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ARTICLE

Levelling Monsters: Monopoly, Rights, and Public Authority

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The Levellers have long been recognized as ardent antimonopolists, but their interpreters have yet to connect their grievances against private monopolies to the emergence of their political theory of legitimate public authority. This article argues that, by drawing from language and logic articulated in an understudied 1645 treatise, the Leveller leaders constructed their arguments for a Parliament that was authorized by and accountable to the people against the backdrop of monopolies endangering citizens' fundamental rights. In this light, the Levellers demonstrate how objections to private monopoly power are deeply interwoven with the demand for popular legitimacy.

Introduction

Grievances against monopoly power played an essential role in the Levellers' account of what constituted legitimate public authority. Monopolies operated as illegitimate private powers that were eminently capable of violating a variety of Englishmen's fundamental rights. If Parliament's claim to supreme authority were to be legitimate, it would need to ensure equal protection from other private citizens' attempts to encroach on particularly vulnerable rights. As Richard Overton memorably described the demand, the task of public authority was "authoritatively and legally to remove from amongst [us] all oppressions and tyranies, oppressors and tyrants, how great soever in name, place or dignity, and to protect, safeguard, and defend [us] from all such unnaturall monsters, vipers, and pests."[1] Monopolists were chief among the monsters, vipers, and pests that needed to be eliminated.

Though the Levellers have consistently been recognized as ardent antimonopolists, the extant literature has yet to recognize the essential role that monopoly power played in the formation of the Levellers' constitutional arguments. Marxist scholars in the 1970s understood the Levellers as proto-economic liberals whose objections to prerogative monopolies parallelled objections to an absolutist state for the sake of securing

[1]Richard Overton, *An Arrow Against All Tyrants* (London, 1646), BL E.356.[14], p. 5, Early English Books Online.

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a bourgeois freedom.[2] These interpretations are due for serious reconsideration in light of emerging scholarship that demonstrates the absence of a strong, coherent, centralized, and expansive early modern state.[3] Short of this, however, we see that the Levellers' objections to monopoly power actually resulted in a plea for a unitary public authority formidable enough to abolish and make restitutions for monopolies' illegitimate private governmental capacity.

More recently, Elizabeth Anderson and Gary de Krey have directed our attention to how the economic aspects of Leveller thought highlight their egalitarian commitments and concerns about power's arbitrariness.[4] But these accounts do not trace the way in which the Levellers' arguments *against* monopolies shaped their arguments *for* parliamentary supremacy. Quentin Skinner's analysis of Leveller neo-Roman liberty, Markku Peltonen's account of their arguments for constitutional alterability, and Jason Peacey's study of how local bureaucratization shaped seventeenth-century theories of political accountability all leave Leveller antimonopolism unaddressed.[5] Conversely, Alan Houston focuses entirely on the Levellers' antimonopolism and worries about factionalism, but his emphasis on their metaphorical and rhetorical use of monopoly—rather than seeing "the true genuine sence of the word monopoly" as a material source of commoners' political grievances[6]—causes him to underspecify the way in which monopolies' endangerment of equal rights shaped the Levellers' positive theory of legitimacy.[7]

[2]Christopher Hill, *The World Turned Upside Down: Radical Ideas during the English Revolution* (Harmondsworth, 1975); C. B. Macpherson, *The Political Theory of Possessive Individualism* (Oxford, 1962). See also James R. Otteson, "The Levellers and the Birth of Liberal Political Economy," *Social Philosophy and Policy* 37/1 (2020), 170–89. Ann Hughes also attributes the Levellers' antimonopolism to a "profound suspicion of state power." Ann Hughes, "Learning from the Levellers?", in Elizabeth Anderson, ed., *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)* (Princeton, 2017), 75–88, at 77–8.

[3]A. V. Judges, "The Idea of a Mercantile State," in D. C. Coleman, ed., *Revisions in Mercantilism* (London, 1969); Michael J. Braddick, *State Formation in Early Modern England, c.1550–1700* (Cambridge, 2000); Michael J. Braddick, "State Formation and the Historiography of Early Modern England," *History Compass* 2/1 (2004), at https://compass.onlinelibrary.wiley.com/doi/abs/10.1111/j.1478-0542.2004.00074.x; Philip J. Stern and Carl Wennerlind, "Introduction," in Stern and Wennerlind, eds., *Mercantilism Reimagined: Political Economy in Early Modern Britain and Its Empire* (Oxford, 2014), 3–22, at 5.

[4]Elizabeth Anderson, "When the Market Was 'Left'," in Anderson, *Private Government*, 1–36; Gary S. De Krey, "What Made the Levellers Revolutionary? Reconsidering Leveller Political Economy," *Journal of Modern History* 97/1 (2025), 84–113.

[5]Jason Peacey, "Radical Thought and Political Practice: Officeholding and Accountability in Seventeenth-Century Britain," *Journal of Social History* 58/1 (2024), 100–23; Markku Peltonen, *The Political Thought of the English Free State, 1649–1653* (Cambridge, 2022); Quentin Skinner, *From Humanism to Hobbes: Studies in Rhetoric and Politics* (Cambridge, 2018), 139–61; Skinner, "Rethinking Political Liberty," *History Workshop Journal* 61/1 (2006), 156–70; Skinner, *Liberty as Independence: The Making and Unmaking of a Political Ideal* (Cambridge, 2025), 105–6.

[6]Thomas Johnson, *A Plea for Free-Mens Liberties* (London, 1646), SHL [G.L.] 1848, 1, The Making of the Modern World.

[7]Alan Craig Houston, "'A Way of Settlement': The Levellers, Monopolies and the Public Interest," *History of Political Thought* 14/3 (1993), 381–420, at 416.

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Across distinct Leveller leaders and thinkers—and subsequently across the movement's diverse interpreters—antimonopolism is recognizable as a consistent facet of Leveller thought. However, the pertinent literature has yet to capture its fundamental importance in the development of the Levellers' theory of parliamentary authorization and accountability. Against Royalists and Parliamentarian adversaries—who either defended monarchy or grounded Parliament's claim to supremacy in its capacity to serve the public good—the Levellers insisted that legitimacy depended on Parliament's protection of individuals' fundamental rights. This is a distinction that emerges especially clearly in the antimonopoly context. Even less has been said about one overlooked source of the Levellers' political theory of antimonopoly: an anonymously published 1645 treatise entitled *A Discourse Consisting of Motives for the Enlargement and Freedome of Trade*.[8] I here argue that this treatise exhibits an early Leveller language for understanding monopolies as a constitutional problem, which converged with John Lilburne's arguments from 1645 onward, Richard Overton's from September 1646 onward, and, to a lesser extent, William Walwyn's in 1652. *Discourse* is therefore worth assimilating to the more familiar main body of Leveller thinking. In imagining the necessary conditions for Parliament to claim legitimacy as the supreme public authority, monopolies served as the Levellers' foil. Thus the abolition of monopolies became a consistently appearing Leveller prerequisite for Parliament's securing popular legitimacy.

Early objections to monopoly

By 1645, in the heart of the first Civil War, grievances against corporate monopolies had already been well rehearsed. Lingering in English memory were Elizabeth I's "scandalous phase" of granting monopolies for frivolous commodities, the disastrous Cockayne Project's decades-long enfeebling of the cloth trade with the Dutch,[9] the Long Parliament's expulsion of monopolists from the Commons in 1640,[10] and the publication of the second and third parts of Sir Edward Coke's *Institutes*, wherein Coke counterposed monopoly with the liberty of the subjects.[11] By 1645, however, the Levellers had not even developed a united movement, never mind a coherent and recognizably "Leveller" theory of antimonopoly.[12]

In William Walwyn and Richard Overton's early writings, we find some echoes of the 1620s discovery that monopolies only pretextually served the common

[8]Anonymous, *A Discourse Consisting of Motives for the Enlargement and Freedome of Trade* (London: Richard Bishop for Stephen Bowtell, 1645), BL E.260[21], Early English Books Online.

[9]See Craig Muldrew, "Politics and Economics of Markets," in Ivano Cardinale and Roberto Scazzieri, eds., *The Palgrave Handbook of Political Economy* (Basingstoke, 2018), 102–3; Joan Thirsk, *Economic Policy and Projects: The Development of a Consumer Society in Early Modern England* (Oxford, 1978).

[10]9 Nov. 1640, *Journal of the House of Commons*, vol. 2, *1640–1643* (London, 1802), British History Online, at www.british-history.ac.uk/commons-jrnl/vol2/pp22-25#h3-sec-a33.

[11]Edward Coke, *The Second Part of the Institutes of the Lawes of England* (London: Miles Flesher and Robert Young, 1642); Coke, *The Third Part of the Institutes of the Laws of England: Concerning High Treason, and Other Pleas of the Crown, and Criminal Causes*, 4th edn (London: Fleetstreet and Holborn, 1644).

[12]The "zenith" of Leveller power wasn't until the Putney debates in October 1647. Joseph Frank, *The Levellers: A History of the Writings of Three Seventeenth-Century Social Democrats: John Lilburne, Richard Overton, William Walwyn* (Cambridge, MA, 1955), 135.

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good,[13] but one enduring and understudied contribution to political antimonopoly argumentation is the 1645 *Discourse*. The treatise, which declared that "there is nothing more pernicious and destructive to any Kingdome or Common-wealth, then Monopolies," was a diatribe against the Merchant Adventurers' Company, which was the most politically, socially, and economically powerful monopoly of the 1640s, and which the author condemned as simultaneously contrary to the law of nature, the law of nations, and positive law.[14] Though *Discourse* was hardly the first to rehearse antimonopoly arguments of these sorts, it is an early demonstration of the way in which the Levellers would transform their antimonopoly grievances into positive constitutional demands. Integrating *Discourse* into the larger corpus of Leveller writings is thus helpful in seeing the importance of monopoly as a way of understanding the Levellers' political thought.

