

## **“Come What, Come Will!”**

### **Richard Overton, Libertarian Leveller**

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The Levellers were a group of politically active soldiers and civilians whose organized efforts during the English Civil War (1642-1649) were based on their beliefs in individual liberty. John Lilburne was their popularly recognized leader, but it is in the works of his associate, Richard Overton, that we find the most consistent expression of their incipient libertarianism. In this essay, we will make first a preliminary survey of the libertarian aspects of the Leveller movement, and then a more detailed examination of the pamphleteering career of Richard Overton.

From our vantage point in the twentieth century, not all Leveller thinking is consonant with modern libertarianism, but it is probably a fair statement to say that the Leveller organization was the first modern political movement to embrace the principles of individual liberty to any great extent. One modern historian of the movement, H. N. Brailsford, has distinguished three basic ideas in the web of Leveller thought. First, the Levellers were quite concerned with the realm of each person's individuality or self-propriety, as they termed it. Although they never explicitly used the term self-ownership, self-propriety had the same connotation: the right of each and every person to control his or her own body and soul free of coercive molestation. During a period of bitter religious strife, the Levellers stressed religious freedom—the right of each person to worship (or not to worship) as he or she chose. They also emphasized the right of the individual to decide whether or not to bear arms; in short, the right to be free of conscription. Secondly, the Levellers affirmed the individual's right of association with other like-minded people, whether it be a voluntary church or a group of people printing their own books and pamphlets without government censorship. This also included the right of combination for political ends, which at that time meant the writing and distribution of petitions and all the meetings and publicity that this entailed. Their third basic idea involved equality of all before the law, both of rich and poor, noble and simple; and, particularly and most importantly, the equality of all in the sphere of political power. The Levellers advocated the abolition of all class privileges and government grants of monopoly, the simplification of legal

procedure, and a more widespread form of manhood suffrage. They also called for an end to tithes, excise duties, customs duties, imprisonment for debt, and conscription.<sup>1</sup>

The Levellers were not socialists or left-wing supporters of Cromwell, but rather individualists.<sup>2</sup> Following the Anabaptist tradition, they disowned coercion of all innocent people and affirmed a position of broad religious tolerance.<sup>3</sup> They were the first political movement outside of the Netherlands to stand for unqualified toleration, including acceptance of Jews and Catholics in England. Nor did they wish to charge the state with the responsibility for enforcing personal morality. No Leveller petition ever included among the reforms demanded the repression of swearing and drinking, or the more strict observance of the Sabbath, or the banishment of fiddlers from the taverns. The Levellers made the final breach with theocracy when they modified their appeal for religious toleration to a plea for the complete divorce between religion and the state. Theirs is the distinction of being the first movement in the modern world to call for a secular republic.<sup>4</sup>

Although they were accused of "setting up an utopian anarchy of the promiscuous multitude," they were not outright anarchists.<sup>5</sup> Towards the end of their existence as an organized political party, Walwyn, one of their four recognized leaders, wrote:

That we are for Government and against Popular Confusion, we conceive all our actions declare, when rightly considered, our aim having been all along to reduce it as near as might be to perfection, and certainly we know very well that depravity and corruption of man's heart is such that there could be no living without it; and that though Tyranny is excessively bad, yet of the two extremes, Confusion is the worst: Tis somewhat a strange consequence to infer that because we have labored so earnestly for a good Government, therefore we would have none at all; Because we would have the dead and exorbitant Branches pruned, and better scions grafted, therefore we would pluck the Tree up by the roots.<sup>6</sup>

Yet they recognized that no man could be bound, in a political sense, but by his own consent.<sup>7</sup> They admitted of no sovereignty anywhere except in the individual. The Levellers "seriously accepted the possibility of any man refusing obedience to commands incompatible with his idea of reason or justice. This may appear anarchic, but to them it was the ultimate guarantee of liberty."<sup>8</sup>

In the context of the English Civil War, the Levellers believed that resistance to King Charles I and his party was not resistance to "magistracy", as government was called, but rather resistance to tyranny. Overton wrote that tyranny could never be true magistracy and that every man was duty bound to endeavor to bring about the extirpation and removal of the usurpers and oppressors from the seat of government.<sup>9</sup> Therefore the Levellers held that resistance and rebellion against an existing tyrannical government was

lawful and right. Although the Levellers were originally aligned with Cromwell and the Independents, they soon realized that Cromwell, with Parliament under his control, was merely another usurper. Thus, if tyranny was resistible in a king, then they concluded that it was also resistible in Parliament.<sup>10</sup>

The Leveller's general devotion to English common law and the traditional British liberties is best exemplified in Lilburne's attitude towards the trial and execution of Charles I. Lilburne opposed trying the king by a special court. He had no objection in principle to the trial of the king, or to his execution if he were found guilty. However, according to Lilburne's view, neither the Long Parliament nor the Rump was entitled to try the king or send him to trial. He wished to postpone all action against the king until some sort of constitutional settlement could be made. To Lilburne, this meant the acceptance by the people at large of the Agreement of the People. Any action which the Rump took against the king would be arbitrary and an abuse of the power of the sword. The High Court of Justice, which was appointed to try the king, was an extraordinary tribunal, an invention of a political emergency and packed with partisans. The vague charge of treason against the king was open to the fatal criticism that it was based on no known law. Instead, Lilburne urged that the king was entitled to a trial by jury in the regular courts of the land and subject to the judgment of twelve jurors, like every other Englishman. The charge for which he should stand was that he had counselled and commissioned murder (on the battlefield).<sup>11</sup> Despite their enmity towards the king, Lilburne and most of the other Levellers were objective enough in their thinking to realize that if arbitrary treatment could be meted out to the king, contrary to known forms of law, then they, too, might be subject to such capricious treatment. Overton, alone among the Leveller leaders, approved without reservation the manner and execution of judging the king; he called it the finest piece of justice that was ever had in England.

Although much Leveller support originated in the Army, they were always cautious lest the military power of the Army supersede civilian legal authority. Of course, their fears were borne out. In their eyes, an English soldier was first an English citizen, with all the concomitant rights and duties of a citizen; and then, only secondarily, were they "volunteer" soldiers who had taken up arms to defend the parliamentary cause. In their estimation, they could not be sent overseas without their own consent. Therefore Cromwell's attempt to subdue Ireland, together with the chronic shortage and lateness of pay for the soldiers, generated much discontent in the Army, manifesting itself in a libertarian opposition to imperialism and militarism. The Levellers saw the Catholic Irish as their fellow men, who were as much entitled to claim their own liberty as were the Levellers themselves. Their code of ethics bridged foreign borders. In general, the Levellers rated the sovereignty of the individual's conscience high above the commands of military generals or the jurisdiction of the state. The Levellers

established the moral foundation for opposition to Cromwellian imperialism by recognizing the individual Irishman's claim to his own land. They asked if it was not as unjust to take away the laws and liberties of the Irishmen as it was to deprive an Englishman of his. Leveller anti-militarism and anti-imperialism was climaxed by the death of a young Leveller soldier, who was cashiered, court-martialed, and shot by Cromwell's orders. Refusing to wear the usual bandage over his eyes, Robert Lockyer faced, without fear, the firing squad which shot him to death. Before he fell he told those firing the shots that their obedience to superior orders did not acquit them of murder.<sup>12</sup> The Leveller defense of the right of the Irish to keep their own fields and practice their own faith is the earliest, and not the least distinguished, example in English history of the struggle of a popular party against imperialism.<sup>13</sup>

In Leveller opinion, Cromwell's imperialism was just another instance of his and Parliament's failure to govern by law after having succeeded Charles I to power. Lilburne and Overton saw the English nation as having therefore been reduced to the original law of nature, and they reasoned that individual citizens no longer owed any obedience or allegiance to these tyrannical politicians. The Levellers proposed that a new political settlement be made in which all Englishmen would give their consent to the Agreement of the People. The Agreement was a written, "constitutional" document prepared and revised several times by the Leveller leaders. It called for the abolition of the Long Parliament and the selection of a new Parliament based on more equitable and democratic rules. The Agreement itself was not to be passed upon by Parliament, since it was meant to be superior to Parliament. The Levellers hoped that the document would be unanimously adopted by members of the Army and then be signed by the people at large at the first general election. It was clearly the forerunner of our modern constitutions and plainly illustrates the Leveller's premise that society could be constituted on an entirely voluntary basis.<sup>14</sup>

