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Hamilton and ADR

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Alexander Hamilton

- born 1755/57, Nevis, British West Indies
- killed 1804, NYC, in a duel with Aaron Burr.
- the New York delegate to the Constitutional Convention (1787)
- major author of the *Federalist* papers,
- first Secretary of the Treasury of the United States (1789–95), who was the foremost champion of a strong central government for the new United States.
- Also, a practicing lawyer when he wasn't a politician, practiced both criminal and civil law. His civil practice included mediation and arbitration.

Lin Manuel-Miranda wrote an award-winning Broadway musical about his life, based on the biography by Ron Chernow. If you haven't seen it, I highly recommend it!

Many of the songs and scenes involve themes critical to the field of dispute resolution. For example:

- "Meet Me Inside" – Hamilton wants to fight in the army; Washington orders Hamilton to go home to be with his pregnant wife - arbitration
- Yorktown - war; violent battle
- "Cabinet Battle #1" - persuasive advocacy; oral debate
- "Say no to this" – conflict between loyalty to wife and desire; lead to blackmail
- Schuyler Defeated - Burr ran for senator to unseat Schuyler; Jefferson resigned to run for President to have his views prevail
- One Last Time: resign to allow nation to move on and stop partisan fighting
- Use of writings to resolve conflict: Federalist Papers - writings to defend constitution; Reynolds Pamphlet to expose Hamilton's affair
- "Burn" - burn letters; Eliza erases herself from the narrative

Today, I share a bit more in depth two of the most meaningful songs to me, in terms of how they resonate with our field of ADR.

"The Ten Duel Commandments"

Duels, an illegal process in most places where two people resolve a dispute about one's honor (a values-based disagreement impinging on someone's integrity or identity), emerged in early modern Europe and were typically fought between men from the upper classes. The song recounts a duel between Lt. Colonel John Laurens and Major General Charles Lee as a result of disparaging remarks by Lee about George Washington. Alexander Hamilton is Laurens' "second," and Aaron Burr is Lee's "second."[1] In the actual duel, Laurens "won," after wounding Lee.

[1] In actuality, Major Evan Edwards, not Burr, was Lee's second.

The song sets out the ten rules of dueling in that era, which were part of the **dispute system's design** to reduce the chance of death, to validate and articulate norms, and to promote apologies. In addition to the biblical Ten Commandments, Miranda drew inspiration from the rap song "Ten Crack Commandments," which served as a guide to illegal activities during the 1990s.

The popularity of dueling in the US began to decline by the start of the Civil War – ultimately it was public opinion, not anti-duel laws, that ended the practice. Often people would not really shoot each other but would instead fire into the air, or not fire at all. The point was to demonstrate your seriousness about the insult by committing yourself and the other to a life-or-death contest.

[LISTEN TO SONG and READ LYRICS at:
https://www.youtube.com/watch?v=Pu-qAVddo7g]

The rules envision three opportunities for peaceful resolution where the alleged offender can apologize – at steps 1, 3 and 8.

Step 1: "The challenge; demand satisfaction, if they apologize no need for further action"

Step 2: Role of the second: "Negotiate a peace - or negotiate a time and place." Serve as negotiators.

Step 3: explicit requirement of seconds to negotiate

"Most disputes die and no one shoots" – negotiation settles most disputes

Step 4: Doctor: paid in advance, otherwise he might not come). Treated with civility and doesn't watch, because his involvement would betray Hippocratic oath and might subject him to criminal liability.

Steps 5-7: Preparation for duel including location and confess sins. Happens in the morning (before the sun is in the sky), in a "high and dry" place.

Step 8: "Last chance to negotiate, send in your seconds to set the record straight"

Step 9 and 10: Duel

Banter between seconds:

* Burr: dumb, immature, absurd to pay for an insult with one's life (duels are irrational, dangerous, emotional)

** Hamilton: you have to answer for your words (duels promote self-reliance, responsibility, alignment between word and deed)

[Show how the Ten Duel Commandments fit in basic rules of Dispute Systems Design – build in feedback loops and repeated opportunities to settle.

Design principles [developed by DS designers]

- Focus on values and interests (dignity; clearing name; reputation)
- Build in "loop-backs" to negotiation (steps 1, 3 and 8)
- Provide low-cost rights and power backup mechanisms (seconds, doctor)
- Build in consultation before and feedback after (Washington gives feedback to Hamilton right after duel)
- Arrange procedure in a low-to-high cost sequence (talk first, "seconds" try to negotiate, then duel)
- Provide disputants with necessary motivation, skills and resources (doctor; witnesses; in NJ where legal)

Second song: **Room Where it Happened**:

In order to push his plan through for the economy, which involved a strong centralized banking system and the federal gov't's assumption and consolidation of the states' war debt and was opposed by many, he made a deal with Thomas Jefferson, then Secretary of State, for his support and the South's support in exchange for his agreement to move the capital of the US to the banks of the Potomac, on land we now call Washington DC.

In the song, Aaron Burr expresses regret that he wasn't part of that negotiation and compromise, and expresses the well-understood view of ADR that you have to be at the table – present in the room – to participate meaningfully in a negotiation. LMM used a jazz-inspired musical style, complete with banjo, and meant to be a show-stopping number. It evokes the classic back room politics where shady deals get made.

PLAY SONG and LYRICS at https://www.youtube.com/watch?v=_vIjtHjoXhE

Point out that the lyrics of the song include ADR terminology including "getting to yes," "negotiate time and place," where "the sausage gets made" – all connected to the concept of integrative bargaining.

Also, the importance of setting, location, who is at the dinner table.