Discourse *and Leveller Connections*

Discourse is most commonly attributed to one Thomas Johnson, about whom very little is known. As described in Johnson's 26 January 1646 *A Plea for Free-Mens Liberties*, he was a small merchant who was kept out of the cloth trade by the Eastland Company. He situates himself as a "late servant to Mr. Whitlock, one of the East Country Monopolizing Marchants," and explains how the Eastland Company had deprived him of his freedom and confiscated his position within the company.[15] It is likely that John Lilburne had read a copy of *Plea* prior to its publication. This is because, on 6 January 1646, which was twenty days prior to the publication of *Plea*, Lilburne described Johnson in *Innocency and Truth Justified* just as Johnson would describe himself in *Plea*: "Mr. Johnson, late servant to Mr. Whitlocke, one of the East Country Monopolizing Marchants." Johnson's 26 January *Plea* in turn cited Lilburne's "late book called Innocency and Truth justified." Johnson and Lilburne had thus likely prepared the texts in consultation with one another.[16] A few months later, in March 1646, Johnson contributed to a petition that decried a number of monopolies and echoed the reasoning of both *Discourse* and *Plea*.[17] Johnson was also likely the brother

[13] Anonymous, *The Frogges of Egypt, or the Caterpillers of the Commonwealth truly Dissected and Laid Open* (London, 1641), BL E.166[2], Early English Books Online; William Walwyn, *Some Considerations Tending to the Undeceiving Those, Whose Judgements Are Misinformed by Politique Protestations, Declarations, &c.* (London, 1642), BL 22:E.126[45], p. 4, Early English Books Online; William Walwyn, *The Compassionate Samaritane* (London, 1644), BL E.1202[1], 39–40, Early English Books Online. Some have attributed *The Frogges of Egypt* to Overton. See Richard Overton, "Monopolists as Frogs and Vermin," in David M. Hart, Gary Chartier, Ross Miller Kenyon, and Roderick T. Long, eds., *Social Class and State Power: Exploring an Alternative Radical Tradition* (Basingstoke, 2018), 3–6.

[14] Anonymous, *Discourse*, 4.

[15] Johnson, *Plea*, fol. 4v.

[16] Johnson, *Plea*, 3r; John Lilburne, *Innocency and Truth Justified* (London, 1646), BL E.314[22], p. 53, Early English Books Online.

[17] William Sykes and Thomas Johnson, "To the Honourable, the Knights, Citizens, and Burgesses, of the Commons House in Parliament Assembled," London, 4 March 1646, Kress Library of Business and Economics, Harvard University.

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of Richard Overton's wife, Mary Overton.[18] So we know that Thomas Johnson authored *Plea* and the 1646 petition, that he was a merchant excluded by the Eastland Company, and that he was close with Lilburne and the Overtons.

We do not know whether Johnson was the author of *Discourse*. William Haller first attributed the text to Johnson in 1934 based on similarities between *Discourse* and *Plea*.[19] This is not an improbable conclusion. Indeed, *Discourse, Plea*, and Johnson's 1646 petition all have a good deal in common in both substance and style. However, this does not explain how Johnson, whose grievance and experience were with the Eastland Company, would have acquired such extensive familiarity with the Merchant Adventurers, or why Lilburne never named Johnson as the author of *Discourse*,[20] though he ostensibly would have known that Johnson had authored the text. And whereas the Leveller leaders tended to use many of the same printers for their pamphlets, or to print their pamphlets in house with Overton and Lilburne's illicit presses, *Discourse* was formally licensed and registered with the Stationers' Company. Neither *Plea* nor any other of the Levellers' major writings went through the company's official channels.[21] None of the people involved with the printing of *Discourse* appear to have any obvious relation to the Leveller movement or its members,[22] and neither *Discourse*

[18]In 1647, a Thomas Johnson appears with Mary Overton in the *House of Lords Journals* for having been found in the Overtons' house illegally stitching copies of Lilburne's *Regal Tyrannie* for distribution. In her 1647 petition to the Lords, Mary described "her brother and sister" as part of the Overton household and repeatedly described the aggrieved parties as "your Petitioners husband, her self and her brother." The petition also describes a "Thomas Overton her husbands brother" as having been brought "unto their Prerogative-Barre" and refers to "her said Brother-in-Law" as "himselfe also refusing subjection to the said illegall proceedings." This event aligns with the record of Thomas Johnson's being brought to the Lords with Mary and with his response as recorded in *Lords Journal*. The discrepancy between "brother" and "brother-in-law," and whether the relevant Thomas's surname was "Johnson" or "Overton," is a mistake that neither Mary nor Richard Overton were likely to themselves make. It is also more likely that Mary's maiden name was "Johnson" (making Thomas her brother), than that Thomas had used "Johnson" as an alias before the House of Lords (if Thomas had been Richard's brother). It is thus likely, as Melissa Mowry suggests, that Richard penned the petition and that a mistaken third party was involved in communicating between Mary and Richard. This confusion likely also explains Lilburne's mention of a "Thomas Overton" in May 1648. 7 Jan. 1647, *Journal of the House of Lords*, vol. 8, *1645–1647* (London, 1767), British History Online, at www.british-history.ac.uk/lords-jrnl/vol8/pp649-652; 6 Jan. 1647, *Journal of the House of Lords*, vol. 8, *1645–1647* (London, 1767), British History Online, at www.british-history.ac.uk/lords-jrnl/vol8/pp646-649#h3-s25; John Lilburne, *The Lawes Funerall* (London, 1648), BL E.442[13], p. 12, Early English Books Online; Mary Overton, "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," London, 1647, BL E.381[10], Early English Books Online; Melissa Mowry, "'Commoners Wives Who Stand for Their Freedom and Liberty': Leveller Women and the Hermeneutics of Collectivities," *Huntington Library Quarterly* 77/3 (2014), 305–29, at 322; Jason Peacey, "The Hunting of the Leveller: The Sophistication of Parliamentarian Propaganda, 1647–53," *Historical Research* 78/199 (2005), 15–42, at 20 n. 25.

[19]William Haller, *Tracts on Liberty in the Puritan Revolution, 1638–1647*, vol. 1 (New York, 1934).

[20]Lilburne refers to the author of *Discourse* as "the Author of a late printed book, called a discourse for free trade" or "a Merchant of London." Lilburne, *Innocency and Truth Justified*, 47; John Lilburne, *Londons Liberty in Chains Discovered* (London, 1646), BL E.359[17], p. 22, Early English Books Online.

[21]Stationers' Company, *A Transcript of the Registers of the Worshipful Company of Stationers, from 1640–1708, A.D*, vol. 1, *1640–1655*, ed. G. E. Briscoe Eyre (privately printed, 1913), 163.

[22]*Discourse* was licensed by Sir Nathaniel Brent, who, as far as I am aware, does not appear to have licensed any other Leveller pamphlets (indeed, most of them simply were not licensed at all). Nonetheless, Brent was

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nor *Plea* exhibits the typographical or ornamental features characteristic of Leveller pamphlet design.[23]

Ultimately, whether or not *Discourse* can accurately be attributed to Thomas Johnson, and whether or not we opt to call Johnson a "Leveller," what is clear is that *Discourse* was an important precursor to the Levellers' constitutional antimonopoly argument. This is not to claim that *Discourse* was the Levellers' main or only source of antimonopoly thought. To the contrary, the Levellers (Lilburne especially) were heavily informed by the Elizabethan and Jacobean antimonopoly debates that had preceded them—particularly as pertained to the limits of the royal prerogative's use and delegation. But *Discourse* served as a touch point that marked a distinctly contemporary way of thinking about monopoly in the context of civil war and regime collapse. Let us now turn to understanding the substance of that text before tracing parallels through the thought of subsequent Leveller antimonopolists.

The public good

In early modern England, monopolies were defended in the name of the "public good" or "common weal." Monopolies were thought to protect subjects by excluding the masses from certain trades and by ensuring that subjects received commodities in sufficient quantity, for just prices, and of acceptable quality. Domestically, monopolies were said to be necessary for safeguarding the public from the irresponsible manufacture of staple commodities like soap, salt, and glass.[24] In overseas trading, monopolies were "granted in the infancy of trade to incite people to the encrease and improvement of it" and to protect unskilled Englishmen from being taken advantage of by cunning foreign merchants.[25] Each defense invoked, at least pretextually, "necessity," *salus populi*, and service of the public good via royal prerogative used for the sake of orderly governance.

Discourse's primary task was to expose the Merchant Adventurers for failing to genuinely serve the public good and for instead producing devastating economic consequences both at home and abroad. The author argued that monopoly protections were unnecessary for a company that had already brought their trade to the "height

an avowed Parliamentarian and licensed several overtly Parliamentarian titles between 1645 and 1655. At the time of *Discourse*'s publication, he may well have been sympathetic to the nascent Leveller cause. Much less can be deduced from what we know of the printer, Richard Bishop, and the publisher, Stephen Bowtell. We know that the latter was the apprentice of one John Bellamy, made free of the Stationers' Company on 30 July 1642, was master to John Walker and Samuell Ward, was the father of a Stationers' Company apprentice, and was known for publishing titles of a political character. See "Brent, Sir Nathaniel," in Leslie Stephen, ed., *Dictionary of National Biography, 1885–1900*, vol. 6, *Bottomley–Browell* (Elder Smith & Co., 1886), 262–4; Henry Robert Plomer, *A Dictionary of the Booksellers and Printers Who Were at Work in England, Scotland and Ireland from 1641 to 1667* (London, 1907), 25, 31; Donald Francis McKenzie, ed., *Stationers' Company Apprentices* (Oxford, 1974), 12, 18; "Livery Companies—Event Details," at www.londonroll.org/event/?company=drp&event_id=DREB4046 (accessed 13 March 2026).

[23]See e.g., David R. Adams, "The Secret Printing and Publishing Career of Richard Overton," *The Library: The Transactions of the Bibliographical Society* 11 (2010), 3–88.

[24]David Harris Sacks, "Parliament, Liberty, and the Commonweal," in J. H. Hexter, ed., *Parliament and Liberty from the Reign of Elizabeth to the English Civil War* (Stanford, 1992), 85–121, at 96; Samuel E. Thorne, "Sir Edward Coke: 1552–1952," lecture, Selden Society, 17 March 1952, 8.

[25]Anonymous, *Discourse*, 20–22.

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of perfection," and that they weakened England's trading position, left citizens unemployed, and stunted the beneficial mores that trade could cultivate.[26] These social and economic arguments appear to have been immediately persuasive, as a copy of the treatise was apparently sent to the House of Commons in May 1645 alongside a petition from various merchants and sailors.[27]

Ultimately, however, the author's public-good arguments were not the ones that would echo most loudly in the succeeding annals of Leveller thought. Rather, the key insight to which *Discourse* contributed was the idea that, above and beyond whether they were socially or economically beneficial, because monopolies endangered Englishmen's fundamental rights, they were illegitimate enclaves of unlimited private power. This argument was also distinct from the antimonopoly discourse of the early seventeenth century, which was primarily concerned with taming the abuse of the royal prerogative and its infringement on the common law and statute—all done in the name of the public good.[28] By contrast, *Discourse* mentions the prerogative only once across fifty pages. For the Leveller leaders, antimonopoly was not only a negative claim against prerogative infringement and monarchical domination, but also part of a positive claim *for* parliamentary supremacy.[29] As we will see, this move—grounding antimonopoly not solely in *salus populi* but in the priority of fundamental rights—would later form the basis of the Levellers' most pointed departure from Henry Parker.