The adoption by Leveller thinkers of a "state of nature" theory was quite evident in the Putney Debates, which took place between the Levellers and the Army grandees in 1647. The debates illustrate the radical nature of Leveller thought. In regard to the Army's past promises, the Levellers theorized that nothing was binding if it conflicted with reason, justice, and the safety of the people.<sup>15</sup> When Henry Ireton, Cromwell's son-in-law, claimed that the Levellers would destroy all property, they confidently appealed to the law of nature to demonstrate that the right to property is guaranteed by the law of nature, and not, as Ireton maintained, merely by positive government laws.<sup>16</sup> Clarke, one of the Leveller debaters, argued that the law of nature is the basis of all constitutions. "Yet really properties are the foundations of constitutions, and not constitutions of property. For if so be there were no constitutions, yet the law of nature does give a principle for every man to have a property of what he has or may have which is

not another man's. This natural right of property is the ground of mine and thine."<sup>17</sup> Furthermore, it is the law of nature that teaches the individual his rights and their attendant duties: the right and duty of self-preservation, and the natural limits of obedience, and the right and duty of resistance to tyrannical rulers. It teaches him what are the ends of government; and it inculcates the basic principles of social life — the principles of natural justice and equity which dictate the political equality of all men within the state and which are based upon the maxim "to do unto others as you would have them do unto you."<sup>18</sup>

The Levellers, especially Lilburne, were sensitive about their name and its connotations, and they protested repeatedly that they had no intention of levelling men's estates (i.e., forcefully distributing property from the rich to the poor). There is no question, however, that it was their intention to end every form of political and legal privilege, privilege which served to enrich members of the governing class.<sup>19</sup> The basic rift in society, for the Levellers, was not the division between wage earner and capitalist, but between the rich who profited from government monopolies and privileges and the poor and middle class who suffered from such favoritism. In effect, the Levellers saw a conflict between the producers and the politicians in society. Within a few months after the Putney Debates, the Levellers were espousing a remarkably class-conscious theory of the State, in which the Independent leaders were seen as part of a conspiracy of the rich and powerful to keep down the poorer and more industrious people.<sup>20</sup>

Lilburne was one of the firmest defenders of a positive social order based on property.<sup>21</sup> He was not opposed to the taking of interest on money loans nor for the renting of land. He claimed that the Levellers were the truest and most constant asserters of liberty and property ("which are quite opposite to community and levelling").<sup>22</sup> In one of his later books, Lilburne states his strongest disavowal of levelling. He not only denies his party's intention to level property, but also condemns any who do aim to level property. In Lilburne's opinion and judgment,

this Conceit of Levelling of property and Magistracy is so ridiculous and foolish an opinion, as no man of brains, reason, or ingenuity, can be imagined such a sot as to maintain such a principle, because it would, if practiced destroy not only any industry in the world, but raze the very foundation of generation, and of subsistence or being of one man by another. For as industry and valour by which the societies of mankind are maintained and preserved, who will take the pains for that which when he hath gotten is not his own, but must be equally shared in, by every lazy, simple, dronish sot? or who will fight for that, wherein he hath no other interest, but such as must be subject to the will and pleasure of another, yea of every coward and base low spirited fellow, that in his sitting still must share in common with a valiant man in all his brave and noble achievement? The ancient encouragement to men that were to defend their Country was this: that they were to hazard their

persons for that which was their own, to wit, their own wives, their own children, their own Estates. And this give me leave to say, and that in truth, that those men in England, that are most branded with the name of Levellers, are of all in that Nation, most free from any design of Levelling, in the sense we have spoken of.<sup>23</sup>

No Leveller leader ever called for the compulsory redistribution of property, but Walwyn did go so far as to advocate a voluntary sort of communism, if it were first agreed upon unanimously by those participating. In Walwyn's opinion the attempt to induce the levelling of men's estates was most injurious, "unless there did precede an universal assent thereunto from all and every one of the People." He further pointed out:

The Community amongst the primitive Christians, was *Voluntary*, not *Coercive*; they *brought* their goods and laid them at the Apostles feet, they were not enjoined to bring them, it was the effect of their Charity....

We [the Levellers] profess therefore that we never had it in our thoughts to Level men's estates, it being the utmost of our aim that the Commonwealth be reduced to such a pass that every man may with as much security as may be enjoy his property.<sup>24</sup>

Though each Leveller leader had his own opinion on the subject, their commonly subscribed statements explicitly demanded that Parliament be legally bound not to level men's estates, destroy property, or make all things common.<sup>25</sup> They all insisted that property was a natural right of the individual. It was on this concept of natural right that they based their case, not only for individual property, but also for government by consent and for civil and religious liberties. Their fundamental position was that every man is naturally the proprietor of his own person.<sup>26</sup>

This fundamental position is most strikingly set forth in some of Richard Overton's pamphlets, which were written as Leveller propaganda. Both in his *An Arrow Against All Tyrants* (October 10, 1646) and in his *Appeal* (July 1647) he endorses a principled and far-reaching theory of natural rights from which he derives all civil and political rights. The two opening paragraphs of the *Arrow* deserve being quoted in full:

To every individual in nature is given an individual property by nature, not to be invaded or usurped by any: for every one as he is himself, so he hath a self propriety, else could he not be himself, 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; No man hath power over my rights and liberties, and I over no man's; I may be but an Individual, enjoy my self, and my self propriety, and may write myself no more than my self, or presume any further; if I do, I am an encroacher and an invader upon an other man's Right, to which I have no Right. For by natural birth, all men are equally alike and born to like propriety, liberty, and freedom, and as we are delivered of God

by the hand of nature into this world, every one with a natural, innate freedom and propriety (as it were writ in the table of every man's heart, never to be obliterated) even so are we to live, every one equally and alike to enjoy his Birth-right and privilege; even all whereof God by nature hath made him free.

And this by nature every one desires aims at, and requires for no man naturally would be befooled of his liberty by his neighbor's craft, or enslaved by his neighbor's might, for it is nature's instinct to preserve it self, from all things hurtful and obnoxious, and this in nature is granted of all to be most reasonable, equal and just, not to be rooted out of the kind, even of equal duration with the creature: And from this fountain or root, all just human powers take their original; not immediately from God (as Kings usually plead their prerogative) but mediately 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 immediately proceed; and no further: and no more may be communicated than stands for the better being weal, or safety thereof: and this is man's 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 freedom, and no more; he that gives more sins against his own flesh; and he that takes more, is a Thief and Robber to his kind: Every man by nature being a King, Priest and Prophet in his own natural circuit and compass, whereof no second may partake, but by deputation, commission, and free consent from him, whose natural right and freedom it is.<sup>27</sup>

In the *Appeal* Overton makes an even more positive assertion of the reason for natural right and self-propriety:

It is a firm Law and radical principle in Nature, engraven in the tables of the heart by the finger of God in creation for every living moving thing, wherein there is a breath of life to defend, preserve, award, and deliver it self from all things hurtful, destructive and obnoxious thereto to the utmost of its power: Therefore from hence is conveyed to all men in general, and to every man in particular, an undoubted principle of reason, by all rational and just ways and means possibly he may, to save, defend and deliver himself from all oppression, violence and cruelty whatsoever, and (in duty to his own safety and being) to leave no just expedient unattempted for his delivery therefrom: and this is rational and just; to deny it is to overturn the law of nature, yea, and of Religion too; for the contrary lets in nothing but self murder, violence and cruelty.<sup>28</sup>

Here is Overton's ultimate justification for himself and the Leveller movement. In tones that presage those of John Locke of the 1680's and Thomas Paine of the 1770's, Overton marshals the dogmas of natural liberty in support of popular government by consent, toleration, and freedom of the press.<sup>29</sup> Here is the "proprietary quality of the Levellers' individualism". Every man and woman, being an individual person, is entitled to self-propriety. "What makes a man human is his freedom from other

men." Man's essence is his freedom and that can only mean self-control over one's own person and capacities. However, self-proprietorship did not mean passive enjoyment. "The Levellers demanded this manifold property in one's own person as a prerequisite of active use and enjoyment of one's capacities. Men were created to improve, and enjoy by improving, their capacities. Their propriety in themselves excluded all others, but did not exclude their duty to their creator and to themselves."<sup>30</sup>

The little known of Overton's career is that it was short and hectic. The best of his writings were written while he was in jail. He probably spent some part of his early life in Holland, where he learned the printing trade and imbibed the Anabaptist tradition of dissent. By the mid-1640's he had made the acquaintance of John Lilburne and joined with him in attacking the established church. In 1643, Overton wrote an anonymous tract entitled *Man's Mortality*, setting forth his sectarian views on religion. He was repeatedly denounced as a heretic, but kept writing his various satirical and anti-clerical pamphlets which he printed on his own press. In 1646, Overton became concerned over the imprisonment of Lilburne and participated in drafting *A Remonstrance of Many Thousand Citizens, and Other Free-Born People of England, to Their Own House of Commons. Occasioned Through the Illegal and Barbarous Imprisonment of that Famous and Worthy Sufferer for His Country's Freedoms, Lieutenant Col. John Lilburne* (July 7, 1646).<sup>31</sup>

The *Remonstrance* opens with a very clear statement of the Leveller theory of government—one based on consent of the governed and on a delegation of powers from the citizenry to their elected representatives.

