

Handout A: The Colonial Origins of American Republicanism Student Packet

Directions:

Refer to your **Principles and Virtues Glossary** and annotate the attached documents to answer the questions and analyze the contents of the documents. You will use these documents to answer the guiding question:

How did the English tradition of constitutional self-government, arguments for freedom of conscience, and the early American Enlightenment contribute to republicanism in the American colonies?

As you read, complete the following tasks:

- Read the background essay and answer the accompanying questions.
- Answer the Comprehension and Principles Questions and the Historical Reasoning Questions for each primary source document:
 - Document 1: The Mayflower Compact, 1620
 - Document 2: The Charter of Maryland, 1632
 - Document 3: Fundamental Orders of Connecticut, 1639
 - Document 4: Two Treatises of Government, 1689
 - Document 5: The Rights of the Colonies Asserted and Proved, 1763
- Use pens, pencils, or highlighters in three different colors as your teacher directs to mark influences of the following in each primary source:
 - English tradition of constitutional self-government
 - Arguments for freedom of conscience
 - Early American Enlightenment

Background Essay:

The Enlightenment, or Age of Reason, refers to a philosophical movement that began in seventeenth-century France and soon spread to England and Scotland. Influences leading to the Enlightenment included the sixteenth century's Scientific Revolution as well as the religious dissension of the Protestant Reformation. Enlightenment thinkers included **philosophes** (philosophers) such as Voltaire, Jean-Jacques Rousseau, Montesquieu, John Locke, Denis Diderot, David Hume, Adam Smith, among others. Among the principles that these philosophers shared was a belief that knowledge came from sensory experience (**empiricism**) and a commitment to apply the scientific method to rationalize human society. Emphasis on facts, truth, and logic, as opposed to superstition, tradition, and emotion, could, according to the Enlightenment thinkers, lead to a more peaceful, rational, and productive society and the promotion of human flourishing. The significance of both the law of nature and human reason was central to Enlightenment thinking. The law of nature is defined as the natural moral law against which all human conduct can be measured, and it is not innate, but derived from experience. Therefore, human beings have both the capacity and the responsibility to use reason to solve problems and understand truth.

One of the most famous and influential of the enlightenment thinkers was the physician John Locke of England.

In 1689 he anonymously published his Two Treatises of Government. In the First Treatise, he explained why absolute monarchy was irrational and the belief that kings were God's lieutenants on Earth and answerable only to God (**divine right**) was a violation of the law of nature. In the Second Treatise, Locke took the next logical step, exploring what form, if not absolute monarchy, government should take. In this document, Locke posited some principles of government based on **natural law**, or laws inherent to nature and human existence. These principles include the idea that people are born with equal and unalienable rights, no one should deprive anyone else of those rights, and legitimate government is based on the consent of the governed. These rights are commonly referred to as **Lockean rights**.

Concurrent with the Enlightenment Era was the rise of nation-states, along with a belief in the economic philosophy of mercantilism. Mercantilism held that wealth was fixed, and therefore European powers competed for colonies whose anticipated raw materials would enrich the mother country. As the British gained ascendancy over other interests in North American colonies after the perilous establishment of Jamestown in 1607, colonists enjoyed a high level of what later became known as salutary neglect. Because the crown sought to establish profitable new colonies amid unknown and dangerous circumstances, English colonial charters encouraged settlers to take extreme risk by providing the greatest possible latitude of political, economic, and individual liberties.

Rights of English nobles transplanted into fertile new soil in the 1600s included the expectation of representation in legislatures empowered to tax them, fair trials, control of one's property, religious liberty, and freedom from arbitrary rule. These rights, which nobles described as ancient when they forced King John to agree to them in Magna Carta in 1215, were in a constant state of expansion through custom and usage in English common law, on both sides of the Atlantic Ocean. In North America, however, with an abundance of land within their grasp and plentiful raw materials, English colonists of modest means found greater opportunity to improve their own liberty and property, as well as that of their children, than was available to them in England. Long before European Enlightenment thinkers wrote about the rights and responsibilities of people in society, English colonists in North America were putting those rights and responsibilities into practice.