Oaths and right to conscience

Discourse illustrated how an ongoing and principled objection to oaths applied to the context of corporate monopoly. By 1645, opposition to oath taking had already developed sturdy roots. Lilburne's own opposition to oath taking began as early as 1637, when he refused to swear an oath of truthfulness and was consequently held in contempt of court and imprisoned.[30] *Discourse* contributed to this line of argument in expressing a grievance against the Merchant Adventurers' oath of fealty, which demanded that members be "obedient and assistant" to the company governor and his deputies in all countries where the company was privileged. Members could "keep no singular regard to your selfe in hurt or prejudice of the Common wealth of the said

[26]Ibid., 1–2, 6, 19–23, 27, 37–8, 46.

[27]Assuming that the author of *Discourse* was not themself among the petitioners. See anonymous, "The True Informer Containing a Perfect Collection of the Proceedings in Parliament, and True Information from the Armies [Issue 5]," London, 24 May 1645, BL E.285[11], 37–8, Early English Books Online; 21 May 1645, *Journal of the House of Commons*, vol. 4, *1644–1646* (London, 1802), British History Online, at www.british-history.ac.uk/commons-jrnl/vol4/pp149-151.

[28]See Barbara Malament, "The 'Economic Liberalism' of Sir Edward Coke," *Yale Law Journal* 76/7 (1967), 1321–58, at 1321; Thomas B. Nachbar, "Monopoly, Mercantilism, and the Politics of Regulation," *Virginia Law Review* 91/6 (2005), 1313–79; Ellen Paterson, *Bloodsuckers of the Commonwealth: Monopolies, Petitioning, and the Public Sphere in Early Modern England* (Manchester, 2025).

[29]Compare with Skinner, *From Humanism to Hobbes*, 139–61, for whom arguments for neo-Roman liberty served to legitimate the abolition of monarchy in 1649. For the Levellers, arguments *against* monopolies were also arguments *for* parliamentary supremacy.

[30]Edward Vallance, "The Eighteenth-Century Afterlife of John Lilburne," in John Rees, ed., *John Lilburne and the Levellers: Reappraising the Roots of English Radicalism 400 Years On* (Abingdon, 2017), 119–20. See also Christopher Hill, *Society and Puritanism in Pre-revolutionary England*, 2nd edn (New York, 1964), 382–419.

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Fellowship" and were required to turn over any persons who intended to harm the company or its privileges.[31] Such oaths were common requirements not only for obtaining membership of corporations, but also in legal and ecclesiastical contexts.

Refusing to swear a corporation's oath came at great material cost. As Lilburne would later explain, companies could "detaine mens freedoms from them if they refuse to take the [oath] … by meanes of which, they doe (as much as in them lyes) destroy them, and all that depends on them." This was true even for individuals who had faithfully completed an apprenticeship.[32] Lilburne, who had finished his apprenticeship, would have had to swear an oath of allegiance in order to partake in the cloth or wool trade.[33] Thomas Johnson, too, had been expelled from the Eastland Company because he "rejected their monopoly and diabolicall oath" on the grounds that the company had no authority to "force it upon [his] conscience."[34]

Per the author of *Discourse*, the Merchant Adventurers' imposition of oaths was a claim to a kind and degree of power well beyond the reach of that which was legitimately claimable by any private citizen: "By the words of this extravagant Oath, one may see what high, illegal and transcendent power they assume to themselves to make Statutes, which is proper and peculiar only to Parliaments: Moreover, they stile themselves a Commonwealth, inso much that though they cannot be termed *Regnum in Regno*, they may be well termed *Dominium in Dominio*."[35] The problem with the Merchant Adventurers' oath was not simply that its terms were unfavorable, inconvenient, or even harmful to the oath taker; it was also not simply that the company was an overstretched delegation of prerogative power. As Lilburne would articulate in his January 1646 *Innocency and Truth Justified*, the oath "tied those that take it, to be papists, in some sence, for they must swear by an implicite faith, to be observant to what Mr. Governour shall establish." Not only was the oath extravagant, it was also limited by no conception of justice, word of God, or positive law, but by the governor's will alone.[36]

Discourse does not itself articulate a robust conception of a right to conscience, but the Levellers would assimilate monopolies' capacity to impose oaths as a violation of that same right—which the Levellers had already been contemplating well prior to 1645. In addition to Lilburne's 1637 imprisonment, Walwyn argued just over a year before *Discourse* that compelling one against their conscience was sinful, even if it "be in it selfe good."[37] Lilburne, Overton, and Johnson would all articulate this right to conscience in slightly different ways than Walwyn, but what remained relatively consistent was that an individual's right to conscience was grounded in each person's equal capacity for reason, or "rational soul,"[38] and emanated from a duty to use one's reason

[31] Anonymous, *Discourse*, 14.

[32] Lilburne, *Innocency and Truth Justified*, 48.

[33] John Lilburne, *The Legall Fundamentall Liberties of the People of England Revived, Asserted, and Vindicated* (London, 1649), BL E.560[14], 20, 62, Early English Books Online.

[34] Johnson, *Plea*, 6.

[35] Anonymous, *Discourse*, 14.

[36] Lilburne, *Innocency and Truth Justified*, 53–4.

[37] Walwyn, *The Compassionate Samaritane*, 43.

[38] John Lilburne, *The Free-Mans Freedome Vindicated* (London, 1646), BL E.341[12], Early English Books Online.

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in pursuit of God. Reason had not been corrupted by the Fall, and it was the only means by which an individual might access the otherwise inaccessible mind of God.[39] This is why Lilburne likens an oath taker to a papist and why Johnson calls the oaths "diabolicall."[40] The Leveller leaders were agreed that, if one had a duty to obey that which their "Consciences dictate to be the mind of God,"[41] then oaths of fealty constituted a violation of an individual's right to conscience.

For the author of *Discourse*, the capacity to infringe on one's conscience conferred on the Merchant Adventurers an "illegal and transcendent power" that was "proper and peculiar only to Parliament." To claim such power was to "appropriate and assume unto [oneself] the office and sovereignty of God."[42] As the Levellers would later articulate, the locus of the "sovereignty of God" immediately rested in the people, and could only mediately be entrusted to another authority. So the seeds of the Levellers' account of political authorization and demands for parliamentary accountability can be found in these earlier objections to oath-taking—which we find rehearsed in *Discourse*.

What rendered the Merchant Adventurers *dominium in dominio* was that its monopoly power enabled it to endanger rights that were both natural and protected by the "positive Law of the Land."[43] Not only did monopoly power confer on the company a capacity to unilaterally "contrive and impose oaths," but it also gave to the company "an extrajudiciall power to imprison the Subject without baile or mainprize, to take away his goods … to lay and levy taxes without limitations, and convert them to private profit to the prejudice of others, *which is the truest badge of a Monopoly*."[44] Indeed, the company exercised a vast number of pseudo-governmental powers that endangered the right to conscience: it could require individuals to testify against themselves,[45] it could make Englishmen "subject to the Company in a servile kinde of obedience,"[46] and it could "usurp a right, and liberty, to restore it againe for money."[47] These capacities were "against the *naturall right and privilege of free born Subjects*, as appears by Magna Charta, and Petition of right."[48] The "truest badge of Monopoly" was a private person's ability to withhold and violate Englishmen's natural rights, which, for the author of *Discourse*, were also codified in England's law.

Birthrights

Most relevant among the rights that the company could usurp was Englishmen's birthright to benefit from the country's abundant wool—which was England's most

[39]Rachel Foxley, *The Levellers: Radical Political Thought in the English Revolution* (Manchester, 2013), 128–43; Iain Hampsher-Monk, "The Political Theory of the Levellers: Putney, Property and Professor Macpherson," *Political Studies* 24/4 (1976), 397–422, at 415.

[40]Johnson, *Plea*, 6.

[41]Anonymous, "An Agreement of the People for a Firme and Present Peace," London, 1647, BL E.412[21], 4, Early English Books Online.

[42]Lilburne, *Free-Mans Freedome*.

[43]Anonymous, *Discourse*, 4.

[44]Ibid., 44–5, original emphasis.

[45]Ibid., 14.

[46]Ibid., 27–8.

[47]Ibid., 45.

[48]Ibid., 44–5, original emphasis.

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substantial and staple commodity—by turning it to vendable cloth. This was because "Nature, the handmaid of God Almighty, hath furnished this Island, and wherein she hath given every freeborn Inhabitant equall interest, as matter for his industry to work upon."[49] Then, among the "native Rights of the freeborn subject" was not just access to England's abundant cloth and wool, but also "the exercise of [each freeborn subject's] Invention and Industry, to convert this universal native Commodity to his best advantage at home, or abroad … which God and Nature [had] ordaynd for his subsistence."[50] Per the "law of nature," each inhabitant of England held an equal right not just to access the country's abundant wool, but to use their natural human faculties to turn that wool into cloth, and to then trade that cloth in order to provide for one's subsistence.[51]

By arrogating God and nature's gift to but a few individuals, the Merchant Adventurers denied the excluded their birthright to make a living for themselves using the natural resources and industrious human faculties that nature had gifted them. If nature had given these gifts in common, "Surely she hath never intended that a thin handfull of men, a small contemptible number in comparison of the whole … should appropriate to themselves the disposing and venting of the two thirds of this general grand Commodity." Dispersing trade among the many could certainly have beneficial consequences for the public good but an even more essential concern was that the Merchant Adventurers could violate individuals' natural and legal rights as it pleased.[52]

Because the author understood this birthright to have been codified in law, the Merchant Adventurers were rendered *dominium* and not *regnum*. The author extensively quotes a 1496 statute (12 Hen. VII c. 6), which granted every person the ability to use themselves to their most advantage, and to make exchanges freely at their pleasure. The statute also required that this entitlement be provided without any person collecting an exaction, fine, imposition, or contribution for its provision.[53] So the company's capacity to "usurp a right … [and] restore it againe for money" was an abject violation not just of Englishmen's natural birthright, but also of their positively protected legal rights.

