

# Free-Born John Lilburne, Mighty Martyr for Liberty

by Jim Powell

**L**iberty doesn't just happen. Somebody must express a compelling vision of liberty and make it happen.

In many respects, the greatest pioneer was John Lilburne, who, in more than 80 pamphlets written during the mid-seventeenth century, attacked intolerance, taxes, censorship, trade restrictions, and military conscription. He championed private property, free trade, freedom of association, freedom of religion, freedom of speech, freedom of the press, a rule of law, a separation of powers, and a written constitution to limit government power. Lilburne helped bring these dynamic ideas together for the first time in human history.

Moreover, he risked death to put them into action. Lilburne was the first person to challenge the legitimacy of the Star Chamber, the English royal court that had become a notorious instrument for suppressing dissent. He was the first to challenge Parliament's prerogative as a law court for imprisoning adversaries. He was the first to challenge the prosecution tactic of extracting confessions until defendants incriminated themselves. He challenged the standard practice of imprisoning people without filing formal

charges. He challenged judges who tried to intimidate juries. Four times he faced the death penalty. He endured brutal beatings. He was imprisoned most of his adult life.

"I walk not, nor act, from accidents," Lilburne told a friend, "but from principles, and being thoroughly persuaded in my own soul they are just, righteous and honest, I will by God's goodness never depart from them, though I perish in maintaining them."

Dubbed a "Leveller" by his adversaries, he won the hearts of people and helped discredit the kinds of criminal justice proceedings that were a bulwark of oppression. "While others supported civil liberties to gain their own freedom and denied it to their enemies," wrote historian Leonard W. Levy, "Lilburne grew more and more consistent in his devotion to the fundamentals of liberty, and he was an incandescent advocate . . . he sacrificed everything in order to be free to attack injustice from any source. . . . His entire career was a precedent for freedom."

Lilburne looked like an ordinary man. Biographer M.A. Gibb described Lilburne, in his early twenties, as "slightly built, with a delicacy of appearance which renders his powers of physical endurance the more remarkable. Plainly dressed, after the fashion of the Puritans, he wore his hair to the shoulder and was beardless; his long, oval face, with its high forehead, luminous, earnest eyes, and often melancholy expression, indicated the depth of the fanaticism which could fire his

---

*Mr. Powell is editor of Laissez Faire Books and a senior fellow at the Cato Institute. He has written for the New York Times, the Wall Street Journal, Barron's, American Heritage, and more than three dozen other publications. Copyright © 1997 by Jim Powell.*

spirit, while the resolute mouth showed strength of purpose and courage to fulfil his aims."

As Levy acknowledged, "Such men as Lilburne who make civil disobedience a way of life are admirable but quite impossible. He was far too demanding and uncompromising, never yielding an inch to his ideals. He was ostreperous, fearless, indomitable, and cantankerous, one of the most flinty, contentious men who ever lived. . . . No one in England could outtalk him, no one was a greater political pamphleteer. . . . Had Lilburne been the creation of some novelist's imagination, one might scoff at so far-fetched a character. He was, or became, a radical in everything—in religion, in politics, in economics, in social reform, in criminal justice."

## Beginnings

John Lilburne was born in Greenwich, England, sometime in 1614 or 1615. His parents, Richard and Margaret Lilburne, were minor officials in the royal court. Margaret died when John was a small child and Richard moved to a country property in East Thickley, County Palatine. A rather reckless man, he made history in 1636 as one of the last Englishmen to try resolving a lawsuit through trial by battle rather than trial by jury.

John attended schools at Auckland and Newcastle, where he learned Greek and Latin. His formal education was over by age 15. He decided to pursue a career in the prosperous wool trade and went to London. For five years he served as an apprentice at a wool warehouse. He used what little extra money he had on Protestant literature: "I had spare time enough," he recalled, "yet I never mispent it, but continually spent it in reading the Bible, the Book of Martyrs, Luther's, Calvin's."

