

**SELF-OWNERSHIP AND CONSENT:
THE CONTRACTARIAN LIBERALISM
OF RICHARD OVERTON**

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In the 1640s, an unknown English printer by the name of Richard Overton suddenly surfaced, seemingly out of nowhere, and catapulted himself into national attention and controversy, only to disappear almost as suddenly into an equally obscure nowhere.¹ Nobody has more successfully summarized the character, life, and work of this fascinating than Gerald E. Aylmer, the prominent

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¹Nothing is known about Overton's birth or death. Overton's foremost biographer has assumed that he was born ca. 1615 and died ca. 1664. See Marie Gimelfarb-Brack, *Liberté, Egalité, Fraternité, Justice! La Vie et l'oeuvre de Richard Overton, Niveleur* (Bern and Frankfurt: Peter Lang, 1979); and Marie Gimelfarb-Brack, "Richard Overton (fl. 1631–1664)," in *Biographical Dictionary of British Radicals in the Seventeenth Century*, vol. 2, ed. Richard L. Greaves and Robert Zaller (Brighton: Harvester Press, 1981). Because this article quotes Overton's pamphlets extensively, they will be cited only by title in all but the first citation of each.

scholar of seventeenth-century English politics:

Of all the remarkable personalities thrown up by the upheavals of 1640–60 in England, Richard Overton, the Leveller, is among the most colourful and remarkable. Constantly at odds with authority, he was ever the champion of radical causes and of both individual and popular rights. In addition to this, Overton wrote with a force, an urgency, and a directness that still speak vividly to us across the centuries. He typifies the new-style popular pamphleteer, seeking a mass audience and employing the “plain style” in order to achieve this. Overton struck massive journalistic and intellectual blows against the monarchy and the bishops of Charles I and William Laud; against the intolerant oligarchy of a parliamentary-controlled Presbyterian church system; against the jurisdiction of hereditary House of Lords over the free commoners of England; and finally against the new authoritarianism of the Rump Parliament during the Commonwealth and then of the Cromwellian Protectorate.²

Richard Overton was one of the three informal leaders of the so-called Leveller movement during the English Civil War (1642–49), the others being Lieutenant-Colonel John Lilburne (1615–57) and William Walwyn (1600–81).³ As a political movement, the Leveller Party initially focused on a concern for religious matters, first and foremost a quest for religious freedom and separation of church and state. But soon it became a radical, popular movement, primarily consisting of ordinary citizens and soldiers of the Army,

²Gerald E. Aylmer, foreword to *Liberté, Égalité, Fraternité, Justice! La Vie et l'oeuvre de Richard Overton, Niveleur*, by Marie Gimelfarb-Brack (Bern and Frankfurt: Peter Lang, 1979), p. vii.

³The Leveller movement had only a brief existence. It surfaced in the summer of 1645, became a vocal popular party in 1646, and disappeared as an organized movement during the fall of 1649. For a chronological overview, see Roderick Moore, *The Levellers: A Chronology and Bibliography* (London: Libertarian Alliance, 1994); also Andrew Sharp, “The English Levellers, 1645–1649, with a Chronological Table,” introduction to *The English Levellers*, ed. Andrew Sharp (Cambridge: Cambridge University Press, 1998), pp. xxiii–xxx.

opposed to the Anglican Church of England, the House of Lords, and the government of King Charles I, and thus was somewhat sympathetic, for a time, to Cromwell, the Independents, and the Protectorate. But as the events of the Civil War unfolded, and as the new Commonwealth seemed to become tyrannical, the Levellers quickly became the most prominent radical opposition. Indeed, they became as opposed to Cromwell and his Council of State as they had been to the Old Order.

In the Leveller movement, Overton was the writer, characterized by strict logic, clarity, and a deeply satirical style. But while his writings are relatively well known in their historical contexts, and while much has been written about the Leveller movement in general, there have been almost no attempts to synthesize the political thought of Overton, who was one of the most prominent and influential political pamphleteers of the time.⁴

The purpose of this study is to partially make up for this. I shall attempt to distill the basic elements of Overton's political philosophy with an analytical rather than a historical perspective. The focus, in other words, is not upon the well-documented circumstances of Overton's writings, nor upon the political program of the Leveller movement as a whole. Rather, I will attempt to link the different elements together more systematically Overton did himself.⁵

⁴There seems to be no lengthy work dealing exclusively with Overton in his native tongue; the only major work is Gimelfarb-Brack, *Liberté, Égalité, Fraternité, Justice!*, which is in French and primarily historical and biographical. However, a small number of scholarly articles or sections of larger works focus on Overton's life and writings, his political thought, and his place among the Levellers, e.g., Carl Watner, "'Come What, Come Will!' Richard Overton, Libertarian Leveller," *Journal of Libertarian Studies* 4, no. 4 (Fall 1980); and Gimelfarb-Brack, "Richard Overton (fl. 1631–1664)."

⁵I am assuming that Overton did not change his opinions significantly during the years in which he wrote, i.e., that his expressions of ideas may be seen as different formulations of the same underlying philosophy. This is risky, since we all change our ideas over time, but, given the radical character of the ideas and the relatively short time span (three to four

To do so is both easy and difficult. While his writings have been preserved in abundance, nowhere did Overton set forth his political philosophy at any length. Nonetheless, from the large number of pamphlets, tracts, and published editorials attributed to his pen, written alone or in collaboration with his ideological allies and published anonymously or openly, one may reconstruct the basics of his political philosophy. For what at first may seem simply a number of loosely connected polemics with scattered opinions on various political subjects peculiar to England of the 1640s under closer investigation comes to life as a surprisingly comprehensive, systematic, and radical doctrine.

Furthermore, I will offer something of a reinterpretation of the implications of Overton's political thought. Overton and the Levelers have usually been seen, both by their contemporaries and by historians, as espousers some form of redistributionist–egalitarian ideology, closely related to the so-called “Diggers.” Yet, the picture emerging from the investigation is, rather, that Overton should be seen as espousing a combination of Natural Law and an individualism in the form of an early radical liberalism, or what in contemporary terms would be called “libertarianism,” “classical liberalism,” or, indeed, “Lockean liberalism.”

NATURAL LAW, SELF-OWNERSHIP, AND NATURAL RIGHTS

The foundation of Overton's political philosophy is found in his emphasis on the claim prevalent in the Natural Law thinking of the time, that the application of reason is the necessary basis of human knowledge. In this respect, Overton stood squarely planted in both classical and modern Natural Law thinking. This emphasis, present already in his first work, *Man's Mortallitie*,⁶ and probably fueled by his religious Anabaptism, was no doubt the foundation of

years) in which they were set out by a man of mature years, I believe this to be reasonable.

⁶[Richard Overton?], *Man's Mortallitie* [, or A Treatise Wherein 'tis proved, both Theologically and Phylosophically, that whole Man, (as a rationall Creature) is a compound wholly mortall, contrary to that common distinction of Soule and Body], January 19, 1644.

both his religious beliefs and his political thought, for it was ultimately upon this trust in reason that Overton grounded his belief in the natural freedom of man.⁷

Natural Law and the Principles of Right Reason

For Overton, the human faculty of reason is both the *differentia* which separates human beings from animals (and thus makes individuals what they are) and the tool according to which good and bad, right and wrong, and, hence, the principles of morality and the rights of individuals, must be discovered. Enlightened reasoning on the nature of things informs human beings which courses of action are morally appropriate and which are not, and, thus, is the standard against which both particular actions and the rules of society must be evaluated. This, again, leads to the requirement that earthly “laws” necessarily must be in accordance with the dictates of right reason if they are to be just. The essence of this Natural Law foundation of the principles of morality and justice is particularly clear in the pamphlet *An Appeale*:

[Reason is that] which gives an equitable Authority, life and being to all just Lawes, presidents and formes of Government whatsoever, for Reason is their very life and spirit, whereby they are all made lawful and warrantable both for Settlement, Administration and Obedience; which is the highest kind of Justification and Authority for humane Actions that can be; for greater is that, which gives Being and justifieth, then that which receiveth and is justified: All Formes of Lawes and Governments may fall and passe away; but right Reason (the fountain of all justice and mercy to the creature) shall and will endure for ever; it is that by which in all our Actions wee must stand or fall, be justified and condemned.⁸

⁷Cf. William Haller, ed., *Tracts on Liberty in the Puritan Revolution, 1638– 1647*, vol. 1 (New York: Columbia University Press, 1934), p. 97; Henry N. Brailsford, *The Levellers and the English Revolution*, ed. Christopher Hill (London: Cresset Press, 1961), pp. 49–57.

⁸Richard Overton, *An Appeale [: From the Degenerate Representative*

If, on the other hand, an action is contrary to right reason, it is correspondingly unjustified, for while right reason may inform us what we ought to do, it can also inform us what we ought not do:

[N]either Morality nor Divinity amongst Men can or may transgresse the limits of right reason, for whatsoever is unreasonable cannot be justly tearmed Morall or Divine, and right reason is only commensurable and discernable by the rule of merciful Justice and just mer-cy. . . . And upon this Principle, as upon a firme and sure foundation all just Lawes and Governments are founded and erected; and in particular, the fundamentall Lawes and Government of this Kingdome; for, it is a sure and radicall *Maxime* in our *Law*, *Nihil quod est contra rationem, est licium*, Nothing which is against reason is lawfull, *Reason* being the *very life* of the *Law of our Land*.⁹

The inspiration for Overton's doctrine, as for most other classical and early modern Natural Law thinkers, was the Christian religion. All the principles of right reason are, "as several Beames and Degrees of heat from the Body of the Sunne," ultimately derived and conveyed "from the Creator (the originall Fountaine) . . . [whose] communications are reasonable and just, and that what is so, is of God."¹⁰

An important point to note, though, is that Overton's doctrine of

Body, the Commons of England assembled at Westminster. . . .], London, July 10, 1647. Reprinted in Don M. Wolfe, ed., *Leveller Manifestoes of the Puritan Revolution* (New York: Thomas Nelson and Sons, 1944), p. 158.

Cf. "[L]et them do as much against me by the Rule of Equity, Reason, and Justice for my Testimony and Protestation against them in this thing as possibly they can, and I shall be content and rest." Richard Overton, *A Defiance [Against All Arbitrary Usurpations or Encroachments, either of the House of Lords, or any other, upon the Sovereignty of the Supreme House of Commons . . .]*, August 17, 1646, p. 6.

⁹*An Appeale*, pp. 158–59; italics in original. This seems to be Overton's fundamental legal principle: "*Nihil quod est contra rationem, est licitum*, Nothing which is against reason is lawful, it is a sure maxime in Law, for Reason is the life of Law."

¹⁰*An Appeale*, p. 158.

Natural Law, and subsequently of natural rights, is not justificationally dependent upon theological arguments. While Overton's doctrine may initially seem "creationist," it is certainly much less so than John Locke's, for instance. Overton may be seen as developing a doctrine of natural rights which not only relies *less* on the obligation of the individual to God than that of other early modern Natural Law theorists, but indeed is almost entirely secular.¹¹ For nowhere does Overton seem to have linked the duty to respect the dictates of right reason with the duty to respect God. Whenever Overton invoked God in his treatment of the principles of right reason, it was always indirectly, with the nature of the world and human beings being given by God, an otherwise "passive" deity, and not one who would punish human beings for not fulfilling their duty toward Him. If the duties dictated by right reason in any way indicate a duty toward God, it is at most so *indirectly*—with God being the creator of man, as He is supposed to be the creator of everything, which in turn is the reason why they have the rights they do: "[W]e are delivered of God by the hand of nature into this world . .