We are well assured, yet cannot forget, that the cause of our choosing you to be *Parliament-men*, was to deliver us from all kind of Bondage, and to preserve the Common-wealth in Peace and Happiness: For effecting whereof, we possessed you with the same Power that was in our selves, to have done the same; For we might justly have done it our selves without you, if we had thought it convenient....

But ye are to remember, this was only of us but a Power of trust, (which is ever revokable, and cannot be otherwise,) and to be employed to no other end, than our own well-being.... We are your Principals, 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 less than usurpation and Oppression, from which we expect to be freed, in whomsoever we find it; it being altogether inconsistent with the nature of *just Freedom*, which ye also very well understand.<sup>32</sup>

After outlining the historical failure of former kings to maintain the people's liberties, the *Remonstrance* declares that men of the present age will no longer bear the tyranny of Charles I and that the members of Parliament, who

were chosen to work our deliverance, and to Estate us in natural and just liberty agreeable to *Reason* and common *equity*; for whatever our Fore-fathers were; or whatever they did or suffered, or were enforced to yield unto; we are men of the present age, and ought to be absolutely free from all kinds of exorbitances and molestations or Arbitrary Power, and you we choose to free us from all without exception or limitation, . . . 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.<sup>33</sup>

The *Remonstrance* also illustrates the Leveller attitude towards religious toleration. Although it admits that the House of Commons might propose what form of religion they deem best and might offer such to the public, the authors of *Remonstrance* firmly declare that no Englishman can be compelled to embrace a state religion.

Whereas truly we are well assured, neither you, nor none else, can have any into Power at all to conclude the People in matters that concern the Worship of God, for therein every one of us ought to be fully assured in our own minds, and to be sure to Worship him according to our Consciences.

Ye may propose what Form ye conceive best, and most available for Information and well-being of the Nation, and may persuade, and invite thereunto, but compell, ye cannot justly; for ye have no Power from Us so to do, nor could you have; for we could not confer a Power that was not in our selves, there being none of Us, that can without wilfull sin bind our selves to Worship God after any other way, than what (to a tittle,) in our own particular understandings, we approve to be just.<sup>34</sup>

The *Remonstrance* ends with a list of grievances that the Levellers have against the House of Commons, by whom they believe that they have been betrayed. A call is made for an "agreement of the people," since the members of the House of Commons know that the "Laws 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 Form and Life of every Government."<sup>35</sup> The Levellers were particularly grieved about the practice of conscription, and in probably one of the earliest attacks on that practice they wrote:

We entreat you to consider what difference there is, between binding a man to an Oar, as a *Gally-slave* in *Turkey* or *Algeria*, and Pressing of men to serve in your War; to surprise a man on the sudden, force him from his Calling, where he lived comfortably, from a good trade; from his dear Parents, Wife or Children, against inclination, disposition to fight for a Cause he understands not, and in Company of such, as he has no comfort to be with; for Pay, that will scarce give him sustenance; and if he live, to return to a lost trade, or beggary, or not much better: If any Tyranny or cruelty exceed this; it must be worse than that of a *Turkish Gally-slave*.<sup>36</sup>

The Levellers also complained about the imposition of customs duties on imports and claimed that their collection was most prejudicial to the nation. There were so many customs officers that "it is a very slavery to have any thing to do with them." The Levellers lamented that "Truly it is a sad thing, but too true, a plain quiet-minded man in any place in *England*, is just like a harmless sheep in a Thicket, can hardly move or stir, but he shall be stretched, and loose his wool."<sup>37</sup>

Overton continued to express his support for Lilburne, and about August 1, 1646 he published another one of his anonymous pamphlets, *An Alarum to the House of Lords*. In it Overton rebelliously warned the Lords that "if timely cautions will not avail with you, you must expect to be bridled, for we are resolved upon our natural *Rights* and *Freedoms*, and to be enslaved to none, how magnificent soever, with rotten titles of honor."<sup>38</sup> Lilburne had been imprisoned partly because of his written attacks on the vested interests of the day. According to Overton, Lilburne's writings

have been dangerous to all corrupt Interests in the *Commonwealth*; as First, to all *Arbitrary Power*, in King, or Lords, or any other.

Secondly, To the Power and delusion of the *Clergy*, and their oppression of Conscientiable Religious People.

Thirdly, to the most prejudicial ways of our *Legal Trials* in all Courts, and to the burdensome Society of Lawyers; that live upon the impoverishing of the industrious and laborious People; things which he proveth to have been forced upon this nation by Conquest, and continued against Reason, and the weal of the People.

Fourthly, To all *Monopolists*, and engrossers of trade: as the *Merchant Adventurers*, and the like: all which he hath (as others), proved to the Ruin of the People: and because of this his love to Truth, Justice, and his Country; and his opening of these things; and his opposition thereof to the uttermost of his Power: all these mighty Parties, put all their policy and strength in one, utterly to destroy him.

But he hath a good Cause; and all good People (that desire not to live by the Oppression of others,) on his side; and that your Lordships will find; for all these things will be laid open at the Sun, and every man will see wherefore it is you call his Books *scandalous, seditious, dangerous Pamphlets*, and why the *Clergy*, the *Judges*, *Lawyers*, and *Monopolists*, are his deadly adversaries, even because he deals plainly between you all; and the people, whom you labor by all means jointly to keep in bondage and Vassalage to your wills.<sup>39</sup>

The House of Lords reacted against Overton's *Alarum* by issuing orders for his immediate arrest, which took place on August 11, 1646, less than two weeks after the appearance of the pamphlet. Overton was held as a prisoner of the Lords and eventually lodged in Newgate prison. It was not until September 16, 1647, after more than a year in prison, that he was freed by order of the House of Commons. While imprisoned, Overton wrote and published some of his best pamphlet attacks on the Lords and Parliament.

*A Defiance*, the first of his "prison" pamphlets, appeared on September

9, 1646, less than a month after his initial arrest. In his confrontations with the House of Lords, Overton took exactly the same stand as had Lilburne. Overton simply denied their authority to question him, as he believed that, as a commoner, he was not at all subject to their jurisdiction.

I bid defiance to their injustice, usurpation and tyranny, and scorn even the least connivance, glimpse, jot, or title of their favor: let 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: for *Nihil quod est contra rationem est licitum*; Nothing which is against reason is lawful, it is a sure maxim in law, for Reason is the life of Law. 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. I'll not sell my birth-right for a mess of pottage, for Justice is my natural right, my heirdom, my inheritance by lineal 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 Favor, greatness, or the like, is not the proper channel of Justice; it is pure, and individual, 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.<sup>40</sup>

One of the great issues between Lilburne and Overton, and the House of Lords, was the question of self-incrimination. Literally, these were the men who made the U. S. Constitution's Fifth Amendment privilege against self-incrimination a reality. According to Overton, the law of England bound no man to betray himself, as the abolition of the Star Chamber proceedings had confirmed, and his refusal to answer the interrogatories of the Lords, he asserted, was not evidence of his guilt, but only of his obstinacy in adhering to his legal rights.<sup>41</sup>

*An Arrow*, Overton's next pamphlet, was issued from prison on October 12, 1646. As quoted earlier, the opening passages from *An Arrow* set forth Overton's theory of natural self-proprietorship. Overton then goes on to discuss representation and "magisterial," or governmental, powers. He points out that a holder of governmental office is not immune to breaking either the common or natural law, and that government office must not be used as a shield or excuse for law-breaking. Any government officer, whether king or member of parliament, may be rightfully resisted if he has not complied with the law. In Overton's circumstances, this meant that neither King nor Lords could legally direct his apprehension or imprisonment until he had first been tried and convicted by a jury of his peers. In a case such as his, any commoner might rightfully resist the agents or ministers of government, much as they would resist the unlawful advances of trespassers, thieves, burglars, felons, and murderers. "No legal conviction being made, the person invaded and assaulted by such open force of Arms may lawfully arm

themselves, fortify their Houses (which are their Castles in the judgment of the Law) against them, yea disarm, beat, wound, repress 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."<sup>42</sup>

Still imprisoned in 1647, Overton issued yet another of his "prison" pamphlets on February 10th of that year. He was still bound to state his case to the world and bring attention to his plight and that of his wife and family. Overton's intransigence had not waned even though he had been imprisoned since August 1646. Around November 3, he had been brought before a Committee of the House of Commons, at their order, for an inquiry into the reason for his incarceration by the House of Lords. He had hoped for justice at the Committee's hands and, in this new pamphlet, entitled *Commoners Complaint*, had resolved

in myself, that as in heart I defied all injustice, cruelty, tyranny, and oppression, all arbitrary usurpation and usurpers whatsoever, so in person (come life, come death, come what come would) I would not be so treacherous to my own self, to my wife and children, and especially to this Nation (the Land of my Nativity) in general, as personally to yield my active submission of any limb that was mine (either in substance or in show).<sup>43</sup>

In effect his attitude was that, if his jailers did not have a valid warrant for remanding him back to Newgate prison, then he would not "set forth one leg before another" for them and they should have to carry him if he was to be returned to jail.