A fervent Anabaptist, Lilburne rebelled against the orthodoxy and corruption of the Church of England. The Church maintained a clerical hierarchy of bishops, priests, and deacons. Bishop of London William Laud spearheaded efforts to crush Protestant dissenters. In 1624, the King issued a proclamation making it illegal to publish or import a

book without a license from the Bishop of London or the Vice-Chancellor of Oxford or Cambridge. Licensed printers, who belonged to the Stationers Company guild, helped enforce the law against unlicensed competitors.

The proclamation didn't prevent courageous printers from issuing pamphlets challenging established authority, and Lilburne became friends with many of these dissidents. He visited the Gatehouse, where Presbyterian Dr. John Bastwick was imprisoned for writings that denounced the Church of England bishops. Bastwick subsequently had his ears cut off.

Through Dr. Bastwick, Lilburne met William Prynne, the fanatical London Presbyterian lawyer who had published many bold attacks on the Church of England. Prynne was fined, disbarred as a lawyer, condemned to life imprisonment in the Tower of London, his ears were hacked off, and his cheeks were branded with the initials "SL" (for seditious libeler). Imprisonment, furthermore, meant a financial drain, since prisoners had to pay the cost of their upkeep.

The government considered Lilburne a potential troublemaker for visiting imprisoned dissidents. In 1637, he left England and went to Holland, where free presses flourished. He seems to have spent his savings, perhaps about 50 pounds, on printing and distributing unlicensed pamphlets. He began with *Letany* by Dr. Bastwick. Lilburne, however, was betrayed by one of his collaborators, a London button seller. The English government seized the shipment of Dr. Bastwick's pamphlets, and Lilburne was arrested after he returned to London in December 1637.

## Lilburne versus the Star Chamber

Lilburne was imprisoned in the Gatehouse, and his case came before the Star Chamber. It stood apart from the common law courts, and proceedings were based on interrogating defendants. Those who incriminated themselves were declared guilty and imprisoned. "It was a court of politicians enforcing a policy, not a court of judges administering a

law," wrote constitutional historian F.W. Maitland.

Lilburne was grilled about his trip to Holland and his knowledge of unlicensed Puritan pamphlets. Although he was only in his early twenties, he mounted an unprecedented challenge to the legitimacy of royal prerogative courts: "I know it is warrantable by the law of God, and I think by the law of the land, that I may stand upon my just defense, and not answer to your interrogatory, and that my accusers ought to be brought face to face, to justify what they accuse me of."

Lilburne attacked the Star Chamber because he had never been served with a *sub poena*, and no bill accused him of any crime. He wouldn't pay the court clerk's fee. He refused to take the *ex officio* oath promising to answer all questions. The Star Chamber fined Lilburne £500 and ordered that he be tied to a cart and whipped as it moved slowly from Fleet prison to Westminster Palace Yard—two miles. Every few steps, he recalled, his bare back was lashed with a whip made from "two or three cords tied full of knots." Altogether he was lashed some 200 times. The doctor who treated Lilburne reported that "the weals in his back, made by his cruel whipping, were bigger than tobacco pipes."

Then Lilburne was put in a pillory where, officials hoped, he would be humiliated. But he harangued all who would listen with attacks on the government and the Church of England. He was subsequently gagged, one woman reported, "with such cruelty that he caused his mouth to bleed." After several hours in the hot sun—having already been whipped for two miles—Lilburne was taken back to Fleet prison and chained in a cold, damp, dark cell for four months.

When the "Long Parliament" convened on November 4, 1640, a little-known country gentleman named Oliver Cromwell, who represented Cambridge, defended Lilburne in his first speech. Cromwell declared that Lilburne's Star Chamber sentence was "illegal and against the liberty of the subject." Soon he was released. Parliament passed bills abolishing the Star Chamber, and the king reluctantly agreed on July 5, 1641. Among other things, the bills made it a criminal offense for a

government official to force a defendant to take "any corporal oath, whereby he or she shall or may be charged or obliged to make any presentment of any crime or offense, or to confess or to accuse him or herself of any crime, offense, delinquency or misdemeanour, or any neglect or thing whereby, or by reason whereof, he or she shall or may be liable or exposed to any censure, pain, penalty or punishment whatsoever."