The Enlightenment influenced the American colonies. Because of a lively trade in books and ideas, colonial elites read the Enlightenment works circulating in Europe and sought to apply scientific thinking to education, politics, and religion in the colonies. For this reason, the American Enlightenment is described as having begun almost contemporaneously with the European Enlightenment: the early 1700s. Among the leaders in the American Enlightenment were the presidents of colleges who advocated religious toleration and modernized their courses of study, implementing a new emphasis on science, the arts, and literature. Americans such as James Madison, John Adams, George Mason, Alexander Hamilton, James Otis, Benjamin Franklin, and Thomas Jefferson applied Enlightenment ideas to their own situations as they sought the best way for people to implement self-government through ordered liberty.

Background Essay Questions:

1. Where and when did the Enlightenment or Age of Reason begin?

2. What two ideas were central to Enlightenment thinking?

3. What is meant by Lockean rights? Have you encountered these rights in any other documents in your study of American history prior to this course?

4. Why did English colonial charters encourage settlers to take extreme risks?

5. What rights did English settlers transplant to the American colonies? Where did these rights come from?

6. How did the European Enlightenment influence the American colonies?

Document 1: The Mayflower Compact, 1620 (Agreement Between the Settlers at New Plymouth: 1620)

Source:

http://avalon.law.yale.edu/17th_century/mayflower.asp

Introduction:

Suffering persecution for their refusal to pledge allegiance to the official Church of England, some Protestant Separatists fled to Holland as early as the 1590s. They had abandoned the idea that the established church could be changed from within, and they sought to establish their own communities where they would be free of government interference and worldly distraction. Dissatisfied with life in Holland, which they came to consider too worldly, a group of Separatists decided to immigrate to Virginia in 1620 and received permission from the London Company to do so. After several delays, the Mayflower departed from Plymouth, England, in September 1620 with 149 people on board the small ship. There were 41 adult male passengers, 19 women, 33 young adults and children, and about 30 crew members. Though Separatists (who called themselves “Saints” and called the others on the ship “Strangers”) had initiated the journey and made up the dominant group onboard, they were not the majority. After a stormy and miserable passage during which they experienced shortages of food and other supplies, they finally sighted land on November 9. Making landfall at Cape Cod, the ship was significantly north of Virginia, but the impending onset of winter, along with illness and weakness among the passengers, made it unwise to attempt to continue to sail south. They prepared to establish a new community, which they named Plymouth, outside the jurisdiction of their useless Virginia patent. But first, the settlers, including both Saints and Strangers, established an agreement among themselves, which is shown below in its entirety. It was not a constitution, but it reflected principles from English tradition.

Vocabulary	Text
covenant (v): to bind together two or more parties, vowing to fulfill certain agreements	IN THE NAME OF GOD, AMEN. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick , for our better Ordering and Preservation, and Furtherance of the Ends aforesaid: And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Officers, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedience. IN WITNESS whereof we have hereunto subscribed our names at Cape-Cod the eleventh of November, in the Reign of our Sovereign Lord King James, of England, France, and Ireland, the eighteenth, and of Scotland the fifty-fourth, Anno Domini; 1620.
civil Body Politick (n): a group of persons organized politically organized under a single governmental authority	
meet (adj): useful, proper, appropriate	

	<p>[Signatures]</p> <p>Mr. John Carver, Mr. William Bradford, Mr Edward Winslow, Mr. William Brewster, Isaac Allerton, Myles Standish, John Alden, John Turner, Francis Eaton, James Chilton, John Craxton, John Billington, Joses Fletcher, John Goodman, Mr. Samuel Fuller, Mr. Christopher Martin, Mr. William Mullins, Mr. William White, Mr. Richard Warren, John Howland, Mr. Steven Hopkins, Digery Priest, Thomas Williams, Gilbert Winslow, Edmund Margesson, Peter Brown, Richard Britteridge, George Soule, Edward Tilly, John Tilly, Francis Cooke, Thomas Rogers, Thomas Tinker, John Ridgdale, Edward Fuller, Richard Clark, Richard Gardiner, Mr. John Allerton, Thomas English, Edward Doten, Edward Liester.</p>
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Comprehension and Principles Questions:

1. Who did the signers of this document consider themselves to be?

2. What was the purpose of their voyage?

3. What was the purpose of this document?

4. What did the signers agree to do?

5. What governing principle(s) does the Mayflower Compact illustrate?

Historical Reasoning Questions:

1. Why did the settlers need to move away from England to glorify God and advance their faith?

2. How did the signers get the authority to make this agreement?

3. Which one of these concepts is most prominently reflected in this document: English tradition of constitutional self-government, arguments for freedom of conscience, early American Enlightenment? Be prepared to explain your answer.