¹¹Aylmer has stated the same point in an introductory note to *An Arrow*: "[Here] Overton develops a non-religious doctrine of natural rights as the basis of political rights. These rights are implanted in Man by Nature. While God is the creator of Nature, and so their indirect author, no particular theology—Christian or other—and certainly no doctrine of Revelation, is required in order to accept these premises. It would be unwise, on the evidence available, to portray Overton as a sceptic or materialist in the modern sense, and toleration was certainly of great importance to him. Yet his political principles do seem to owe less to his religious convictions than in the case with Lilburne and perhaps—initially at least—with Walwyn." Gerald E. Aylmer, Introduction to *An Arrow [Against All Tyrants and Tyranny, shot from the Prison of Newgate into the Prerogative Bowels of the Arbitrary House of Lords, and all other Usurpers and Tyrants whatsoever]*, October 12, 1646, reprinted in Gerald E. Aylmer, ed., *The Levellers in the English Revolution* (Ithaca, N.Y.: Cornell University Press, 1975), pp. 68–70; also Sharp, *The English Levellers*, pp. 54–72. On Overton's secular version of Natural Law, see also Iain Hampsher-Monk, "The Political Theory of the Levellers: Putney, Property, and Professor Macpherson," *Political Studies* 24, no. 4 (December 1976): 413.

. where of God by nature hath made him free.”¹² The moral duties which an individual has are, accordingly, not based in an obligation toward God directly, but rather in a duty which he has to himself, given his nature as a rational being; it is, so to speak, a duty of man to Man.¹³ Only in this sense are the moral principles of nature linked to God; otherwise, Overton repeatedly distinguished between the principles of morality and those of divinity.¹⁴

That the doctrine is secular in this sense is clear from the way in which Overton enumerated what he considered the primary “principles of right reason” (or “laws of nature”). The underlying principle of right reason is that the dictates and principles of reason are superior to all other dictates, but he also identified at least three specific principles which he considered universally true and binding on all human beings, that is, on all individuals possessing the faculty of reason. These principles may be summarized as follows: (1) that individuals have a right and a duty to seek their own self-preservation, (2) that they have a right to do so with the means necessary, and (3) that voluntariness and consent (within the limits of Natural Law) are the proper forms of interpersonal relationships. It is from these principles that the entire body of Overton’s political thought follows deductively. But, more than that, the principles are, so to speak, summarized in and mediated through one central analytical concept which Overton called “self-propriety” or, as it will be called here, “self-ownership.”¹⁵

¹²*An Arrow*, p. 3.

¹³See *An Arrow*, p. 4.

¹⁴See *An Appeale*, p. 158. Overton made a distinction between the separate areas or origins of duties when he spoke of duties ordered “either by the Law of God, of Nature, Reason, or the just Lawes of the Land.” See *An Appeale*, p. 184. But Overton seems also to have held the laws of nature, of reason, and of God as being essentially and ultimately the same. On this, see [Richard Overton?], *Regall Tyrannie [Discovered: Or A Discourse, shewing that all lawfull (approbational) instituted power by God amongst men, is by common agreement, and mutual consent]*, January 6, 1647.

¹⁵See Brailsford, *The Levellers and the English Revolution*, pp. 121, 260,

Self-ownership and Self-preservation

The concept of self-ownership conceptualizes the unity and “wholeness” of the individual, the idea that one cannot, in terms of morality, separate an individual’s personality from his reason, from his body, from his earthly life. In this sense, the concept denotes a sphere of autonomy within which an individual may act in a self-directed way without interference from others. As such, self-ownership loosely corresponds to what in previous Natural Law theorizing had been conceived of as that sphere in which individuals should act solely according to their own conscience, and into which no authority legitimately can trespass. But the idea was, conceptually, something of an original creation when Overton introduced it.¹⁶ To understand the essence of the concept, one need consider only the following passage:

To every Individuall in nature, is given an individuall property by nature, not to be invaded or usurped by any: for every one as he is himselfe, so he hath a *selfe propriety*, else could he not be himselfe, and on this no second may presume to deprive any of, without manifest violation and affront to *the very principles of nature*, and of the Rules of equity and justice between man and man; mine and thine cannot be, except this be:

and 461–62. For a good overview of the historical development of the concept of self-ownership in political theory, see Carl Watner, “The Proprietary Theory of Justice in the Libertarian Tradition,” *Journal of Libertarian Studies* 6, nos. 3–4 (Summer–Fall 1982); also Carl Watner, ““Oh, Ye Are For Anarchy!”: Consent Theory in the Radical Libertarian Tradition,” *Journal of Libertarian Studies* 8, no. 1 (Winter 1986). For contemporary attempts to build a radical liberal political theory close to that of Overton on the concept of self-ownership, see Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974); also Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands: Humanities Press, 1982). For a Marxist attempt, see G.A. Cohen, *Self-ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995). For a critique of the meaningfulness of the concept, see J.P. Day, “Locke on Property,” in *Life, Liberty, and Property: Essays on Locke’s Political Ideas* (Belmont: Wadsworth Publishing, 1971), pp. 117–21.

¹⁶Brailsford, *The Levellers and the English Revolution*, p. 260.

No man hath power over my rights and liberties, and I over no mans; I may be but an Individuall, enjoy *my selfe* and my *selfe propriety*, and may write my selfe no more then my selfe, or presume any further; if I doe, I am an encroacher & an invader upon an other mans Right, to which I have no *Right*. For by naturall birth, all men are equally and alike borne to like propriety, liberty and freedome, and as we are delivered of God by the hand of nature into this world, every one with a naturall, innate freedome and propriety (as it were writ in the table of every mans heart, never to be obliterated) even so are we to live, every one equally and alike to enjoy his Birth-right and priviledge; even all whereof God by nature hath made him free.¹⁷

To understand Overton's justification of the moral duties implied by the self-ownership of individuals, it is necessary to consider how self-ownership is related to what Overton considered to be the first principle of reason. This is that the individual by nature has a right to seek his own self-preservation, and a corresponding duty not to harm himself and to resist harm from others:

[I]t is a *firm*e Law and radicall principle in Nature engraven in the tables of the heart by the finger of God in creation of every living moving thing, wherein there is the breath of life to defend, preserve, award, and *deliver it selfe from all things hurtfull, destructive and obnoxious thereto to the utmost of its power*: Therefore from hence is conveyed to all men in generall, and to every man in particular, an *undoubted principle of reason*, by *all rational and just wayes* and meanes possibly he may, to save, defend and deliver himselfe from all oppression, violence and cruelty whatsoever, and (in duty to *his own safety and being*) to leave no just expedient

¹⁷*An Arrow*, p. 3, italics partly added. Parts of this paragraph also appear in *An Appeale*, p. 162. Overton used the concept of "self-proprietie" on several occasions, implicitly or explicitly; it is, without doubt, the central analytical concept in his political thought. See Brailsford, *The Levellers and the English Revolution*, pp. 121 and 140 n. 33. The fullest treatments are in *An Arrow*, pp. 3–4, and *An Appeale*, pp. 162–63. The concept may have been implicit as early as *Man's Mortallitie*, where Overton argued that soul and body is one.

unattempted for his delivery therefrom: and this is rationall and just; *to deny it, is to overturn the law of nature*, yea, and of Religion too; for the contrary lets in nothing but selfe murther, violence and cruelty.¹⁸

This duty to seek one's self-preservation is based on the fact that

not *only* Religion, and Reason, but even *Nature it self* doth bind every man to do according to his power, whom God hath inabled, and honoured with any talent or measure of abilities to that end.¹⁹

Indeed, to violate the principle of self-preservation, whether in one's behavior toward oneself or toward others, is not simply a sin against God but a sin against oneself—against one's nature as a human being:

God the fountain of Reason and Justice, hath endued man with so much reason, mercy, humanity, and compassion to himself and his own Being, as by the instinct Nature to improve his utmost power for his own preservation and defence: which is a Law above all lawes and compacts in the world. . . . And whosoever reject it and doth not use it; hath obliterated the Principles of Nature in himselfe, & degenerated into a habit worse then a beast, and become felonious to himselfe, and guilty of his own blood.²⁰

Overton's position is also clear from his view of capital punishment, which he supported, albeit only for murder:

[Y]ea, though a man legally guilty of death should be condemned . . . *to cut his own throat*; yet were he in *equity* not *bound* thereunto, but in so doing should be *guilty* of his *own blood*. And the Law of our Land makes no man his own Executioner. . . . And the Law of God leaves it a matter out of all doubt and dispute, and *nature it selfe* teaches, that no man shall be his own Butcher or Executioner, for in so doing, he should *sin* against *his own* flesh, which is a thing most unnatural

¹⁸*An Appeale*, pp. 159–60, italics added.

¹⁹*A Defiance*, p. 2, italics added.

²⁰*Regall Tyrannie*, pp. 59–60.

and inhu-mane.²¹

Overton found it morally imperative to seek self-preservation and resist harm from others because it is natural for individuals to do so:

And this [self-preservation and liberty] *by nature* every one desires, aims at, and requires, so no man naturally would be befooled of his liberty by his neighbours craft, or inslaved by his neighbours might, for *it is natures instinct to preserve it selfe*, from all things hurtfull and obnoxious, and this *in nature is granted to be most reasonable*, equall and just, not to be rooted out of the kind, even of equall duration with the creature.²²

In other words, Overton considered it natural for human beings to seek self-preservation, and, for that very reason, found it “good” to do so (and correspondingly “bad” not to do so).

Self-ownership, Liberty, and Property

Overton’s second principle of reason, seemingly derivative from —or even implicit in—the first, is that it is legitimate to seek self-preservation by the means necessary to do so, no matter the context:

[N]ecessity is a law above all lawes, and this principle [of reason] conveyeth and issueth forth authority and power, both to generall and particular cases, even to the taking up of unusuall and unexemplary courses for publique and particular deliverances, and yet such acts war-rantable in, and by all sorts and societies of people whatsoever, and the actor or actors thereof justified thereby.²³

²¹Richard Overton, *The Commoners Complaint [: or, A Dreadful Warning from Newgate, to the Commons of England. . . .]*, February 10, 1647. Reprinted in Haller, *Tracts on Liberty in the Puritan Revolution*, pp. 373–95; see pp. 378–79, italics partly added.

²²*An Arrow*, pp. 3–4.

²³*An Appeale*, p. 160.

It seems to follow logically from these two principles of reason that a human being has a natural right to liberty, i.e., to be free to do with himself and with material objects whatever is necessary for his self-preservation. This may, at first, seem identical to the view of Thomas Hobbes and certain other modern Natural Law theorists, but there are crucial differences in both the assumptions and the implications concerning the range and end of human self-preservation, and it would be a serious error to confuse them.

