THE MULTI-DOOR COURTHOUSE AT MIDDLE AGE: LIFE IN CANADA

Archie Zariski

archiez@athabascau.ca
Frank Sander’s “Dispute Resolution Center” (1976)

Seven Doors:
1. Screening Clerk
2. Mediation
3. Arbitration
4. Fact Finding
5. Malpractice Screening Panel
6. Superior Court
7. Ombudsman
Canada’s “Sander Moment”:
Professor Harry Arthurs (1979)

At the National Conference on the Cost of Justice:

“My plea is for pluralism. Let us accept the limits of our own expertise as lawyers. Let other people try to get on with the job of solving basic social issues. And let us not insist that in the end we know better than they what procedures ought to be followed, what ought to be applied.”
Idiosyncrasies of the Canadian Legal and Political Environment

- Courts and judicial structure
- Jurisdiction
- Rule-making
- Constitutional rights
- Concentration of the legal profession - Toronto
ADR Developments in Canadian Courts: the First Decade – “Marginalization”

- Small claims mediation
- Family conciliation
- Neighborhood justice
- Community mediation centers
Developments: Second Decade – “Legitimation”

- Canadian Bar Association National Task Force endorsement
- ADR texts and first law school courses
- Pilot projects and experiments by courts and judges
Developments: Third Decade – “Institutionalization”

- Ontario and Saskatchewan: mandatory mediation
- British Columbia: “Notice to Mediate”
- Alberta: mandatory ADR, judicial dispute resolution
- Quebec: judicial conciliation (mediation)
Developments: Fourth Decade – “Industrialization”

- National and Provincial ADR organizations offering training and credentialing
- National Judicial Institute course in settlement techniques for judges
- Proliferation of private ADR service providers
- Law firm dispute resolution departments
- Law school courses and programs
The Seven Doors in Canada Today: The Double Door Courthouse

1. **Screening Clerk** – attempted in Ontario but still undeveloped
2. **Mediation** – mix of Alexander’s “justice model”, “market model” and “pro bono model” both mandatory and voluntary
3. **Arbitration** – no court-annexed
4. **Fact Finding** – little use of referees
5. **Malpractice Screening Panel** - nonexistent
6. **Superior Court** – traditional and innovative (JDR)
7. **Ombudsman** – other government branches
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