Here, we run into the formidable task of positioning *Discourse*'s conception of rights amid the constellation of Leveller thinkers' and predecessors' varying, and often contradictory, understandings of rights. Even though the Levellers acknowledged that some natural rights were surrendered in the moment of constitution, they disagreed about how best to positively ground the natural rights which did survive constitution.[54] *Discourse* appears to share Lilburne and Johnson's faith in the English constitution, Overton's emphasis on a right to self-preservation,[55] and the collectivity inherent in

[49]Ibid., 5.

[50]Ibid., 3.

[51]The idea that Englishmen ought to have equal access to natural resources for subsistence can be seen far earlier than even Coke, Lilburne, or *Discourse*. One example is in Book I of Sir Thomas More's 1516 *Utopia*. See Thomas More, *Libellus Vere Aureus Nec Minus Salutaris Quam Festivus de Optimo Reip. Statu Deque Nova Insula Utopia* (London: Theodore Martin, 1516), fol. c.i(r)–c.ii(v).

[52]Anonymous, *Discourse*, 5, 22.

[53]*Statutes of the Realm (1377–1504)* (1817), 2:638; Anonymous, *Discourse*, 7, 11.

[54]Foxley, *The Levellers*, 28.

[55]See Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge, 1979), 148–50.

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Sykes's and Johnson's formulation.[56] Lilburne especially followed Coke in treating the rights and liberties of England's ancient constitution as part of a birthright.[57] *Discourse* does not make much of Walwyn's contention that Magna Carta was a set of weak concessions "wrestled out of the pawes" of the Norman conquerors.[58] However, it is not my aim here to accurately locate *Discourse* among Leveller rights' varying ontologies and sources. Let it suffice to say that, in *Discourse*, the pertinent rights were initially bestowed divinely "by the hand of nature" who is "the handmaid of God,"[59] and those natural rights were further guaranteed by various sources of positive law. What we are primarily concerned with here is the function that fundamental rights played in connecting grievances against monopolies to a Leveller theory of political legitimacy. As we will see, natural rights were the asset that the people entrusted to Parliament.

* * *

Though the author of *Discourse* was hardly the first to oppose oaths or complain of asymmetrical access to natural resources, the text brought together a number of conceptual tools which parallelled the Leveller leaders' understanding of monopolies as a problem of political legitimacy. First, monopolies threaten Englishmen's God-given liberty of conscience. Second, monopolies deprive Englishmen of their birthright to benefit from the country's natural resources through labour and trade. And third, the capacity of a few private men to endanger these fundamental rights should be understood as a problem of *dominium*, or the exercise of illegitimate political power.

Crucially, for the author of *Discourse*, the violation of rights took priority over any advantageous public consequences that monopolies might promise. This was a hierarchy that, as we will see, placed the Levellers in direct conflict with Parliamentarian faith in *salus populi suprema lex est*. For example, where the Merchant Adventurers argued that it alone was wealthy enough to purchase all the white cloth produced in England, and thus to prevent unprofitable surplus production, *Discourse* posed the question, "But suppose they be able to buy all the Clothes, is it not against common reason, and the Subjects birth-right, that therefore they should be permitted so to doe and others debard[?]"[60] At base, the company's monopoly was problematic because it constituted a violation of an equally held right. Under "the pretence" of "*Regularity and Conformity*," which "is the same that all monopolizing Patents have," the company was able to "usurp a right, and liberty," from citizens whenever and however it pleased.[61]

[56]See Thomas L. Leng, "'His Neighbours Land Mark': William Sykes and the Campaign for 'Free Trade' in Civil War England," *Historical Research* 86/232 (2013), 230–52.

[57]E.g. "law, justice, and right, according to *Magna Charta*, which as Sir Edward Cooke in the 2d. part of his institutes fol. 56 saith, is the best birth-right the Subject hath." Lilburne, *Innocency and Truth Justified*, 14, 64.

[58]William Walwyn, "Englands Lamentable Slaverie," London, 1645, BL E.304[19], p. 4, Early English Books Online. See also Foxley, *The Levellers*, 103. As Alan Cromartie cleverly remarks, the Levellers "could never quite decide if they were rejecting the law as a whole or if they were appealing to its spirit." Alan Cromartie, *The Constitutionalist Revolution: An Essay on the History of England, 1450–1642* (Cambridge, 2006), 271.

[59]Anonymous, *Discourse*, 5; Overton, *An Arrow*, 3.

[60]Anonymous, *Discourse*, 22–3.

[61]Ibid., 45, original emphasis.

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The Levellers' antimonopolism

John Lilburne was the first of the main Leveller leaders to seriously take up the monopoly question. His first published articulation of antimonopoly grievances appears to be *England's Birth-Right Justified*, which was published six months after *Discourse*. In that text, Lilburne rehearsed objections to the Merchant Adventurers that *Discourse* had also articulated, before extending them to other monopolies. Lilburne refers his reader directly to *Discourse* to learn about the company's "mischievousnesse,"[62] but he himself reemphasizes the rights that monopoly power put at stake: wool was "the stapell Commoditie of the Kingdome, and freee by the lawes and Constitutions of the land, for all the Free-men of *England* to trade in." The enjoyment of wool was "so essentiall a privilege to all the Commons of England, that whosoever [assumes it to themselves] are guilty of Robbing the Free men of *England*, of their birth-right and Inheritance."[63] Lilburne took seriously *Discourse*'s closing plea that, above and beyond service of the public good, "as free-borne Subjects of this Kingdome our birth-right and hereditary Priviledges are neerly concerned, and therefore we ought in conscience to endeavour to preserve them for our posterity, as they have been transmitted to us."[64] For Lilburne, these rights were so precious that there "is no reason why the free men of England should have so great a part of their Birth-right, as this is, taken from them by force and violence."[65]

Lilburne invoked 1 Kings to bolster this claim to the inalienability of Englishmen's birthright. Just as "Naboath would not part with his Vineyard (which was his Inheritance) to the King, although he would have given him as much money as it was worth, or a better for it," Englishmen should, under no circumstances, allow themselves to be stripped of their natural rights to labour and trade. In 1 Kings, Ahab seeks to buy Naboth's vineyard to turn it into an herb garden. Naboth refuses, saying that no amount of Ahab's money, nor compensation with a different vineyard, could replace his own vineyard, which was the inheritance of his fathers. On the orders of Ahab's wife, Naboth is stoned to death for his refusal to sell.[66] Per Lilburne, then, no amount of a monopolist's money—or even promised public advantage, for that matter—could justly compensate an English citizen for the confiscation of their birthright. Indeed, one's natural rights were worth dying for.

[62]John Lilburne, *England's Birth-Right Justified Against All Arbitrary Usurpation* (London, 1645), BL E.304[17], p. 9, Early English Books Online. Note that, in 1645, the word "mischievous" had not yet taken on our contemporary usage, which implies a childish naughtiness or petty annoyance. Rather, "mischievousness" would have implied that something was calamitous, disastrous, or otherwise had harmful effects., "Mischievous, adj.," *Oxford English Dictionary*, https://doi.org/10.1093/OED/6658489311.

[63]Lilburne, *England's Birth-Right Justified*, 9. See also a 1647 Leveller petition arguing that the Merchant Adventurers' Company "still remains to the great abridgement of the liberties of the people, and to the extreame prejudice of all such industrious people as depend on cloathing, or other woollen manufactures, (it being the Staple-commodity of this Nation)." Anonymous, "To the Right Honourable, and Supreame Authority of This Nation, the Commons in Parliament Assembled," London, 1647, BL E.392[20b], p. 2, Early English Books Online.

[64]Anonymous, *Discourse*, 50.

[65]Lilburne, *England's Birth-Right Justified*, 10.

[66]King James Bible, 1 Kings 21:1–28 (1611), *Project Gutenberg*, at www.gutenberg.org/cache/epub/10900/pg10900-images.html#N2618.

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Who has a birthright?

We must be careful here. On some interpretations, rights are personal property that simply have no essential relationship to equal standing.[67] This is incorrect. First, at the heart of the Levellers' thought was a concern for realizing both a formal and a relational equality in treatment among citizens.[68] Second, the Levellers did not think in terms of self-possession but instead saw property as largely conventional and subject to the well-being of others.[69] Rights were pre-political claims whose possession and use partially constituted relationships of moral equality among persons equally able and obligated to exercise their God-given reason. They were important to the Levellers as part of a conception of equal standing and treatment among equal persons, not just as a person's property, which may or may not be used in ways that comport with equality.

This insight is crucial for determining who possessed and could exercise the pertinent natural rights. The Levellers' copious use of "free-born" and "birth-right" might at first seem to delimit the scope of rights entitlement to a native economic elite. But we must read the Levellers in context. As numerous scholars have observed, the Levellers likely used the term "free-born" to mean anyone who was not in a state of bonded labour or villeinage. By 1640, no Englishman was. Indeed, per Lilburne, "every particular individuall freeman of England; yea, of the meanest Cobler and Tinker, as well as the greatest Gentleman or Nobleman" may enjoy their birthright.[70] So the Levellers' use of "free-born" and "free-men" was likely inclusive and did not distinguish a select economic group from the remainder.[71] While it is unclear whether the Levellers sincerely imagined nonnative inhabitants as possessing an English birthright,[72] we can be

[67]Macpherson, The Political Theory of Possessive Individualism, 158.

[68]Anderson, "When the Market Was 'Left,'" 14–15; Teresa M. Bejan, "What Was the Point of Equality?", *American Journal of Political Science* 66/3 (2022), 604–16.

[69]Hampsher-Monk, "The Political Theory of the Levellers." To be sure, Macpherson's self-possessive Leveller is remotely recognizable in Overton. But even Overton gives more priority to natural equality than Macpherson's overreliance on *An Arrow* might suggest. See e.g. Richard Overton, "An Alarum to the House of Lords: Against Their Insolent Usurpation of the Common Liberties, and Rights of This Nation," London, 31 July 1646, BL E.346[8], p. 7, Early English Books Online, quoting the King James Bible, Ezekiel 18.

[70]Lilburne, *Londons Liberty in Chains Discovered*, 38. See also anonymous, "A New Engagement, or, Manifesto Wherein Is Declared the Sence and Resolution of Many Thousands of Well-Affected People in and about London, and Some Adjacent Counties," London, 1648, BL 669.f.12[97], 1, Early English Books Online; Lilburne, *Legall Fundamentall Liberties*, 7.