Lilburne tried to resume his private life. He married Elizabeth Dewell, who was to provide steadfast support during his subsequent imprisonments and to raise four children on little money. Despite his apprenticeship as a clothier, the Merchant Adventurers guild, which monopolized its trade as other guilds monopolized their trades, excluded him because he didn't have enough capital. His uncle suggested that he help run a brewery, and that's what he did.

## Coke's *Institutes*

Lilburne spent his spare time studying philosophy and law. In 1642, the second part of jurist Edward Coke's *Institutes* was published, and Lilburne soon got a copy. Coke (1552-1634) had championed common law over arbitrary royal edicts. With common law, local judges made decisions case by case, from which evolved general rules. They tended to be applied more predictably than statutes. The first part of Coke's *Institutes* (1628) had commented on another jurist's work and wasn't of much use to Lilburne, but the second part offered learned commentary on statutes from the Magna Carta through the reign of King James I, who died in 1625. Most law books were in French, but Coke wrote in English and made common law a fighting creed. From Coke Lilburne gained inspiration—Coke, too, had been imprisoned for his views—and gathered legal precedents which, buttressed with material from the Biblical Old Testament, Psalms, and Apocalyptic writings, became the basis for his self-defense against tyrants.

He was soon drawn back into the epic struggle between king and Parliament. Parliament, enjoying the support of merchants

and traders, controlled money the spendthrift king desperately needed. In 1642, Lilburne was commissioned a captain in the Parliamentary Army, but he was captured in Brentford and imprisoned at Oxford Castle. Royalists offered him a pardon if he would recant his principles, but he refused. He was charged with treason and sentenced to death. Lilburne's wife, Elizabeth, addressed the House of Commons and persuaded Members to retaliate by executing captured royalists if any Parliamentary loyalists like Lilburne were executed. The result was a prisoner exchange that gave Lilburne his freedom.

He returned to the Parliamentary army with mixed feelings, because he disapproved of the Scottish government enforcing the Scottish National Covenant on everybody there. The Covenant called for loyalty to the king, loyalty to Calvinist theology, and a commitment to suppress religious dissidents. Chronic wrangling among military officers further undermined his commitment to the Parliamentary cause, and when Lieutenant-General Oliver Cromwell ordered that everybody in his New Model Army subscribe to the Covenant, Lilburne quit. He declared that he would "dig for carrots and turnips before he would fight to set up a power to make himself a slave."

Lilburne was influenced by the poet John Milton, who had been charged with violating Parliament's June 1643 law requiring that prior to publication written work must be licensed by a government censor and registered with the Stationers Company. Ordered to defend himself before Parliament, Milton gave a speech that became the famous pamphlet *Areopagitica* (1644). Borrowing from pamphlet attacks on monopolies, Milton maintained that truth tends to prevail when markets are open and the press is free.

In January 1645, Lilburne exploded with rage at the injustices he suffered, and he wrote *A Copy of a Letter*. It was a challenge to Puritan William Prynne, who, having suffered from intolerance by King Charles and Bishop Laud, extended intolerance to others. Lilburne talked about how the king and bishop unjustly imprisoned him, how the Puritans enforced the Covenant that further

restricted his freedom of religion, how the Stationers Company restricted his freedom of speech, how the Merchant Adventurers denied his right to work. "To persecute for conscience," Lilburne declared, "is not of nor from God, but of and from the divell and Anti-Christ."

During a raid authorized by Parliament, officials found a printing press alleged to have produced Lilburne's offending pamphlet. About this time, one of Lilburne's eyes was poked out by a pike—circumstances unknown—and Parliament, apparently feeling he had suffered enough, dropped the matter.

In April 1645, Lilburne became acquainted with John Goodwin, vicar of St. Stephen's Church on Coleman Street, London. He was among the Independents, a group that had perhaps one-tenth the following of the Presbyterians. Independents generally favored religious toleration for everyone except Catholics. Oliver Cromwell, John Milton, and many other talented people were Independents. Unlike the Presbyterians, who wanted to replace the Church of England ecclesiastical hierarchy with their own, Goodwin believed each congregation should govern itself. Lilburne shared some Independent views, writing in the pamphlet *Rash Oaths Unwarrantable* that God had appointed Jesus as the only lawgiver for His Church, and therefore human lawgivers (ecclesiastical officials) were anti-Christian. This comes close to advocating a separation between church and state.