Much of the *Commoners Complaint* is devoted to explaining Overton's reasons for his course of resistance. He wanted his reasons to be known, lest his actions be misunderstood by the public. He begins his defense by pointing out:

All State-Deprivation of life, limb, goods, liberty or freedom, 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 and precisely proper thereto, and not at all to the party executed: yea, though a man legally guilty of death should be condemned by the same legal Authority (or rather by persons therein entrusted) 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 nature itself 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 and inhumane.

But my rejection of carrying my own Body to the Gaol, was no other but the refusal 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, illegal and unnatural, 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 myself to prison.<sup>44</sup>

Overton then discourses on the relationship of Equity and Law and is not afraid to place the reason and equity of the law above Law itself:

Though the Letter of the Law should enjoin its Condemnants to be their own executioners, yet were that by its own equity condemned, nulled, and made void, for the letter must be subject to the equity: and look how much the letter transgressed the equity, even so much it is unequal, and is of no validity or force, for the Law taken from its original reason and end is made a shell without a kernel, a shadow without a substance, a Carcass without life: for the equity and reason thereof is that which gives it a *legal being and life*, and makes it authoritative and binding, if this be not granted, injustice may be a Law, tyranny may be a Law, lust, will, pride, covetousness, and what not? may be Laws; for if equity be not the bounder of the Law, over the corrupt nature of man, all will fall into confusion, and one man will devour another.<sup>45</sup>

Overton did not want it said of him that he "went to prison"; rather it must be said of him that "he was carried there." Though his actions and resistance had no precedent in law he was prepared to argue the rationality of his behavior. "Reason" was his only justification and "reason has no precedent; for reason is the fountain of all just precedents."<sup>46</sup> He was prepared to live or die to uphold his principles:

For as I am a *Freeman by Birth*, so I am resolved to live and die, both in heart word and deed, in substance and in show, maugre the Arbitrary malice of the House of Lords: yea if ought else I can devise to show my actual enmity and defiance against their arbitrary power, I'll do it, though it cost the life of me, and mine, and therefore I care not who lets them know.<sup>47</sup>

Cementing his attitude with a bit of humor, Overton claimed that his legs were not subject to the jurisdiction of the Lords. Being free of their jurisdiction "*from the Crown of my head to the Sole of my feet*," he knew no reason why he should "*foot it for them*," or "*dance*" to their arbitrary warrants, except that they might "*play to the good old tune of the Law of the Land.*"<sup>48</sup>

During his appearance before the Committee of the House of Commons, Overton engaged in a debate on which House of Parliament had jurisdiction over him. It was his contention that, if the House of Commons had authority to recall him from jail and question him in committee, then he must be subject to their jurisdiction and not the jurisdiction of the House of Lords. Therefore his jailers from Newgate had no authority to return him to prison, especially since the Commons' Committee had not issued a warrant for his return. Overton was playing a dangerous game, but he even went so far as to offer to return with his jailers, if he were entreated to do

so by the Committee. Though offering the Committee more in law than he had to, he was baiting them. They refused to urge him back to prison; but had they done so, Overton could have claimed that he was thereby subject to their jurisdiction. Nevertheless, Overton reveals that he was prepared to defy the Committee, even had it requested his voluntary return to Newgate:

For do you think that I am such a fool to part with my liberty, for nothing. Sir, our liberties have been bought at a dearer rate, then to be trifled and slighted away....

But now Sir, I would not have you think from these demands of mine, that I would be subject to an arbitrary power more in you then in the other, for truly in those demands there was tacitly couched a supposition of that which I knew could not be granted.... but and if I had been imprisoned thereon, after I had given their Lordships that *Sob*, you should have heard from me with a witness; for I cannot suffer oppression and be silent.<sup>49</sup>

At any rate, Overton's jailers dragged him away from the Committee and carried him by boat toward Newgate. When he was landed, they pleaded with him to walk up a long hill under his own power.

I was not minded to be their DRUDGE, or to make use of my feet to carry the rest of my body to the Gaol, therefore I let them hang as if they had been none of my own, or like a couple of farthin Candles dangling at my knees, and after they had dragged me in that admirable posture a while, the one took me very reverently by the head, and the other as reverently by the feet, as if he had intended to have done Homage to his Holiness' great Toe, and so they carried me: but truly Sir, I laughed at the conceit in my sleeve. [Eventually they wearied and soon carried me] just as if I had been a dead Dog, they dragged and trailed my body upon the stones, and without all reverence to my cloth, drew me through the dirt and mire.<sup>50</sup>

Upon his arrival at Newgate prison, they placed him in the lower room, or the Lodge as it was called. Somehow Overton still managed to have a copy of Sir Edward Coke's *Institutes* on the Magna Charta in his possession. Mr. Briscoe, the jailer, spying the book, demanded to have it, which Overton promptly refused. Overton was mobbed and eventually the book was wrested from him. "And thus by an assault they got the great Charter of *Englands Liberties and Freedoms*," and thus being "stripped of my armour of proof, the Charter of my legal Rights, Freedoms, and Liberties, after the aforesaid barbarous manner, they hurried me up into the common Gaol."<sup>51</sup> There, although he was placed in a pair of leg irons, he purposefully refused to either answer the call of the warden, or commission anyone to knock off the leg irons. Finally the warden had Overton carried to his office, where Overton preached to the warden. Overton told the warden that he

scorned to crouch or debase his Spirits to the lawless cruelty of any merciless tyrants or Gaolers whatsoever: they may devour my Carcass,

and make that bend and break with their cruelty, but I trust in God, that in heart and action to the utmost of my power in the pursuance of justice and truth, I shall bid defiance to the last gasp of breath to all their oppressions and tyrannies whatsoever.<sup>52</sup>

During the course of his imprisonment, around January 6, 1647, Overton's wife and his brother had been arrested and committed to Maiden Lane prison by order of the House of Lords. The following day another raid was perpetrated on his dwelling, when agents of the Lords were searching for Overton's sister and her husband. Fortunately, the two escaped along with Overton's three children. Rightfully he laments, "so, *Father, Mother, Children, and All, being driven out of House and home, the Doors were shut up; and I, and mine, exposed to the utter ruin and confusion of those insulting, domineering, merciless, Usurpers and Tyrants, The House of Lords.*"<sup>53</sup> Overton then relates how his wife was commanded by the City Marshall to be moved from Maiden Lane prison to Bridewell, "that common Center and receptacle of bauds, whores, and strumpets, more fit for their wanton retrograde Ladies, than for one, who never yet could be taxed of immodesty, *either in countenance, gesture, words, or action.*"<sup>54</sup>

Overton's wife refused to budge and told the Marshall that she would not stir except upon order or warrant of the House of Commons. The Marshall flew into a fit of angry rage and called for a couple of porters to move her. When they came, Overton relates, the porters told the Marshall "that *they would not meddle with a woman that was with child, and had a young sucking infant in her arms, lest in doing so they might do that today which they might answer for tomorrow.*"<sup>55</sup> A cartman similarly refused to haul Mary Overton to Bridewell. Finally the Marshall gathered his sheriffs and deputies and they broke down the door in order to violently lay hands on her. They "dragged her down the stairs, and in that infamous barbarous manner, drew her headlong upon the stones in all the dirt and the mire of the streets, with the poor Infant still crying and mourning in her Arms, whose life they spared not to hazard by that inhumane barbarous usage."<sup>56</sup> Overton was concerned not only for her life and the brutal treatment she had received, but thought that her reputation would be ruined forever by being jailed in Bridewell.

