SUPPLEMENTARY PRIMARY SOURCES
RELATED TO PROPERTY RIGHTS

Use these document excerpts to supplement the document-based lessons in this unit, or to make your own document-based questions.

Petition of Right, Sir Edward Coke, 1628

IV. And in the eight-and-twentieth year of the reign of King Edward III, it was declared and enacted by authority of parliament, that no man, of what estate or condition that he be, should be put out of his land or tenements, nor taken, nor imprisoned, nor disinherited nor put to death without being brought to answer by due process of law.

- Under what conditions could the king take the life, freedom, or property of an individual?
  - Only by due process of law

Massachusetts Body of Liberties & Constitution, 1641

[8] No man’s Cattle or goods of what kinde soever shall be pressed or taken for any publique use or service, unless it be by warrant grounded upon some act of the generall Court, [Massachusetts legislature] nor without such reasonable prices and hire as the ordinarie rates of the Countrie do afford. And if his Cattle or goods shall perish or suffer damage in such service, the owner shall be sufficiently recompenced. (Massachusetts Colonial Laws, p. 35)

- Rephrase this provision in your own words.
  - No one’s livestock or other property will be taken for use by the community unless the legislature has passed a law allowing for it. Government must pay property owners a fair price for any property taken.

Pennsylvania Constitution, 1776

VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service when necessary, or an equivalent thereto: But no part of a man’s property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives...

- According to this document, what responsibilities correspond to the rights to enjoy life, liberty, and property?
  - Pay taxes, personal service (for example, in the military)

- What conditions must be met if property is taken for public use?
  - Owner’s consent or a law passed by legal representatives
Virginia Declaration of Rights, 1776

VI. That elections of members to serve as representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good.

- In addition to property rights, what other rights are listed in this passage?
  - Free elections, the right of suffrage (voting)

- What are some possible reasons that the people of Virginia restricted the right to vote to “all men having sufficient evidence of permanent common interest with and attachment to the community”?
  - People committed to a location are the ones with a stake in the outcome whenever voting takes place. In this way, property rights are central to the principle of consent of the government. Owning property in a community can be a signal that one is personally attached and invested in it – not only in terms of money, but also possibly in terms of time and personal commitment to remain there.

The Northwest Ordinance, 1787

...No man shall be deprived of his liberty or property but by the judgment of his peers, or the law of the land; and should the public exigencies make it Necessary for the common preservation to take any person’s property, or to demand his particular services, full compensation shall be made for the same; and in the just preservation of rights and property it is understood and declared that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements bona fide and without fraud, previously formed.

- Other than property rights, what additional rights are listed in this passage from the Northwest Ordinance?
  - Writ of habeas corpus, trial by jury, proportional representation in the legislature, court proceedings based on common law, reasonable bail and fines, protection against cruel and unusual punishment, jury trial before a person is deprived of liberty or property

- How are these rights related?
  - All of them have been considered part of the definition of liberty at least as far back as Magna Carta

- What specific property rights are addressed in the passage?
  - No deprivation of property without due process; full compensation for private property taken by the government; protection of private contracts
Woodrow Wilson “Socialism and Democracy,” 1887

... ‘State socialism’ is willing to act through state authority as it is at present organized. It proposes that all idea of a limitation of public authority by individual rights be put out of view, and that the State consider itself bound to stop only at what is unwise or futile in its universal superintendence alike of individual and of public interests. The thesis of the state socialist is, that no line can be drawn between private and public affairs which the State may not cross at will; that omnipotence of legislation is the first postulate of all just political theory.

... For it is very clear that in fundamental theory socialism and democracy are almost if not quite one and the same. They both rest at bottom upon the absolute right of the community to determine its own destiny and that of its members. Men as communities are supreme over men as individuals. Limits of wisdom and convenience to the public control there may be; limits of principle there are, upon strict analysis, none. ...

The difference between democracy and socialism is not an essential difference, but only a practical difference—is a difference of organization and policy, not a difference of primary motive. Democracy has not undertaken the tasks which socialists clamour to have undertaken; but it refrains from them, not for lack of adequate principles or suitable motives, but for lack of adequate organization and suitable hardihood; because it cannot see its way clear to accomplishing them with credit...

- According to Wilson, what is the proper limit on public authority over individual rights?
  
  *The State [should] consider itself bound to stop only at what is unwise or futile in its universal superintendence alike of individual and of public interests.*

- Which does Wilson assert is more important—community or individuals?
  
  *Community*

- Put this phrase in your own words: “the absolute right of the community to determine its own destiny and that of its members.”

  *The community’s right to make decisions for itself and for its members is unlimited. (Accept reasoned responses.)*

- Why has democracy not attempted the same tasks as socialism has?

  *Democracy is not well-organized or courageous enough to do so.*