Document 2: The Charter of Maryland, 1632

Source:

http://avalon.law.yale.edu/17th_century/ma01.asp

Introduction:

Political leader, diplomat, court favorite, and first Lord Baltimore, George Calvert, sought and gained a proprietary charter to establish the colony of Maryland as a haven for Catholics, who were suffering persecution in England at the time. However, he died before the charter was issued to him. King Charles I then granted the charter to his eldest son, Cecil Calvert, and his second son, Leonard Calvert, became the first governor of Maryland. Leonard Calvert arrived in the colony with the first colonists in 1634. From the beginning, Catholics were outnumbered by other Christian settlers. The Maryland Charter failed to guarantee religious freedom, but the Calverts, who were Catholics, practiced and encouraged religious toleration for all Christian sects. In 1649, the Maryland General Assembly ratified the Act Concerning Religion (Toleration Act) requiring that “noe persons. . . professing to believe in Jesus Christ...be any waies troubled, Molested, or discountenanced for or in respect of his or her religion nor in the free exercise thereof.”

Vocabulary	Text
	Charles, by the Grace of God, of England, Scotland, France, and Ireland, king, Defender of the Faith, &c. To all to whom these Presents come, Greeting. . .
freemen (n): men who are neither slaves nor indentured servants delegate or deputy (n): person authorized to represent others	VII. And forasmuch as We have above made and ordained the aforesaid now Baron of Baltimore, the true Lord and Proprietary of the whole Province aforesaid, Know Ye therefore further, that We, [and our heirs] . . . do grant unto the said now Baron . . . and to his Heirs, for the good and happy Government of the said Province, free, full, and absolute Power . . . to Ordain, Make, and Enact Laws, of what Kind soever, . . . of and with the Advice, Assent, and Approbation of the Free-Men of the same Province, or the greater Part of them, or of their Delegates or Deputies , whom We will shall be called together for the framing of Laws, when, and as often as Need shall require . . . and to constitute and ordain Judges, Justices, Magistrates and Officers of what kind, for what Cause, and with what Power soever, within that Land . . . in such form as to the said now Baron of Baltimore, or his Heirs, shall seem most fitting. . . So, nevertheless, that the Laws aforesaid be consonant to Reason, and be not repugnant or contrary, but (so far as conveniently may be) agreeable to the Laws, Statutes, Customs, and Rights of this Our Kingdom of England. . .
liege-man (n): vassal who owes feudal service to a nobleman	X. We will also, . . . and command, that the said Province be of our Allegiance; and that all [subjects] . . . to be transplanted into the Province aforesaid, and the Children of them . . . in all Things shall be . . . esteemed as the faithful [subjects] . . . born within our Kingdom of England; also [inherit, purchase, possess, use, enjoy, give, buy, sell, and bequeath property] . . . in the same manner as our Liege-Men born, or to be born within our said Kingdom of England, without Impediment, Molestation, Vexation, Impeachment, or Grievance of Us, or any of our Heirs or Successors. . .

lade (v): to load goods on a ship	XI. Furthermore, That our Subjects may be incited to undertake this Expedition with a ready and cheerful mind: Know Ye, that We . . . give and grant . . . full License to Ship and Lade in any the Ports . . . all . . . their Goods . . . and other Things whatsoever necessary for Food and clothing. . . .
	XII. But because, that in so remote a Region, placed among so many barbarous Nations, the Incursions as well of the Barbarians themselves, as of other Enemies, Pirates and Ravagers, probably will be feared. Therefore We have Given, and for Us, our Heirs, and Successors . . . as full and unrestrained Power, as any Captain-General of an Army ever hath had, unto the aforesaid now Baron of Baltimore, and to his Heirs . . . to array all men . . . in the said Province of Maryland, to wage War, and to pursue, even beyond the Limits of their Province, the Enemies and Ravagers aforesaid . . . and (if God shall grant it) to vanquish and captivate them, and the Captives to put to Death, or, according to their Discretion, to save, and to do all other and singular the Things which appertain, or have been accustomed to appertain unto the Authority and Office of a Captain-General of an Army.