In concluding the *Commoners Complaint*, Overton stressed that the House of Commons should redress the situation of all those arbitrarily imprisoned by the House of Lords. If the Lords may rule by prerogative,

then farewell all liberty and property, all Laws; justice, and equity; and if it must be so, I pray you bear us no longer in suspense and expection of redress, but forthwith let our Doom be proclaimed to the whole world, that the Commons of England may know what to trust to; that we may loose our labor no longer in petitioning, appealing, complaining, and seeking for relief at your hands.... for my part I care not though you and all men forsake me, so long as I know the Lord

liveth, who will once judge every man according to his deeds, whether good or evil, and then I am sure I shall have righteous judgment....

I scorn their mercy, and dare them to do their worse: let them find Prisons, Dungeons, Irons, Halters, etc., and I'll find Carcass, Neck, and Heels, for one in contempt to their usurped jurisdiction; for resolved I am to break before I bend to their oppressions.<sup>57</sup>

Sometime in 1647, Mary Overton wrote her own petition to the House of Commons, addressed *To the Right Honorable, the Knights, Citizens, and Burgesses, the Parliament of England, Assembled at Westminster, the Humble Appeal and Petition of Mary Overton, Prisoner in Bridewell*. In it she related the story of her own arrest and the tribulations of herself, her husband, and family at the hands of the House of Lords. Her petition is full of legal citations, unlike the writings of her husband. Overton had apparently been misinformed, for Mary states that Thomas Overton and also her own brother were taken in the raid upon her home.

Mary Overton's main plea is that justice be dispensed towards her and towards her husband and the rest of their family.

In case by Law it shall be found that your Petitioners husband, herself and her brother have done ought worthy of death, or other exemplary punishment, that they may forthwith receive their just execution accordingly. But and if your Petitioner, her husband and brother be legally found not guilty of any transgression of the known Laws of the Land, that then by an Order from this House they may forthwith be discharged from under the vassallage and bondage of those insulting and tyrannizing Lords; and that for the future you would be pleased to protect them and the rest of their National Brethren the free Commoners of England from the like Prerogative-insolencies, cruelties and oppression: and that in case this House by the Law of the Land shall find your Petitioners husband, her self and her brother wronged and abused, that you would according to justice give them full and ample reparations for their long and unjust imprisonment, like as you have done of late to sundry of your own Members your Petitioners Fellow Commoners; that you will not any longer deny them the benefit of the Law, which is their birthright and inheritance, and let them not be deprived of that which every monthly Sessions you do allow to thieves and murderers, to have a free and speedy trial.<sup>58</sup>

Meanwhile, Richard Overton was still in Newgate, and on July 8, 1647 he published yet another "prison" pamphlet. His *Commoners Complaint* had been directed to the House of Commons and had no appreciable effect. Having obviously lost some confidence in the ability of the House of Commons to secure his release, Overton took the unprecedented step of appealing directly to the English populace and Army. Realizing that he might be condemned for this bold appeal, Overton again used an argument which he had presented in his *Commoners Complaint*: "*That Reason has no precedent, for Reason is the fountain of all just precedents...* therefore where that is, there is a sufficient and justifiable precedent."

And if *this Principle* must be granted of, and obeyed by all, as by no rational man can be denied, then...[my] *Appeal* in this nature if grounded upon *right Reason* is justifiable and warranted, even by *That* which gives an equitable Authority, life and being to all just Laws, precedents and forms of Government whatsoever, for Reason is their very life and spirit, whereby they are all made lawful and warrantable...; which is the *highest* kind of *Justification* and *Authority* for *human Actions* that can be;...*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 we must stand or fall, be justified or condemned; for neither *Morality* nor *Divinity* among *Men* can or may transgress the limits of *right reason*, for whatsoever is unreasonable cannot be *justly* termed *Moral* or *Divine*, and *right reason* is only commensurable and discernable by the rule of merciful *Justice* and just *mercy*.<sup>59</sup>

Overton then justifies his own *Appeal* by referring to "right reason." First he points out that it is a law of nature and religion that people may use all just and expedient means to free themselves from oppression. His *Appeal* is such a means and is therefore legitimate. Secondly, "necessity" justified his course of action in the *Appeal*. Parliament had taken up arms against the King out of "necessity" and had proclaimed it "no resistance of Magistracy to side with the just principles and law of nature."<sup>60</sup> Therefore if any from the House of Commons condemned his *Appeal*, they were implicitly condemning their own rebellion against the King. Lastly, referring to his arguments of self-propriety, which appeared in *An Arrow*, Overton argues that in appealing to the commoners and soldiers he is tracing "sovereignty" to its actual source:

*All authority is fundamentally seated in the office, and but ministerially in the persons; therefore, the persons in their Ministriations degenerating from safety to tyranny, their Authority cease and is only to be found in the fundamental original, rise and situation thereof, which is the people, the body represented; for though it ceaseth from the hands of the betrusted, yet it does not, neither can it cease from its being, for Kings, Parliaments, and etc. may fall from it, but it endure forever, for were this not admitted, there could be no lawful redress in extremity...: it always is either in the hands of the Betrusted or of the Betrusters, while the Betrusted are dischargers of their trust, it remains in their hands, but no sooner the Betrusted betray and forfeit their Trust, but (as all things else in dissolution) it returns from where it came, even to the hands of the Trustees: for all just human powers are betrusted, conferred, and conveyed by joint and common consent, for to every individual in nature, is given an individual propriety by nature, not to be invaded or usurped by any, (as in my Arrow Against Tyranny is proved and discovered more at large) for every one as he is himself has a self propriety, else could not be himself, and on this no second may presume without consent; and by natural birth, all men are equal and alike born to like propriety and freedom, every man by natural instinct aims at his own safety and weal.*<sup>61</sup>

After discussing the imprisonment of his family and his own encounter with the House of Lords, Overton analyzes the war against the King. Most important to his argument is the demonstration that Parliament has shown that "resistance to tyranny" is an admissible principle of action, even though tyrants be clothed in "magisterial" robes.

Therefore it is in vain for our Members in Parliament to think that we will justify or tolerate the same [tyranny] among them, which we will not endure in the King, to pluck off the *Garments of Royalty* from oppression and tyranny, and to dress up the same in *Parliament Robes*: No, no, that was ever and is far from our hearts, and we shall justify or allow the same no more in the one than in the other, for to allow it in the one is to justify it in the other, for it is equally unequal in both, and in it self resistable wheresoever it is found, for were it not resistable, all defensive war whatsoever were unlawful.... [W]e are bound to the utmost of our power to arm and fortify ourselves for our just and necessary defense, and by force of Arms to repel and beat back the invading assaulting enemy, whether it be an enemy for the confusion and extirpation of our persons, or for destruction and ruin of our Laws, our freedoms and liberties, for bondage and slavery are not inferior to death, but rather to be more avoided, condemned, and resisted than present destruction, by how much the more that kind of destruction is more languishing than present, and in pursuance of the just and necessary *defensive Opposition* we may lawfully, and are in Conscience bound to destroy, kill, and slay the otherwise irresistible enemy for our own preservation and safety whether in our lives, our Laws or our liberties: And against the justice of this *defensive principle* no degrees, Orders or titles among men can or may prevail, all degrees, Orders and titles, all Laws, Customs and manners among men must be subject to give place and yield thereunto, and it unto none.<sup>62</sup>

Thus he concludes that those resorting to a "defensive resistance" do not become traitors and rebels against true government.

