

The Whiskey Rebellion and the New American Republic

A few years after the Constitutional Convention, the new American republic faced a serious threat: Frontier farmers rebelled against a whiskey tax and threatened to secede.

In 1790, George Washington was president, and the first Congress was meeting in Philadelphia, the new nation's capital. In the western counties of Pennsylvania, however, many frontier settlers grew increasingly unhappy with the new federal government.

After the French and Indian War ended in 1763, hardy settlers had begun to move into the area surrounding Fort Pitt, where two rivers joined to form the Ohio River. Settlers soon called the four Pennsylvania counties in the area the Forks of the Ohio, or simply the Forks. Fort Pitt became the town of Pittsburgh, with a population of about 1,000 in 1790.



On October 3, 1794, President George Washington followed by Secretary of the Treasury Alexander Hamilton reviewed troops assembled to put down the Whiskey Rebellion. (U.S. Army National Guard)

blocked American shipping coming down the Mississippi River. The new federal government gave little priority to building Western roads or negotiating access to New Orleans.

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Most people living in the Forks were poor farmers. Some were squatters, who illegally farmed land owned by Eastern speculators. Many men had fought in the American Revolution. They were tough and often uneducated, but they valued their freedom.

When soldiers returned to the Forks from the Revolutionary War, Indian raids were a serious problem. The national government failed to stop them. The men of the Forks defended themselves by forming militias, which included every adult male with a musket.

The farmers grew corn and other crops but had no practical way to ship them to cities and seaports. The rough dirt tracks over the Allegheny Mountains to Philadelphia made transporting bulky freight by land too expensive. In addition, the Spanish, who then possessed New Orleans,

Justice

This edition of *Bill of Rights in Action* looks at the idea of justice. The first article explores the Whiskey Rebellion, an armed insurrection that threatened the new American republic. Leaders of the rebellion objected to what they considered an unjust federal tax on whiskey. The second article looks at Cicero, the leading champion of the Roman Republic, and his ideas on the just state. The last article explores John Rawls, who many consider the greatest political philosopher of the 20th century, and his ideas on justice.

U.S. History: The Whiskey Rebellion and the New American Republic

World History: Cicero: Defender of the Roman Republic

Government: "Justice as Fairness": John Rawls and His Theory of Justice

The people of the Forks manufactured one valuable and easily transportable product. They distilled whiskey from grains like corn and rye. They not only consumed whiskey themselves (and in large quantities) but also used it as money since currency and especially coins were always in short supply.

Traders could tie whiskey kegs on the backs of horses and mules to take over the mountains to the Eastern cities. Distillers sold whiskey directly to the army, which was trying to establish forts along the Ohio River.

Some distilleries were large operations, but nearly all farmers of the Forks made at least a few gallons of whiskey each year at harvest time. They bartered the whiskey for needed supplies or sold it for cash. Many depended on this income to avoid foreclosure on their farms.

Henry Hugh Brackenridge was among the few well-educated men west of the Alleghenies. Born in Scotland, he attended Princeton to train as a minister, but he also became a lawyer. He was a chaplain in Washington's army during the revolution, and afterward moved to Pittsburgh to practice law.

Brackenridge puzzled his neighbors. He defended squatters against Eastern speculators who bought Western land at pennies to the acre in hopes of selling it for a big profit. But the lawyer also represented speculators who wanted to evict the squatters. In one case, he defended a dozen squatter families when George Washington, before he became president, purchased the title to the land they were working. Brackenridge sided with the settlers in their battles with the Indians, but also defended an Indian accused of murdering a carpenter working on his own house.

Brackenridge sympathized with the grievances of the frontier settlers but also favored a strong federal government under the new Constitution. This baffling man became a central figure in the dramatic events that threatened to rip apart the new American republic.

Hamilton and the Excise on Whiskey

In Philadelphia, Secretary of the Treasury Alexander Hamilton faced the problem of the Revolutionary War debt. The national and state governments had borrowed tens of millions of dollars from foreigners and American citizens.

Hamilton worried that if the United States failed to meet its debt obligations soon, the federal government would have difficulty borrowing in the future. Paying off the

debt, argued Hamilton, would inspire the confidence of creditors, who would be more willing to finance roads, ports, and other projects necessary for the new nation to grow.

In 1790, Hamilton proposed a bold financial plan to Congress. He wanted to consolidate all national and state debts and pay them off as quickly as possible. But where would the government get the money?

Almost all revenue that the United States collected came from customs duties on foreign imports. Therefore, Hamilton recommended new duties on wine and liquor from foreign countries. He also wanted to impose an excise tax on products made within the country, specifically on the distilling of whiskey.

The proposed excise on whiskey provoked great controversy in Congress. This would be the first time a tax would apply to a product made in the United States. Americans remembered the long history of resisting excises in England because tax collectors searched people's homes for taxable items and had the power to impose fines without a trial. In America, the Stamp Act was an excise on various documents and helped bring on the American Revolution.

Western representatives in Congress opposed the excise on whiskey, calling it the leading edge of tyranny. They claimed that the burden of this tax would fall most heavily on poor frontier settlers. Others charged the whiskey tax was a plot by Hamilton and his Eastern merchant friends to shift taxes from the rich to the poor.

Hamilton responded that the frontier settlers should share the tax burden with Eastern merchants, who were already paying import duties. He insisted that the whiskey tax rate was equal for rich and poor alike. Hamilton also saw the excise as an opportunity to establish firm federal authority in the states.