Comprehension and Principles Questions:

1. Under whose authority was this document written?

2. According to this document, who had power to govern Maryland, and what kind of power did he have?

3. Whose advice and consent was the Baron expected to obtain?

4. What governing principle is illustrated in this phrase: “of and with the Advice, Assent, and Approbation of the Free-Men of the same Province . . . or of their Delegates or Deputies”?

5. For what purpose were the delegates or deputies to be called together?

6. What two requirements did the charter list for the laws that could be enacted in Maryland?

7. According to this list, what rights of Englishmen were protected both in England and in the colony?

8. What incentive was offered in Article XI?

9. What governing principle is reflected in this section?

10. What authority did King Charles give to the Baron of Baltimore in Section XII, and why?

Historical Reasoning Questions:

1. The charter granted the Baron of Baltimore autocratic powers. What elements of the charter protected the rights of colonists? Would those guarantees of rights be enough for you?

2. Which one of these concepts is most prominently reflected in this document: English tradition of constitutional self-government, arguments for freedom of conscience, early American Enlightenment? Be prepared to explain your answer.

Document 3: Fundamental Orders of Connecticut: 1639

Source:

http://avalon.law.yale.edu/17th_century/order.asp

Introduction:

The first English settlers along the Connecticut River left Massachusetts in 1635 under the leadership of Reverend Thomas Hooker, as a result of dissent regarding the Puritan leadership in Massachusetts. Unlike the authoritarian John Winthrop, Hooker taught that all public officials should be elected by all freemen who acted “according to the blessed will and law of God,” whether they were formal members of the church, or not, and those elected leaders should have defined and limited powers. Hooker’s teaching influenced the drafting of the Fundamental Orders of Connecticut, which went beyond the Mayflower Compact and the 1629 charter of Massachusetts Bay in defining the specific political powers of government for the three towns of Windsor, Hartford, and Wethersfield, as well as any additional towns that might be established later. The preamble, or introductory paragraph, takes the form of a covenant, deriving the powers of government from the people themselves. It is followed by eleven orders or laws that provide for legislative, executive, judicial, and administrative authority. The General Court, which was to meet in April and in September, refers to the people elected to hold various offices: Governor, at least six Magistrates, and three Deputies elected from each of the three towns. Officials were elected by secret ballot in public assemblies.

Vocabulary	Text
divine providence (n): God’s intervention in the universe Gospel (n): the teaching or revelation of Christ civil affairs (n): ordinary activities of citizens; neither military nor religious	For as much as it hath pleased Almighty God by the wise disposition of his divine providence so to order and dispose of things that we the Inhabitants and Residents of Windsor, Hartford and Wethersfield are now cohabiting and dwelling in and upon the River of Connectecotte and the lands thereunto adjoining; and well knowing where a people are gathered together the word of God requires that to maintain the peace and union of such a people there should be an orderly and decent Government established according to God, to order and dispose of the affairs of the people at all seasons as occasion shall require; do therefore associate and conjoin ourselves to be as one Public State or Commonwealth; and do for ourselves and our successors and such as shall be adjoined to us at any time hereafter, enter into Combination and Confederation together, to maintain and preserve the liberty and purity of the Gospel of our Lord Jesus which we now profess, as also, the discipline of the Churches, which according to the truth of the said Gospel is now practiced amongst us; as also in our civil affairs to be guided and governed according to such Laws, Rules, Orders and Decrees as shall be made, ordered, and decreed as followeth. . . .