[71]See Bejan, "What Was the Point of Equality?", 611; Cromartie, *The Constitutionalist Revolution*, 271; De Krey, "What Made the Levellers Revolutionary?", 96–7; Foxley, *The Levellers*, 93–4, 98–9, 101–12, 177–9; Skinner, *From Humanism to Hobbes*, 152. Compare Philip Baker, "Londons Liberty in Chains Discovered: The Levellers, the Civic Past, and Popular Protest in Civil War London," *Huntington Library Quarterly* 76/4 (2013), 559–87, at 561–2; Hughes, "Learning from the Levellers?", 82.

[72]Despite some language indicating that the birthright extended to "every free Inhabitant" of England, "all the inhabitants of this Land," Englishmen and their neighbours alike, or even that it was a "humane right," the Levellers were pressed on this question at Putney and often implied English birth even if it was not explicitly stated. For more inclusive language see anonymous, *Discourse*, 5; Lilburne, *Londons Liberty in Chains Discovered*, 6; John Lilburne, *The Charters of London: Or, The Second Part of Londons Liberty in Chaines Discovered* (London, 1646), BL E.366[12], 86, Early English Books Online; Richard Overton, *The Commoners Complaint: Or, A Dreadful Warning from Newgate, to the Commons of England* (London, 1646), BL E.375[7], 4, Early English Books Online; Richard Overton, *Vox Plebis, or, The Peoples out-Cry against Oppression, Injustice, and Tyranny* (London, 1646), BL E.362[20], [2], 68, [2], Early English Books

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sure that at least all native Englishmen, universally, equally, and regardless of social and economic status, were entitled to it.

The Stationers' Company monopoly

In *Discourse*, the pertinent equal rights are an emerging conception of a right to conscience, and quite literal rights to labour and trade wool. The rights become more capacious with Lilburne's application of antimonopoly arguments to the Stationers' Company. Like all other monopolies, the Stationers' Company's monopoly was justified on arguments about its necessity for the public good.[73] After the company was granted a monopoly in 1637, amidst an immense crackdown on seditious publications, only twenty other printing houses could print in London provided that they abided by the company's regulations and restrictions. Until 1641, the Star Chamber and High Commission were tasked with enforcing the company's monopoly, which meant that offenders risked having their types defaced or printing presses confiscated. After both judicial bodies were dissolved, the company began using its own extralegal means and discretion for searching for and seizing publications that violated its privileges. Sometimes the company would lobby the Lords to send in men; other times it depended on its own cronies.[74]

Though Lilburne also argued that the Stationers' Company harmed the public good, the fundamental issue for him was again the company's status as an illegitimate private power capable of violating rights. The company's monopoly permitted it to circulate "whatsoever Books, Pamphlets and Libells they please, though they be full of Lyes, and tend to the poysoning of the Kingdom with unjust and Tyrannicall Principles." Conversely, the company "suppresse[d] every thing which hath any true Declaration of the just Rights and Liberties of the free-borne people of this Nation."[75] By regulating the sale of bibles, the Stationers' Company not only hindered the Gospel's being circulated, but contributed to bibles' "dearth and dearnesse."[76] While high prices were *in se* undesirable, the undergirding problem was that individuals' right and duty to exercise their God-given reason was contingent on paying a high price. Like the Merchant Adventurers, it would seem the Stationers' Company could also "usurp a right and restore it again for money."

Online; Overton, *An Arrow*, 3; Otteson, "The Levellers and the Birth of Liberal Political Economy," 183. For exclusionary language see e.g. John Lilburne, *Foundations of Freedom; or an Agreement of the People: Proposed as a Rule for Future Government in the Establishment of a Firm and Lasting Peace* (1648), BL E.476[26], 7, Early English Books Online: "Electors in every Division, shall be Natives or Denizons of England." See also Bejan, "What Was the Point of Equality?," 613; Foxley, *The Levellers*, 97–8.

[73]Haller, Tracts on Liberty in the Puritan Revolution, 1638–1647, 176–7; Walwyn, The Compassionate Samaritane, 39–40.

[74]Cyprian Blagden, *The Stationers' Company: A History, 1403–1959* (Cambridge, MA, 1960), 22–3, 118–23, 130–31; Michael J. Braddick, *The Common Freedom of the People: John Lilburne and the English Revolution* (Oxford, 2018), 15, 41, 87; Haller, *Tracts on Liberty in the Puritan Revolution, 1638–1647*, 9, 47; Houston, "A Way of Settlement," 395; John Rushworth, *The Star Chamber on Printing, 1637* (London, 1767), British History Online.

[75]Lilburne, *England's Birth-Right Justified*, 10.

[76]Ibid., 42.

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The company's private policing powers were particularly pernicious to the Leveller leaders. In 1637, following the Star Chamber's crackdown on subversive publishing, Lilburne was pilloried, whipped, and imprisoned indefinitely.[77] In the years after 1641, the company enforced its monopoly by calling a "number of deboyst men with Smiths and Constables, yea and the trained Bands also (when they please) to assist them" to "break open and rifle" through citizens' houses and belongings "under pretence of searching for scandalous Books." Per Lilburne, it was apparently a "common thing for such lawlesse men to breake in, and search honest mens shops."

In October 1645, Lilburne himself became victim to one such raid. A "tall pale-faced fellow" called Joseph Hunscott, along with his cronies, barged through Lilburne's front door, "ranne up into the Chambers, & stole out of [Elizabeth Lilburne's] Drawers, diverse pieces of her Child-bed linen and such other things as they pleased." The Company was known to "employ the Bishops old Theeves and Roagues" to undertake its searches and seizures. Hunscott and his associates were infamous for using the company's warrant for searching out "dangerous Bookes" as pretext for robbing honest Englishmen's houses.[78] In a June 1646 petition, Hunscott himself confessed that he and his men found no scandalous books during their raid.[79]

Similarly, in August 1646, a man called Robert Eeles of the Stationers' Company barged into the Overtons' bedroom unannounced with additional armed men outside the house. Eeles, brandishing his sword, commanded Overton to get out of bed and dress himself, at which point he "pick'd [Overton's] pockets, taking what he pleased out of them," before "ransak[ing] a Trunk, and taking out of a pair of Britches [which he] felloniously pick'd the pockets thereof." Meanwhile, Mary Overton was "lying sick in Child-bed." Richard Overton demanded that they explain under what authority they had raided the house and with what intention, but the company's men continued harassing Overton without producing an answer.[80] This incident appears to have incited Overton to take up the kind of antimonopoly arguments already circulating between the *Discourse*, Lilburne, and Johnson.

Just as the Merchant Adventurers had assumed to itself an "illegal and transcendent power," Lilburne declared that the Stationers' Company's police powers "invested [it] with an Arbitrary unlimited Power" that was "contrary to all law, justice, equity and

[77] Blagden, *The Stationers' Company*, 118.

[78] Lilburne, *England's Birth-Right Justified*, 10–11, 42. See also Lilburne, *Innocency and Truth Justified*, 76; Justin Schwartz, "Leveller Rhetoric in the English Revolution" (doctoral dissertation, King's College London, 2023), 146–7, 162–3.

[79] Joseph Hunscot, "The Humble Petition and Information of Ioseph Hunscot Stationer," 11 June 1646, BL E.340[15], 4, Early English Books Online.

[80] Richard Overton, *A Defiance against All Arbitrary Usurpations* (London, 1646), BL E.353[17], 8–9, Early English Books Online; Overton, "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." See also Schwartz, "Leveller Rhetoric in the English Revolution," 150–53. Just days after confiscating the printing press from the Overton household, Eeles himself was found to be using the press to print unlicensed books. 13 Aug. 1646, *Journal of the House of Lords*, vol. 8, *1645–1647* (London, 1767), British History Online, at www.british-history.ac.uk/lords-jrnl/vol8/pp463-464; 14 Aug. 1646, *Journal of the House of Lords*, vol. 8, *1645–1647* (London, 1767), British History Online, at www.british-history.ac.uk/lords-jrnl/vol8/pp464-465; Robert Eeles, "Petition of Robert Eeles to Edward Earl of Manchester," 11 Aug. 1646, YHL/PO/JO/10/1/212, The National Archives.

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reason." Not only could this power exclude citizens from a trade, and thus their means of subsistence, but "without either Censure or Resistance of Higher Powers," the company's monopoly power allowed it to "absolve the wicked, and condemne the just, and so doe whatsoever they list."[81]

Thomas Johnson's 26 January 1646 *A Plea for Free-Mens Liberties* used similar language to articulate the problem with the Eastland Company. Johnson argued that "every free born subject, is acknowledged as his right to have freedom to trade." The Eastland Company was then demonstrated "to deprive the Subiect of his right," and Johnson hoped that "every honest man will be willing with heart and hand to endeavour the recovery of our birthright which the law so evidently makes our owne from these unjust oppressors." Those birthrights were not only natural, but also codified in positive law—hence Johnson declares that the "life of the patent, so far as it extends, is the death of the law." Just as the Merchant Adventurers' Company was *dominium* and the Stationers' Company was "an Arbitrary unlimited Power," the Eastland monopoly was

> an arbitrary government introduced, & put into the hands of those whom the subject doth not own to have any right of power and rule, and that in so high a nature as can be no lesse then monarchicall, for what can a monarchicall power be, but to make lawes, and to punish the transgressors according to those lawes, by confiscation of goods, imprisonment, or taking away the life of the vassals, all which they may doe by their patent …[82]

Whereas *Discourse* had not yet connected the monopoly problem to the constitutional questions at stake during the English Civil Wars, in 1646 we begin to see the Levellers explicitly connecting antimonopoly grievances to the constitutional issues germane to their own political crisis. In the text quoted above, Johnson associated monopoly power with "monarchicall power." This association is the inheritance of earlier debates over royal prerogative and also demonstrates the Levellers' markedly antimonarchic position.[83] In the case of Hunscott and Eeles, however, the Stationers' Company had lobbied the House of Lords to provide what Lilburne derided as "the colour of Parliamentary Authority."[84] As Overton described it, just as Parliament had for four years been defending itself against the "illegall, unnaturall and barbarous" Crown, his case demonstrated commoners' need to defend themselves against the unauthorized and unaccountable Lords. Then, more radically than the well-rehearsed association of monopoly with

[81] Lilburne, *England's Birth-Right Justified*, 10–11.