In 1791, Congress passed the whiskey excise. Under the law, federal officers would register stills and collect taxes from those who made the whiskey. The law required the tax be paid in coins, not paper notes that were often worthless. The officers themselves took a 1 percent commission on the taxes they collected.

Distillers could pay the tax at nine cents per gallon or buy a license for a yearly flat fee. Large distillers, who had the advantage of operating more efficiently during most of the year, could reduce the tax they paid to six cents per gallon. Those violating the whiskey tax law faced heavy fines.

Rebellion in the Forks

John Neville, the son of a Virginia planter and a general in the Revolutionary War, dominated the economy of the Forks. He owned 10,000 acres of farmland worked by slaves. Using his political connections, Neville headed a network of relatives and friends who held many of the supply contracts for the army in the Ohio Valley. He lived with his family in a mansion called Bower Hill.

Neville also operated the largest whiskey distillery in the Forks, selling mainly to the army. He did not, however, have a monopoly on whiskey sales because nearly every farmer in the region, rich and poor, operated a still. Neville favored the whiskey tax as a way of driving the small producers out of business. In 1791, Hamilton appointed him head of whiskey tax collections for the Forks.

From the start, Neville had trouble hiring deputy tax collectors. The few who took on this unpopular job faced attacks by mobs of armed men. The attackers painted their faces black and further disguised themselves as Indians or by wearing women's dresses. These "Blackface Raiders" stripped the tax collectors naked, covered them with tar and feathers, and left them in the forest.

Soon mysterious notes circulated from "Tom the Tinker" who threatened not only the taxmen but also anyone who paid the hated whiskey excise. Blackface Raiders burned their barns and shot up their stills. "Liberty Poles," with flags and other symbols of dissent attached to them, appeared in the towns. A mob burned John Neville in effigy.

The men of the Forks organized themselves into armed militias. They also gathered at meetings to petition Congress. They protested the whiskey excise as an unequal tax that burdened the poor, who did not have the hard cash to pay it.



Secretary of the Treasury Alexander Hamilton favored an excise tax on whiskey to help pay off the debt created by the Revolutionary War. (Library of Congress)

Hugh Brackenridge attended an early protest meeting in Pittsburgh. He spoke against the whiskey tax but objected to violence and worried about a civil war between the East and West. People wondered on whose side he really was.

Petitions against the tax came not only from the Forks but also from throughout the Western frontier. Hamilton dismissed them. By 1793, whiskey tax collections were at a standstill everywhere. John Neville urged Hamilton to send troops to the Forks to enforce the law.

In February 1794, 500 militiamen from Mingo Creek near Pittsburgh formed an organization with bylaws and even a court to enforce their stand against the whiskey tax. They continued to meet and petition Congress with all their

grievances against the federal government. Hugh Brackenridge attended some meetings, representing a small group of Pittsburgh moderates. In Philadelphia, Hamilton considered such assemblies unlawful attempts to destroy federal authority.

In July 1794, Hamilton sent a U.S. marshal to assist John Neville serve court papers on farmers who had refused to register their stills and pay the tax. The Mingo Creek group met and decided to arrest the marshal and put him on trial. About 600 militiamen marched to Bower Hill, Neville's home, where they believed the marshal was staying.

A two-day battle erupted between the militiamen and Neville, a handful of federal troops from Pittsburgh, and Neville's armed slaves. Only a few men died in the battle, including the militia leader. In the end, Neville escaped. The militiamen ransacked his house, drank his whiskey, and burned the place down. The marshal had never been at Bower Hill.

At a Mingo Creek meeting, militia members asked Hugh Brackenridge if what they had done was "right or

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wrong.” He replied they were morally right but legally wrong. Privately, he feared they had committed treason. The rebels decided to call a large convention of delegates from the four counties of western Pennsylvania plus part of Virginia to consider seceding from the Union.

Up to 7,000 militiamen from the Forks and beyond gathered a few miles from Pittsburgh. Brackenridge and other moderates feared the militiamen might burn the town where Neville and his allies were hiding. Brackenridge, however, negotiated a deal with the rebel leader for Pittsburgh to banish Neville and his supporters. A town committee agreed, the Neville faction left, and Pittsburgh did not burn.

Submission and Amnesty

On August 14, 1794, 225 delegates and many armed guards met in a convention at Parkinson’s Ferry, south of Pittsburgh. The slogan of the American Revolution, “Don’t Tread on Me,” appeared. The rebels produced their own flag. The Forks was on the verge of declaring independence. Then word came that a commission sent by President Washington to negotiate peace had suddenly arrived.

Over the next few days, the president’s commission met with a small committee from the Parkinson’s Ferry Convention. The commissioners demanded that the rebels submit to the laws of the United States and renounce violence. In exchange, President Washington would grant an amnesty to all who had participated in the rebellion. There was one catch. The rebel submission had to be unanimous.

Back at the convention, a committee of 60 debated the commission’s offer. Many expressed outrage at the terms. Radical Mingo Creek militiamen boasted they would defeat any federal army coming over the mountains. Moderates also spoke, including Hugh Brackenridge.

Brackenridge went right to the point. “We must therefore either overthrow [the United States] or it must overthrow us.” He argued that to reject the commission’s proposals was a declaration of independence, which was neither practical nor possible. “It is, therefore, the last and only advice I have to give,” he said, “that you acquiesce [agree] with the propositions of the commissioners and accept the amnesty offered you.” Brackenridge with his appeal to reason and reality appeared to turn the tide against secession.