<p>Governor (n): elected executive head of the colony</p> <p>magistracy (n): body of magistrates or local officials who carry out administrative and judicial functions</p> <p>freemen (n): men who are neither enslaved nor indentured</p>	<p>4. It is Ordered . . . that no person be chosen Governor above once in two years, and that the Governor be always a member of some approved Congregation, and formerly of the Magistracy within this Jurisdiction; and that all the Magistrates [be], Freemen of this Commonwealth. . . .</p>
<p>deputy (n): a person responsible for carrying out the will of a superior; in this case, the deputies represented the will of the town in the General Court</p>	<p>5. It is Ordered . . . that to the aforesaid Court of Election [in April] the several Towns shall send their deputies, and when the Elections are ended they may proceed in any public service as at other Courts. Also the other General Court in September shall be for making of laws, and any other public occasion, which concerns the good of the Commonwealth.</p>
<p>Constable (n): peace officer with limited policing authority</p>	<p>6. It is Ordered . . . if the Governor and major part of Magistrates shall either neglect or refuse to call the two General standing Courts or either of them, as also at other times when the occasions of the Commonwealth require, the Freemen thereof, or the major part of them, shall petition to them so to do; if then it be either denied or neglected, the said Freemen, or the major part of them, shall have the power to give order to the Constables of the several Towns to do the same, and so may meet together, and choose to themselves a Moderator, and may proceed to do any act of power which any other General Courts may. . . .</p>
	<p>8. It is Ordered . . . [that each town have the power] to send four of their Freemen as their deputies to every General Court; and Whatsoever other Town shall be hereafter added to this Jurisdiction, they shall send so many deputies as the Court shall judge meet . . . which deputies shall have the power of the whole Town to give their votes and allowance to all such laws and orders as may be for the public good, and unto which the said Towns are to be bound. . . .</p>
<p>levy (n): the act of imposing a tax</p>	<p>10. It is Ordered . . . that every General Court, except such as through neglect of the Governor and the greatest part of the Magistrates the Freemen themselves do call, shall consist of the Governor, or some one chosen to moderate the Court, and four other Magistrates at least, with the major part of the deputies of the several Towns legally chosen. . . . In which said General Courts shall consist the supreme power of the Commonwealth, and they only shall have power to make laws or repeal them, to grant levies, to admit of Freemen, dispose of lands undisposed of, to several Towns or persons, and also shall have power to call either Court or Magistrate or any other person whatsoever into question for any misdemeanor, and may for just causes displace or deal otherwise according to the nature of the offense;</p>

	offense; and also may deal in any other matter that concerns the good of this Commonwealth, except election of Magistrates, which shall be done by the whole body of Freemen.
	In which Court the Governor or Moderator shall have power to order the Court, to give liberty of speech, and silence unseasonable and disorderly speakings, to put all things to vote, and in case the vote be equal to have the casting voice. But none of these Courts shall be adjourned or dissolved without the consent of the major part of the Court.

Comprehension and Principles Questions:

1. To what authority did the document appeal in establishing a plan of self-government?

2. “We the Inhabitants and Residents. . . do therefore associate and conjoin ourselves to be as one Public State or Commonwealth. . .” illustrates what governing principle?

3. According to the preamble, what was the purpose of the government they established?

4. How does Order 4 illustrate the principle of limited government?

5. What principle(s) of government is illustrated by Order 5?

6. According to Order 6, what happened if the Governor and Magistrates neglected or refused to hold the two standing General Courts each year? What governing principle does this procedure illustrate?

7. What governing principle(s) is reflected in Order 8?

8. According to Order 10, what specific powers did the General Court have?

9. What inalienable rights were explicitly protected in Order 10?

Historical Reasoning Questions:

1. How did this document provide for republicanism?

2. Which one of these concepts is most prominently reflected in this document: English tradition of constitutional self-government, arguments for freedom of conscience, early American Enlightenment? Be prepared to explain your answer.

Document 4: John Locke: The Second Treatise of Government, 1689

Source:

<https://oll.libertyfund.org/pages/john-locke-two-treatises-1689>

Introduction:

John Locke of England anonymously published his Two Treatises of Government in 1689. In the Second Treatise, Locke posited some principles of government based on natural law. These principles include the idea that people are born with equal and unalienable rights, no one should deprive anyone else of those rights, and legitimate government is based on the consent of the governed. Locke pursued these principles to their logical applications regarding government. For example, rights with which humans are born are life, liberty, and property. Locke construed property broadly, starting with the idea of self-ownership. If each person owns himself, then he also owns his labor, the fruit of his labor, as well as his thoughts, talents, and his conscience. Each person has the right to defend himself and pursue happiness as long as he is not preventing anyone else from doing the same. Because all humans are equal with respect to their natural rights, no one has legitimate authority to rule over another without his/her consent, and the people agree to obey a government whose role is to protect all their inalienable rights.