## Walwyn and Overton

Goodwin attracted a number of other notable dissidents to his "Coleman Street enclave" where they discussed issues and refined their views. Among those attending was William Walwyn, a merchant in his mid-forties who, while he wrote some pamphlets, spent considerable time encouraging bright people to embrace reason and toleration.

The keenest thinker and best writer in the group was Richard Overton, who spent some years in tolerant Holland. There he embraced the General Baptist Church, which emphasized that God's will was revealed directly to individuals. He returned to England before

1641 and became an unlicensed printer. He demanded religious toleration. He published some of Lilburne's pamphlets, and he wrote his own. Overton based his thinking more on fundamental principles than Lilburne who filled his pamphlets with common law precedents. Overton—who also wrote satire—sometimes displayed a wicked wit. Soon Lilburne was embroiled in controversy again. On July 19, 1645, the Presbyterian Dr. John Bastwick claimed Lilburne had publicly criticized William Lenthall, Speaker of the House of Commons, and Lilburne was again imprisoned. But by this time Lilburne knew that nothing inspired people as much as somebody who was willing to stand up fearlessly for his ideals. Summoned before the Committee on Examination, he refused to answer questions and demanded to know the charges against him. "I am a free-man," he insisted, "yea a free-borne denizen of England, and I have been in the field with my sword in my hand, to adventure my life and my blood against tyrants for the preservation of my freedom, and I do not know that ever I did an act in all my life that disenfranchised me of my freedom, and by virtue of my being a free man, I conceive, I have as true a right to all the privileges that do belong to a free man as the greatest man in England, whatsoever he be, whether Lord or Commoner, and the ground and foundation of my freedom I build upon the Grand Charter of England." The Committee on Examination ordered him back to Newgate prison.

On August 9, he was again summoned before the Committee on Examination, this time to answer questions about *A Copy of a Letter . . . to a Friend*, an inflammatory pamphlet which he had allegedly written in prison. Again, he refused to answer questions and demanded to know the charges against him. The Committee ordered that he be imprisoned in case it should later be proven that he wrote the pamphlet. William Walwyn organized protests and presented a petition with more than 2,000 signatures to the House of Commons.

Lilburne had come to stand for the rights of all English people. As one anonymous pamphleteer wrote in *England's Misery and Rem-*

*edy* (1645): "Lilburne's case is singular, that a member of the body represented, a free-born subject . . . that such a subject, contrary to the tenor of Magna Carta, contrary to the late Covenant and Petition of Right . . . should be three times imprisoned without showing cause, by a Parliament professing reformation and defense of our laws and liberties, and without any urgent or apparent necessity of state enforcing it. . . . I need not say how much the public liberty is wounded in the injury doubled and trebled upon their fellow man."

### *England's Birthright Justified*

In Newgate prison, Lilburne wrote *England's Birthright Justified against all arbitrary usurpations, whether Regall or Parliamentary or under what Vizer soever* (1645). Lilburne opposed the arbitrary power of Parliament by appealing to the "declared, unrepealed Law" of liberty and justice. "It is the greatest hazard that can be run into," he wrote, "to disart the onely known and declared Rule; the laying aside whereof brings in nothing but Will and Power, lust and strength." He maintained that England's fundamental laws should "be in English . . . that so every Free-man may reade it as well as Lawyers." He insisted that a trial would be proper only when formal charges are filed, when they refer to known laws, and when the defendant can confront the accuser and have an adequate opportunity to present a defense.

Lilburne went on to denounce government-granted special privileges. He attacked the government-granted monopoly on preaching. Lilburne spoke out for free trade as he attacked government-granted business monopolies like the Merchant Adventurers guild, which barred competitors from the woollen business. He declared that such monopolies were "contrary to the law of Nature, the law of Nations, and the lawes of this Kingdome."