Fearing the armed and angry Mingo Creek radicals, the committee of 60 at first did not even want to vote. Finally, someone proposed a secret ballot by writing both “yea” and “nay” on slips of paper. Each voter would tear the ballot in half, drop his vote in a hat, and eat the other half. To the shock of the radicals, the vote was 34 “yeas” to accept the commission’s offer and 23 “nays.”

The commissioners, however, rejected the vote as not being close to unanimous. Even so, they agreed to hold a referendum, asking every male over 18 in the rebellious counties to sign a loyalty oath to the United States. This resulted in a strong majority in favor of ending the rebellion, but a stubborn minority refused to sign the oath.

Occupation of the Forks

In Philadelphia, Washington and Hamilton prepared to invade the Forks with a federal army to suppress the rebellion and re-establish federal authority. Neither believed the loyalty oath referendum resulted in a large enough majority. In a proclamation he issued on September 25, 1794, Washington declared that it was clear “violence would continue.”

Washington federalized militias from four states to assemble an army of 13,000, larger than the force he commanded at Yorktown. Washington personally led this army part of the way. He returned to Philadelphia when it became clear there would be no organized resistance.

General Henry Lee then took command of the federal army, accompanied by Hamilton and a triumphant John Neville. Meanwhile, about 2,000 rebel radicals fled down the Ohio River and disappeared forever into the wilderness.

The federal troops quickly occupied Pittsburgh and the four counties of the Forks. They met no armed resistance. Hamilton launched a program of mass arrests. Soldiers rounded up hundreds of men from their homes, sometimes in the middle of the night, and marched them to primitive lockups where guards often abused them. Hamilton and army officers interrogated the prisoners, especially about the role of Hugh Brackenridge, who they believed was the mastermind of the rebellion. Ironically, many of the rebels now considered him a traitor to their cause.

John Neville fed Hamilton incriminating evidence about Brackenridge, some of it invented. Finally,

Hamilton personally interrogated the lawyer and got his side of the story. After some checking, Hamilton discovered Brackenridge's actions had been "horribly misrepresented." Hamilton released him.

In the end, only 12 rebels faced trial in Philadelphia. Juries convicted two for relatively minor offenses, and Washington pardoned them (the first use of a presidential pardon).

In the Forks, a small occupation force remained for a while to ensure federal authority. John Neville restored his dominance in the local economy. Hugh Brackenridge later became a member of the state supreme court. Finally, after the election of Thomas Jefferson as president in 1800, Congress repealed the whiskey excise.

Brackenridge wrote his own account of the Whiskey Rebellion to help clear his name. He ended up agreeing with the actions of Washington and Hamilton. He also, however, admired the spirit of the people. "And I will pledge myself," he wrote, "they will not disgrace you in any enterprise it may be necessary to undertake for the glory of our republic however daring and hazardous it may be."

For Discussion and Writing

1. Write a petition to Congress, listing the grievances the settlers of the Forks had against the federal government in 1794.
2. Why did Hamilton propose a whiskey excise? Do you think it was a fair tax? Why?
3. Do you think the Whiskey Rebellion was justified? Explain.

For Further Reading

Brackenridge, Hugh Henry. *Incidents of the Insurrection*. New Haven, Conn.: College & University Press, 1972 [originally published 1795].

Hogeland, William. *The Whiskey Rebellion*. New York: Scribner, 2006.

Evaluating the Major Participants in the Whiskey Rebellion

Seven small groups should each evaluate one of the following participants by discussing this question: *Does the record of this participant in the Whiskey Rebellion show that the participant was right or wrong?* Groups may decide that some participants had a mixed record. Each group should then report its conclusion with reasons to support it.

The Participants

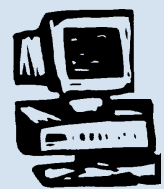
1. Secretary of the Treasury Hamilton
2. John Neville
3. Blackface Raiders
4. Mingo Creek Militiamen
5. Committee of 60
6. President Washington
7. Hugh Brackenridge



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Cicero: Defender of the Roman Republic

Cicero was a Roman orator, lawyer, statesman, and philosopher. During a time of political corruption and violence, he wrote on what he believed to be the ideal form of government.

Born in 106 B.C., Marcus Tullius Cicero came from a wealthy landowning family. But he was not from one of the old patrician families that held most of the political power in the Roman Republic. He studied law and rhetoric (public speaking and writing) under a celebrated Roman orator and statesman.

As a young man, Cicero witnessed many great orators speaking at trials in the outdoor Roman Forum. They inspired him to seek fame and glory as a trial advocate (a type of early lawyer) and political leader.

Cicero along with boyhood friends like Julius Caesar, grew up as political crises began to overwhelm the Roman Republic. Revolutionaries had established the republic over 400 years earlier when they overthrew the last Roman king.

WORLD HISTORY

The Roman Republic, as it evolved over the centuries, attempted to satisfy the political demands of two major groups of citizens. First were the old aristocratic families and their upper-class allies, which included Cicero. The second group included everyone else, the commoners.

The Roman Republic had an elaborate system of checks and balances to prevent one man or one class from controlling the government. For example, while important government officials usually belonged to the upper classes, an assembly of “the people” elected them for one-year terms.

Instead of a king, the republic installed two “consuls” to rule. In theory, they replaced the king as heads of state. Their main job, however, was to enforce the will of the Senate. Each consul could veto an act of the other. Most important, they took charge of the army in wartime.