Vocabulary	Text
	Sec. 4. TO understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man.
	A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more [power] than another. . . .
license (n): freedom used irresponsibly	Sec. 6. But though this be a state of liberty, yet it is not a state of license : though man in that state have an uncontrollable liberty to dispose of his person or possessions, yet he has not liberty to destroy himself, or so much as any creature in his possession. . . . The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions. . . .
	Sec. 22. THE natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of nature for his rule. The liberty of man, in society, is to be under no other legislative power, but that established, by consent, in the commonwealth. . . . freedom of men under government is, to have a standing rule to live by, common to every one of that society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where the rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man: as freedom of nature is, to be under no other restraint but the law of nature. . . .

	<p>Sec. 27. Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. . . .</p>
<p>estate (n): physical or material goods</p>	<p>Sec. 87. Man being born, as has been proved, with a title to perfect freedom, and an uncontrouled enjoyment of all the rights and privileges of the law of nature, equally with any other man, or number of men in the world, hath by nature a power, not only to preserve his property, that is, his life, liberty and estate, against the injuries and attempts of other men; but to judge of, and punish the breaches of that law in others. . . . But because no political society can be, nor subsist, without having in itself the power to preserve the property, and in order thereunto, punish the offences of all those of that society; there, and there only is political society, where every one of the members hath quitted this natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protection to the law established by it. And thus all private judgment of every particular member being excluded, the community comes to be umpire, by settled standing rules, indifferent, and the same to all parties. . . . Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them, and punish offenders, are in civil society one with another. . . .</p>
	<p>Sec. 222. . . . Whenever the legislators endeavour to take away, and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people, who are thereupon absolved from any farther obedience, and are left to the common refuge, which God hath provided for all men, against force and violence. Whensoever therefore the legislative shall transgress this fundamental rule of society; and either by ambition, fear, folly or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who. have a right to resume their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society.</p>

Comprehension and Principles Questions:

1. What principles are addressed in Section 4? Highlight or underline evidence for your answer.

2. Describe the limits on liberty.

3. How did one person gain legitimate authority to make laws for others?

4. What was the standing rule regarding people's freedom?

5. If the earth and everything in it belong to all people in common, how does an individual establish private property rights?

6. What did Locke mean by property?

7. How does a community gain legitimate power to judge and punish its members' offenses?

8. When legislators violated the main reason people have formed a society, which was to protect their rights, what did the people have a right to do?

Historical Reasoning Questions:

1. In Section 6, Locke wrote, “But though this be a state of liberty, yet it is not a state of license.” What is the difference between liberty and license?

2. In Section 87, Locke explicitly defined what he meant by property: “that is, his life, liberty and estate.” In your opinion, what are the most important components of liberty?

3. Which one of these concepts is most prominently reflected in this document: English tradition of constitutional self-government, arguments for freedom of conscience, early American Enlightenment? Be prepared to explain your answer.

Document 5: James Otis: “The Rights of the British Colonies Asserted and Proved,” 1763

Source:

<https://oll.libertyfund.org/pages/1763-otis-rights-of-british-colonies-asserted-pamphlet>

Introduction:

Beginning with the Navigation Acts of the 1660s, England sought to create a monopoly in her colonies’ trade, regulating their commerce with one another and with other countries. For the next one hundred years, British policy aimed at this same objective: the mercantilist goal of reaping rewards for the mother country in return for providing defense of colonial possessions. It was common for British colonists in North America to skirt the required taxes and regulations of British trade laws through smuggling, and until the early 1700s, colonists profited from lax enforcement of the trade laws. However, throughout the 1700s, Parliament changed policies to crack down on smuggling, using such policies as requiring that suspected smugglers be tried in England, and giving customs officials in the colonies enhanced powers to search cargoes, ships, and warehouses. In 1751, Parliament approved general search warrants called writs of assistance, which gave British customs authorities in the colonies even more power to search for evidence of smuggling virtually anywhere they wanted, even colonists’ homes. Writs of assistance soon became one of the chief complaints of the colonists against the British. New laws passed between 1763 and 1775 not only imposed new taxes but further tightened their enforcement.

James Otis, a royal advocate general in the British Vice Admiralty Court of Boston, became troubled by the broad and unjust authority granted to royal officials. In 1761, he resigned his British post and aligned himself with Boston merchants mounting a legal challenge to the writs. He wrote essays and pamphlets criticizing British tyranny and became a Patriot leader in Boston, popularizing the slogan, “Taxation without representation is tyranny!” Otis argued against British use of writs of assistance and condemned the Stamp Act and other actions that deprived colonists of the rights of Englishmen. In 1763, he published an essay entitled “The Rights of the British Colonies Asserted and Proved.”

