

WHY BEN FRANKLIN WAS THE WORST MEDIATOR OF ALL TIME

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Characters

B: Ben Franklin
SA: Sam Adams
GW: George Washington
KG: King George
JS: John Smith

Disclaimer

The goal of this paper is to show how mediation could have been utilized prior to the Revolutionary War. If done prudently, it could have spared Britain the loss of its colonies. Some of this paper is factual, such as the references to legislation, events, and dates. However, the majority of this paper is embellished in order to create a more interesting read. Though Ben Franklin was an ambassador to Europe (specifically France) during the 1770s, he was not as impartial as this paper depicts him to be. Finally, for purposes of this paper, we are assuming that the Florida Statutes apply where applicable, and similarly, that there were standards for mediators in in the 1770s.

The Colonial Representative

Some say that the Boston Tea Party was the spark of the Revolutionary War. Others say it was the Battle of Saratoga. I think if you dig deep into the facts, however, you would be surprised to find out that it may have been my mediation that led to the War of Independence. My mediation was the product of an ego trip I was on. As you will learn, I was determined to fulfill my own personal agenda. I firmly believed that any conflicts between the Colonies and Britain would hamper my agenda. I honestly believed

that I, Ben Franklin, could solve all world problems. What a fool I was.

It was August 1766, and I was in the midst of concocting various science experiments. After I became relatively well known throughout the Colonies for my discovery of electricity, I began to be summoned by the Colonies to act as an ambassador abroad. I was a well-liked individual who could connect with people of all nations. Let's face it—science is a universal language.

I had been called by the House of Commons to testify in Britain. The colonial disdain toward Parliament was becoming increasingly unbarring back home. The King had amounted serious debt during the French and Indian War, and it was his belief that the Colonists should pay more in taxes to help relieve this debt. To some, this seemed fair. We, as Colonists, were provided shelter, safety and various sorts of freedom by being part of England. But many of the Colonists argued that they had already been taxed enough, and the King was usurping way too much power over their lives. The British parliament had just imposed a Stamp Tax on the colonists. Unable to voice any sort of opposition in Parliament due to lack of representation, the Colonists began to circulate the idea of independence.

Of course, being known as the intermediary that I am, I was asked to explain all of this unrest.

Parliament: “Are not the Colonists, from their circumstances, very able to pay the stamp duty?” asked one member of Parliament.¹

B: “In my opinion, there is not gold and silver enough in the Colonists pay the stamp duty for one year.”

Parliament: “Do you think it right that America should be protected by this country and pay no part of the expense?”

B: “That is not the case. The Colonies raised, clothed, and paid during the last war, near twenty-five thousand men, and spent many millions.”

¹ <http://www.bartleby.com/268/8/10.html>

Parliament: “Were you not reimbursed by Parliament?”

B: “We were only reimbursed what, in your opinion, we had advanced beyond our proportion, or beyond what might be reasonably be expected from us; and it was a very small part of what we spent. Pennsylvania, in particular, disbursed about \$500,000 and the reimbursements, in the whole, did not exceed \$60,000.”

I was then asked if the Colonists could be compelled to pay the Stamp Tax. At the time, I did not anticipate that my answer could have foreshadowed a very real possibility: “No, never, unless compelled by force of arms.”²

The questioning continued for another few hours. Though I had decent relationships with a few members of Parliament, I could not help notice the hostility in the room. After the hearing, I met with John Smith, a well-respected member of the House of Commons. John was a 27-year-old blond haired, blue-eyed admiral. He was born to wealthy parents, and decided to join the British Navy so he could conquer new land and explore parts of the world. I was surprised at how quickly our friendship grew. We really had nothing in common—he disdained Americans, he was young, he was single (though I was married, I still managed to have fun in Europe...), and he was born wealthy. At first, I thought our relationship would be beneficial for me. Not only was John in the House of Commons, but his father was also a prominent member of the British parliament. I thought I would be able to secure some valuable information about future plans with the Colonies.

He wanted to know why the temper of many Americans had changed in recent years. After all, he explained, under the rule of King George, the Colonists were the least taxed and most prosperous Colonists on earth. The government protected the Colonists from harm.

² <http://www.bartleby.com/268/8/10.html>

I have to admit - I tended to agree with him. But the precedent England was setting - taxing us without representation - made many Colonists feel uneasy. The Colonists did not want to be deprived of basic freedoms; life, liberty, and freedom. Most importantly, they wanted to protect their property.