Cicero was the Roman Republic's leading advocate, orator, and defender. This statue of him stands in Rome today. (ra-photos/iStock.com)

The Senate was the center of power in the Roman Republic. Every man who served as one of the major elected officials became a lifetime member of the Senate. Senators set government policies and debated proposed laws. But when the Senate passed legislation, a people's assembly had to approve it before it became law.

In one more check on power, 12 elected tribunes represented the interests of the commoners. The tribunes could propose laws before the Senate and veto any of its actions.

This was how the Roman Republic was supposed to work. By Cicero's time, however, a number of fatal weaknesses had undermined the system. Rich Romans commonly bribed voters and trial jurors. Provincial governors (usually retired consuls) extorted money from people in their provinces. Military men periodically used their armies to back up political demands.

One feature of the Roman Republic worked in favor of power falling into the hands of one man. During wartime and other emergencies, the Senate could appoint a dictator with absolute powers for a six-month period. After this period, the dictator's power ended. In 83 B.C., however, Sulla, a Roman general, forced the Senate to appoint him dictator indefinitely. He then executed thousands of upper-class Romans to secure his power.

The 24-year-old Cicero witnessed it all.

Savior of the Republic

In the year 81, Cicero launched his career as a trial advocate. In most of his trials, he argued for the defense in criminal cases. Cicero studied the gestures and speaking patterns of actors to give him an edge. Soon, his skills as an orator made Cicero the leading court advocate in Rome. Grateful clients made Cicero a rich man.

At age 27, Cicero married a woman from a wealthy family but then left Rome to study philosophy and polish his oratory in Greece. When Cicero returned in 77, Sulla had resigned his dictatorship and soon after died.

At age 30, Cicero decided to begin a political career. His goal was to become a consul. Politicians usually had to climb a political ladder, winning election to several government positions in a certain order before running for consul.

Cicero won all his elections and then campaigned for one of the consul positions in 64. He ran as a “New Man,” meaning he did not have the advantage of coming from one of the old patrician families. He depended on his oratory, reputation as a court advocate, and honesty. Cicero’s chief opponent, an arrogant patrician named Catilina, ran on a platform of canceling all debts, including his own. Many believed he had participated in several murders. Cicero accused him of being “soaked in blood.”

Cicero won by a big margin. Catilina was so angry that he plotted to stage a violent takeover of the government. When Cicero took office, he learned of the plot and secured “emergency powers” from the Senate to defend the republic. Catilina fled the city, but his top lieutenants stupidly wrote down the details of their plan to kill all the senators. When this fell into Cicero’s hands, he arrested five plot leaders.

Cicero wanted to execute the five leaders immediately because of the emergency then in force. Roman law, however, normally required a trial before imposing the death penalty. Caesar, a general and member of the Senate, said execution without trial would set a bad precedent. But most senators finally agreed with Cicero. He personally supervised the execution of the men, and the Senate proclaimed him savior of the republic. Cicero thoroughly enjoyed the glory.

Caesar, elected a consul for the year 59, allied himself with two other army generals, Pompey and Crassus. With thousands of soldiers behind them, the three mili-

tary men, called the “Triumvirate,” intimidated the Senate with their political demands. They also asked Cicero to join them, but he refused, believing the Triumvirate was a threat to the republic.

After completing his year as consul, Caesar took his troops to fight uprisings in Gaul (which encompassed today’s France, Belgium, and northern Italy). Even so, the Triumvirate remained a powerful force in Roman politics.

Cicero’s Ideal Government

Cicero resumed his trial work, but his political career had stalled. He decided to turn to writing as a way to influence public affairs.

In 56, Cicero wrote two important books on government, known today as *The Laws* and *The Republic*. He wrote these books in the form of dialogues, discussions among friends, modeled after earlier works by the Greek philosopher Plato. Cicero wrote on papyrus scrolls and published his writings by using the common practice of having slaves copy them.

In these two books, Cicero wanted to restore the republic to its uncorrupted and truest form, which he believed had existed several generations earlier. He intended to persuade good and honorable men to participate actively in public affairs. Politics, he argued, was the most honorable of all professions. His ideas were not new. He relied on Greek and Roman writings, many of which were later lost.

In *The Laws*, Cicero explored his concept of natural law. “Law is the highest reason,” he wrote, “implanted in Nature, which commands what ought to be done and forbids the opposite.” Thus, natural law is the guide for right and wrong in human affairs.

Since reason “is certainly common to us all,” Cicero asserted, the law in nature is “eternal and unchangeable, binding at all times upon all peoples.” Cicero warned that it was “never morally right” for humans to make laws that violate natural law.

Without laws, Cicero reasoned, there can be no state or government. More important, he continued, there must be equality under the law with no special exceptions. This is essential, he said, for justice, which in turn is necessary for a successfully functioning government.

In *The Republic*, Cicero argued that laws are not enough for a just state. There also must be liberty. “But if liberty is not equally enjoyed by all the citizens,” he

declared, “it is not liberty at all.” Therefore, liberty cannot exist unless “the people have the supreme power” in government.

Cicero looked into the ideal form of government for upholding natural law, establishing justice, and ensuring liberty. He started by examining three “good states” and their perverted forms, described earlier by the Greek historian Polybius.

Cicero believed the best of the good states was a monarchy, but the king could turn into a tyrant. Cicero also approved of an aristocracy, rule by the best men, but it was vulnerable to conspiracies by factions intent on grabbing power (an oligarchy). In Cicero’s view, the worst of the good states was a democracy, where all the people participated directly in running the government. It eventually led to mob rule.