Vocabulary	Text
	I also lay it down as one of the first principles from whence I intend to deduce the civil rights of the British colonies, that all of them are subject to, and dependent on Great-Britain; and that therefore as over subordinate governments, the parliament of Great-Britain has an undoubted power and lawful authority to make acts for the general good, that by naming them, shall and ought to be equally binding, as upon the subjects of Great-Britain within the realm. . .
	Every British subject born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of parliament . . . entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great Britain. Among those rights are the following, which it is humbly conceived no man or body of men, not excepting the parliament, justly equitably and consistently with their own rights and the constitution, can take away. . .

<p>extempore (adj): without preparation or planning</p> <p>arbitrary (adj): based on random choice or whim</p>	<p>4thly. The supreme legislative cannot justly assume a power of ruling by extempore arbitrary decrees, but is bound to dispense justice by known settled rules, and by duly authorized independent judges.</p>
	<p>5thly. <i>The supreme power cannot take from any man any part of his property, without his consent in person, or by representation.</i></p>
	<p>6thly. <i>The legislature cannot transfer the power of making laws to any other hands.</i></p>
<p>end (n): in this usage, purpose or goal</p>	<p>These are their bounds, which by God and nature are fixed, hitherto have they a right to come, and no further.</p> <ol style="list-style-type: none"> 1. To govern by stated laws. 2. Those laws should have no other end ultimately, but the good of the people. 3. Taxes are not to be laid on the people, but by their consent in person, or by deputation. 4. Their whole power is not transferable. . . .
	<p>In a state of nature, no man can take my property from me, without my consent: If he does, he deprives me of my liberty, and makes me a slave. If such a proceeding is a breach of the law of nature, no law of society can make it just—The very act of taxing, exercised over those who are not represented, appears to me to be depriving them of one of their most essential rights, as freemen; and if continued, seems to be in effect an entire disfranchisement of every civil right. . . .</p>
<p>fiduciary (adj): based on trust</p>	<p>The sum of my argument is, That civil government is of God: That the administrators of it were originally the whole people: That they might have devolved it on whom they pleased: That this devolution is fiduciary, for the good of the whole; That by the British constitution, this devolution is on the King, lords and commons, the supreme, sacred and uncontrollable legislative power, not only in the realm, but thro' the dominions: That . . . his Majesty GEORGE III is rightful king and sovereign, and with his parliament, the supreme legislative of Great Britain; France and Ireland, and the dominions thereto belonging: That this constitution is the most free one, and by far the best, now existing on earth: That by this constitution, every man in the dominion is a free man: That no parts of his Majesty's dominions can be taxed without their consent: That every part has a right to be represented in the supreme or some subordinate legislature: That the refusal of this, would seem to be a contradiction in practice to the theory of the constitution: That the colonies are subordinate dominions, and are now in such a state, as to make it best for the good of the whole, that they should not only be continued in the enjoyment of subordinate legislation, but be also represented in some proportion to their number and estates, in the grand legislature of the nation: That this would firmly unite all parts of the British empire, in the greatest peace and prosperity; and render it invulnerable and perpetual.</p>

Comprehension and Principles Questions:

1. What was Otis's main point in the first paragraph?

2. Underline the portion of the second paragraph that best expresses its main idea.

3. According to the third paragraph beginning "4thly...", how must Parliament dispense justice?

4. What governing principle is reflected in this paragraph?

5. What was necessary before the supreme power could take away any part of any man's property?

6. According to the passage beginning "6thly...", how were the bounds of the legislature established?

7. What must be the purpose of laws if they were to be legitimate?

8. According to the paragraph beginning "In a state of nature...", what was the result if people are taxed without their consent either in person or through representation?

9. According to the final section, what was necessary to unite the British empire in perpetual peace and prosperity?

Historical Reasoning Questions:

1. Compare this document with the other documents used in this lesson. Which other document is most similar to this one?

2. Which one of these concepts is most prominently reflected in this document: English tradition of constitutional self-government, arguments for freedom of conscience, early American Enlightenment? Be prepared to explain your answer.