The Beginning of the End

After my stint in London, I traveled to Paris, France with a few of my traveling companions. Word about my electronic discoveries had circulated around Europe, and many people were curious to meet me. What can I say? I was somewhat of a celebrity during this time. I traveled to Paris where I was introduced to monarchs and artists, and was showered with “gifts” from pimps and strippers. I traveled to Germany, where I met Otto von Guericke, and was able to congratulate him on his early studies of electricity. I was also asked to join a British gentleman’s club called the “Honest Whigs.” Many prominent Britons were part of the club. I was shocked to see how many British men were willing to talk and celebrate with me despite my slight bias toward the Colonists. I was startled at how welcome I felt, but still slightly confused. Maybe now I know better to remind myself of the quote, “Keep your friends close and your enemies closer...”

After I began to travel, many Colonists started to become wary about my time abroad. Though I was eventually successful in getting the Stamp Act repealed, many Colonists were still unsettled about being part of Britain. I did all that I could to try to minimize their animosity. As I was trying to carve out Colonial suspicion of my true allegiance, I was beginning to develop an admiration for John, and I treated him like a son. He accompanied me on many of my European adventures, and I felt as though I could trust him. As long as no one from the Colonies knew of my involvement with the Honest Whigs, I did not see a problem with maintaining a friendship with John.

Conflicted

Though I was tasked with representing the Colonies in Britain, I often found myself empathizing with the British, mainly because of my involvement with the Honest Whigs. Despite this, I

never lost sight my own personal goal: keep the relationship between the Colonies and Britain as smooth as possible. I enjoyed my time on both sides of the Atlantic, and I wanted to maintain this advantageous equilibrium. The last thing I wanted was for the two countries to go to war. Not only was I enjoying my time as an ambassador to a somewhat friendly country, I believed that being under British control was best for the Colonists. The Colonies were provided with safety, education, and shelter. It would be hard for the Colonies to work together as one unit if they were to secede. Moreover, it would be hard for me to continue my scientific discoveries. I relied on the input of foreigners for many of my experiments, and I did not want to lose that relationship because of a war.

Much to my dismay, the tension between the Colonists and the Crown began to grow more hostile. In the year 1773 in Boston, the British parliament had passed the Tea Act, which essentially raised the price of tea. The British desperately needed this money for revenue to fund various expenses, and to keep the East India Company in business. The Colonists believed that this tax violated their basic right to taxation by representation. They argued (and I agreed), that they should only be able to be taxed by elected representatives. The Tea Act was the last straw.

On Sunday, November 28, the *Dartmouth*, a ship carrying approximately 120 chests of tea, docked at the Boston Harbor. A vast amount of Bostonians assembled at Faneuil Hall and demanded that the tea be returned. These Patriots vowed to interfere with any shipment of Tea to the Colonies. After the *Dartmouth* docked, the Colonists learned that more ships that were carrying tea were bound for Boston. New York, Philadelphia, and Charleston.

I remember December 1773 vividly. Though I was in Philadelphia at the time, word of the Tea Party traveled fast. One evening, a large group of Bostonians dressed up as Mohawk Indians dumped the imported tea into the Boston Harbor. To say the British were outraged would be an understatement. Sam Adams, one of my good compatriots, was quick to defend the Boston Tea Party (as it became known) by proclaiming that it was a peaceful protest. The British, however, were quick to point out

that the colonists were nothing but a bunch of lawless individuals. The British eventually responded by closing the Boston Harbor indefinitely.

To Fight or Not to Fight?

I was very conflicted at this point in time. John Adams and I had a very strong friendship, and I wanted to gather his thoughts on the matter. He turned to me and stated, “Ben, this morning, a man of war sails.” His sentiment seemed to be shared by many on both sides of the Atlantic. I did not want this conflict to turn into a war. For one, I knew this would be detrimental for the Colonists. I appreciated the enthusiasm of the men, but I knew that they were ill equipped to face the British army. I also knew a war would be bad for Britain. Britain had just ended the French and Indian War, and was still suffering financially. I also did not want a war for personal reasons. Though I was not fond of the King, I did appreciate how our taxes were relatively low compared to other colonies. I also liked how I could travel to Europe and be promiscuous and be celebrated for my scientific achievements. However, I considered myself to be a patriot and revolutionary back in the colonies. It was the best of both worlds, and I knew something had to be done.

After the Boston Tea Party, I decided that I was going to try to convene a meeting of both sides to mitigate a deal.³ I had a few potential goals that I thought could help alleviate the problems between the Colonists and Britain: 1) allow some Colonists to serve in the British Parliament; 2) eliminate the tea tax; 3) stop the boycott of tea; 4) require the British governors to spend more time in the Colonies.⁴

³ This approach to mediation is contrary to the modern prevailing approach where both parties pick the mediator. Here, we have a situation where the mediator chooses both sides to help solve a problem. Though this type of scenario may be common in peace negotiations, it is not often utilized in a mediation.