First and foremost, Overton differs from Hobbes as to what constitutes self-preservation. Overton did not provide a psychological argument for humans acting as hedonistic or egotistic stimulus-response machines incapable of doing anything but what their passions for pleasure and against pain determine. Quite the contrary, he argued in favor of the freedom of will, and left the door open for people acting both for their own sake and for the sake of others.²⁴ When he wrote that “every man by naturall instinct aiming at his owne safety and weale,”²⁵ Overton meant that it seems contrary to reason to suppose that a human being should deliberately act contrary to his own well-being and harm himself. Hence, it is natural for the individual to pursue those courses of action which he himself, by the aid of reason, considers good for him as a human being. Although Overton in his individualism is closer to Hobbes than to the Scholastics, for instance, he nonetheless builds on an

²⁴Cf. “For I acknowledge that I was not born for my self alone, but for my neighbour as well as for my self.” *A Defiance*, p. 5; “[N]o man is born for himself.” *A Defiance*, p. 2. See also John Lilburn, William Walwyn, Thomas Prince, and Richard Overton, *A Manifestation [from Lieutenant Col. John Lilburn, Mr. William Walwyn, Mr. Thomas Prince, and Mr. Richard Overton: (Now Prisoners in the Tower of London) And others, commonly (though unjustly) styled Levellers. . . .]*, April 14, 1649; Reprinted in Wolfe, *Leveller Manifestos of the Puritan Revolution*, pp. 388–96; in William Haller and Godfrey Davies, ed., *The Leveller Tracts, 1647–1653* (New York: Columbia University Press, 1944), pp. 276–84; in Aylmer, *The Levellers in the English Revolution*, pp. 151–58; and in Sharp, *The English Levellers*, pp. 158–67.

²⁵*An Appeale*, p. 162.

ethical view of human beings closer to the teleological and eudaimonistic self-preservation-as-human-flourishing found in Aristotelian and Thomist thought than to the mere self-preservation-as-survival of Hobbes.

But, second, the self-preservation of which Overton spoke also differs in range from the self-preservation of which Hobbes spoke: it is “bounded” rather than unlimited. Hobbes did not operate with a conception even close to Overton’s “self-propriety,” and there are no moral limits to the quest for self-preservation by Hobbesian individuals except that which is conducive to this pursuit itself. Yet, since Overton did not, as did Hobbes, hold that it was impossible for human beings to act contrary to a passion for survival, he needed some natural limits as to what would be legitimate self-preservation. The answer was that individuals should seek their own self-preservation only within the limits of self-ownership, so that “[n]o man hath power over my rights and liberties, and I over no mans.”²⁶ For the right and duty of the individual to seek self-preservation naturally entails a reciprocal duty to respect the similar right of others, who also possess self-ownership:

I’ll not sell my birth-right for a mess of pottage, for Justice is my naturall right, my heirdome, my inheritance by *lineall descent from the loins of Adam*, and so to *all the sons of men as their proper right without respect of persons*. The crooked course of Favour, greatnesse, or the like, is not the proper channell of Justice; *it is pure, and individuall, equally and alike proper unto all*, descending and running in that pure line streaming and issuing out unto all, though grievously corrupted, vitiated, and adulterated from generation to generation.²⁷

Overton thus found the moral boundaries set by self-ownership as little different from the Christian ethic. In an argument resembling Kant’s transcendental argument for the Categorical Imperative, Overton states that “seing nature teacheth me to defend my self, and preserve my life; Reason telleth me in the Negative,

²⁶*An Arrow*, p. 3.

²⁷*A Defiance*, p. 6.

that it is but just, that I should not doe that unto another, which I would not have another doe to me.”²⁸ Accordingly,

[N]o more may be communicated then stands for the better being, weale, or safety thereof [i.e., of the individual]: and this is mans prerogative and no further, so much and no more may be given or received thereof: even so much as is conducent to a better being, more safety and freedome, *and no more; he that gives more, sins against his owne flesh; and he that takes more, is a Theife and Robber to his kind*: Every man by nature being a King, Priest and Prophet in his owne naturall circuite and compasse, whereof *no second may partake, but by deputation, commission, and free consent from him, whose naturall right and freedome it is.*²⁹

When Overton spoke of his second principle of reason, he stress-ed its radicalism while adding an important qualification regarding the rights of others:

[I]n pursuance of the just and necessary *defensive Opposition* we may lawfully, and are in Conscience bound to destroy, kill and slay the otherwise irresistable enemy *for our own preservation and safety* whether in our lives, our Lawes or our liberties.”³⁰

In other words, the individual is not morally permitted to do whatever he wants to another individual. In his pursuit of self-preservation, the individual is allowed only to use the violence necessary for his defense, and allowed only to do so in order to defend his self-ownership and the rights which flow from it.³¹

Accordingly, one needs to put substance into what constitutes these rights which nobody may violate, and which everybody has

²⁸Regall Tyrannie, p. 9.

²⁹An Arrow, p. 4, italics added.

³⁰An Appeale, pp. 177–78, italics partly in original.

³¹See Richard Overton, *Certaine Articles [for the Good of the Common Wealth. . . .]*, July 17, 1647. Reprinted in Wolfe, *Leveller Manifestos of the Puritan Revolution*, pp. 189–95; in Aylmer, *The Levellers in the English Revolution*, pp. 82–87.

both a right and a duty to defend. Overton's concept of self-ownership enters the picture here, for it is by way of this concept that Overton's view of the liberty and natural rights of individuals can and must be understood. The individual has a natural right to exercise self-ownership, and either others respect that right, or they do not. If they do, then one is in a condition of liberty, otherwise not, and, accordingly, a condition of liberty is an "either-or." Overton saw "liberty" and "coercion" (or "bondage") as fundamentally opposed and mutually exclusive concepts and ways of human interaction: "[F]reedom and tyranny are contraries, that which representeth the one, doth not represent the other."³² This is because "one be so destructive to the Being of other, that, where the one is, the other cannot be."³³

However, Overton does not explicitly define exactly what is to be understood by "liberty" or "freedom." Nonetheless, given his contrasting of liberty and coercion, he most likely agreed with his collaborator Lilburne's "negative" definition, namely that liberty exists when "no man be questioned or molested or put to answer for anything but wherein he materially violates the person, goods or good name of another." In this way, Overton is almost equating liberty, rights, and property, particularly since he used the latter concept in what has been called an "extended sense."³⁴ For the "property" of which Overton spoke, especially in *An Arrow* and *An Appeale*, is clearly not limited to the individual's own person, narrowly understood, nor is it limited to physical objects. Rather, the principle of self-ownership is identical to the right to "life, liberty and property," as when Overton spoke of the individual's "own liberty or property, either in person, goods, or estate."³⁵ Lib-

³²*An Appeale*, p. 169.

³³*The Commoners Complaint*, p. 375.

³⁴See Peter Laslett, introduction to *Two Treatises of Government*, by John Locke, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), pp. 101–3; Gordon Schochet, introduction to *Life, Liberty, and Property: Essays on Locke's Political Ideas* (Belmont: Wadsworth, 1971), p. 5.

³⁵*A Defiance*, p. 9.

erty is the right to act in a self-directed way with what is one's property. Or, in more practical and political terms, the "negative" definition of liberty may be equated with a "positive" right to

Liberty of conscience in matters of Faith, and divine worship; Liberty of the Person, and liberty of Estate: which consists properly in the propriety of their goods, and a disposing power of their possessions.

The principle of self-ownership and the natural right to liberty thus entail the right of the individual to dispose freely of his person, his labor, and his legitimately acquired goods.³⁶

But what are legitimately acquired goods? Overton nowhere at any length developed a theory of how to acquire possessions, although it would be unfair to claim that he was completely without one; at most, he did not find it necessary or opportune to develop it at length. For Overton, the right to acquire, possess, and exchange material property follows immediately and logically from the dual principles of reason, that individuals have a duty to seek self-preservation, and that they have a right to do so with the means necessary as long as they do not violate the rights of others. This naturally points toward a theory of acquisition, but it should also be noted that Overton did not subscribe to a so-called occupation the-

³⁶At the risk of over-interpreting typesetting errors, I believe one may see an implicit distinction between Overton's use of the terms "propriety" and "property." He apparently uses "property" as a synonym for "estate" or "goods" (i.e., material property), while "propriety" seems to refer to the self-propriety (i.e., self-ownership) of individuals, their individuality and rationality, their rights to dispose of themselves *and* to acquire and exchange physical property. If one does not notice this distinction, a number of confusions could arise, such as when Overton states, in *An Arrow*, p. 3, that each individual is born to and with equal propriety. This refers, of course, not to the belief that each individual is born holding equal property, but having equal rights to exercise the liberty to acquire and exchange property. Hampsher-Monk, "The Political Theory of the Levelers," pp. 410–12, makes a fundamentally similar distinction and interpretation on the same basis, although he—mistakenly, I believe—concludes that "property" only refers to "conventional" and not "natural" rights.

ory of acquisition, as espoused by Hugo Grotius, for example. For Overton, the right to property is a natural right which follows from the nature of human beings, and is not something dependent upon consent from others. Furthermore, any occupation theory of acquisition would seem to conflict severely with his normative analysis of the oppression of the English people since the Norman invasion. Finally, and most importantly, Overton seems to embrace what later would be called a labor theory of acquisition, for he stated that self-ownership is a principle by which one

would do as you would be done unto, that would have your neighbour *injoy the fruit of his own labour, industry, and sweat of his brow*, the freedom of his Conscience and *estate*, his own naturall right, and property, and have none to invade or intrench upon the same, more then you would have upon your own.³⁷

Self-Ownership, Inalienability, and Consent

The concept of self-ownership “positively” conceptualizes the principles of reason, which hold that human beings ought to further their self-preservation, and that they have the right to do so freely with their own persons, their labor, and the goods they can produce and exchange with others. Simultaneously, the concept “negatively” sets out the corresponding limits to this pursuit, namely by stressing that only consent-based interpersonal relations are morally justified.

Moreover, this concept of self-ownership also embodies particular elements that in turn make it the central analytical concept in Overton’s political thought, especially when seen in conjunction with his rationalist principles. As should be clear by now, Overton’s underlying principle of reason is that the dictates of right reason are justificationally antecedent and superior to earthly legislation; in other words, Natural Law supersedes statute:

The equity of the Law is Superiour to the Letter, the Letter being subordinate and subject thereto. . . . Yea, if the

³⁷*A Defiance*, p. 5.

Law should comptroule and overthrow the equity, it is to be comptrouled and overthrowne it selfe, and the equity to be preserved as the thing, only legally, obligatorily and binding.³⁸

Similarly, the third principle of reason, according to Overton, is what might be called the sanctity of contract, which finds that contracts entail mutual obligations. When one party breaks a relationship entered into by consent, the other party is relieved from fulfilling its part of the contract: “All betrusted powers if forfeit, fall into the hands of the betrusters, as their proper centure: and where such a forfeit is committed, there is disoblegeth from obedience.”³⁹

Both principles are ultimately connected to a particular aspect of Overton’s concept of self-ownership, inherent in the duty of self-preservation, which he repeatedly stressed as central: that self-ownership itself is “inalienable.” An individual cannot—even voluntarily—give up his natural rights and, for instance, enslave himself.⁴⁰ Of course, Overton did not claim that a human being cannot, in writing or words, promise to submit to the will of another, nor that it is *de facto* impossible for some to enslave others to enforce such a promise of self-alienation through the use of force.

So what did Overton intend to say when he argued that self-ownership is inalienable, and what was his justification? Unfortunately, the often short and polemic nature of Overton’s writing did not leave room for elaborate philosophical arguments. Given this, Overton could be making the argument that since human beings by nature have the faculty of reason and free will (from which self-ownership and the principles of reason follow), they as a matter of fact cannot—even if they desire to—alienate this faculty, since it is exactly that faculty which makes them human. As long as individuals *de facto* possess the faculty of reason, they *de jure* possess the right of self-ownership. This may be seen by contrasting the “property” that one has in one’s person with the property one has

³⁸*An Appeale*, p. 161.