For tyranny is no *Magistracy*, therefore the resistance of Tyrants is no resistance of Magistrates, except it be of such so nominally; but really and essentially monsters and pests of humanity;... for Magistracy has its proper compass and confines, and the actors and actions in that compass are thereby rendered Magisterial actors and actions to be obeyed by all, and resisted by none; and so such as are resisters thereof, are no Resisters of Magistracy, Authority and Government; but the resistance of the excursions or actions out of that compass and capacity, is no resistance of Magistracy or Magistrates, for it is not their persons which makes their *Ministrations Magisterial*, but their *Ministerial Magistrations* which makes their persons Magisterial persons: for Magistracy is not inherent or consistent in the person, but in the office; their persons must run a parallel line in their Ministration with their office, or else their formal deputation or Commissions will not entitle them to the true definition of Magistrates; for the office is but accidentally consistent in the form or external Commission, radically and essentially in the due *Ministration*.<sup>63</sup>

Countering the claims of religious pacifists, Overton recognizes that all people are entitled to maintain their natural human "being" and subsistence upon earth by resorting to self-defense, if necessary. Pacifism he argues would result in the utter confusion of humanity and the depopulation of nations. Nevertheless, he agrees that religious doctrine must not be promulgated by the sword, although he sees no contradiction in a religious person embracing the principle of self-defense when coercively attacked: "And if the Magistrate should so far extend his *compulsive force* under pretense of *religion and conscience*, to the destruction of our human subsistence or being, we may upon the points of your *human subsistence and being*, lawfully make our *defensive resistance*, for in itself it is defendable against all opposition or destruction from whence or from whomsoever it shall be."<sup>64</sup> Overton concludes his *Appeal* by urging all the commoners and soldiers to embrace his cause. If they will not, he writes, then "I have reckoned my cost, and can in this cause for my Country upon honest and just privileges, lay down my life, as freely and willingly, as my most malicious enemies can make it a sacrifice to their fury: Do therefore, as it seems good in your own eyes; I have discharged my conscience, and what I have done, I have done; and commit the issue thereof unto God."<sup>65</sup>

Overton was finally released from prison in September or November 1647, after another inquiry by the House of Commons. Although Leveller agitation continued throughout 1648, we do not find Overton back in print until March 1649 with a pamphlet entitled *The Hunting of the Foxes*, which set forth Leveller grievances against the Army.<sup>66</sup> In the meantime, the second phase of the Civil War had commenced and the Scottish Army had been defeated by Cromwell. King Charles I had been seized by the Parliamentary Army in December 1648 and executed on January 30, 1649. Although the King's trial and execution were the result of "a fanatical minority of Independents," "ideologically the trial of Charles and the abolition of kingship were the product of Leveller propaganda".<sup>67</sup> The second Agreement of the People been published by the Levellers in December 1648, and by mid-1649, they were becoming increasingly disenchanted with Cromwell and the Independents. The Army was moving towards a dictatorship; censorship and military law had already been imposed, and Cromwell had refused to adopt the second Agreement of the People.<sup>68</sup>

It was no wonder, then, that in 1649 Lilburne and other Levellers had composed a new address to Parliament, titled *The Second Part of Englands New Chains Discovered* (March 24, 1649). It was a direct and bitter attack on the Army and the Independents, "provocative of mutiny and disorder." One historian has described what ensued as follows:

The Independents had no choice but to resolve the dispute by suppression. On March 24 the Rump declared the pamphlet contained "much false, scandalous, and reproachful Matter." Further, it was "highly seditious... destructive to the present Government... tended to

Divison and Mutiny in the Army." The authors they declared "guilty of High Treason, and should be proceeded against as Traitors."

Accordingly, on March 28, between four and six in the morning, troops of horse and foot surrounded the homes of Lilburne, Walwyn, Prince, and Overton, roused them roughly from their beds, carried them off to Whitehall, there to await questioning by the Council of State. The story of their arrest and subsequent examination is told vividly by Lilburne, Prince, and Overton, in *The Picture of the Council of State*, published only six days later. The dramatic situation was ideal for propagandistic effect, and the Levellers promptly identified the principle of political justice with their own sufferings at the hands of the Grandees. Each of the four men refused to answer interrogatories that would have incriminated himself . . . , Lilburne and Overton . . . denying the legality of both the Rump and the Council of State. Lilburne was permitted to make a long speech pointing out that it was not in the power of Parliament to execute the laws, denying the power of the Council to imprison him in a military prison, and threatening to burn the very military prison they should consign him to. Looking fixedly at Cromwell, Lilburne said, "I must be plain with you, I have not found so much Honor, Honesty, Justice, or Conscience, in any of the principal Officers of the Army, as to trust my life under their protection, or think it can be safe under their immediate fingers." After Overton, Prince, and Walwyn had been questioned, Lilburne put his ear to the door of the chamber: "I . . . heard Lieutenant General Cromwell (I am sure of it) very loud, thumping his fist up the Council Table, til it rang again, and heard him speak in these very words, or to this effect; *I tell you Sir, you have no other Way to deal with these men, but to break them in pieces;* and thumping upon the Council Table again, he said Sir, *let me tell you; yea, and bring all the guilt of blood and treasure shed and spent in this Kingdom upon your heads and shoulders; and frustrate and make void all that work, that with so many years industry, toil and pains you have done, and so render you to all rational men in the world, as the most contemptible generation of silly, low spirited men in the earth.*"<sup>69</sup>

Such was the strength of the Leveller movement, that Cromwell had to resort to outright repression in order to maintain his position.

In his narrative in *The Council of State*, Overton describes the rough and abusive treatment that he and his friends received during the raid upon his living quarters. Always ready to assert his legal rights, he demanded to see the warrant for his arrest and to see the search warrant authorizing invasion of his quarters. When he was finally brought before the Council of State, he again demanded the production of their authority to detain him for questioning. He unequivocally refused to answer their questions:

Gentlemen, it is well known, and that unto your selves, that in cases criminal, as now you pretend against me, it is against the fundamental Laws of this Commonwealth to proceed against any man by way of Interrogatories against himself, as you do against me. . . . So that for my part, Gentlemen, I do utterly refuse to make answer unto any thing in relation to my own person, or any man or men under heaven; but do

humblly desire, that if you intend by way of Charge to proceed to any Trial of me, that it may be (as before I desired at your hands) by the known established Laws of England, in some ordinary Court of Justice appointed for such cases (extraordinary ways never being used, but abominated, where ordinary ways may be had) and I shall freely submit to what can be legally made good against me.<sup>70</sup>

Besides claiming a privilege against self-incrimination, Overton also pointed out that he was innocent until proven guilty and that *ex post facto* laws could have no bearing on his particular case.

I am guilty of nothing, not of this paper, entitled *The Second Part of Englands New Chains*, in case I had never so much an hand in it, till it be legally proved: for the Law looks upon no man to be guilty of any crime, till by law he be convicted; so that I cannot esteem myself guilty of any thing, till by the Law you have made the same good against me.

And further Sir, I desire you to take notice, that I cannot be guilty of the transgression of any Law, before that Law be in being; it is impossible to offend that which is not; Where there is no Law there is no Transgression: Now, those Votes on which you proceed against me are but of yesterdays being; so that, had I an hand in that Book whereof you accuse me, provided it were before those Votes, you cannot render me guilty by those Votes.<sup>71</sup>

Even though he was facing the possibility of a second imprisonment, Overton was as defiant and belligerent as ever, declaring that he could never coexist with oppression:

It is well known, and I think to some here [before the Council of State], that I have ever been an opposer of oppression and tyranny.... I suppose no man can accuse me, but that I have opposed Tyranny where-ever I have found it: It is all one to me under what name, or title soever oppression be exercised, whether under the name of King, Parliament, Council of State, under the name of this, or that, or any thing else; For tyranny and oppression is tyranny and oppression to me where-ever I find it, and where-ever I find it I shall oppose it, without respect of persons.

I know I am mortal and finite, and by the course of nature my days must have a period, how soon I know not; and the most you can do, it is but to proceed to life; and for my part, I had rather die in the just vindication of the poor oppressed people of this Commonwealth, then to die in my bed; and the sooner it is, the welcomer, I care not if it were at this instant, for I value not what you can do unto me.<sup>72</sup>

Despite their eloquent pleas for freedom, the Leveller leaders were kept in prison.

It was probably next to impossible to stifle the outbursts of such men as Lilburne and Overton, and from prison they soon published another declaration, *A Manifestation*, (April 14, 1649), which, although apparently written in the main by Walwyn, reflected the ideas of all four prisoners. The

Levellers were concerned to demonstrate that they were not to be associated with the communal land diggers and that they did not preach chaotic anarchy, although they were firmly opposed to the military government of Cromwell. Walwyn therefore attempted to defend the Levellers' course of action during the Civil War. The Levellers had engaged in political activity out of self-defense, but they were concerned to show that their own politics would not end up in an oppressive government, were they to succeed. This of course is a danger inherent in all radical political parties: that they can end up replacing one set of oppressions with another.

