**Directions:** Read the statements below. Put a check in the box indicating whether you believe it is an example of property or not.

<table>
<thead>
<tr>
<th>EXAMPLE</th>
<th>PROPERTY</th>
<th>NOT PROPERTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Yourself</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Your music collection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Your iPod</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. The sheet music to a song you composed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. The lyrics you wrote to go along with your song</td>
<td></td>
<td></td>
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<tr>
<td>6. The guitar you play your song on</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. The money you earn from your record contract</td>
<td></td>
<td></td>
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</tbody>
</table>
The Founders were very concerned about property rights. Indeed, half of the Bill of Rights deals with property. Most people think of property as land, but property is much more than just land. Houses, cars, and other material things are forms of property. An individual’s property also includes her conscience, thoughts, and reputation as well as future profits from the sale of an existing object or idea. In addition to securing these things for individuals, property rights secure freedom.

What Are the Origins of American Property Rights?

Early Americans had certain things in mind when they used the word “property.” For example, if someone owned a horse, they had both a legal right to use the horse and a legal right to stop others from using the horse.

Another example of property is one’s own body. People usually do not call themselves “property,” but they clearly have a general right to do what they want with their bodies and to stop others from doing things to them. Thus, an individual owns his or her own body. This concept, called selfownership, helps explain why the Founders took so many steps to protect property.

The Founders were deeply influenced by English legal history. The Magna Carta (1215) and the Declaration of Rights (1689) restricted the power of the king or queen to take property or put people in jail at random. Eventually, British abuse of property rights, beginning with taxation without representation, pushed many colonists to argue for revolution. They had had enough of being forced to house troops, being searched without warrants, and being fined excessively.

How Did the Founders View Property?

Thomas Jefferson used one of natural rights philosopher John Locke’s famous phrases about property in the Declaration of Independence (1776). Locke wrote that people have natural rights to “life, liberty, and property.” Jefferson changed it to “life, liberty, and the pursuit of happiness.” Jefferson did not change Locke’s meaning, but expanded it. Colonists would have thought of ideas, as well as material things, as “property.” Jefferson believed that enjoying material things and satisfying creativity were essential to happiness.

James Madison, who was important in developing the Bill of Rights (1791), believed property rights were essential to protecting all rights. Protecting rights is the purpose of “a just government,”
as he wrote in his essay entitled “Property,” which was published in 1792. In it, Madison argued that man owns his body and possessions as well as the right to express his opinions and religious beliefs. Madison noted that security of property plays a big role in personal growth because it allows each person to make his own decisions about his life and property.

Madison strongly believed in a commercial republic. He urged Americans to protect the earning and owning of property through hard work. He criticized excessive taxes. Madison ended “Property” by warning his fellow citizens that if the United States wanted to be considered “wise and just,” then they must respect property rights. It is no accident that half the Bill of Rights contains property protections.

The Third and Fourth Amendments assure freedom and security of one’s home and possessions, while the Fifth Amendment guarantees due process and just compensation when the government takes one’s property. The Seventh Amendment addresses the right to jury trial in common lawsuits involving more than twenty dollars, and the Eighth protects citizens from excessive fines. The Founders understood that the protection of all kinds of property was needed to uphold their rights.

How Do Property Laws Affect Modern Life?

Questions of property law are at the center of many social concerns today. Some examples are environmental issues, protection of endangered species, and even the legality of media downloading websites. Individual property rights must be reconciled with government concerns about natural resources, and media sharers must consider whether they are “sharing” or “stealing.”

The property protections in the Bill of Rights are essential to liberty. If the government can take anything from anybody at any time, no one can be free. As students and as citizens, your right to control your own property is one way you have the power to live as you wish.

Most people think of property only as land, but it also includes material items, ideas, thoughts, and reputations.
Comprehension Questions

1. What is self-ownership? How did the Founders use this philosophy in the Constitution and Bill of Rights?

2. Philosopher John Locke wrote that people have the right to “life, liberty, and property,” while Founder Thomas Jefferson wrote that people have the right to “life, liberty, and the pursuit of happiness.” How are these phrases different? Do they mean the same thing?

3. Why did the Founders believe that protecting property was necessary to protect all rights?
James Madison and Property

Directions: Read the following excerpts and answer the questions that follow.

Excerpts from Property (1792), by James Madison

Madison’s Words

This term [property] … means “that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual.”

In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and which leaves to every one else the like advantage.

In the former sense, a man’s land, or merchandise, or money is called property.

In the latter sense, a man has property in his opinions and the free communication of them.

He has a property of a peculiar value in his religious opinions, and in the profession and practice dictated by them.

He has a property very dear to him in the safety and liberty of his person.

He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.

For Understanding

Property is something a person rightfully owns or controls, and may rightfully exclude other people from using or controlling.

Property also includes things people value and have rights to, so long as they don’t take away the rights of others.

By the first definition, a man’s property is his land, merchandise, or money.

By the second definition, a person’s opinions and the right to express them are his property.

A person’s religion and the right to follow it are especially important examples of his property.

The right to be safe and free is also a very important part of a person’s property.

A person’s ability to use his rights (freedom of speech, religion, etc.) is a type of property equally important as his ability to use his physical property (a horse, a home, etc.)
In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights...

Conscience is the most sacred of all property...

While people have rights to their property, their property also includes their rights.

The most important property a person has is conscience, or the sense that allows people to decide what is right and what is wrong.

Critical Thinking Questions

1. What does James Madison mean by “property”?

2. Madison talks about two different kinds of property—one is physical or tangible [something one can touch] property, like land. What is the difference between tangible property and the other kind of property? Are these what you normally think of as “property”?

3. List at least three things which fall under each type of property.

   Physical (tangible): __________________________________________________________

   Other: _____________________________________________________________________
The Bill of Rights and Property

**Directions:** Read over the Bill of Rights and underline the words and phrases that secure protections for physical (or “real”) property. Then circle the words and phrases that secure protections of other kinds of property Madison mentions.

**The Bill of Rights**

**First Amendment**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

**Second Amendment**

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

**Third Amendment**

No Soldier shall, in time of peace, be quartered in any house, without the consent of the Owner; nor in time of war, but in a manner to be prescribed by law

**Fourth Amendment**

The right of the people to secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**For Understanding**

The federal government may not take away citizens’ freedom of religion, freedom of speech, freedom of the press, freedom to assemble, or freedom to petition the government.

The people have a right to keep and use weapons.

Citizens will not be forced to let soldiers stay in their homes.

Citizens will not be subject to unreasonable search and seizure. In order to search a person or place, a specific warrant must be given by a judge based on probable cause.
Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Seventh Amendment

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Grand Juries are required for very serious cases, including those involving the death penalty. No person can be tried twice for the same crime. People cannot be forced to testify against themselves. The government cannot take private property without providing just compensation. People accused of crimes have the right to a speedy, public trial by an impartial [nonbiased] jury in the place where the crime was committed. The accused have the right to know the crimes of which they are accused, to face the witnesses against them, to call witnesses in their favor, and to have a lawyer for their defense.

People have a right to a jury trial in common law cases [law suits] concerning a value of more than twenty dollars. Judges cannot overturn a jury verdict except when the verdict was made in violation of the law.
Eighth Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

The government cannot demand excessive bail, excessive fines, or cruel or unusual punishment.

Ninth Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The listing of rights in the Constitution does not mean that the people do not have other rights not listed.

Tenth Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Powers not given to the United States government and not prohibited to the states are kept by the states or the people

Critical Thinking Questions

1. Which of the amendments in the Bill of Rights protect tangible property?
2. Which of the amendments in the Bill of Rights protect other types of property?