³⁹*An Appeale*, p. 162.

⁴⁰See *An Arrow*, p. 4; *An Appeale*, p. 163; and *Regall Tyrannie*, p. 11.

in material goods. One can give away, sell, or otherwise dispose of one's physical property, and one can even alienate parts of one's body, and while one may later regret this, these objects are no longer in one's possession. But one cannot alienate one's reason or will itself, and, accordingly, any promise or contract to do so is automatically void, according to Natural Law.

Furthermore, from a normative perspective, individuals also ought not to alienate their self-ownership since this would be contrary to self-preservation in a self-directed manner, and, as already shown, the first and second principles of nature dictate that individuals have a right and duty to seek self-preservation. By attempting to alienate their self-ownership, for instance, through a "slave contract," individuals would violate what is both a command of God and a law of nature: "[F]or as by nature, no man may abuse, beat, torment, or afflict himself; so by nature, no man may give that power to another, seeing he may not doe it himselfe."⁴¹ To voluntarily or passively

subject to slavery, or to be a slave, is to degenerate from his Originall, and Primitive institution of Man into the habit of a Beast, upon whom God never bestowed that stile and honour of being creatures created in the Image of their Creator.⁴²

Accordingly, to do so, even with one's consent, would be as much a violation of the principles of reason as would the acquisition of someone else's property (without that person's consent). In both cases, it would amount to theft:

Why therefore shall I crave my own, or beg my right? to turn supplicant in such a case is a disfranchising of my self, and an acknowledgement that the thing is not my own, but at another mans pleasure; so that I forsake and cast off my property, and am inslav'd to his arbitrary pleasure: if the other will, I may have possession, otherwise not. Which indignity to my own . . . rights. . . ; for

⁴¹*An Arrow*, p. 4, italics added. An identical formulation appears in *An Ap-
peale*, p. 163.

⁴²*Regall Tyrannie*, p. 11.

it is no better then a branch of tyranny to force a man to turn supplicant for his own, and of self-robbery to submit thereto.⁴³

Even if an individual attempts to alienate his self-ownership, by contracting himself into submission, for instance, it follows from the principles of reason that he has a right to resist the enforcement of such a contract.

In this manner, by setting out what individuals ought to do (seek self-preservation) and what they ought not to do (violate another's liberty), the notion of self-ownership as inalienable in reality provides the foundation for a radically consent-based social philosophy. If an individual in pursuit of self-preservation freely and non-coercively consents to an interpersonal relationship with one or more other individuals, then this carries with it a moral weight and sets moral boundaries that nobody can legitimately transgress. On the other hand, relationships based on coercion or other elements contrary to reason are illegitimate, and may and ought to be resisted.⁴⁴

⁴³A *Defiance*, p. 6.

⁴⁴I differ on several counts with other interpreters' formulations of Overton's concept of self-ownership, first and foremost "possessive individualism" as described by Crawford B. Macpherson in *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Oxford University Press, 1962). Briefly stated, I believe that while Macpherson correctly focuses on the notion of self-ownership as central and as signifying a "property" in one's own person, he fails to understand the sense in which this is "inalienable." One can "alienate" one's possessions and sell one's labor, but this is not identical to alienating one's self-ownership, which is reason and the ability to use one's person. Accordingly, Macpherson's interpretation of the Levellers' view of the franchise, which is built on his interpretation of the Levellers as excluding people who sell their labor on the grounds that they have alienated their self-ownership, is flawed. In "The Political Theory of the Levellers," Hampsher-Monk understands this, but in an otherwise brilliant analysis, does not quite capture the originality of Overton's concept of self-ownership. Specifically, Hampsher-Monk seems to think that Overton considered only self-ownership natural, while property rights in material objects are "conventional." In

THE NATURE OF POLITICAL AUTHORITY

Overton built his political doctrine upon this foundation of Natural Law and natural rights. From this foundation, it follows naturally that all human relationships have to respect the laws of nature, specifically the rights of individuals to life, liberty, and property, and, accordingly, that only institutions and organizations based upon voluntary relationships can be considered legitimate.

Thus, Overton and his fellow Levellers suggested something almost identical to what today would be called political contractarianism. But it is correct that “the Levellers were practical thinkers who felt no interest in prehistoric man and the origin of society; it was the present that concerned them.”⁴⁵ It is also correct that the Leveller view that earthly institutions ought to comply with Natural Law, as well as a number of their more specific positions —e.g., that monarchy historically was and ought to be, at best and if at all, elective, with the king owing loyalty to his oath to his subjects—were not peculiar to them. Furthermore, it is also true that neither Overton nor the other Levellers used such a term as “state-of-nature,” or had elaborate theories of the forms of a “covenant” or “social contract.” Nonetheless, a close inspection of Overton’s writing, going beyond the polemic and rhetoric, reveals that he did, in fact, advocate a distinctly contractarian view of what should be considered the legitimate foundation and purpose of political authority. An attempt to reconstruct this view follows.

The Basis of Political Authority

Overton did not explicitly use the concept of a “state-of-nature,” but he did use a number of basically identical concepts, for instance, “mutuall society,” the “fundamentall originall” situation, and the “body naturall” (or “naturall body”). These all signify situ-

other words, while he correctly understands Overton’s notion of self-ownership, he fails to appreciate that property rights are but a natural extension thereof.

⁴⁵Brailsford, *The Levellers and the English Revolution*, pp. 117–18.

ations where human beings are conceived “by nature,” and “God by nature hath made him free.”⁴⁶ Throughout his writing, Overton described the nature of individuals as that which obtains in the absence of oppression, when they enjoy the natural rights which derive from their right to self-ownership. In such a situation, people enjoy their “natural liberty,” are “naturally of themselves noble and free,”⁴⁷ and are governed only by their adherence to the laws of nature and consensual relationships. For instance, this is the case if a government ceases to exist, and its authority thereby returns to “the fundamentall originall, rise and situation thereof, which is the people.”⁴⁸ Overton sees this concept of a “fundamental” and “original” situation as one conceptually akin to a state-of-nature, a situation where oppression is absent, and full authority resides in the individuals themselves.⁴⁹

In this way, Overton confronts the nature of society through a radical individualism that should be applied both for the understanding of phenomena and for their legitimization, an individualism both methodological and moral. Overton continually stressed that, in reality, even legislation and government are nothing but the individuals of which they are constituted, and simultaneously that

no more can be communicated to the generall, then is included in the particulars whereof the generall is compounded; for that were to goe beyond it selfe, for Being to goe beyond the power of being, which is impossible.⁵⁰

⁴⁶*An Arrow*, p. 3.

⁴⁷*A Defiance*, p. 1.

⁴⁸*An Appeale*, p. 162.

⁴⁹See, e.g., *An Arrow*, passim. Also see Richard Ashcraft, *Locke's Two Treatises of Government* (London: Allen and Unwin, 1987), p. 162.

⁵⁰*An Appeale*, p. 163. Almost identical phrasing appears in *An Arrow*, p. 4. It should be pointed out that methodological individualism and moral individualism are not identical doctrines, although they are closely related; both entail that the whole cannot have any properties not derived from its parts. Methodological individualism holds that social phenomena can be understood only through the actions of individuals and the meanings

Adopting such a principle, and given the principle of self-ownership, it follows that institutions and organizations cannot have any rights or authority but those possessed by the individuals constituting them. This must necessarily be so for all legitimate authority:

[A]ll just humain powers take their original; *not immediatly from God* (as Kings usually plead their prerogative) but *mediatly by the hand of nature*, as *from the represented to the representors*; for originally, God hath *implanted them in the creature*, and from the creature those powers *immediatly proceed*; and *no further*.⁵¹

From this follows—as dictated by Overton’s third principle of reason—that all human institutions, including such human creations as legislation and governments, must necessarily respect Natural Law in the same way as the individuals who make them up are supposed to do. Accordingly, in the “fundamental” and “original” situation, all—and only all—the individuals together compose a “body naturall,”⁵² and only their unanimous consent and adherence to Natural Law can create political authority:

So . . . amongst the Sons of Men, that live in mutuall society one amongst another in nature and reason, there is none above, or over another, against mutuall consent and agreement, and all the particulars or individuals knit and joined together by mutuall consent and agreement, becomes a Sovereign Lord and King, and may create or set apart for the execution of their Lawes . . . Officers, which we call Magistrates, and limit them by what rules they judge convenient; alwayes provided they be consonant to the Law of God, Nature and Reason by the

they attach to these. It follows, therefore, that all organizations and institutions should be seen as nothing but the composite of the actions of individuals. Moral individualism holds that no group or social entity can have any moral rights, obligations, or authority other than those derived from individuals. Overton clearly, albeit often implicitly and less-than-carefully, subscribed to both of these principles. For examples of his methodologically individualist analysis of political authority, see *An Arrow*, p. 11; *The Commoners Complaint*, pp. 378–79; *An Appeale*, p. 162.

⁵¹*An Arrow*, p. 4, italics added.

⁵²See *An Appeal*, pp. 178–79.

force of which, it is not lawfull for any man to subject himself to be a slave.⁵³

Thus, at first and speaking in general terms, Overton's views on the purpose and legitimacy of political authority stand safely planted in the classical Natural Law doctrine: the purpose and justification of political authority is its pursuit of the common good. Yet, under closer consideration, it becomes clear that Overton's radical individualism points toward not only a radical but also an innovative way of approaching questions of social and political theory: it represents a distinctively "individualist turn" in the focus of Natural Law theorizing.⁵⁴ For although Overton, like other Natural Law theorists, sees the common good as the purpose of political authority, it should be noted that this is described exclusively in terms of the good of individuals. Just as individuals naturally seek their own well-being, so the power given to political authority, and the purpose of having it at all, is "to be employed to no other end, then our owne well-being," to "to deliver us from all kind of Bondage, and to preserve the Common-wealth in Peace and Happinesse."⁵⁵ More specifically, both the purpose of and limit upon political authority is the observance of Natural Law as expressed in common law:

The publike *safety* and *liberty* of the *people* is the maine

⁵³*Regall Tyrannie*, p. 11, italics added.

⁵⁴On the "individualist turn" made by Overton and Lilburne as compared with their contemporaries, see Theodore C. Pease, *The Leveller Movement: A Study in the History and Political Theory of the English Great Civil War* (Gloucester: Peter Smith, 1965), pp. 131–53. As Brailsford described it for the Levellers in general: "What was original in their view of the social contract was that they analysed society—present-day society—into the individuals who composed it and then enquired on what terms they conferred on their representatives the right to govern them." See Brailsford, *The Levellers and the English Revolution*, p. 118.