⁴ This is the first ethical issue this paper raises. Though it has not been stated yet, Ben Franklin will eventually serve as the mediator between the Colonies and Britain. Though it is appropriate to have certain goals of the mediation, Ben Franklin is entering the mediation with his own agenda. Furthermore, Ben Franklin is not a court appointed or certified mediator, which would be a problem if the parties did not voluntarily and expressly agree not to be found by

In order to bind the countries to any sort of agreement, I knew I would have to find high-ranking officials to agree to the mediation. I decided to ask Sam Adams and George Washington to represent the Colonies, and James Smith (John's father) and King George to represent Britain. After some resistance, both parties agreed to the mediation, however, James Smith was a little apprehensive over my role in the mediation. Though he consented to my participation, he was afraid that I would be biased toward the Colonists. I wanted to take the initiative to smooth things over with James before the mediation was set to begin. Therefore, I decided to visit to him and explain my real intentions of the mediation. I thought it was best if we kept our meeting private because I did not want the other parties to worry about my impartiality. Though I knew both sides very well, I truly believed that I could be an effective mediator.⁵

I informed James that I believed an agreement could be worked out that would benefit both Britain and the Colonies. I also told him that if he thought I did a good job, he could hire me for any future mediations at a discounted rate.⁶ He was not convinced. Much to my dismay, James informed me that he would no longer participate in the mediation. Instead, his son John, along with the King, would represent Britain in the mediation. This petrified me. If anyone found out about my relationship with John, my role in the mediation could be jeopardized.

the Florida Statutes. *See F.S. 44.402; See also, Florida Rule 10.100.* Moreover, mediators should not make decisions for the parties. Ben would be violating rule Florida Rule 10.310 if he made substantive decisions for the parties during mediation.

⁵ Ex parte communications with the mediator before the mediation starts may create a conflict of interest. Here, as we have seen from the facts, Ben Franklin has relationships with both sides. Because the mediation has not started yet, he is not *required* to disclose these relationships, but having an ex parte communication with one of the parties before the mediation starts increases the risk of bias or ethical violations.

⁶ This may violate Rule 10.610, which states that a mediator shall not engage in marketing practices which contain false or misleading information. Here, Ben most likely misled both parties into thinking that he was "on their side." A mediator shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.

The Mediation

Before the mediation actually began, I informed both sides that the mediation would be held in the Colonies, but because of the obvious bias this could create, I would allow Britain choose which city the mediation would be held in. Ultimately, the King and John decided on New York City.

We convened in a Church⁷ on the East side of the city. I decided to choose a Church as the place for the mediation in order to make both sides keep the idea of peace in the back of their minds. George and Sam walked in together and sat down at the table with me. We briefly chatted, until the King and John walked in.⁸ As soon as Britain sat down, I could tell this was going to be a long day. Both the Colonists and the British were staring each other down and uttering curse words under their breath. To break this tension, I decided to begin the mediation.

B: “Good afternoon. Thank you to all for being here. As you may know, my name is Ben Franklin and I have volunteered to serve as your mediator. Before I begin, I want to inform you all that everything we say in this mediation is confidential unless I obtain consent from both sides. This confidentiality also applies to caucus. If I break into caucus with one of the sides, I will not be able to disclose any information that is given to me. There are very few exceptions to this confidentiality rule. Does everyone understand?”

SA: We understand, but we want to make it very clear: we are not here to concede, or give in. We are here to negotiate a peaceful way to allow the Colonies to secede from Britain and form our own United States.

⁷ This is an example of a strategy used by the mediator to help improve dialogue between the parties. By holding the mediation at a Church, Ben Franklin was hoping the sides would avoid discussing war, or something that may evince violence.

⁸ A mediator should be careful that they do not appear as though they are conversing with the other side before both parties are seated. This may appear as though the other side is forming a relationship with the mediator before the mediation begins. This may be seen as violating Florida Rule 10.330 regarding impartiality.

KG: Samuel, you know too well that is not going to happen. You need us more than we need you.

SA: That is not true. Without us, Britain would be in significant debt to France. Plus, you would leave this part of the hemisphere uninhabited, thus ruining your empire.

B: Ok, ok. I see we have gotten off to a rocky start. Britain, let's start with you. Why don't you let the Colonies secede?