Cicero went a step further than Polybius to describe a cycle of government forms. “The government is thus bandied about like a ball,” Cicero wrote, “tyrants receive it from kings; from tyrants it passes either to aristocrats or to the people; and from the people to oligarchs or tyrants.” Therefore, he concluded that all three good states were flawed and unstable.

Even so, Cicero recognized each good state had its merits. A king could act quickly and decisively in an emergency. The people in a democracy enjoyed liberty with equal rights. The aristocrats possessed experience and wisdom.

Cicero proposed that the ideal government “is formed by an equal balancing and blending” of monarchy, democracy, and aristocracy. In this “mixed state,” he argued, royalty, the best men, and the common people all should have a role.

Unlike many of the political philosophers before him, Cicero was an experienced politician and had a working model for his “mixed state.” This was the Roman Republic, with its consuls (co-kings), Senate (aristocrats), and democratic assemblies (commoners).



Speaking before the Roman Senate, Cicero denounced Catalina and his plot to take over the government and kill all the senators. (Wikimedia Commons)

To achieve his ideal government, Cicero argued that Romans only had to restore the republic to its previous perfect form. He proposed strengthening the aristocratic consuls and Senate at the expense of the democratic assemblies. But Cicero’s reforms did little to address the mounting forces endangering the existence of the republic.

The Fall of the Republic

The Roman Republic faced a great threat from ambitious military men, especially the Triumvirate. When Crassus died in a disastrous war in the eastern empire, Pompey and Caesar each plotted to become master of Rome, and civil war erupted.

In 49, Caesar led his legions into Italy from Gaul to confront Pompey. Fearing Caesar, the Senate made Pompey sole consul. Pompey, however, fled to Greece followed by Caesar and his close ally, Mark Antony. Cicero, who at first wanted to be a neutral mediator between the two generals, finally decided to join Pompey since he had the backing of the Senate.

In 48, Caesar destroyed Pompey’s legions in battle. Pompey sought refuge from the Egyptians, but they executed him, thinking it would please Caesar.

The frightened Senate made Caesar dictator, but many feared he wanted to become king, which would end the republic. Cicero reconciled with Caesar, but he was depressed about the fate of the republic. He turned to writing works on philosophy influenced by the Stoics and other Greek thinkers.

On March 15, 44 B.C., a conspiracy of up to 60 senators led by Cassius and Brutus stabbed Caesar to death in the Senate. Cicero was not a conspirator, but he witnessed the assassination. Afterward, Brutus congratulated Cicero for once again having a free Republic. Cicero believed the murder of Caesar had saved the Republic.

Caesar's friend Mark Antony, who was a consul, began to take charge and turned public opinion against the conspirators, forcing Cassius and Brutus to flee Italy. Soon, it became clear that Antony was using Caesar's name to take control of Rome.

At age 60, Cicero again took center stage in the Senate and launched a series of more than a dozen speeches against Antony, calling for the Senate to declare war on him. "I defended the republic as a young man," he exclaimed, "I shall not desert her now that I am old."

Caesar's adopted 19-year-old son and heir, Octavian, was recruiting an army and offered to side with Cicero and the Senate against Antony. Cicero leaped at this chance to save the republic once again. He thought he could use the teenager and then dismiss him. Cicero remarked to a friend, "The young man should be praised, honored, and then gotten rid of."

But Octavian ended up using Cicero and the Senate to maneuver his way into an alliance with Antony and another general, creating the Second Triumvirate. They agreed to divide the western empire among themselves and placed hundreds of senators and other nobles on an execution list. Antony insisted that Cicero be included.

In November 43, Cicero retreated to his seaside villa, intending to sail to Greece. A band of armed men sent by Antony caught up with him and slit his throat. Antony ordered Cicero's head and hands nailed to the speaker's rostrum in the Forum.

Octavian eventually defeated Cassius, Brutus, and Antony in battle. Taking the title Emperor Caesar Augustus, he ruled as a king. The Roman Republic was dead.

Augustus banned Cicero's works. One day, according to the Roman biographer Plutarch, Augustus caught his grandson reading one of Cicero's books. Augustus took the book from the boy and read from it for a long time. He then said, "My dear child, this was an eloquent man, and a patriot."

For Discussion and Writing

1. What do you think was Cicero's greatest achievement? Why?
2. Compare Cicero's concept of a "mixed state" with the United States' form of government.
3. Write Cicero a letter, discussing where you think he went right and where he went wrong in trying to save the Roman Republic.

For Further Reading

Everitt, Anthony. *Cicero, The Life and Times of Rome's Greatest Politician*. New York: Random House, 2002.

Williams, Rose. *Cicero the Patriot*. Wauconda, Ill.: Bolchazy-Carducci, 2004.

A C T I V I T Y

Cicero's Words

- A. Listed below are six quotes from Cicero's speeches and writings. Form six groups to each discuss one quote and answer the following questions about it:
 1. What does Cicero mean?
 2. Are Cicero's words relevant today? Why or why not?
 3. Do you agree or disagree with Cicero? Why?
- B. Each group should report its answers to the rest of the class.

Quotes from Cicero's Works

1. "Nothing rarer can be found in the race of man than an accomplished orator."
2. "No place is so strongly fortified that money cannot capture it."
3. "The laws are silent in times of war."
4. "Nothing is more unreliable than the people."
5. "We are all attracted by praise, and the best men are especially motivated by glory."
6. "There is indeed, no uglier kind of state than one in which the richest men are thought to be the best."