[82] Johnson, *Plea*, fols. 1r–3v. Johnson's observation extended to a wide array of other corporations too. Generally, corporations such as guilds and livery companies exerted a monastic and nearly totalizing power over their members. See Ian W. Archer, *The Pursuit of Stability: Social Relations in Elizabethan London* (Cambridge, 1991), 100–31; Thomas L. Leng, *Fellowship and Freedom: The Merchant Adventurers and the Restructuring of English Commerce, 1582–1700* (Oxford, 2020); Jacob Soll, *Free Market: The History of an Idea* (New York, 2022), 46–8. Lilburne too applies these arguments to municipal corporations in November 1646, when he decries the Corporation of London as a monopoly. Lilburne, *Londons Liberty in Chains Discovered*.

[83] See Peltonen, *The Political Thought of the English Free State, 1649–1653*, 70–94.

[84] Lilburne, *England's Birth-Right Justified*, 42. See also 4 Aug. 1646, *Journal of the House of Lords*, vol. 8, *1645–1647* (London, 1767), British History Online, at www.british-history.ac.uk/lords-jrnl/vol8/pp450-453; Hunscot, "Petition of Hunscot [1646]."

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the Crown's prerogative, Lilburne and Overton associated the Stationers' Company with unauthorized and unaccountable (and thus illegitimate, but conspicuously not prerogative) power emanating from the Lords.[85]

What differentiated the "arbitrary government" of monopolies from legitimate public authority was that the latter's authority was founded on common consent. For Lilburne, the problem posed by the Merchant Adventurers' arbitrary government was that "their foundation is not upon a law made by common consent in Parliament, (and therefore uniust and illegall)."[86] Just days later, Johnson too explained that, unlike the Eastland Company, legitimate authority required "common consent in Parliament."[87] Monopoly power, then, served as a foil to legitimate public authority, which needed to be authorized by the people in common. If monopoly represented illegitimate private power, let us turn to understanding what the Levellers took to constitute legitimate public authority.

Legitimate public authority

Sovereignty and authorization

The Levellers' conception of political legitimacy was novel because it turned Parliamentarian logic against itself. Despite a catalogue of radical solutions in Parliamentary parlance, and despite their internal disagreements, Parliamentarians of all stripes were of one mind about two principles: (1) legitimate political authority was originally founded upon the consent of its subjects, and (2) in the process of consenting, limitations could be placed on the exercise of power.[88] Debates about parliamentary sovereignty and authority were ongoing—and had already been influentially shaped by Henry Parker and Royalist responses—well before the Levellers would meaningfully interject in the conversation. The Leveller objection to these accounts continued evolving between 1645 and 1648, but they ultimately disagreed with those who insisted that Parliament functioned as a representation or image of the people in miniature, and that therefore Parliament was itself sovereign, infallible, and unalterable.

On Parker's account, Parliament was a literal *re-presentation* of the originally sovereign people. In his 1644 *Jus Populi*, for instance, he described Parliament as "indeed nothing else, but the very people it self artificially congregated, or reduced by an orderly election, and representation, into such a Senate, or proportionable body." Parliaments were preferable to princes because they were "a more full and neer representation" of the people,[89] but once elected, Parliament had the same power and responsibilities as would the Crown. If "Princes [had been] created by the people, for

[85]Overton, *A Defiance*, 9–10. Overton makes no mention of the prerogative in his recounting the Stationers' Company raid.

[86]Lilburne, *Innocency and Truth Justified*, 47.

[87]Johnson, *Plea*, 1.

[88]Foxley, *The Levellers*, 22; David Wootton, "From Rebellion to Revolution: The Crisis of the Winter of 1642/3 and the Origins of Civil War Radicalism," *English Historical Review* 105/416 (1990), 654–9.

[89]Henry Parker, *Jus Populi, or, A Discourse Wherein Clear Satisfaction Is given as Well Concerning the Right of Subiects as the Right of Princes Shewing How Both Are Consistent and Where They Border One upon the Other* (London: Robert Bostock, 1644), BL E.12[25], 18–19, Early English Books Online.

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the peoples sake and so limited by expresse Laws as that they might not violate the peoples liberty," then it would nonetheless "remaine undeniable, that *salus Populi* is *suprema Lex*: and that *bonum Publicum* is that which must give Law, and check to all pretences, or disputes of Princes whatsoever."[90] In the same way, Parker argued that Parliament's power was necessarily bound by its imperative to serve the public good. Just as the good prince would not "counsell or consent to any thing, but what is publikely advantagious,"[91] Parliament was sure to serve the public good because it "can have no interests different from the people represented, or at least very few, and those not considerable."[92] Indeed, Parker attests, "no age will furnish us with one story of any Parliament freely elected, and held, that ever did injure a whole Kingdome, or exercise any tyranny, nor is there any possibility how it should."[93] Because Parliament was elected to be the people in miniature, harm to the body politic entailed harm to itself. This made Parliament immune to particular interests (or at least far more so than the Crown) and thus also beyond popular repudiation.[94]

Royalists responded by taking the Parliamentarian argument *ad absurdum*. An early response from Henry Ferne in 1642 argued that if Parliament could reassume power from the Crown, what would stop the people from at any time reassuming power from Parliament?[95] The next year, John Spelman argued that Parliament could not be a "more full and near representation" of the people than the Crown, because, without full enfranchisement, members of Parliament were not in fact "sent with equality from all parts, nor sent by all."[96] The same year, Dudley Diggs added that, even if Parliament were a better representation than the Crown, Parliament's dependence on majority voting made it vulnerable to factionalism in a way that the Crown's "owne Interest," which is "altogether the same with the publique," was necessarily impervious.[97] Per Royalist objections, Parliamentarians would need to show that Parliament was indeed more thoroughly, completely, and incontrovertibly authorized than the Crown, and that the creation of the people's likeness was sufficient to guard against particular interests.[98]

[90]Parker, *Jus Populi*, 2. See also Henry Parker, *Observations upon Some of His Majesties Late Answers and Expresses* (London, 1642), BL 27:E.153[26], 3, Early English Books Online: "This directs us then to the (transcendent) of all Politiques, to the Paramount Law that shall give Law to all humane Lawes whatsoever, and that is *Salus Populi*: The Law of Prerogative it selfe, it is subservient to this Law, and were it not conducing thereunto, it were not necessary or expedient."

[91]Parker, *Observations*, 9.

[92]Parker, *Jus Populi*, 19. See also Parker, *Observations*, 22: "a community can have no private ends to mislead it, and make it injurious to it selfe."

[93]Parker, *Observations*, 22.

[94]Foxley, *The Levellers*, 54–6; Eric Nelson, *The Royalist Revolution: Monarchy and the American Founding* (Cambridge, MA, 2014), 72–5; Markku Peltonen, "Democracy and Representation in Early Modern England, 1531–1653," *History of Political Thought* 43/4 (2022), 674–82.

[95]Henry Ferne, *The Resolving of Conscience* (York, 1642), BL 1284:04, 29–30, Early English Books Online. See also Foxley, *The Levellers*, 53–4.

[96]John Spelman, *A View of a Printed Book Intituled Observations upon His Majesties Late Answers and Expresses* (Oxford: Leonard Liechfield, 1643), BL E.245[22], fol. D2, Early English Books Online.

[97]Dudley Diggs, *The Unlawfulnesse of Subjects Taking up Armes against Their Soveraigne* (Oxford, 1643), BL 180:27, p. 143, Early English Books Online.

[98]Nelson, *The Royalist Revolution*, 75–9.

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Though Walwyn had endorsed it in 1643 and again in 1646,[99] by 1645 Lilburne and Overton had also begun to reject elements of Parker and other Parliamentarians' arguments for Parliament's infallibility, and thus absolute sovereignty. Lilburne argued that though he "look[ed] upon the House of Commons, as the supream Power of *England*, who have residing in them that power that is inherent in the people," the Commons were "not to act according to their owne wills and pleasure, but according to the fundamentall constitutions, and Customes of the Land, which *I* conceive provides for the safety and preservation of the People."[100] We have here an early expression of the idea that, though the House of Commons was the supreme and unitary public authority, it was not absolutely sovereign. The people retained sovereign power even after the moment of contract.[101] Some months later, in January 1646, Lilburne thus repeats Parker verbatim, but with a crucial addition: "power is but secondary and derivative in Princes, *(and say I in counsells likewise)*."[102] Where Parliamentarians effectively shifted sovereignty from Crown to Parliament, Lilburne here kept sovereignty always with the people.

Overton targeted the idea of Parliament as an image of the people. While he subscribed to the idea that representation *could* create an image of the people, he rejected the notion that Parliament actually or accurately did so. In his July 1647 *An Appeale from the Degenerate Representative Body*, Overton explained that "such as is the represented, such and no other must the figure or representation be, such as is the proportion, countenance and favour of the man, such and so must be the picture of the man, or else it cannot be the picture of that man, but of some other." And when the representation fell short of portraying a full and accurate picture of the man represented, it could no longer be called a representation at all. Thus, when parliamentary representatives failed to serve the interest of the represented people, they not only stood to lose the "betrusted authority of the people," but were "no longer their representatory Deputies, or Trustees" at all.[103] Together, the Levellers agreed that Parliament should be the "Supreme Authority of England" and that it operated as "Representative of the

[99]Walwyn was involved in the production of *Remonstrans Redivivus*, which straightforwardly rejected any idea of resistance to or limitation of parliamentary sovereignty after popular consent. He appears to have maintained some version of this argument until as late as March 1646. See Foxley, *The Levellers*, 56–7.

[100]John Lilburne, "The Copy of a Letter, From Lieutenant Colonell John Lilburne, to a Friend," 25 July 1645, C.11.30(1), 14, St John's College Library, Cambridge.

[101]Foxley, *The Levellers*, 69.

[102]Parker, *Observations*, 2, emphasis added to denote the addition; Lilburne, *Innocency and Truth Justified*, 57. For the people's perpetual retention of sovereignty see also Lilburne, *Free-Mans Freedome*—"God, the absolute Soveraign Lord and King… gave man (his meer creature) the sovereignty (under himself)"—and Anonymous, *The Fundamental Lawes and Liberties of England* (London, 1653), BL E.705[5], 1, Early English Books Online—"the People of England are a free People, of sole Original of their own Authority."

[103]Richard Overton, *An Appeale, From the Degenerate Representative Body of the Commons of England Assembled at Westminster* (London, 1647), BL E.398[28], 12, Early English Books Online.

