

ever, the Court began a rapid expansion of the “liberty” and “property” aspects of the clause to include such non-traditional concepts as conditional property rights and statutory entitlements. Since then, the Court has followed an inconsistent path of expanding and contracting the breadth of these protected interests. The “life” interest, on the other hand, although often important in criminal cases, has found little application in the civil context.

The Property Interest.—The expansion of the concept of “property rights” beyond its common law roots reflected a recognition by the Court that certain interests that fall short of traditional property rights are nonetheless important parts of people’s economic well-being. For instance, where household goods were sold under an installment contract and title was retained by the seller, the possessory interest of the buyer was deemed sufficiently important to require procedural due process before repossession could occur.⁷⁵⁸ In addition, the loss of the use of garnished wages between the time of garnishment and final resolution of the underlying suit was deemed a sufficient property interest to require some form of determination that the garnisher was likely to prevail.⁷⁵⁹ Furthermore, the continued possession of a driver’s license, which may be essential to one’s livelihood, is protected; thus, a license should not be suspended after an accident for failure to post a security for the amount of damages claimed by an injured party without affording the driver an opportunity to raise the issue of liability.⁷⁶⁰

A more fundamental shift in the concept of property occurred with recognition of society’s growing economic reliance on government benefits, employment, and contracts,⁷⁶¹ and with the decline of the “right-privilege” principle. This principle, discussed previously in the First Amendment context,⁷⁶² was pithily summarized by Justice Holmes in dismissing a suit by a policeman protesting being fired from his job: “The petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a po-

⁷⁵⁸ *Fuentes v. Shevin*, 407 U.S. 67 (1972) (invalidating replevin statutes which authorized the authorities to seize goods simply upon the filing of an ex parte application and the posting of bond).

⁷⁵⁹ *Sniadach v. Family Finance Corp.*, 395 U.S. 337, 342 (1969) (Harlan, J., concurring).

⁷⁶⁰ *Bell v. Burson*, 402 U.S. 535 (1971). Compare *Dixon v. Love*, 431 U.S. 105 (1977), with *Mackey v. Montrym*, 443 U.S. 1 (1979). But see *American Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40 (1999) (no liberty interest in worker’s compensation claim where reasonableness and necessity of particular treatment had not yet been resolved).

⁷⁶¹ See LAURENCE TRIBE, *AMERICAN CONSTITUTIONAL LAW* 685 (2d. ed) (1988).

⁷⁶² Tribe, *supra*, at 1084–90.