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'Justice as Fairness': John Rawls and His Theory of Justice

Many consider John Rawls the most important political philosopher of the 20th century. He took an old idea, thought of a fresh way of using it, and came up with principles for a just society.

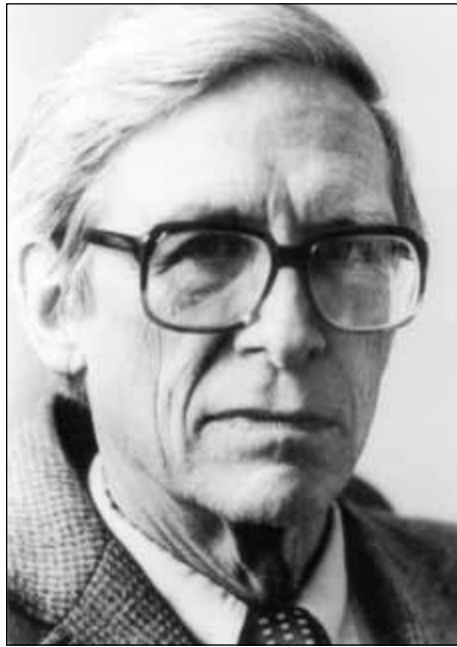
John Rawls was born in Baltimore, Maryland, in 1921. His father, a corporate lawyer, supported President Franklin Roosevelt and the New Deal. His mother was a women's rights activist. The second of five sons, Rawls tragically contracted and passed on infectious diseases to two of his brothers who died from them.

Rawls attended mainly private schools before entering Princeton in 1939. He was unsure about a career but ended up majoring in philosophy. This stimulated an interest in religion, and he considered training for the ministry.

After graduating with a degree in philosophy in 1943, he enlisted in the Army and served in the South Pacific for two years in an infantry intelligence unit. After his discharge from the Army following the war, he returned to Princeton and pursued an advanced degree in philosophy under the GI Bill of Rights. He earned his PhD in 1948. In 1950, Princeton hired Rawls as an instructor in the philosophy department. But he also continued his own studies, especially in economics.

In 1952, Rawls won a Fulbright fellowship to Oxford, where he first developed the idea for what later became his famous "thought experiment." After returning to the United States, he joined the philosophy faculty at Cornell, then at the Massachusetts Institute of Technology, and finally at Harvard. He remained a professor of philosophy at Harvard from 1962 until he retired in 1991.

Rawls was mainly an academic man, involved in abstract thinking and writing. During the Vietnam War, however, he led an effort at Harvard that questioned the fairness of student



John Rawls (1921–2002) wrote *A Theory of Justice*, one of the most widely acclaimed works of political philosophy in the 20th century. (Harvard University Press)

military draft deferments. Why, he asked, should college students, many with social and economic advantages, avoid the draft while others without these advantages had to go to war? He preferred a lottery system, which the United States eventually adopted late in the Vietnam War.

During the 1960s, he mainly concentrated on writing *A Theory of Justice*, published in 1971. This complex work attempted to develop standards or principles of social justice that could apply to real societies.

Justice as Fairness

Rawls called his concept of social justice "Justice as Fairness." It consists of two principles. Since he first published *A*

Theory of Justice, he changed the wording of these principles several times. He published his last version in 2001.

The **First Principle** of social justice concerns political institutions:

Each person has the same and inalienable [permanent] claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all.

This principle means that everyone has the same basic liberties, which can never be taken away. Rawls included most of the liberties in the U.S. Bill of Rights, such as freedom of speech and due process of law. He added some liberties from the broader area of human rights, like freedom of travel.

Rawls recognized the right of private individuals, corporations, or workers to own private property. But he omitted the right to own the "means of production" (e.g., mines, factories, farms). He also left out the right to inherit wealth. These things were not *basic* liberties in his view.

Rawls agreed that basic liberties could be limited, but "only for the sake of liberty." Thus, curbing the liberties of an intolerant group that intended to harm the liberties of others may be justified.

The **Second Principle** of social justice concerns social and economic institutions:

Social and economic inequalities are to satisfy two conditions:

first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and

second, they are to be to the greatest benefit of the least-advantaged members of society (the Difference Principle).

This Second Principle focused on equality. Rawls realized that a society could not avoid inequalities among its people. Inequalities result from such things as one's inherited characteristics, social class, personal motivation, and even luck. Even so, Rawls insisted that a just society should find ways to reduce inequalities in areas where it can act.

By “offices and positions” in his Second Principle, Rawls meant especially the best jobs in private business and public employment. He said that these jobs should be “open” to everyone by the society providing “fair equality of opportunity.” One way for a society to do this would be to eliminate discrimination. Another way would be to provide everyone easy access to education.

The most controversial element of his theory of social justice was his Difference Principle. He first defined it in a 1968 essay. “All differences in wealth and income, all social and economic inequalities,” he wrote, “should work for the good of the least favored.”

Later, when he wrote *A Theory of Justice*, he used the phrase, “least-advantaged members of society” to refer to those at the bottom of economic ladder. These might be unskilled individuals, earning the lowest wages in the society.

Under the Difference Principle, Rawls favored maximizing the improvement of the “least-advantaged” group in society. He would do this not only by providing “fair equality of opportunity,” but also by such possible ways as a guaranteed minimum income or minimum wage (his preference). Rawls agreed that this Difference Principle gave his theory of social justice a liberal character.