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people."[104] However, Lilburne and Overton made clear between 1645 and 1647 that parliamentary supremacy was contingent on Parliament's faithfully and actually serving as *representatives*—not merely a *representation*, per Parker, but as the people's spokespeople, whose authority could always be either renewed or revoked. Unlike Parker, who held that a constitution's basic structure remained constant even as forms of government evolved, by November 1648 the Levellers were explicitly arguing that "all Governments come originally from the People, and are mutable at their pleasure, for their further good and wel-being."[105] Thus, Parliament's authority was neither absolute nor infallible, but perpetually contingent on authorization by the people's sovereign power.

Election was the means by which the people consented to and authorized a representative government.[106] For Parker, elections were mechanisms for creating the most faithful image possible of the body politic, but were not an instrument of popular authorization.[107] For the Levellers, however, elections were the means by which the people expressed its consent, which was an "ongoing operation" in need of renewal.[108] Elections were an expression of the people's political autonomy. As John Wildman and Maximilian Petty put it in October 1647, "the people have right to new successive election for Parliaments … [for elections were] so essentiall to their freedome, that without it they are no better then slaves."[109] This thinking ultimately found its way into a 1653 Leveller tract which stated, "Supreme Authority cannot be devolved upon any person, or persons, but by Election of the free people."[110] Elections were thus the means by which each individual used their God-given reason to choose, consent to, and authorize other individuals as their trustees in the Commons.[111]

[104]John Lilburne *et al.*, "An Agreement of the Free People of England," London, 1649, BL E.552[23], 3, Early English Books Online. For the language of "supreme authority" used elsewhere see also e.g. anonymous, *The Case of the Armie Truly Stated* (London, 1647), BL E.411[9], 12. 15, Early English Books Online; John Lilburne and William Walwyn, "To the Right Honorable, the Commons of England in Parliament Assembled," London, 11 Sept. 1648, BL E.464[5], 132, Early English Books Online; anonymous, *The Fundamental Lawes and Liberties of England*, 3; Lilburne, *Agreement 1648*, 14–15; John Lilburne, *Englands New Chains Discovered; or The Serious Apprehensions of a Part of the People, in Behalf of the Commonwealth* (London, 1649), BL E.545[27], Early English Books Online; Lilburne, *Legall Fundamentall Liberties*, 36, 39, 55; Richard Overton, "To the Supream Authority of England, the Representors of the People in Parliament Assembled," 1649, 194463, Folger Shakespeare Library.

[105]Anonymous, *The Moderate Impartially Communicating Martial Affaires to the Kingdome of England* (London), 21 Nov. 1648, 165, BL E.473[31], Early English Books Online; Peltonen, *The Political Thought of the English Free State, 1649–1653*, 18–21, 32–9.

[106]The Levellers were here novelly conjoining parliamentary supremacy with popular engagement. See David R. Como, *Radical Parliamentarians and the English Civil War* (Oxford, 2018), 15–17; Foxley, *The Levellers*, 20–31; David Guerrero, "Looking for Democracy in Fiduciary Government: Historical Notes on an Unsettled Relationship (ca. 1520–1650)," *Daímon* 81 (2020), 19–34, at 27.

[107]Nelson, *The Royalist Revolution*, 72–5.

[108]Foxley, *The Levellers*, 30.

[109]Anonymous, *The Case of the Armie Truly Stated*, 14.

[110]Anonymous, *The Fundamental Lawes and Liberties of England*, 3.

[111]As Foxley notes, it is not clear whether consent is given by each individual or as a collective body. It may well be that Overton had in mind what we might call "group intention." Foxley, *The Levellers*, 30; Overton, *An Arrow*, 4; Overton, *An Appeale*, 6. As Quentin Skinner has observed, even for Henry Ireton and Oliver

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But if God had originally vested sovereignty in the people, surely the people needed good reason to authorize any governing entity? Overton gives us a clear answer in July 1646: convenience. Writing to Parliament, Overton claimed, "For effecting whereof, we possessed you with the same Power that was in our selves, to have done the same; 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 quallified, and Faithfull,] for avoiding some inconveniences."[112] If the people were capable of acting as a collective agent themselves, government would be unnecessary. But without the capacity for such agency, a representative Parliament would be responsible for "making that happy return unto the people which they justly expect."[113] However, whereas for Parker a resolution's having been made by Parliament was sufficient grounds for treating it as though the decision had been taken *ab omnibus*,[114] the Levellers insisted that "making the happy return unto the people" consisted in doing that which the people actually might have done themselves.

Parliament as trustee of rights

For the Levellers, Parker's assumption that parliamentary representation would always abide by the maxim *salus populi suprema lex est* was inadequate reason to even originally, let alone ongoingly, consent to Parliament's authority. They instead turned to natural rights. As *Discourse* had already illustrated in the context of the Merchant Adventurers, the priority of fundamental rights over the public good was not merely a negative constraint on power, but, as the Levellers argued, the affirmative basis on which any claim to govern had to rest. Indeed, the very purpose of establishing a supreme public authority was to authorize a limited fiduciary capable of protecting each citizen's fundamental rights—this was what the people "justly expected." Thus the legitimacy of the Commons' claim to supreme public authority was to be measured by its effectiveness in protecting the people's natural rights.[115]

Though the Levellers each had different ideas about the pertinent rights' provenance, in their fiduciary theory of political legitimacy rights functioned as a bailment entrusted to a Parliament authorized and made accountable through election. The people must "choose their servants" via election,[116] after which those servants were authorized to "become their absolute Commissioners, and lawfull Deputies, but no more."[117] As Overton's February 1647 petition put it, the people had "elected, invested,

Cromwell, qualifying for the right to vote required the ability to consent to government, and giving consent required a sufficient ability to reason. Skinner, *From Humanism to Hobbes*, 155.

[112]Richard Overton, *A Remonstrance of Many Thousand Citizens, and Other Free-Born People of England, to Their Own House of Commons* (London, 1646), BL E.343[11], 3, Early English Books Online, square brackets in the original.

[113]Anonymous, "To the Right Honourable [1647]," 4.

[114]Skinner, *From Humanism to Hobbes*, 146.

[115]The Levellers used a variety of terms to describe what they imagined as legitimate public authority, e.g. "Publick Societie and Government," "Free State," "Lawfull authority," "Englands legall Soveraign Power, Assembled," "Just authority," "Civil authority."

[116]Lilburne, *England's Birth-Right Justified*, 4.

[117]Overton, *An Arrow*, 4.

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and betrusted you with our indubitable and natural power and Birth-rights, for the just and legall removal of our Nationall Evils."[118] Parliament was thus imbued with "but a Power of trust, [which is ever revokable, and cannot be otherwise …]." The people remained the "Principals" and the representatives their mere "Agents" tasked "by a meere donation of the people" with being "imployed to no other end, then [their] own wel-being."[119] The relationship between the people and their representative fiduciaries was thus one of trust.

In a time when the law was already largely inaccessible to commoners and the poor, monopolists' unauthorized and unaccountable power to determine whether and how Englishmen's rights were recognized and respected further removed lawmaking and law enforcement from the people's control.[120] Monopolies were enclaves that effectively remained in the "state of nature": every individual's rights were jeopardized by the unilateral judgment of another private party's will.[121] Thus Wildman demanded in his 1647 *Putney Projects* that "oppressions by forced Oaths, by Tythes, Monopolies … &c. should have suitable remedy contrived."[122] But we are reminded too of Johnson's earlier language: the "life of the patent, so far as it extends, is the death of the law."

Parliament was thus tasked with protecting the people from monopoly power because the people "justly expected" the equal protection of their rights. Echoing *Discourse*, Lilburne, and Johnson before him, in February 1647 Overton argued in a petition that "Pattentee-Monopolizers," having "no power over our bodies and Estates," "therefore may not commit our bodies to prison." He explained, "All monopolies at home, and all restraint of trade abroad to distinct companies of men, are all opposite to the antient rights of the people." Monopolies, he said, sought "to set up a tyranicall Government, tending to the utter vassalage and overthrow of all the free people of this Kingdome together with their Naturall, Nationall, and Legall Rights and Liberties."[123] In autumn of the same year, Wildman and Petty helped articulate soldiers' grievances in *The Case of the Armie Truly Stated*, which was presented to Thomas Fairfax on 18 October. Among the army's demands were "reliefe for the people in any of their oppressions, by arbitrary powers, Monopolies, iniustice in the proceeding Law, Tythes, Excize, &c." Indeed, the injustice brought about by "Monopolies, and restraint of free

[118]Richard Overton, "To the Right Honourable, the Betrusted Knights, Citizens, and Burgesses in the Commons House of Parliament (Englands Legall Soveraign Power, Assembled,) The Humble Petition of the Inhabitants of Buckingham-Shire, and Hartford-Shire, Whose Names Are Hereunto Subscribed," London, 11 Feb. 1647, X.d.677, Folger Shakespeare Library. See also anonymous, *The Fundamental Lawes and Liberties of England*, 2; anonymous, "To the Right Honourable [1647]," 4; Lilburne *et al.*, "Agreement 1649," 5; Lilburne, *England's Birth-Right Justified*, 3; Overton, *An Appeale*, 6–7.

[119]Overton, *A Remonstrance*, 3; Lilburne, *Innocency and Truth Justified*, 58, square brackets in the original.

[120]Gary S. De Krey, *Following the Levellers: English Political and Religious Radicals from the Commonwealth to the Glorious Revolution, 1649–1688* (Basingstoke, 2017), 29; Houston, "A Way of Settlement," 403, 408–9.

[121]The Levellers have no proper "state of nature," but the term serves as shorthand for where they do allude to a pre-political condition. Foxley, *The Levellers*, 46.

[122]John Wildman, *Putney Proiects. Or the Old Serpent in a New Forme. Presenting to the View of All the Well Affected in England, the Serpentine Deceit of Their Pretended Friends in the Armie, Indeavouring to Intoduce Tyranny and Slavery in a New Method* (London, 1647), BL E.421[19], 39, Early English Books Online.

[123]Overton, "To the Right Honourable [11 Feb. 1647]."

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trade" were among the precedents that the authors understood as underwriting the "imfamy of Parliamentary authority."[124].

Part of any legitimate public authority's task, then, must be to protect citizens from unauthorized and unaccountable enclaves of rights-violating private law. Lilburne articulated this demand by explaining that "the end of Government was to prevent oppressions, to limit and restrain the excessive power and violence of great men, to open the passages of Justice with indifferency towards all."[125] Nine months later, Overton declared it Parliament's responsibility "to remove from amongst them all oppressions and tyrannies … and to protect, safeguard, and defend them from all such unnatural monsters, vipers and pests."[126] The next year, popular petitions adopted similar language: "the end of [Parliament's] trust was freedome and deliverance from all kinde of grievances and oppressions";[127] and, as articulated in the army's demands, "the supreame power of the peoples representors" must be declared to include the power "to call to an account all officers in this Nation whatsoever, for their neglect or treacheries in their trust for the peoples good."[128] Whereas, for Parker, the collective rights which survived the transition from pre-political to political condition were baked into the contract's *salus populi suprema lex est*,[129] for the Leveller leaders Parliament's legitimacy was constantly contingent on its actually protecting individuals' fundamental rights.