And whereas it is urged, That if we were in power, we would bear ourselves as Tyrannically as others have done: We confess indeed, that the experimental defections of so many men as have succeeded in Authority, and the exceeding difference we have hitherto found in the same men in a low, and in an exalted condition, makes us even mistrust our own hearts, and hardly believe our own Resolutions of the contrary. And therefore we have proposed such an Establishment, as supposing men to be too flexible and yielding to worldly Temptations, they should not yet have a means or opportunity either to injure particulars, or prejudice the Public, without extreme hazard, and apparent danger to themselves. Besides, to the objection we have further to say, That we aim not at power in our selves, our Principles and Desires being in no measure of self-concernment: no do we rely for obtaining the same upon strength, or a forcible obstruction; but solely upon that inbred and persuasive power that is all good and just things, to make their own way in the hearts of men, and so to procure their own Establishments.<sup>73</sup>

*A Manifestation* ends on a conciliatory note by referring to the revision of the Agreement of the People, which the Leveller leaders were preparing. The Agreement would allow the world to see what the Leveller movement was about, and if accepted would lead to peace.

And thus the world may clearly see what we are, and what we aim at: We are altogether ignorant, and do from our hearts abominate all designs and contrivances of dangerous consequence which we are said (but God knows, untruly) to be laboring withall. Peace and Freedom is our Design; by War we were never gainers, nor ever wish to be; and under bondage we have been hitherto sufferers. We desire, however, that what is past may be forgotten, provided the Commonwealth may have amends made it for the time to come. And this from our soul we desire.<sup>74</sup>

On May 1, 1649, Lilburne, Walwyn, Prince, and Overton, still prisoners in the Tower of London, published their revision of *An Agreement of the Free People of England. Tendered as a Peace Offering to This Distressed Nation*. The *Agreement* was composed of thirty articles and incorporated all the Leveller demands as taken from their most important petitions.<sup>75</sup> In the *Agreement* they display a profound distrust of authoritarian power but do place a great amount of confidence in the judgment of the voting public. In the *Agreement* are such libertarian planks as:

XI. We do not empower them [the representatives in Parliament] to impress or constrain any person to serve in war by Sea or Land every mans Conscience being to be satisfied in the justness of that cause wherein he hazards his own life, or may destroy an others.

XVI. We agree and Declare That it shall not be in the power of any Representative to punish or cause to be punished, any person or persons for refusing to answer questions against themselves in Criminal cases.

XVIII. That it shall not be in their power to continue or make any Laws to abridge or to hinder any person or persons from trading or merchandizing in to any place beyond the Seas, where any of this Nation are free to Trade.

XIX. That it shall not be in their power to continue Excise or Customs upon any sort of Food or any other Goods, Wares, or Commodities....

XX. That it shall not be in their power to make or continue any Law, whereby mens real or personal estates, or any part thereof, shall be exempted from payment of their debts; or to imprison any person for debt of any nature, it being both unchristian in itself, and no advantage to the Creditors, and both a reproach and a prejudice to the Commonwealth.

XXI. That it shall not be in their power to make or continue any Law, for taking away any mans life, except for murder, or other like heinous offenses destructive to human Society, or for endeavoring by force to destroy this Agreement, but shall use their uttermost endeavors to appoint punishments equal to offenses: that so mens Lives, Limbs, Liberties, and estates, may not be liable to be taken away upon trivial or slight occasions as they have been;...and in all other capital offenses recompense shall be made to the parties damnified, as well out of the estate of the Malefactor, as by loss of life, according to the conscience of his jury.<sup>76</sup>

Overton was kept in the Tower until November 1649, and during that time he published two pamphlets in support of the Agreement of the People. The first was titled *Overton's Defiance of the Act of Pardon* (July 2, 1649), and the second was *The Baiting of the Bull of Bashan* (July 9, 1649). In the first Overton makes it clear that the *Agreement* is the summation and goal of his political activities. In his estimation, no sacrifice would be too great, so long as it was adopted:

My Friends, of this therefore be you confident, that my silence has not proceeded from any degeneration or instability in me to that *Righteous Cause* (summed up in our draft of an Agreement of the people, subscribed, published, and offered by us four as a peace offering, to the consideration of the people of England, May 1, 1649) that Paper (or rather the contents or premises thereof) is the price, glory, and end of my endurance, neither life, liberty or reparation or any thing that man or earth affords is valuable with me in comparison thereof, that is my *all in all*; I desire neither life, liberty or reparation (seeing God has called me to the work) but as it may stand in subordination to that Agreement; while I have life or breath it shall never want a truer asserter to uphold

and promote the same to the utmost of my power, let the hazard and danger to myself be what it will.... for that Agreement, I will have, or else I'll die at their feet; I'll have no accord or peace with them at all till they have yielded that: whether at liberty or in prison, it is all one to me.<sup>77</sup>

It was Overton's belief that without the Agreement there would be no security for either person or property in the Commonwealth. He makes it plain that he does not trust Cromwell and the army grandees. ("I'll trust them no further than I can fling their great Bull of Bashan by the tail."<sup>78</sup>) He exhorts those Levellers still at liberty to promote the Agreement and not to expect that their four imprisoned leaders can "remove mountains"; at least not without their help.

Apparently the Leveller prisoners had been offered a pardon, on terms which Overton found quite unacceptable. In the *Defiance of the Act of Pardon* Overton also laments the defection of former comrades from the ranks of the Levellers into the arms of Cromwell's faction. Referring to himself as "little brisk Levelling Dick in the Tower," Overton makes it clear to both his followers and opponents that he will not dishonor himself or the cause by renouncing the Agreement or changing factions:

Therefore know all men by these presents, that I *Richard Overton*...out of a tender regard that I have to the Liberties of my Country, and credit of that honorable cause, do hereby defy, renounce, abhor, detest and scorn that Act of Pardon as to my Liberty thereby, and do rather choose continuance and increase of Bonds, than conditional submission or assent thereunto in the least:... I am so far from submission to their corrupt and wicked interest, that I will first eat the flesh off from my bones; first rot and perish in Gaol, before I will so far bow to them, as in the least to woo them or any of their creatures, either directly or indirectly in person or by proxy for my liberty: my cause is not bad, but with patience I can suffer till I be justly delivered without blemish or speck of infamy to the same; the honor of it, I honor above my life or liberty.

In the *Defiance*, Overton had used some rather strong and vulgar language, and in *The Baiting of the Bull* he continues on with its use, incorporating it into some pointed and satirical metaphors. Although the Agreement was not meeting with much popular acceptance, Overton believed that undue gravity and melancholy in the Levellers' cause was wrong. It was his opinion that "modest mirth tempered with due gravity makes the best composition."<sup>79</sup> And he later adds, that "one pennyworth of the *Agreement of the People*, with a little good resolution taken morning and evening, will work out this corruption, cleanse, and purify the blood."<sup>80</sup> His earlier pamphlet, he says, seemed but "as music to the house of Mourning" and did not seem to rouse the Levellers to action. He points out a common characteristic of political movements, that "When there is anything of venture or hazard, while tis in the *Embryo*, who is not then but busy and forward

[promoting it]? but when tis put upon the personal test for execution, Oh then one has bought a piece of ground, and must be excused; another a yoke of Oxen, and he must go see them; and a third has married a wife."<sup>82</sup> Yet he believes that if the ordinary Leveller saw a person threatened with danger, he would not hesitate to venture his own life in order to save the other. Why then are the Levellers unwilling to aid their own political cause? As Overton points out, there is much more at risk in the triumph of their cause than in the rescue of a single person:

Our cause is of a more transcendent value, and we suffer for it; and can you see *it* destroyed in *us*, and *we* for it, and not be as natural as in a private relation? the lives, liberties and freedoms of *all* is contained in *it*? If your neighbors Ox or his Ass were in a ditch, it is a shame to pass by and not to help; and behold, here's *all in the ditch*, then, why venture you not your time, your labors, your moneys, etc. to redeem our all, *our Cause*, the nation, and us *in it*, and with *it*.<sup>82</sup>

Overton was eventually released from the Tower in November 1649, when Lilburne was placed on trial. Although acquitted, Lilburne and the Leveller movement had reached their zenith and were literally spent. Little record is left of the activities of Overton after he was freed. There is record of his involvement in spying and fomenting rebellion against the Protectorate, and in 1659 he was again in prison. In 1663, he was ordered arrested for printing material contrary to the government of Charles II.<sup>83</sup>

Overton's pamphlets certainly offer a unique autobiographical assessment and perspective of the Leveller movement. Richard Overton, in both word and deed, was a fearless man, true to his ideals of justice, without regard for personal consequence. The words of another Leveller, contemporary to him, perhaps best epitomize Overton's spirit:

Had they [the Levellers] counted the cost, the difficulty when they had taken up arms against the king? They were bound, . . . not by difficulties but by justice. Though death lay ahead, and the sea on three sides, they should unflinchingly carry on. Whatever great leap the *Agreement* called for, [they] should have no fear: "When I leap I shall take so much of God with me, and so much of just and right, as I shall jump sure."<sup>84</sup>

## NOTES

1. H. N. Brailsford, *The Levellers and the English Revolution* (London: Cresset Press, 1961), p. 418. There is a wide disparity in secondary, historical interpretations of the Leveller movement. Probably the two most individualistic interpretations of the Levellers are this book by Brailsford and one by C. B. Macpherson, *Political Theory of Possessive Individualism* (Oxford: Clarendon Press, 1962).
2. Howard Shaw, *The Levellers* (London: Longmans Green and Co., 1968), p. 102. See also Brailsford, *The Levellers and the English Revolution*, pp. 549-550.
3. Brailsford, *The Levellers and the English Revolution*, pp. 379-380.
4. *Ibid.* p. 550.
5. D. B. Robertson, *The Religious Foundations of Leveller Democracy* (New York: Kings Crown Press, 1951), p. 74.

