson's prophetic metaphor, but it seemed unduly pessimistic at the time. After all, these were the early and heady halcyon days of the ADR movement, and the AAA had hired me, an "ADR Romantic,"¹ to help till this garden by mediating, training neutrals, and proselytizing across the country and abroad. Lots of ADR Romantics, some lawyers and lots of non-lawyers, were already working the fields. President Carter's DOJ had funded the pilot neighborhood justice centers, where I received my mediator training, and courts were experimenting with pilot ADR programs. Most notably, foundations, particularly Hewlett, were funding many of these efforts both on the practice and theory-building sides of the equation. Supported by this funding, the Association for Conflict Resolution (formerly the Society for Professionals in Dispute Resolution) and other organizations devoted to the growth and understanding of ADR thrived. Annual conferences proliferated, such as the first National Conference on Peacemaking and Conflict Resolution, which I attended in 1983. Law and business schools were starting to make conflict resolution an integral and valued part of their curricula. A new field was forming with its own set of practitioners and scholars.

ADR Romantics were riding the crest of this wave, a wave that we thought would change the legal system, transform the culture, and save the world (seriously). I would go on to join a law faculty, teach, write, and help establish and run one of the Hewlett-funded conflict resolution theory-building centers. In 2021, I retired after 40 years devoted to ADR. Reading *Discussions in Dispute Resolution* ("DDR") was a sobering reassessment of a lifetime spent gardening ADR. We were idealistic and naive, and Coulson was

¹ John Lande, *For Pragmatic Romanticism in Law and Dispute Resolution: Reflections on Galanter's Remarkably Realistic Analysis of Why the Have-Nots Come Out Behind*, in *DISCUSSIONS IN DISPUTE RESOLUTION: THE FOUNDATIONAL ARTICLES* 303, 303 (Art Hinshaw, Andrea Kupfer Schneider & Sarah Rudolph Cole eds., 2021) [hereinafter *DDR*] (describing a term borrowed from Lande's contribution to this book).