Abolishing monopolies

If Parliament were to avoid lapsing back into the kind of unauthorized and unaccountable power that characterized the Crown's prerogative, and therefore the Lords', it needed to exterminate monopolies. Monopoly power was an extension of sovereign power "further then from the represented to the representers."[130] It was "out of the limits of our Trust; for the People, who are the Trusters, are as well limited as their Elected Trustees: they cannot confer more then they have in themselves."[131] Whereas

[124]Anonymous, *The Case of the Armie Truly Stated*, 2, 8; Richard L. Greaves, "Wildman, Sir John," in *Oxford Dictionary of National Biography* (Oxford, 2023), at https://doi.org/10.1093/ref:odnb/29405

[125]Lilburne, *Innocency and Truth Justified*, 52. In Lilburne's use of "indifferency towards all" we see a public authority that prefigures a Hobbesian mortal God—just as God looked upon all men *indifferently* as equals, so too should any legitimate public authority.

[126]Overton, *An Arrow*, 5. The next year, in July 1647, Overton used similar language to anathemize anyone who endangered fundamental rights: "and this our Common-wealth swarming with such Monsters in nature and humanity, owerspreading the whole Land with these tyrannies and oppressions, must either speedily be purged and cleansed." Overton, *An Appeale*, 26–7. As Alan Cromartie notes, this vision draws on Cicero's description of tyrants as "fierce and savage monsters in human form." Alan Cromartie, "Democracy, Toleration, and the Interests of the People," in Cesare Cuttica and Markku Peltonen, eds., *Democracy and Anti-democracy in Early Modern England, 1603–1689* (Leiden, 2019), 45–65. See also Overton's praise for the Commons' April 1646 public commitment "to preserve the Rights and Liberties of the Subject" in Overton, "To the Right Honourable [11 Feb. 1647]"; 17 April 1646, *Journal of the House of Commons*, vol. 4, *1644–1646* (London, 1802), British History Online, at www.british-history.ac.uk/commons-jrnl/vol4/pp512-514.

[127]Anonymous, "To the Right Honourable [1647]," 4.

[128]Anonymous, *The Case of the Armie Truly Stated*, 15.

[129]Foxley, *The Levellers*, 27–8.

[130]Overton, *An Arrow*, 11.

[131]Anonymous, *The Fundamental Lawes and Liberties of England*, 2.

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consent to Parliament's authority "may be removed" by the people, no such revocation was possible for monopoly power.[132] As Overton argued in 1647, the problem with monopolists' power was that they were "not *elected* thereunto by the Free-men of England."[133] Later the same year, army radicals demanded that Parliament ensure that "all Monopolyes be forthwith removed, and no persons whatsoever may be permitted to restraine others from free trade."[134] This association of antimonopolism with electorally accountable public authority had such wide purchase that even pamphlets distanced from the heart of the Leveller movement began associating the desire for "a speedy establishment of a Just and Equall Government" with the demand that "all Monopolies and restraint of trade, under colour of any Companies, Fraternities, or otherwise be forthwith abolished."[135]

If Parliament were truly authorized by and accountable to the people, it would eliminate monopolies. In Lilburne's words, "it is impossible for justice, peace, or prosperity, to flourish in this Kingdom, till [all *Pattentee-Monopolizing-Corporations*] be all abolished."[136] This had to begin by expelling monopolists who held seats in Parliament because, contrary to Parliament's purpose, monopolists only served to enlarge private interests. If Parliament was "principally called for the maintenance of the Laws, and redresse of mischiefs and grievances," then it must also "continue freed, and inlarged from all private aims, personal respects or passions whatsoever."[137] This was why the Long Parliament expelled all monopolists from its ranks within the first week of its reconvening in 1640.[138] It is also why Lilburne called for the removal of various members in 1649,[139] and demanded that "the Votes of this House Novemb. 19. 1640 against [all Monopolizers] sitting therein, may be forthwith put in due execution."[140] In their *Agreement* of 1649, the Levellers collectively demanded that Parliament cease the restraint of trade under monopolies.[141]

In addition to expulsion from Parliament and ceasing to issue monopolies, the Levellers implored solutions and penances that required Parliament's heavy-handed intervention. In response to the increased strength and activity of Irish pirates that had resulted from the Merchant Adventurers' monopoly, the Levellers demanded the creation of a "speedy and powerfull Guard appointed for the Seas."[142] They also

[132]Overton, *An Arrow*, 4–6.

[133]Overton, "To the Right Honourable [11 Feb. 1647]," original emphasis.

[134]Anonymous, *The Case of the Armie Truly Stated*, 18.

[135]Anonymous, "A New Engagement, or, Manifesto." Gary de Krey has argued that "A New Engagement," though it does not explicitly purport to be a Leveller document, in claiming to speak for London and nearby counties heavily influenced by Leveller action, should be studied as a representation of Leveller thought. De Krey, "What Made the Levellers Revolutionary?", 84.

[136]Lilburne, *Charters of London*, fol. 1r.

[137]Lilburne, *Legall Fundamentall Liberties*, 2–3.

[138]9 Nov. 1640, *House of Commons Journal*, vol. 2.

[139]Lilburne, *Legall Fundamentall Liberties*, 42.

[140]John Lilburne, "To His Honored Friend, Mr. Cornelius Holland, These," London, 1649, U. Missouri, Columbia DA427.1 1649.L5, 49, HathiTrust.

[141]Lilburne *et al.*, "Agreement 1649," 407.

[142]Anonymous, "To the Honourable the Commons House of England," London, 1649, BL 669.f.13[71], 1, Early English Books Online.

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demanded "that all Monopolizers may give good reparation to the Commonwealth, and to particular parties who have been damnified by them."[143] Monopolies were "to be proceeded against as publique delinquents to the State."[144]

First among such "delinquents to the State" was Sir Thomas Wentworth, Earl of Strafford. Lilburne drew a parallel between Strafford and the Merchant Adventurers. Strafford was beheaded in 1641 for having "acted arbitrarily, against the sence and mind of the law, to the ruine and destruction of the freedome of the people." Like a monopolist, Strafford directed a private government. As Lord Deputy of Ireland, he acted without parliamentary consent and wielded prerogative power over the colony. Among other charges, he had insinuated that the Crown could levy taxes without parliamentary consent, for which the Commons executed him. If Strafford could not legally impose fines and impositions without the people's consent through Parliament, "much lesse can the Marchant Adventurers doe it." Lilburne concluded that, just as Strafford was deemed, and executed as, a traitor, "the chief procurers and preservers of this Monopoly, do deserve as much as he." Strafford and actual monopolists were cut from the same cloth: all were examples of precisely the kind of "oppressors and tyrants," "great men," and "unnatural monsters, vipers, and pests" imbued with the very unauthorized and unaccountable private power against which the Commons had been mandated to protect English subjects. If monopolies were not eliminated, they would, like Strafford, "endeavour with all their might to perswade Parliamentary power to make us slaves by a law." So what else but "Strafford's Reward" might monopolists expect, Lilburne agitates, when these men "have seene their punishment before their eyes"?[145]

Conclusion

The horrors that monopoly powers imposed on commoners profoundly shaped what the Leveller leaders imagined was necessary to legitimate Parliament as supreme public authority. *Discourse* was an early and contemporary articulation of a Leveller anti-monopoly argument that could transform economic grievances into constitutional principles. For example, it demonstrated that, above and beyond worries about the public good, what monopolies put at risk was the guarantee of various fundamental rights. This sentiment was not merely a polemical feature of *Discourse* but would become a durable Leveller constitutional commitment. As late as 1652, Walwyn (clearly a latecomer to the Levellers' serious antimonopoly thought) echoed *Discourse*'s prioritization of rights over the public good: "those who desire a continuance of forraine trade under Companies, and those that propose an absolute freedome therein, doe both hold forth the publike good, as that which ought to be submitted unto." However,

[143]Lilburne, "To His Honored Friend," 49–51; Lilburne and Walwyn, "To the Right Honorable [11 Sept. 1648]," 6.

[144]Johnson, *Plea*, 5. Overton similarly refers to Robert Eeles and the Stationers' Company as "Delinquents, traytors, and Enemies to the State." Overton, *A Defiance*, 10.

[145]Lilburne, *Innocency and Truth Justified*, 47, 53, 57. Shortly after Putney, John Wildman also described one Mr Hollis as "making a Monopoly of the Kings favour to their Presbyterian faction." Wildman, *Putney Projects*, 12.

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"the true way of discerning what is to be deemed a publique good in England … is to find out what is Common Right in England."[146]

Monopoly power, in addition to being an abject violation of natural equality, allowed some private men to unilaterally withhold or violate their fellow citizens' rights. This rendered monopolies *dominium in dominio*, or illegitimate private powers that operated without authorization from or accountability to the people. For the Levellers, monopoly power came to represent a foil to what they imagined as Parliament's legitimate public authority. It was thus in part against the backdrop of monopoly powers that the Levellers formulated the argument that sovereignty passed, via election, from the people to Parliament as an ever-revocable trust of the people's equal rights.

In this light, the Levellers' grievances against monopolies emerge not as a defense of market liberalism, nor as a rejection of centralized authority as such, but as an early theory of popular legitimacy for a unitary public authority. Where Parliamentarians like Parker had grounded legitimate authority in the promise of the public good, the Levellers—schooled in part by the concrete experience of monopolies' rights violations—demanded something more exacting: a Parliament perpetually accountable to people whose natural rights it had been authorized to protect. For the Levellers, the test of Parliament's legitimacy was its capacity to protect all citizens from the illegitimate monsters that withheld or encroached on their fundamental rights. Then, by juxtaposing antimonopoly arguments from *Discourse* and the Leveller leaders' subsequent interventions, we begin to see that legitimate public authority begins where the *dominium* of monopoly power ends.

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[146]William Walwyn, "W Walwins Conceptions; For a Free Trade," in James R. Otteson, ed., *The Levellers: Overton, Walwyn and Lilburne*, vol. 2 (Thoemmes, 1652), 399–404, at 399.

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