⁵⁵[Richard Overton and William Walwyn?], *A Remonstrance [of Many Thousand Citizens, and Other Free-Born People of England, to Their Own House of Commons. . . .]*, July 7, 1646. Reprinted in Haller, *Tracts on Liberty in the Puritan Revolution*, pp. 353–70; in Wolfe, *Leveller Manifestoes of the Puritan Revolution*, pp. 113–30; and in Sharp, *The English Levellers*, pp. 33–53.

end of all Government, and Governours, whether Regall, Parliamenterie, or other; and the Law of the Land usually called the *Common-Law*, being grounded upon right reason and equity, the true Rule and Directory, both for ruling and obeying.⁵⁶

The more radical implications of Overton's doctrine become apparent when we realize exactly what Overton meant by the protection of the safety and liberty of the people: "Now our safety and protection lieth in the full and just enjoyment of our Lawes, our Rights, and Freedomes, and delivery from bondage and thralldome,"⁵⁷ and, for Overton, "law," properly understood, "respecteth nothing more then the Liberty and Freedome of a mans person."⁵⁸ Accordingly, following Overton's Natural Law doctrine, governments can serve one and only one purpose, namely, that of securing the natural rights of individuals to life, liberty, property, and the pursuit of happiness, and they can perform actions only to the extent that they aim to secure these rights:

All *State-Deprivation* of life, limbe, goods, liberty or freedome, either is, or should be, all and every particle thereof, the just execution of the *Law executing*: For in Equity, the Action executing is indivisible from the Law, and only & precisely proper thereto, and not at all to the party executed.⁵⁹

⁵⁶Richard Overton [Mary Overton, pseud.], [*To the Right Honourable, the Knights, Citizens, and Burgesses, the Parliament of England, assembled at Westminster,*] *the Humble Appeale and Petition [of Mary Overton, prisoner in Bridewell]*, March 24, 1647, p. 1, italics partly added. See also *A Remonstrance*, pp. 114–15, 124, and 128; [Richard Overton?], *An Alarum [to the House of Lords: Against their insolent Usurpation of the Common Liberties, and Rights of this Nation. . . .]*, July 31, 1646, p. 9; and *An Arrow*, p. 4.

⁵⁷*An Appeale*, pp. 173–74.

⁵⁸*The Humble Appeale and Petition*, p. 2.

⁵⁹*The Commoners Complaint*, p. 378.

The Limits of Political Authority

Why should protection of the rights to life, liberty, and property be the only purpose of political authority? And why should only a political authority based on unanimous and revocable consent be considered legitimate? Overton's answer is manifold, complex, and not systematically articulated, but a partial reconstruction shows it to be a fundamentally contractarian argument based in the principles of Natural Law.

Overton never claimed that there had been an actual social contract in the sense of *de facto* political authority being instituted by explicit, joint, and common consent, made between citizens and a king. Indeed, he saw most of English history as being contrary to the political principles he advocated. Nonetheless, Overton embraced an explicitly contractarian doctrine when he repeatedly referred to the moral and legal relationship between citizens and government as being necessarily one of "trust," "contract," and "commission."⁶⁰

For Overton, the legitimacy of political authority was not its origin, but the extent to which it performed what ought to be its role, namely, securing the universal and timeless natural rights of citizens in accordance with the laws of nature. Or, as he put it directly to the members of Parliament:

[Y]ee were chosen to worke our deliverance, and to Estate us in *naturall and just libertie* agreeable to *Reason* and common *equitie*; for *whatever our Fore-fathers were*; or whatever they did or suffered, or were enforced to yeeld unto; *we are the men of the present age, and ought to be absolutely free from all kindes of exorbitancies, molestations of Arbitrary Power*, and you wee choose to free us from all without exception or limitation, either in respect of Persons, Officers, Degrees, or things; and we were full of confidence, that ye also would have dealt impartially on our behalf, and made us the most absolute free People in the world.⁶¹

⁶⁰See *A Remonstrance*, p. 113; also *Regall Tyrannie*, pp. 33, 61–62, 99.

⁶¹*A Remonstrance*, pp. 114–15, italics partly in original.

This passage clearly demonstrates that Overton believed that despite the lack of an explicit contract, there necessarily exists a contractual relationship between the citizens and their government, whatever its form: “[t]here *is* a *contract* betwixt the King & his People; yea, and such a one, as ties up all his public official actions to be according unto Law, and not according to the rule of his own Will.”⁶² Specifically, Overton’s argument was that the relationship between the citizens and the exercisers of political authority must necessarily proceed from the self-ownership of individuals: it can ultimately be based only upon the common consent of the citizens, its purpose must be the protection of the natural rights of the individuals, and it must be revocable.⁶³

But why should this be the case when, in reality, the relationship was of a quite different character and origin? Overton’s answer was that only such a relationship carries reason with it, and therefore is in accordance with Natural Law. To be in accordance with Natural Law, the relationship between citizens and government must necessarily be the “common consent or choyce of the People, the onely and alone Fountain of all just power on earth.”⁶⁴ The relationship must accordingly—even if it did not have a contractual origin—take the form of an at least tacit contract, “that by vertue of his Induction into his Office, is Naturally and Rationally implied to be made, althou it never be expressed.”⁶⁵ Individuals *could not* legitimately give their consent to anything but such a relationship, and rational individuals *would not* give their consent to anything but this.

Ultimately, Overton’s justification of this view of the relationship between individuals and their government is grounded in his argument that institutions consist only of those who make them up, and that their authority, accordingly, cannot exceed what is contained in the self-ownership of individuals, and that the relation-

⁶²*Regall Tyrannie*, p. 33, italics added.

⁶³See *An Alarum*, p. 3; also *An Appeale*, p. 162.

⁶⁴*Regall Tyrannie*, p. 45.

⁶⁵*Regall Tyrannie*, p. 61–62; cf. pp. 33 and 99.

ship—since it is a relationship between individuals—is subordinate to the principles of reason. The existence of political authority, therefore, necessarily presupposes some empowerment by individuals, and since there are only two kinds of human interaction—consent and coercion—empowerment can be obtained only by one of these means. If through the latter, then it is clearly not legitimate, for it would be against the laws of nature. On the other hand, if it derives through the former, then it must necessarily be a conditional delegation which is revocable.

That this must be the case is because of the inalienability of self-ownership. The first principle of reason dictates that individuals cannot promise to give up their self-directed pursuit of self-preservation, and be forced to keep such a promise. Furthermore, the third principle of reason states that Natural Law is superior to everything else, that the laws of nature are “above all lawes and compacts in the world.”⁶⁶ Accordingly, individuals cannot sign themselves into complete obedience to an absolute sovereign, not even through a social contract, covenant, or compact. To do so would be to sign away the rights to life, liberty, and property, which would be contrary to the laws of nature:

[N]ature it self doth abhor, that a man should betray
spoyl or destroy himself either of life, limbe, or liberty . .
. one that so doth, is guilty of no lesse then murther;
and if so, then what are those, which force him to it?⁶⁷

Accordingly, any such actual or hypothesized compact could not be legitimate. It follows from this that the relationship between citizens and the exercisers of political authority cannot be one in which citizens unconditionally surrender their self-ownership to an absolute sovereign, be it monarchical, aristocratic, or republican. The relationship can only be one of delegation, one in which individuals conditionally give up a part of their actual exercise of self-ownership.

But it also follows from Natural Law, specifically from Over-

⁶⁶*Regall Tyrannie*, p. 59.

⁶⁷*A Defiance*, p. 23.

ton's first principle of reason, that individuals have a duty to seek self-preservation. Accordingly, the conditional delegation is dependent upon those who delegate power doing so to promote their self-preservation, and those having been delegated power exercising it in accordance with the specific principles under which it is delegated. In other words, the purpose of political authority must be to secure, within the dictates of reason, the rights of the individual to life, liberty, and property, for the individuals themselves possess both the faculty of reason and natural rights. Given this, there cannot possibly be any necessity in or deeper justice to the creation of political authority but to secure these. Had people been able to secure peace and happiness in the absence of political authority, such as in a state-of-nature, political authority would neither be necessary nor justified. For political authority is only an artificial organization created by human beings:

For wee might justly have done it our selves without you, *if we had thought it convenient*; choosing you (as Persons whom wee thought fitly qualified, and Faithfull,) for avoiding *some inconveniences*.⁶⁸

Finally, it also follows from Overton's third principle of reason that the relationship between citizens and their government is terminated (or at least revocable) if one party violates its conditions. The empowerment of political authority must, in other words, be a contractual relationship, like that between a buyer and a seller of a service, in which one good is exchanged for the performance of an action. This relationship, accordingly, closely resembles what contemporary economic theories call a principal-agent relationship:

Wee are your Principalls, and you our Agents; it is a Truth which you cannot but acknowledge: For if you or any other shall assume, or exercise any Power, that is not derived from our Trust and choice thereunto, that Power is no lesse then usurpation and an Oppression, from which wee expect to be freed, in whomsoever we finde it; it being altogether inconsistent with the nature of *just Freedome*, which yee also very well under-

⁶⁸A *Remonstrance*, p. 113, italics added.

stand.⁶⁹

In practice, these points necessitate “that there is a generall communication amongst men from their severall innate properties to their Elected Deputies for their better Being, Discipline, Government, Property, and Safety.”⁷⁰ But this power, which political authority has, is and ought to be nothing but an extension of the self-ownership of the individuals constituting the particular society: “For effecting whereof [i.e., Peace and Happiness], we possessed you with the same Power that was in our selves to have done the same.”⁷¹ Finally, the power with which individuals exercising self-ownership have empowered political authority is not alienated, “but a Power of trust, (which is ever revokable, and cannot be otherwise), and to be employed to no other end, then our owne well-being.”⁷² Individuals, therefore, can only delegate authority—the exercise of self-ownership—to others conditionally. The condition is the protection of natural rights, and the delegation is revocable.

Finally, an additional reason why the relationship between citizens and exercisers of political authority must necessarily take this form is that this is the only form of arrangement that any rational individual could consent to:

And can any *reasonable man* conclude, that our *protection and assistance* of them [the House of Commons], and their *protection and assistance* of us are not relatives, and one *dependent* on the other? For what is the reason, that we have engaged our lives and estates thus in their defence, but that they should be as faithfull a *protection* unto us.⁷³

While some human beings could perhaps voluntarily give up their freedom, not every rational individual can give up his self-ownership. Accordingly, anything beyond a voluntary and revoca-

⁶⁹A *Remonstrance*, p. 113.

⁷⁰An *Appeale*, pp. 162–63, italics added.

⁷¹A *Remonstrance*, p. 113, italics added.

⁷²A *Remonstrance*, p. 113, italics added.

⁷³An *Appeale*, p. 173, italics partly in original.

ble delegation of authority for the purpose of protection of natural rights would be unimaginable:

Reason tells me . . . that no Sovereignty can justly be exercised, nor no Law rightfully imposed, but what is given by common consent, in which, every individuall is included.⁷⁴

Popular Sovereignty and the Right of Rebellion

Overton built his case for what today would be called the “sovereignty of the people” and the right to rebellion against illegitimate authority upon this individualistic interpretation of the principles of Natural Law:

Power is originally inherent in the People, and it is nothing else but that might and vigour, which such and such a Society of men contains in it self, and when by such and such a Law of common consent and agreement, it is derived into such and such hands, God confirms the Law: And so man is the free and voluntary author, the Law is the instrument, and God is the establisher of both.⁷⁵

However, if government becomes oppressive, that is, if it exceed its natural role of protecting the natural rights of individuals, then its authority automatically and without conditions or procedures returns to the people, who, thus, find themselves in a situation where authority is dissolved into the “originall Law of Nature.” Overton considered this nothing more than the logic of the third principle of right reason. In other words, Overton held that legitimate authority either resides in the people as a whole, as their individual self-ownership, or that it is delegated to a government under certain conditions as political authority:

[When the authority of government ceases, it] is only to be found in the *fundamentall originall, rise and situation thereof*, which is *the people the body represented*; for though it ceaseth from the hands of the betrusted,

⁷⁴*Regall Tyrannie*, p. 10.

