

ENGLISH ORIGINS OF PROPERTY PROTECTIONS



Directions: Read the following excerpts from legal and philosophical sources, and answer the questions that follow each excerpt.

Magna Carta (1215)

12. No scutage [tax] or aid shall be imposed on our kingdom, unless by common counsel of our kingdom.

27. If any freeman shall die intestate (without a will), his chattels shall be distributed by the hands of his nearest kinsfolk and friends, under supervision of the Church, saving to every one the debts which the deceased owed to him.

30. No sheriff or bailiff of ours (the King), or other person, shall take the horses or carts of any freeman for transport duty, against the will of the said freeman.

31. Neither [the King nor his] bailiffs shall take, for our castles or for any other work of ours, wood which is not ours, against the will of the owner of that wood.

55. All fines made with us unjustly and against the law of the land ... shall be entirely remitted (set aside) ...

- ▶ What kinds of property protections do you see in the *Magna Carta* excerpts?

William Blackstone, *Commentaries 1:137-38 (1765)*

...Neither his majesty, nor his privy council, have any jurisdiction, power, or authority by English bill, petition, articles ... or by any other arbitrary way whatsoever, to examine, or draw into question, determine or dispose of the lands or goods of any subjects of this kingdom; but that the same ought to be tried and determined in the ordinary courts of justice, and by course of law.

- ▶ In his explanation of English common law, what power does Blackstone say the King does NOT have over his subjects' property?
- ▶ Who or what does Blackstone say may have power over the "lands or goods" of subjects?

John Locke, *Second Treatise of Civil Government (1689)*

[People are] willing to join in society with others ... for the mutual preservation of their lives, liberties and estates, which I call by the general name, property. The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property.

- ▶ Why does philosopher John Locke say that people choose to unite into societies?
- ▶ What does Locke say is the most important reason people need government?