Finally, Rawls ranked his principles of social justice in the order of their priority. The First Principle (“basic liberties”) holds priority over the Second Principle. The first part of the Second Principle (“fair equality of

opportunity”) holds priority over the second part (Difference Principle). But he believed that both the First and Second Principles together are necessary for a just society.

The ‘Thought Experiment’

Rawls was interested in political philosophy. Thus he focused on the basic *institutions* of society. Unless such institutions as the constitution, economy, and education system operated in a fair way for all, he argued, social justice would not exist in a society.

Rawls set out to discover an impartial way to decide what the best principles for a just society were. He reached back several hundred years to philosophers like John Locke and Jean Jacques Rousseau who had developed the idea of a social contract.

Locke and Rousseau had written that people in the distant past had formed a contract between themselves and their leader. The people would obey their leader, usually a king, and he would guarantee their natural rights. This would be the basis for a just society. Thomas Jefferson relied on this social contract idea in writing the Declaration of Independence.

By the 20th century, most philosophers had dismissed the social contract as a quaint myth. Rawls, however, revived the social contract concept of people agreeing what constitutes a just society.

Rawls devised a hypothetical version of the social contract. Some have called it a “thought experiment” (Rawls called it the “Original Position”). This was *not* a real gathering with real people, bargaining over an agreement. Instead, it was an imaginary meeting held under strict conditions that permitted individuals to deliberate only by using their reason and logic. Their task was to evaluate principles of social justice and choose the best ones. Their decision would be binding on their society forever.

Rawls added a requirement to assure that the choice of social justice principles would truly be impartial. The persons in this mental exercise had to choose their justice principles under a “veil of ignorance.” This meant that these individuals would know nothing about their particular positions in society. It was as if some force had plucked these people from a society and caused them to experience severe amnesia.

Under the “veil of ignorance,” these imaginary people would not know their own age, sex, race, social class, religion, abilities, preferences, life goals, or anything

(Continued on next page)

else about themselves. They would also be ignorant of the society from which they came. They would, however, have general knowledge about how such institutions as economic systems and governments worked.

Rawls argued that only under a “veil of ignorance” could human beings reach a fair and impartial agreement (contract) as true equals not biased by their place in society. They would have to rely only on the human powers of reason to choose principles of social justice for their society.

Rawls set up his “thought experiment” with several given systems of social justice principles. The task of the imaginary group members under the “veil of ignorance” was to choose one system of principles for their own society.

Rawls was mainly interested to see what choice the group would make between his own Justice as Fairness concept and another called “Average Utility.” This concept of justice called for maximizing the average wealth of the people.

Making the Choice

The fictional persons in the experiment, using their powers of reason and logic, would first have to decide what most people in most societies want. Rawls reasoned that rational human beings would choose four things, which he called the “primary goods”:

- wealth and income
- rights and liberties
- opportunities for advancement
- self-respect

In the next and crucial step, the participants would have to decide how a society should go about justly distributing these “primary goods” among its people.

Clearly, designing economic, political, and social institutions that favored the “most advantaged” members of the society would not be justice for all. On the other hand, the members of the experiment group would rationally agree that equal rights and liberties, opportunities, and self-respect for all would be just.

But what about everyone having equal wealth and income? Rawls was sure the parties would reasonably conclude that some (but not extreme) *inequality* of wealth and income is necessary in a just society. Entrepreneurs, innovators, and leaders should be rewarded for working to improve the economy and wealth of the society.

Then how should wealth and income be distributed in a just society if not equally or skewed toward the rich? Again using their reason and logic, Rawls argued, the imaginary parties would adopt what philosophers call the maximum-minimum (or “maximin”) rule. Under this rule, the best choice is the highest minimum.

	Average Wage Per Hour	Legal Minimum Wage
SOCIETY A	\$20.00	\$7.00
SOCIETY B	\$30.00	\$1.00

In the example above, the best choice under the “maximin” rule would be Society A, which has the highest minimum wage. Those earning the average wage and above are also doing pretty well. Society B with its higher *average* wage benefits those in the middle and at the top income levels, but largely ignores those at the bottom. This is the flaw of the Average Utility social justice system, according to Rawls.

Similarly, Rawls believed the persons in his experiment would rationally choose principles of social justice that maximized benefits for the “least advantaged.” The individuals under the “veil of ignorance” do not know what position they really occupy in their society. Any one of them might be Bill Gates or an unemployed high school dropout.

To be on the safe side, Rawls maintained, the rational-thinking members of the imaginary group would choose the principles of justice that most benefited those at the bottom. In this way, Rawls believed, he had demonstrated that his Justice as Fairness principles, skewed toward the “least advantaged,” were the best for building or reforming institutions for a just society.

Rawls did not think the United States was yet a just society since it did not satisfy his Difference Principle. To Rawls, wealth and power in the United States were concentrated too much in the hands of the “most advantaged.”

A Theory of Justice revitalized political philosophy. Rawls’ book was translated into 28 languages. Philosophers all over the world wrote essays and books that discussed, analyzed, and criticized his complex theory of social justice.

Criticism of Rawls

Some critics argued that Rawls' Justice as Fairness principles did not allow enough tolerance for different religious and strongly held beliefs. If, for example, people belong to a religion that teaches men and women are unequal in certain parts of life, those beliefs would contradict Rawls' principles about equality of basic liberties and equal opportunity.