⁷⁵*Regall Tyrannie*, p. 40–41.

yet it doth not, neither can it cease from its being, for Kings, Parliaments, &c. may fall from it, but it indureth for ever, for were this not admitted, there could be no lawfull redress in extremity. . . : it alwayes is either in the hands of the Betruſted or of the Betruſters, while the Betruſted are diſchargers of their truſt, it remaineth in their hands, but no ſooner the Betruſted betray and forfeit their Truſt, but (as all things elſe in diſſolution) it returneth from whence it came, even to the hands of the Truſters: For *all juſt humane powers are but be-truſted, confer'd, and conveyed by joint and common conſent.*⁷⁶

The actual exerciſers of political authority are ſuppoſed to be nothing more than the agents of the principals, thoſe who have delegated power to them, and, if the agents fail to keep their part of the contract, it is automatically void. The agents are

therewith *ſingly and only* impowred for their ſeverall weales, ſafeties and freedoms, *and no otherwiſe.* . . . So that ſuch deputed, are to the *Generall* no otherwiſe, then as a Schoole-maſter to a particular, to this or that mans familie, for as ſuch as ones Maſterſhip, ordering and regulating power, is *but by deputation*, and that *ad bene placitum*, and *may be removed* at the parents or Head maſters pleaſure, upon neglect or abuſe thereof, and be center'd upon another.⁷⁷

And the people, who, as individuals, do not have the right to give up ſelf-ownership, cannot accordingly, either individually or as a whole, contract themſelves into ſervitude. For the whole cannot poſſeſſ properties which its parts do not have, and, ſince nobody may violate the ſelf-ownership of himſelf or others, ſo it is with the people as a whole:

Even ſo and no otherwiſe is it, with you our Deputies in reſpect of the *Generall*, it is in vaine for you to thinke you have power over us, to ſave us or deſtroy us at your pleaſure, to doe with us as you liſt, be it for our

⁷⁶*An Appeale*, p. 162, italics added.

⁷⁷*An Arrow*, p. 4, italics partly added.

weale, or be it for our wo.”⁷⁸

All delegated power “is meerly derivative and bounded within this tacit commission, to act only for the good of those that betrusted them, and not for their mischief in the least.”⁷⁹

The important question then becomes, what specifically would constitute such a breach of trust by political authority so as to automatically return power to the citizens? There are several natural limitations to this contractual entrustment of power. First of all, the delegation is not indefinite in time, but must be tested regularly through elections such as may be customary.⁸⁰ Second, power is to be delegated, according to Overton, not to specific persons, but to institutions; “legall Authority,” for example, is explicitly conceived of as nothing but the “persons therein intrusted.”⁸¹ Accordingly, if the persons no longer exercise authority in the appropriate manner, that is, in accordance with the natural rights of citizens, their authority ceases to be binding: “All authority is fundamentally seated in the office, and but ministerially in the persons; therefore, the persons in their Ministrations degenerating from safety to tyranny, their Authority ceaseth.”⁸²

When a government violates the rights of the people, and its authority returns to the very people whose rights it has violated, what does this mean, in practice? If the rights of individuals are natural, and thus belong to all, and if these rights are inalienable, and thus cannot be given up but only delegated with consent, then individuals who violate these rights are nothing but criminals, *even if they are a part of the government*. And since every individual has a natural right to refuse to submit to violations of his rights, so he has a right to refuse to submit to an oppressive government. But more than that, he also has an equally natural right to use force to

⁷⁸*An Arrow*, pp. 4–5.

⁷⁹*Regall Tyrannie*, p. 99.

⁸⁰See *A Remonstrance*, p. 113.

⁸¹*The Commoners Complaint*, pp. 378–79.

⁸²*An Appeale*, p. 162.

defend his rights against violations by such a government:

[T]he persons invaded and assaulted by such open force of Armes may lawfully arm themselves, fortifie their Houses (which are their Castles in the judgement of the Law) against them, yea disarme, beat, wound, represse and kill them in their just *necessary defense* of their own persons, houses, goods, wives and families, *and not be guilty of the least offense*.⁸³

The right of an individual to defend himself against violations of his natural rights is, in other words, only limited by the extent to which it is necessary to defend the rights in question. The right also applies no matter who commites the violation, and no matter what authority they claim:

Even so upon the same ground, and by the same rule, that opposition which is made by a particular man in his own necessary defence, against the assault or sudden hostility of certain other particular men upon his person, or house, without any Warrant or Magisteriall Authority for that their hostilitie, is by the Law of the Land lawfull, justifiable and equall; and the others condemn-ed, as illegall, unjust, unnaturall and barbarous. . . . [Such are] Murtherers, Theeves, and Robbers. For if assaulting of mens persons, invading and entring their houses, and taking what of their goods such men please, and that all by force of Arms, be simply a Magisteriall Act, then All theeves and murtherers are justified there-by; for their violence is without any Magisteriall Authority appearing: but by the Law it is therefore adjudged theft, murther, &c.⁸⁴

Yet, for Overton, an innocent individual has not only the natural right to disobey and to resist a tyrannical government, but also the duty to do so. Even a guilty individual should not be forced to punish himself, since that would be acting contrary to his own nature, and, accordingly, an innocent individual who pays obedience to an unjust authority—no matter the degree and the context— is

⁸³ *An Arrow*, p. 9.

⁸⁴ *A Defiance*, pp. 9–10.

thereby violating his duty to himself. It follows from the first and second principles of reason that there is

an inherent principle of nature, concurring with the Com-mandement of God, for were not tyranny in it selfe resistable, then a man might lawfully murder himselfe or give power to another to be his Butcher, but in regard by the Law of God in nature and in his word both the one and the other is verily unlawfull, therefore such kind of inhumanity and tyranny is to be resisted both in proper person and otherwise, shall we therefore be so inhumane, so unnaturall and diabolicall, to destroy and murder our owne selves, we may as well execute our selves with our own hands, as give leave to others to be our murderers, for the matter would be all one in the execution, it would only differ in the instrument; therefore if we may not take leave to our selves, nor give it to another, then wee must resist it in others as well as in our selves, for not *to hinder is to give leave*.⁸⁵

Or, as Overton put it in the case of his own refusal to obey what he considered illegitimate authority:

[M]y *rejection of carrying my own Body to the Goale*, was no other but the refusall to be my own Executioner therein; for though it were not of that degree of cruelty and inhumanity to my own flesh, as to cut my own throat; yet was it of the same nature and kind. And therefore if the one must be condemned as unjust, illegall and unnaturall, so must the other in its kind, so that as I was not bound, with my hands to cut my own throat, so with my feet, I was not bound to carry my selfe to prison.⁸⁶

In summary, Overton held that the individual has both a right and a duty to resist a government that violates his natural rights, even when this resistance is contrary to established statute law, if such a resistance is in accordance with the dictates of right reason.

This right of resistance against authority residing inalienable in the people could be interpreted—as indeed it was—as if Overton

⁸⁵*An Appeal*, p. 177, italics in original.

⁸⁶*The Commoners Complaint*, p. 379, italics in original.

were an opponent of order, and a proponent of chaos and “anarchy.” But this was not the case, especially considering Overton’s defense of Natural Law and natural property rights, and his distinction between the institutions of society and the persons holding offices in those institutions. For, according to Overton, just actions are by definition in accordance with just law, namely common law, which he stated as “That Reason hath no president, for Reason is the fountaine of all just presidents.”⁸⁷ Accordingly, “if this principle must be granted of, and obeyed by all, as by no rationall man can bee denied,” then violating statute law “if grounded upon right Reason is justifiable and warranted.”⁸⁸ When this is kept in mind, it is clear why Overton saw himself as a protector of justice and civil society:

[W]hile they [parliament] move in the Sphere of our safety, their motions are Parliamentary, legall, and authoritative, and to be obeyed, defended, and maintained, but on the contrary, the contrary must be concluded, for contraries have contrary consequents. For *there is a difference betwixt their Parliamentary, and their owne Personall capacity*, and their actions are answerably different; therefore, the rejection, disobedience, and resistance of their personall commands, is no rejection, disobedience, or resistance of their Parliament Authority: So that he that doth resist their personall commands, doth not resist the Parliament, neither can they justly be censured or esteemed as Traytors, Rebels, Disturbers, or Enemies to the State, but rather as *Preservers, Conservers, and Defenders thereof*.⁸⁹

By stressing in this way both the rights and duties of individuals to resist oppressive governments, Overton may be seen as having been, in both theory and practice, one of the first advocates of popular sovereignty and the rights of rebellion. In fact, Overton, when he was addressing the arbitrary power of the House of Lords in particular and of government in general, foreshadowed one of

⁸⁷ *An Appeale*, p. 158.

⁸⁸ *An Appeale*, p. 158, italics in original.

⁸⁹ *An Appeale*, p. 174.

the great heroes of the American Revolution, Patrick Henry. In doing so, Overton summarized the creed of the revolutionary:

But if they transgress, and go beyond the bounds of rationality, justice, and equity, I shall to the utmost of my power make opposition and contestation to the last gasp of vital breath; and I will not beg their favor, nor lie at their feet for mercy; let me have justice, or let me perish.⁹⁰

A RADICAL LIBERAL REFORM PROGRAM

It is hardly necessary to stress the fact that Overton was a political radical. His doctrine—in particular his conception of a just society necessarily being based on the natural and inalienable rights of life, liberty, and property, and his views on the limits of political authority and the right of the people to rebel—constituted a quite radical political program. But how radical was he, and how does his doctrine translate into ideological terms?

An Emerging Analysis of History and Classes

Overton's views naturally led him to see society divided into two fundamentally opposed groups: those living by their own labor and peacefully and voluntarily interacting with their fellowmen, and those living through privileges granted them by political authority. In contemporary (especially in Marxist) terms, one would most likely call this a "class analysis," but, apart from being more fragmented and less developed, Overton's "class analysis" departs from the Marxist in several important ways. First and foremost, Overton's theory of "classes" was radically individual, focusing on the rights of individuals, and seeing groups only as "classes" to the extent that they violated rights or had their rights violated. Second, Overton's class distinction was not in terms of economic or materially based inequalities, but in terms of the origin of social, political, and economic inequalities, specifically in the political origin hereof.

Specifically, Overton and other Levellers placed the beginning

⁹⁰A *Defiance*, p. 6.

of the class division of their own society at the Norman Conquest in 1066: “[W]e remain under the Norman yoke of an unlawfull Power, from which wee ought to free our selves,”⁹¹ a “Norman yoke of cruelty, oppression, and tyranny.”⁹² Overton and the Levelers saw the original Anglo-Saxons as a people forcefully invaded, oppress-ed, and enslaved by their Norman conquerors, and, accordingly, saw most property distributions and almost all institutions and legislation since then as products of the interests of the monarchy and its supporters in a judicial-ecclesiastical-aristocratic-military complex.⁹³

The History of our Fore-fathers since they were Conquered by the *Normans*, doth manifest that this Nation hath been held in bondage all along ever since by the policies and force of the Officers of Trust in the Common-wealth, amongst whom, wee always esteemed Kings the chieftest: and what (in much of the former-time) was done by warre, and by impoverishing of the People, to make them slaves, and to hold them in bondage, our latter Princes have endeavoured to effect, by giving ease and wealth unto the People, but withall, corrupting their understanding, by infusing false Principles concerning Kings, and Government, and Parliaments, and Freedoms; and also using all meanes to corrupt and vitiate the manners of the youth, and strongest prop and support of the People, the Gentry.⁹⁴

Seen in this perspective, the fight of the radicals in the Civil

⁹¹*A Remonstrance*, p. 123.