KG: Economic reasons aside, the Colonies have British blood in their veins. They are just as much part of the British identity as those who reside in Cambridge and Oxford. We believe that secession would harm our identity as a nation and a world power.

B: Colonies, why do you want to secede?

GW: We want our own identity. We have been taxed a significant amount without having any sort of representation in Parliament. The sanctions for not paying our taxes are significant. We aren't opposed to paying taxes, but we are concerned with the overarching problem with this scheme: we do not want to take orders from a country that does not value our input.

B: What if Britain let you serve on Parliament? Would that change your mind?

GW: Maybe.

JS: Representation is never going to happen. They should be grateful that they are part of the world's most prominent country.

K: The ironic thing about their opposition is that many of our acts that our Parliament has passed, including the Tea Act, have actually *reduced* the price of the tea.

GW: Well perhaps there would be no taxes at all if we were actually represented!

B: Ok, before we go any further, I do need to go over some logistics. Because I sense that both sides may have a tendency to cut the other side off, I think it would be best if we broke up into

caucus before we began a joint discussion. I want to reiterate that everything that is said in caucus will also remain confidential. Therefore, I will not be able to share any communication that is said in caucus with the other side. Does everyone understand?
(Everyone agreed)

B: Mr. Washington and Mr. Adams, will you follow me?⁹
(The three gentlemen went off into a private room, while the British waited in the main part of the church).

B: Simply put, what do you guys want?

GW: We do not necessarily want a war. We want members in Parliament, and we want Parliament to meet in the Colonies. In order for us to abide by orders, rules, and laws, we must have a say and a vote. We demand a democracy. Our ultimate goal is to form our own country. But if having members in Parliament is all that we can negotiate, then so be it.

SA: I am going to be less diplomatic than my colleague. We are not willing to give up anything. They either agree to those terms, or we are declaring war. Do not tell them, but France has informed us that they would be willing to help supply weapons and men if we do decide to go to war. They have an interest in keeping Britain out of this land.

B: But how do you know that the French would not take over your land in the event that you are successful?

SA: We don't, but it is a chance we are willing to take. Once we can build our own infrastructure and build our own army, we won't be so vulnerable to a takeover.

B: What if Britain agreed to lower taxes?

⁹ At this point, Ben Franklin has already had two opportunities in the mediation to disclose his conflicts of interest. Though it is probably common knowledge to both parties that he has relationships with both sides, the Colonists do not know that Ben knows John Smith on a personal level. Ben is clearly violating Rule 10.340, Conflicts of Interest,

GW: That would be nice, but that is not what we want. They may lower taxes tomorrow, and raise them again next year. We demand representation.

B: How many representatives would you require?

SA: Two for each colony. No less.

B: What if the British agreed to allow you to have one representative?

GW: No. We demand representation; every colony should have the opportunity to be heard. What do you think, Mr. Franklin? Are we demanding too much? This sounds reasonable to you, doesn't it?

B: It seems reasonable to me, but I do not think they are going to give in. You aren't really a threat to them. You have no army, you do not have a lot of capital, and you are on the other side of the ocean. I say that you should set your bar lower.¹⁰

SA: I disagree. I am confident that we could win a war, especially with French assistance.

B: Ok, well, let's get off the topic of war for now. Let me talk to the other side and see where they are coming from. Is there anything in this conversation that I can tell them? Or do you want me to keep the discussion private?

GW: Keep everything private. See what they want first. Remember Mr. Franklin, though we appreciate your role as a mediator, remember whose side you are really on. We have served you well over the years, and we do not want your trips to Europe to impede on your professional judgment.¹¹

¹⁰ Here, Ben is completely ignoring rule 10.370 because he is providing his input despite claiming to be an impartial mediator. His opinion almost seems as though he is coercing the parties and trying to direct a resolution of this issue.

¹¹ This remark is exactly why Ben Franklin was not the right person to mediate in the first place. Though he is regarded as a neutral, and someone who can see things rationally, it can be assumed that both parties would expect him to "work for them" during the mediation.

B: I got it. Sit tight, gentleman.

(B caucuses with England).

B: I am simply going to ask, what do you want? What do you think can be accomplished without waging war?

KG: As you know, we cannot afford another war, especially one across the Atlantic. But we also are not willing to give them representation because they are not technically part of our country. They should be lucky to have us; they pay lower taxes than most colonists across the world, they have shelter, food, and infrastructure. They also have fantastic schools. Lastly, we do a good job of protecting them. If paying a small amount of taxes is the price they have to pay for their safety and prosperity, then so be it.

JS: Also, it would be impossible for us to move Parliament to the Colonies. How are they going to be able to travel back and forth for Parliament? It makes no sense.