The most controversial part of Rawls' theory of justice centered on his Difference Principle, the idea that the greatest benefit should go to the least advantaged. Conservative and free-market critics argued that it is unfair to take from the most advantaged people what they have earned and redistribute it for the benefit of the less fortunate. They also argued that explanations for how people come to be in more or less advantaged positions is relevant to fairness. For example, some people deserve a higher level of material goods because of their hard work or contributions to society.

Rawls himself acknowledged that his vision for a just society was "highly idealized." He also admitted that there was little support for his Difference Principle "in our public culture at the present time." Rawls responded to his critics by re-thinking and revising elements of his theory.

Even after he retired in 1991, Rawls wrote other books on political philosophy, international justice, and human rights. But he never really finished *A Theory of Justice*. He considered it a work in progress up to his death at age 81 in 2002.

For Discussion and Writing

1. Why did Rawls use the "veil of ignorance" in his "thought experiment"?
2. Rawls said that "basic liberties can be restricted only for the sake of liberty." Do you agree or disagree? Why?
3. Do you agree or disagree with Rawls' Difference Principle? Why?

For Further Reading

Freeman, Samuel, ed. *The Cambridge Companion to Rawls*. Cambridge: Cambridge University Press, 2003.

Richardson, Henry S. "John Rawls." *The Internet Encyclopedia of Philosophy*. 2005. URL: www.iep.utm.edu/r/rawls.htm

A C T I V I T Y

Justice as Fairness

Form six groups to each evaluate one of the proposals listed below according to John Rawls' Justice as Fairness theory.

Group members should answer these questions about the proposal they are evaluating:

1. Does the proposal pass or fail John Rawls' two principles of Justice as Fairness? Why?
2. Do you agree or disagree with the proposal? Why?

Proposals

- a. Outlaw burning the U.S. flag as a form of political protest.
- b. Provide affirmative action in employment for women and racial minorities.
- c. Provide free healthcare for everyone.
- d. Enact a high minimum wage.
- e. Do away with all inheritance taxes.
- f. Provide free public education from pre-school to college.

Each group should report its answers to the evaluation questions. The students should then discuss whether they like or dislike John Rawls' Justice as Fairness idea.



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Standards Addressed

Whiskey Rebellion

National High School U.S. History Standard 8: Understands the institutions and practices of government created during the Revolution and how these elements were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights. (7) Understands the factors that led to the Whiskey Rebellion (e.g., the extent to which the rebellion was a confrontation between the haves and the have-nots; the government's reaction; similarities and differences between grievances of the Whiskey Rebels and those of the Regulators, the Paxton Boys, and the Shaysites).

California History-Social Science Content Standard 8.3: Students understand the foundation of the American political system and the ways in which citizens participate in it. (5) Know the significance of domestic resistance movements and ways in which the central government responded to such movements (e.g., . . . the Whiskey Rebellion).

California History-Social Science Content Standard 11.1: Students analyze the significant events in the founding of the nation and its attempts to realize the philosophy of government described in the Declaration of Independence. (3) Understand the history of the Constitution after 1787 with emphasis on federal versus state authority and growing democratization.

Cicero

National High School World History Standard 9: Understand how major religious and large-scale empires arose in the Mediterranean Basin, China, and India from 500 BCE to 300 CE. (1) Understands shifts in the political framework of Roman society (e.g., major phases in the empire's expansion through the 1st century CE; how imperial rule over a vast area transformed Roman society, economy, and culture; the causes and consequences of the transition from Republic to Empire under Augustus in Rome (7) Understands the political legacy of Roman society (e.g., influences of the Roman Constitution on the modern U.S. political system).

California History-Social Science Content Standard 6.7: Students analyze the geographic, political, economic, religious, and social structures during the development of Rome. (1) Identify the location and describe the rise of the Roman Republic, including the importance of such mythical and historical figures as Aeneas, Romulus and Remus, Cincinnatus, Julius Caesar, and Cicero. (2) Describe the government of the Roman Republic and its significance (e.g., written constitution and tripartite government, checks and balances, civic duty).

California History-Social Science Content Standard 12.1: Students explain the fundamental principles and moral values of American democracy as expressed in the U.S. Constitution and other essential documents of American democracy. (1) Analyze the influence of ancient Greek, Roman, English, and leading European political thinkers . . . on the development of American government.

Rawls

National High School U.S. History Standard 9: Understands the importance of Americans sharing and supporting certain values, beliefs, and principles of American constitutional democracy. (2) Understands how certain values (e.g., . . . justice . . .) are fundamental to American public life (3) Understands the significance of fundamental values and principles for the individual and society.

California History-Social Science Content Standard 12.10: Students formulate questions about and defend their analyses of tensions within our constitutional democracy and the importance of maintaining a balance between the following concepts: . . . liberty and equality . . .

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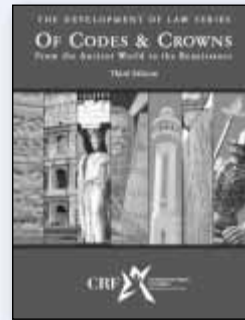
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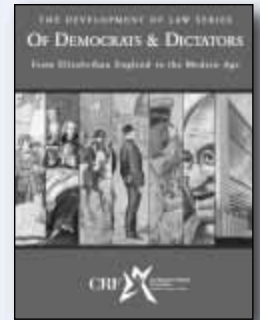


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