⁹²*A Defiance*, p. 2. This, the story of the “Norman Yoke,” was popularized by Henry Parker in his *Jus Populi* (October 16th, 1644), which may have influenced Overton and Lilburne. See Wolfe, *Leveller Manifestos of the Puritan Revolution*, p. 5.

⁹³See Aylmer, *The Levellers in the English Revolution*, p. 13. On the “Norman Yoke” in Overton’s writings, see, e.g., *A Remonstrance*, pp. 113–14, 123–25, and 128; *A Defiance*, pp. 1–2; *The Commoners Complaint*, pp. 376–77, and 386–87; and *The Humble Appeale and Petition*, pp. 13. On the ruling classes of seventeenth-century England, see *An Alarum*, pp. 7–8.

⁹⁴*A Remonstrance*, pp. 113–14.

War in general, and that of the Levellers in particular, was not simply a trivial legal question about whether authority resided with the monarch or with Parliament. Rather, it was “a crusade of Englishmen for the recovery of liberties which their fathers had held and lost.”⁹⁵

The only exception from this view of legislation—and that indeed only partly—in the Leveller-writings was the Magna Carta, “that little Remainder of Light.”⁹⁶ The Magna Carta, together with Scripture, was the authority to which Overton most often referred:

Magna Charta itself being but a beggerly thing, containing many markes of intollerable bondage, & the Lawes that have been made since by Parliaments, have in very many particulars made our Government much more oppressive and intollerable.⁹⁷

According to Overton, those who controlled political power and exploited the people owed their position to the historical process of using political authority for their own purposes. In its origin, political power was simply physical power, but, over time, free-born Englishmen had been held in bondage through the continuous imposition of what Marx would have called “false class consciousness”:

Yea, such hath been the misterious mischievous subtilty from generation to generation of those cunning Usurpers, whereby they have driven on their wicked designes of tyranny and Arbitrary domination, under the fair, specious, and deceitfull pretences of Liberty and Freedom, that the poore deceived people are even (in a manner) bestialized in their understandings, become so stupid, and grosly ignorant of themselves, and of their own nat-urall immunities, and strength too,

⁹⁵Pease, *The Leveller Movement*, p. 146.

⁹⁶*An Alarum*, p. 6.

⁹⁷*A Remonstrance*, p. 124. Among Overton’s many references to the legal authority of the Magna Carta, see also *An Arrow*, pp. 7 and 9; *The Humble Appeale and Petition*, pp. 4ff and 10ff; and *An Appeale*, pp. 166–67. On Overton’s and Lilburne’s views of common law and Norman tyranny, see Pease, *The Leveller Movement*, pp. 131–53.

wherewith God by nature hath inrich'd them, that they are even degenerated from being men, and (as it were) unman'd, not able to define themselves by birth or nature, more then what they have by wealth, stature, or shape, and as bruits they'l live and die for want of knowledge, being void of the use of Reason for want of capacitie to discern, where-of, and how far God by nature hath made them free.⁹⁸

Despite the historical incompleteness of the analysis, the “myth of the Norman Yoke” does seem to capture some of the essences of the class division of English society in the seventeenth century. But, more than that, it provided to Overton and the Levellers an analytical tool with which to rationalize all violations of the natural rights of citizens as acts performed by the ruling classes in their own self-interest.⁹⁹ Overton did not use the term “ruling classes.” Rather, he used “corrupt interests” as a common denominator for those exploiting the people through political authority.

Overton divided these corrupt interests into four groups. The first and foremost,¹⁰⁰ which throughout history had oppressed the freeborn citizens of the country, was composed of the exercisers of hereditary power—the monarch and the peers—which, by necessity, was arbitrary and ultimately derived from conquest and exploi-

⁹⁸*A Defiance*, p. 2. For Overton's analysis of the clergy's vested interests, see *A Remonstrance*; cf. Pease, *The Leveller Movement*, p. 147.

⁹⁹See *A Remonstrance*, pp. 124–27; and *An Alarum*, pp. 7–8.

¹⁰⁰See *An Alarum*, pp. 7–8; also Richard Overton, John Lilburne, Thomas Prince, and William Walwyn, *An Agreement [of the Free People of England. . . .]*, May 1, 1649. Reprinted in Wolfe, *Leveller Manifestos of the Puritan Revolution*, pp. 400–10; in Haller and Davies, *The Leveller Tracts*, pp. 318–28; in Aylmer, *The Levellers in the English Revolution*, pp. 160–68; and in Sharp, *The English Levellers*, pp. 168–78. Also see *An Agreement*, p. 403. To be exact, Overton's emphasis in describing those abusing political power shifted now and then, according to the occasion, e.g., “all Arbitrary Power, in Kings, or Lords, or any other . . . the Clergy, the Judges, Lawyers, and Monopolists” (*An Alarum*, pp. 7–8); “the Kings, Lords, and Clergy” (*A Defiance*, p. 1).

tation.¹⁰¹ The three other groups that Overton pointed out were those who benefited from the power arbitrarily exercised by the first, and the “deadly adversaries”¹⁰² of any honest man. Specifically, the second group of “corrupt interests” was the clergy of the state church, which oppressed religious groups.¹⁰³ The third group was composed of those responsible for unfair judicial procedures, that is, the judges and

the burthensome Society of Lawyers; that live upon the impoverishing of the industrious and laborious People . . . [and] have been forced upon this nation by Conquest, and continued against Reason, and the weale of the People.¹⁰⁴

Finally, the fourth group was that of “all Monopolists, and engrossers of trade,” that is, those benefiting at the expense of the consumers from the interventions and subsidies of the state.¹⁰⁵

Liberal Constitutionalism and Laissez-Faire

Historically, it was this society of privileges, and especially the Machiavellian policy first of the king and the House of Lords, later

¹⁰¹Overton stated that “their fellow Robbers, Rogues, and Theeves, the lineall issue, and progeny of which, the present House of Peers are,” had subverted “the ancient manner of Parliaments, & the ancient Lawes and Liberties of Government of this Kingdome, and a Law innovated, and introduced, flowing meerely from the will of a Bastard, Thief, Robber, & Tyrant.” See *Regall Tyrannie*, pp. 86 and 92. Also: “[B]y what meanes some of you came by yours [titles of honour], is very uncertaine, but, this is certaine, that most of you gained no part of it your selves: and the common wayes your Auncesters gained it for you, was generally by adhering to Kings, in subduing and oppressing the *Commons*, or by pleasing their Lusts, Mallice, Revenge, or Covetousnesse; for so Histories manifest, and those that have been made Lords in our times, have been advanced by the same occasions.” See *An Alarum*, p. 4; “Wee are resolu’d upon our Naturall *Rights* and *Freedoms*, and to be enslaved to none, how Magnificent soever, with Rotten Titles of Honour.” See *An Alarum*, p. 6.

¹⁰²*An Alarum*, p. 8.

¹⁰³*An Alarum*, p. 7.

¹⁰⁴*An Alarum*, p. 8.

¹⁰⁵*An Alarum*, p. 8.

the House of Commons, and finally the Protectorate, that formed the background for Overton's and the Levellers' demands. Such policies had made whatever legitimate authority the government may have had cease, and, thus, the people of England, according to Overton, legally found themselves in a state-of-nature.

This led Overton and the Levellers to demand a new social contract based on the principles of Natural Law. Overton was indeed the first to make such a demand when, in an address to the House of Commons, he insisted that this should limit the nature of government so as to secure the people against arbitrariness:

[T]he Lawes of this Nation are unworthy a Free-People, and deserve from first to last, to be considered, and seriously debated, and reduced to an agreement with common equity and right reason, which ought to be the Forme and Life of every Government.¹⁰⁶

This led Overton and his collaborators to set out the very first written statement of principles for a constitutional government, *Certain Articles*, which later was expanded in three proposed "Agreements."¹⁰⁷ Given Overton's radical individualism and the historical context, it is understandable that in these writings, he was most occupied with the negative definition of government, of setting out its natural limits by constitutionally limiting the role of government through a number of severe restrictions. In this way, Overton came to be a kind of grandfather to the declarations of human rights and liberal constitutionalism of the eighteenth and nineteenth centuries.

In terms of the fundamental legal rights of citizens, Overton favored basic legal equality and, therefore, fought against legal privilege, such as peerages and exceptions from legislation.¹⁰⁸ In constitutional matters, this legal egalitarianism led Overton to advocate

¹⁰⁶ *A Remonstrance*, p. 124, italics partly added.

¹⁰⁷ See *An Agreement*.

¹⁰⁸ See *An Alarum*, pp. 3–4; *Certain Articles*, pp. 192–93; and *An Agreement*, pp. 406–7.

strict restrictions on any inflation of the rights of citizens and the limits on government set out in the Magna Carta, an extension of the franchise, a freely elected parliament as the supreme political authority, and annual elections to Parliament.¹⁰⁹ Accordingly, Overton was constitutionally opposed to a hereditary executive and a hereditary second chamber. He also opposed legislation being written in any language other than English.¹¹⁰

Overton's legal egalitarianism also naturally led him to demand a number of procedural rights and a strict observance of the rule of law, for instance, the right of the people to elect judges directly, the right of the accused to be presumed innocent until proven guilty, the right to trial by a jury of peers, the right not to be forced to self-incrimination, and the right not to be imprisoned without warrant or trial.¹¹¹ Overton insisted on restitution rather than retribution as a general principle in criminal matters, and, accordingly, advocated the right not to be imprisoned for crimes other than such as violence or theft, and specifically not for debt; the right not to be submitted to the death penalty for crimes other than murder; and the right of prisoners not to be submitted to cruel and unfair treatment.¹¹²

Overton quite evidently embraced a large number of specific rights similar to what today would be called "civil liberties," and these were not limited to procedural rights. Overton stood staunchly against such policies as: conscription and other forms of

¹⁰⁹See *An Arrow*, p. 7; *A Remonstrance*, pp. 127 and 129; *Certain Articles*, p. 189; and *An Agreement*, pp. 402–4.

¹¹⁰See *A Remonstrance*; *An Alarum*; *An Arrow*, p. 6; and *Certain Articles*, pp. 189 and 192.

¹¹¹See *A Remonstrance*; *An Alarum*; *A Defiance*, pp. 8–9 and 12–26; *An Arrow*, p. 6; *Certain Articles*, pp. 190–91; *An Agreement*, pp. 406–8; Richard Overton, John Lilburne, and Thomas Prince, [*The Picture of*] *The Council of State* [, *Held forth to the Free People of England*. . .], April 4, 1649, reprinted in Haller and Davies, *The Leveller Tracts*, pp. 191–246.

¹¹²See *A Remonstrance*, p. 125; *A Defiance*, pp. 8–9; *An Arrow*, p. 6; *Certain Articles*, pp. 191–93; and *An Agreement*, p. 407.

slavery; war without the explicit consent of the people; the state church and any restrictions on religious freedom; and censorship and other violations of freedom of expression.¹¹³ Similarly, in the area of “economic liberties,” Overton was equally against confiscation and expropriation of private property, as well as tithes and high taxes, tariffs, privileges in commerce, and other forms of protectionism and mercantilism.¹¹⁴

Redistribution and the Tasks of Political Authority

For Overton, these specific rights are in reality nothing but the restrictions on political authority necessary to protect the natural right of individuals to the exercise of self-ownership. An important question, therefore, is what “positive” tasks of government would be compatible with such a radical individualism? The answer seems to be few, if any at all, for, as has been recognized, this is a doctrine with far-reaching socio-economic and political implications.¹¹⁵ But despite his radicalism, Overton was no anarchist in any sense of the term. Rather, he should be seen as a proponent of what today would be called “classical liberalism,” and, as such, an advocate of something similar to a “minimal state.” Overton, in collaboration with his fellow Leveller leaders, identified three—and only three—main “positive” tasks of a government for which there

¹¹³See *A Remonstrance*, pp. 121–23 and 125; *An Alarum*, p. 7; *Certaine Articles*, p. 192; and *An Agreement*, pp. 405 and 408.