6. Richard Overton, *A Manifestation*, in Don M. Wolfe, ed., *Leveller Manifestoes of the Puritan Revolution* (New York: Thomas Nelson and Sons, 1944), p. 391. This is one of several collections of Leveller documents which are indispensable to the study of the general movement. Others include: William Haller and Godfrey Davies, eds., *The Leveller Tracts, 1647-1653* (New York: Columbia University Press, 1944); William Haller, ed., *Tracts on Liberty in the Puritan Revolution, 1638-1647*, 3 vols. (New York: Columbia University Press, 1934); and A. S. P. Woodhouse, ed., *Puritanism and Liberty Being the Army Debates, 1647-9*, Clarke Manuscripts (Chicago: University of Chicago Press, 1951).
7. Robertson, *Religious Foundations*, p. 73.
8. Perez Zagorin, *A History of Political Thought in the English Revolution* (London: Routledge and Kegan Paul, 1954), p. 41.
9. See Robertson, *Religious Foundations*, pp. 76-81.
10. *Ibid.*, p. 77.
11. Brailsford, *The Levellers and the English Revolution*, pp. 457-58.
12. *Ibid.*, pp. 498-506.
13. *Ibid.*, p. 384.
14. *Ibid.*, p. 264.
15. Woodhouse, "Introduction," *Puritanism and Liberty*, p. 28.
16. *Ibid.*, "Introduction," p. 91.
17. *Ibid.*, "Putney Debates," p. 75.
18. *Ibid.*, "Introduction," p. 91.
19. Brailsford, *The Levellers and the English Revolution*, p. 315.
20. Macpherson, *Political Theory*, p. 152.
21. Brian Manning, *The English People and the English Revolution, 1640-1649* (London: Hennemann Publishers, 1976), p. 296.
22. *Ibid.*, p. 295.
23. Quoted in Robertson, *The Religious Foundations*, p. 87.
24. Overton, *A Manifestation*, pp. 390-91.
25. Macpherson, *Political Theory*, p. 138.
26. See Macpherson's discussion in *ibid.*, pp. 137-57.
27. Overton, *An Arrow Against All Tyrants* (1646), pp. 3-4. Copy from the Huntington Library collection. I would like to thank Carey Bliss, Curator of Rare Books and Manuscripts at the Henry E. Huntington Library, San Marino, Calif., who was most helpful in supplying copies of documents in the collection. I also obtained a copy of *An Arrow* from Duke University, Durham, N.C. It has also been reprinted by the Rota Press of the University of Exeter, England (ISBN 0-904617-05X).  
The same quotation also appears in Macpherson, *Political Theory*, pp. 140-41.
28. Overton, *An Appeal from the Degenerate Representative Body*, in Wolfe, *Leveller Manifestoes*, pp. 162-63. The same quotation appears in Macpherson, *Political Theory*, p. 141.
29. Haller, *Tracts on Liberty*, 1:114.
30. Macpherson, *Political Theory*, p. 142.
31. Overton, *A Remonstrance of Many Thousand Citizens*, in Wolfe, *Leveller Manifestoes*, pp. 113-30.
32. *Ibid.*, p. 113.
33. *Ibid.*, pp. 114-15.
34. *Ibid.*, p. 122.
35. *Ibid.*, p. 124.
36. *Ibid.*, p. 125.
37. *Ibid.*, pp. 126-27.
38. Overton, *An Alarum to the House of Lords* (1646), p. 6. Copy from the Huntington Library collection.
39. *Ibid.*, pp. 6-7.
40. Overton, *A Defiance Against All Arbitrary Usurpations* (1646), p. 6. From the Huntington Library collection. The title of this essay... "Come What, Come Will," is taken from *A Defiance*, p. 13.

41. See Leonard Levy, *The Origins of the Fifth Amendment* (New York: Oxford University Press, 1968), pp. 293-300.
42. Overton, *An Arrow*, p. 9.
43. Overton, *Commoners Complaint* (1647), p. 3. Copy from the Huntington Library collection.
44. *Ibid.*, pp. 4-5.
45. *Ibid.*, p. 6.
46. *Ibid.*
47. *Ibid.*, pp. 9-10.
48. *Ibid.*, p. 10.
49. *Ibid.*, pp. 12-13.
50. *Ibid.*, p. 13.
51. *Ibid.*, p. 14.
52. *Ibid.*, pp. 15-16.
53. *Ibid.*, p. 16.
54. *Ibid.*, p. 17.
55. *Ibid.*, p. 18.
56. *Ibid.*, p. 19.
57. *Ibid.*, pp. 22-23.
58. Mary Overton, *The Humble Appeal and Petition of Mary Overton* (1647), p. 12. Copy from Temple University, Philadelphia.
59. Richard Overton, *An Appeal*, p. 158.
60. *Ibid.*, p. 161.
61. *Ibid.*, p. 162.
62. *Ibid.*, pp. 176-78.
63. *Ibid.*, p. 180.
64. *Ibid.*, p. 182.
65. *Ibid.*, p. 188.
66. Overton, *The Hunting of the Foxes*, in Wolfe, *Leveller Manifestoes*, pp. 355-83.
67. *Ibid.*, p. 94.
68. *Ibid.*, pp. 99-100.
69. *Ibid.*, pp. 100-101.
70. Overton, *A Picture of the Council of State*, in Haller and Davies, *The Leveller Tracts*, p. 223.
71. *Ibid.*, p. 224.
72. *Ibid.*, pp. 224-25.
73. Overton, *A Manifestation*, p. 394.
74. *Ibid.*, p. 396.
75. Wolfe, *Leveller Manifestoes*, p. 397.
76. Lilburne, Walwyn, Prince and Overton, *An Agreement of the Free People of England*, in *ibid.*, pp. 405-407.
77. Overton, *Overton's Defiance of the Act of Pardon* (1649), pp. 4-5. Copy from the Huntington Library Collection.
78. *Ibid.*, p. 7.
79. Overton, *The Baiting of the Great Bull of Bashan* (1649), p. 3. Copy from the Huntington Library collection.
80. *Ibid.*, pp. 2-3.
81. *Ibid.*, p. 4.
82. *Ibid.*, p. 6.
83. C. H. Firth, *Dictionary of National Biography* (London: Oxford University Press, 1967-68), 14:1281. Firth's "Richard Overton" entry, from which this reference is made, lists Overton's writings and gives a picture of his tumultuous life.
84. Wolfe, *Leveller Manifestoes*, p. 54.  
A more recent collection of Leveller documents, which re-sparked my interest in the Leveller movement is G. E. Aylmer, ed., *The Levellers in the English Revolution* (Ithaca, N.Y.: Cornell University Press, 1975). Further interpretation of the movement can be

found in Henry Holorensaw, *The Levellers and the English Revolution* (London: Victor Gollancz, 1939). Two (less helpful) articles which have come to my attention are: Iain Hampsher-Monk, "The Political Theory of the Levellers," *Political Studies* 24, no. 4 (1976): 397-422; and J. C. Davis, "The Levellers and Christianity," in Brian Manning, ed., *Politics, Religion, and the English Civil War* (New York: St. Martin's Press, 1973), pp. 225-50.

While it does not appear that any biography has been written detailing the life of Richard Overton, there are several studies of the life and thought of John Lilburne, Leveler leader. Two biographies that I referred to are: M. A. Gibb, *John Lilburne* (London: Lindsay Drummond, 1947); and Pauline Gregg, *Free-born John* (London: Harrap Publishers, 1961).

The reader is referred to the *National Union Catalog, Pre-1956 Imprints*, vol. 435, in which the listings under Mary and Richard Overton provide the names and locations of their material in the U. S.