

Appreciating our Legacy and Engaging the Future Conference

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My thanks to the organizers and participants at the “Appreciating our Legacy and Engaging the Future” conference. It was a tremendous gathering of so many individuals in our field — from those who were present at the creation to those like myself who are just getting started.

The conference impressed upon me the importance of “appreciating our legacy” in two senses. First, we cannot take for granted the fundamental lessons of our theory — such as engaging with disputes as opportunities for creative (and value-creating) problem solving, distinguishing interests from positions, and listening with empathy. These lessons remain counterintuitive to many in the legal profession and beyond. Even if it’s all old hat to *us*, we still have much to do to make these lessons available to all.

Second, that we must *appreciate* our legacy in the sense of continuing to build upon what we have inherited. We cannot rest upon our inheritance, merely tinkering around the edges of our practices. Rather we must continue to forge new paths and to question the theory that we have received. After all, the world of 2019 is not the world of 1976. The barriers facing individuals who wish to vindicate their rights are different today, in our age of mandatory arbitration and litigation waivers, than they were at the time of the Pound Conference. So too are the available opportunities for disputants, as ODR platforms begin to go mainstream. These changes in the dispute resolution landscape, among others, call for rethinking the nature of the multi-door courthouse, the relationship of law to “alternative” dispute resolution, the importance of diversity, and much more. We can hardly begin to “engage the future” of dispute resolution without genuinely “appreciating our legacy” in this sense.