¹¹⁴See *An Arrow*, p. 6; *A Remonstrance*, p. 126; *An Alarum*, p. 8; *Certaine Articles*, pp. 193–94; and *An Agreement*, pp. 407–8.

¹¹⁵Cf. this comment by a prominent socialist Leveller scholar: “Rash though it is in its militant individualism, this definition stands out from the records of the seventeenth century as one of the earliest and one of the boldest statements of the liberal creed. Strictly interpreted, it would deny the right of society to exact from the individual citizen his contribution to the welfare and even to the safety of the whole organism.” See Brailsford, *The Levellers and the English Revolution*, p. 75. For contemporary radical liberal political theories based on a concept of self-ownership similar to that of Overton, see Nozick, *Anarchy, State, and Utopia*; and, especially, Rothbard, *The Ethics of Liberty*.

is no need for further consent:

1 To the conservation of Peace and commerce with for-
rain Nations. 2 To the preservation of those safe
guards, and securities of our lives, limbes, liberties, and
estates . . . 3 To the raising of moneys, and generally to
all things as shall be evidently conducing to those
ends, or to the enlargement of our freedom, redress of
grievan-ces, and prosperity of the Commonwealth.¹¹⁶

The positive tasks of government are to secure the natural right to life, liberty, and property, domestically as well as toward (but not in) the rest of the world, and, to some extent, to supply what economists today would label “public goods.” However, it should be noted that the latter probably would be limited, for it was expressly stated that these “things” should be those which “evidently” are conducive to the protection of life, liberty, and property, and Overton’s restrictive and negative interpretation of these values has already been shown. In other words, there seems to be little basis for judging Overton as being favorable to any form of government redistribution, and, thus, little basis for considering him an early forerunner of any form of socialism, such as some theorists have considered the Levellers.¹¹⁷ In fact, Overton and his brothers-in-arms clearly felt uncomfortable with the label “Level-lers,” especially with the natural connotation of economic “level-

¹¹⁶*An Agreement*, p. 405.

¹¹⁷As a group, the Levellers have been labeled “social democrats” (Joseph Frank, *The Levellers: A History of the Writings of Three Seventeenth-Century Social Democrats: John Lilburne, Richard Overton, William Walwyn* [Cambridge, Mass.: Harvard University Press, 1955]), “socialists” (Fenner Brockway, *Britain's First Socialists: The Levellers, Agitators, and Diggers of the English Revolution* [London: Quartet Books, 1980]), and even been put in the same group as the “Diggers,” i.e., as a group of proto-communists (Gernot Lennert, *Die Diggers: Eine Frühkommunistische Bewegung in der Englischen Revolution* [Gratenau-Dottingen: Trotzdem Verlag, 1986]). Cf. also Sharp, *The English Levellers*, pp. xii–xiii, who notes such additional adjectives as “radical demo crats,” “liberal democrats,” “constitutional democrats,” and “petty bourgeois democrats.”

ing,” which it almost logically seems to imply.¹¹⁸ Indeed, this was what it was intended to invoke when it was applied to the movement not by its supporters but by their opponents. This is evident from the fact that Overton often—at least four times—called the label “unjust,” and did so prominently as not to be mistaken or ignored.¹¹⁹ Together, the Leveller leaders stated explicitly that they

¹¹⁸The term “Levellers” was not coined until late 1647, when Ireton and Cromwell used it during the Putney Debates to invoke association with other radical and more egalitarian political groups. The in-this-way-derogative label actually had its historical origin in a quite different group of common men who, in 1607, protested against enclosures of previously common land by a literal “leveling” of fences. See Frank, *The Levellers*, pp. 2 and 291–92.

The label was also used to associate the group with Gerrard Winstanley’s pantheistic, communitarian, and utopian “Digger” movement. This activist movement, which had a brief existence (1649–52), and from which the Levellers repeatedly distanced themselves, wanted to abolish private property in land and other economic inequalities by communalizing property and organizing a money-free economy; the Levellers were in this sense not “true Levellers.”

This was indeed the label the Diggers themselves chose, presumably in order to differentiate themselves from the Leveller movement of Overton, Lilburne, and Walwyn, and which the Leveller scholar H.N. Brailsford, himself a dedicated socialist, reserved for them. See his chapter, “The True Levellers,” in Brailsford, *The Levellers and the English Revolution*, pp. 656–70. On the differences between the “Levellers” and the “Diggers,” see Pease, *The Leveller Movement*, pp. 314ff., Aylmer, *The Levellers in the English Revolution*, pp. 47–54; Jack R. McMichael and Barbara Taft, “The Life and Thought of William Walwyn,” Introduction to *The Writings of William Walwyn*, ed. Jack R. McMichael and Barbara Taft (Athens: University of Georgia Press, 1989), pp. 42–43.

¹¹⁹See [Richard Overton, John Lilburne, and Thomas Prince?], *[The] Second Part of Englands New-Chaines [Discovered: Or a sad Representation of the uncertain and dangerous condition of the Common-wealth. . .]*, March 24, 1649, reprinted in Haller and Davies, *The Leveller Tracts*, pp. 172–89, esp. p. 181, where the label is dismissed as “slander.” Cf., the subtitles of three other 1649 pamphlets, *A Manifestation*; *Overton's Defiance [of the Act of Pardon: Or, The Copy of a Letter to the Citizens usually meeting at the Whalebone in Lothbury behinde the Royal Exchange;*

were opposed to

Levelling, for which we suppose is commonly meant an equalling of mens estates, and taking away the proper right and Title that every man has to what is his own. . . . We profess therefore that we never had it in our thoughts to Level mens estates, it being the utmost of our aime that the Common-wealth be reduced to such a passe that every man may with as much security as may be enjoy his propriety.¹²⁰

Thus, there can be little doubt that Overton was radically opposed to government redistribution, and that this was also the general sentiment of most of the Levellers, with the possible exception of Walwyn.¹²¹ There is nothing in Overton's writings on natural rights anything even remotely resembling a principled advocacy of positive "welfare rights." For instance, when Overton stated in *An Arrow* and in *An Appeale* that all men are born to like "propriety," he was not talking about "goods" or "estates," of positive rights to specific amounts of property, but of the right to exercise self-ownership, that is, the right to acquire, possess, exchange, and consume material property.

And others commonly (though unjustly) styled Levellers], July 2, 1649; and *The Baiting [of the Great Bull of Bashan Unfolded. . . .]*, July 9, 1649.

¹²⁰A *Manifestation*, p. 279.

¹²¹Walwyn seems to have been the only Leveller leader who supported any form of positive rights to equal property, and that even only moderately so. Walwyn, of whom an explicit care for the relief of the poor and other forms of redistribution was more characteristic than of Overton, seems to have been in favor of some utopian ideal of voluntary "communism." But even this was only to be reached through a voluntary and unanimous agreement of the people. On Walwyn's egalitarian tendencies, see Wolfe, *Leveller Manifestoes of the Puritan Revolution*, p. 111; Brailsford, *The Levellers and the English Revolution*, p. 462; Watner, "Come What, Come Will!" pp. 409–10; and McMichael and Taft, *The Writings of William Walwyn*, p. 42. Lilburne, on the other hand, was as consistent a proponent of capitalism and the sanctity of private property rights as was Overton. See Watner, "Come What, Come Will!"; and David Hoile, *The Levellers: Lib-ertarian Radicalism and the English Civil War* (London: Libertarian Alliance, 1992).

Nonetheless, some prominent scholars have seen in Overton's writings, especially *Certaine Articles*, a deviation from the otherwise general *laissez-faire*-oriented character of the Leveller program, and possibly even the beginning of a more comprehensive social-welfare program.¹²² However, this is at least partly an over-interpretation. It is true that Overton, at the end of *Certaine Articles*, added four paragraphs, three of which may be seen as endorsing something similar to a redistributive program: one addressed public schools, one dealt with public hospitals, and one discussed communal property. Yet, under closer scrutiny, not all are contrary to the *laissez-faire* program, and some even follow directly from Overton's self-ownership approach. First, Overton simply called for a return of private property which traditionally had belonged to private schools and private hospitals, and for

all grouns which anciently lay in Common for the poore, and are now improprie, inclosed, and fenced in, may forthwith (in whose hands soever they are) be cast out, and laid open againe to the free and common use and benefit of the poore.¹²³

Second, while it is also true that Overton simultaneously made a call for local public funding of schools and hospitals, there may be several good reasons to consider this a pragmatic, perhaps almost opportunistic, policy adopted primarily out of compromise and to gain support for the larger causes.

But while this is merely a hypothesis, three points should be noted which together make it justifiable to see such demands simply as solitary exceptions from the general doctrine. First, they contradict his fundamental view of the purpose and limits of political authority. Second, their appearance in *Certaine Articles* seems a last-moment addition, placed at the end, and being "positive" in their demands of rights, rather than "negative," as are the rest. But third, and most important, this is the only time such demands appear

¹²²See Aylmer, *The Levellers in the English Revolution*, pp. 48–49 and 82; and Wolfe, *Leveller Manifestoes of the Puritan Revolution*, p. 155.

¹²³*Certaine Articles*, p. 194.

explicitly in Overton's writings; no such suggestions appear in the joint, yet much more "Overtonian," *An Agreement*, which the Leveller leaders themselves considered "the ultimate end and full scope of all our desires and intentions concerning the Government of this Nation."¹²⁴

SUMMARY AND CONCLUSION

This article has presented an attempt to outline a synthesized, yet more coherently organized, version of Overton's political theory. Specifically, new and detailed attention has been given to Overton's foundational argument, and to how this provided the basis for his specific policy prescriptions.

It should now be obvious that there is nothing in Overton's doctrine that justifies placing him ideologically alongside the Diggers as a seventeenth-century English forerunner of socialist thought. Redistributive concerns played a role in Overton's thinking only to the extent that they were related to what he saw as violations by privileged classes of the common man's natural rights to life, liberty, and property. Rather, Overton was a staunch proponent of central elements of the classical liberal ideology, and to the extent that he is seen as the forerunner of any doctrine, it would most naturally be what may be called "Lockean liberalism." Indeed, all the main elements of what has come to be considered Locke's liberalism were present in Overton: the natural right of individuals to life, liberty, and property; the necessity of governments to be based on the consent of the governed; and the right of the governed to rebel when the government becomes oppressive. Overton's conceptualizations of the "state-of-nature" and the "social contract" may have been superficial and fragmented, but both the framework and the implications were there.

The only link that Overton needed in order to have been the true originator of classical liberalism was a bridge between, on the one hand, the claim that individuals have a natural right of self-

¹²⁴*An Agreement*, p. 401.

ownership and property, and, on the other hand, a fully developed theory of how property rights are established. Overton completely lacked an articulated theory of justice in acquisition and legitimate ownership of land, although he came so close in introducing the notion of self-ownership as to almost stumble over that solution, which still had 30 to 35 years to wait before it would be formulated and put in print by John Locke.

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