B: What if I told you that they are prepared to go to war if you do not concede, and they have a strong country that could help them build an army?¹²

KG: What country?

B: I cannot disclose that information.

JS: Ok, how about we allow them non-voting seats in Parliament. Rather, they can just be there to have their opinions heard?

B: That may be something we can negotiate. I am going to convene both parties in a moment, and perhaps you can raise that suggestion?

JS: I would be happy to.

¹² Ben Franklin should not have disclosed this information. It was supposed to be confidential. Here, he violated rule 10.360, Confidentiality because his disclosure was not warranted by any exception in the rule.

(All of the groups convene back in the main part of the church)

B: Ok, I have heard arguments on both sides. Though both sides seem to have strong opinions on where they stand, I think an agreement is imminent. Britain, would you mind stating your offer?

JS: We propose to allow each colony to have one representative in Parliament. However, these will be non-voting members. We can see the value of hearing your opinions, but at the end of the day, Parliament is part of Britain's core. It is made up of members who sacrifice their lives and time to ensure that the Colonies are well-off. We can appreciate your opposition to more taxes, but we cannot allow you to have voting rights.

GW: That is completely unacceptable. Our demand is simple: two representatives per colony as voting members, or we are walking away and will explore other options.¹³

B: Colonists, the British have tried to reach an agreement with you. Is there anything you can give up to meet them halfway?

SA: I am afraid that there is not. They have had decades to improve relations with us. Maybe their suggestion of a non-voting member would have worked 20 years ago, but at this point in time, we demand representation or we are going to declare war. This is something my colleague did not mention, but I want to make it very clear: we have the manpower to win. We can promise young, poor, and uneducated men freedom if they fight for us. We will retain the help of French and German missionaries if we decide to fight you. And finally, because of the enormous size of our colonies, it will be virtually impossible for British forces to occupy our land. We think it is best if you think twice before you shy away from our demand.

KG: I have never been so insulted in my life. I am the King of the greatest and most powerful country in the world. I am not going to take orders from you colonial lowlifes. And while we are at it, Mr.

¹³ The Colonists are trying to use stonewalling as a strategy to have the mediation turn in their favor. By giving the British this ultimatum, the Colonists are trying to enhance their bargaining position at the mediation.

Franklin, I want you to be removed as the mediator. You have not helped one bit. My colleague John Smith informed me that based off his experience with you in the Honest Whigs, you were an intelligent gentleman, and was someone that would be able to draft a creative plan that is suitable for both countries. You have failed my expectations.

B: Sir...

GW: Excuse me, Mr. Franklin. We had no idea that you have partaken in peculiar organizations such as the Honest Whigs. Had we known that you were part of that group, we definitely would not have agreed to mediation. It seems as though you are completely against our side. No wonder you are asking us to concede.

B: Gentleman, despite my ties to both sides, I have not once said anything that would jeopardize the results of this mediation. I truly believe that both countries can work out a deal.

K: Mr. Franklin, we have already made concessions and they have not. They can have non-voting members, and that is our final deal.

GW: I am afraid we have no choice but to inform our Patriots about this failed mediation.

B: Gentleman, please. Perhaps I can suggest someone else as mediator?

SA: Mr. Franklin, I, nor anyone else in this room, trusts you. Your time as a mediator is over.

Final Thoughts

As I sit here today, I can't help but think that it was my fault that both countries went to war. As I have learned over the years, mediation can be an effective tool if used correctly. Looking back on the experience, I probably would have found someone else to mediate. I wanted to be the mediator because of my own personal interest in this matter. If I could do the mediation

over again, I would have suggested that both sides choose someone who is not easily intimidated by powerful figures, someone who had better negotiating skills, and someone who did not know either side personally. I will say, however, that it is hard to mediate when the King of the most powerful country in the world is sitting across from the (soon to be) President of the United States and General of the Army. What I found interesting is that the Colonists were unwilling to concede. The King and John Smith conceded after recognizing and acknowledging (amongst themselves), how vital the Colonies were to Britain. Though I will concede that my mediation was horrific, I am almost certain the Colonists would have declared their independence one way or the other. Despite the powerful figure of the King, and despite being part of the greatest empire of the 18th century, the Colonists had their hearts set on a new land, a new leader, and new freedoms. I am not sure any mediator would have been able to solve this stubborn attitude.

After America gained its independence, many of the Patriots forgave me, and agreed to put me on the \$100 bill. I do not know how I pulled that off, but I am happy it ended the way it did. Needless to say, I have not done any more mediations.