Moreover, Lilburne wrote that the "Third Monopoly is that insufferable, unjust and tyrannical Monopoly of Printing," which Parliament granted to the Stationers Company. It "suppresse every thing which hath any true Declaration of the just Rights and Liberties of



the free-borne people of this Nation.” Book publishing, he maintained, “should be like a cryed Faire, and each one free to make the best use of their Ware.”

Lilburne observed that the longer politicians remain in Parliament, the more corrupt they become: holding office “breeds nothing but factions and base cowardlinesse, yea and sowing up of mens lips, that they dare not speak freely for the Commonwealth, nor displease such and such a faction, for feare of being Voted and thrust out of their unfit to be enjoyed Offices.” Lilburne called for annual Parliamentary elections and universal male suffrage: “Ought not the free-men of England, who have laboured in these destroying times both to preserve the Parliament and their own native Freedoms and Birthrights, not only to choose new members, where they are wanting once every year, but also to renew and inquire once a year after the carriage of those they have chosen.” He urged people to do as much as they could to remedy wrongs through constitutional action, but he implied if this failed, people have a right to rebel.

Lilburne’s pamphlet stirred debate. *England’s Lamentable Slaverie* (1645), an anonymous pamphlet attributed to William Walwyn, saluted Lilburne’s courage but said that his case depended too much on Magna Carta. Walwyn wrote that the right to resist unjust imprisonment stemmed from “reason, sense and the Common Law of equity and justice.” Walwyn pushed further toward a natural rights vision, saying “That liberty and privilege which you claim is as due to you as the very air you breathe.”

Summoned to court in October 1645, Lilburne was told there weren’t any charges against him. He petitioned the Lord Mayor for his liberty and was released October 14. He petitioned Parliament to be compensated for his unjust imprisonment but got nowhere—further undermining his faith in Parliament.

### ***The Freeman’s Freedom Vindicated***

In early June 1646, he wrote *The Just Man’s Justification*, which spelled out his grievances

against the House of Lords. On June 11, he was summoned to appear before the House of Lords and asked if he knew about this latest seditious pamphlet. He countered by demanding to know what, if any, charges were filed against him. The House of Lords committed him to Newgate prison, where he wrote another pamphlet, *The Freeman’s Freedom Vindicated*. He defied “my Lords, you being, as you are called, Peers, merely made by prerogative, and never intrusted or impowered by the Commons of England.”

The House of Lords ordered the Keeper of Newgate to deliver Lilburne for another interrogation, but he issued a defiant letter to the Keeper: “Sir, I am a freeman of England, and therefore am not to be used as a slave or vassal by the Lords, which they have already done, and would further do. . . . Take this for an answer, that I cannot without being traitor to my liberties dance attendance at their Lordship’s bar.” When the Keeper refused to let Elizabeth Lilburne visit him, he defied officials to cut out his tongue and sew up his mouth, and he threatened to set the House of Lords afire. He was put in solitary confinement, and there were renewed efforts to prevent him from getting pen and paper.

Back before the House of Lords, Lilburne refused to show traditional respect by kneeling—he insisted he would kneel only to his God. He lashed out at the Lords and was fined £2,000 and sentenced to solitary confinement in the Tower of London.

Lilburne’s friends again rallied to his defense. Elizabeth Lilburne organized groups of women who visited the House of Commons to offer her husband’s petition for justice. *A Pearl in a Dunghill* (June 1646), a pamphlet variously attributed to William Walwyn or Richard Overton, reviewed Lilburne’s ordeals and expressed outrage “that free commoners, who by the laws of the land are not to be adjudged of life, limb, liberty, or estate, but by commoners, should at the pleasure of the Lords be liable to their summons and attachment by pursuivants, to their oath *ex officio*, to their examination in criminal causes, to self accusing, and to imprisonment during their pleasures, the chosen Commons of England, the

supreme power, standing by like a cipher, as unconcerned, mere lookers-on.”

In July 1646, Overton affirmed the sovereignty of the people when he wrote *A Remonstrance of many thousand citizens and other free-born People of England to their own House of Commons*, illustrated with an engraving of Lilburne behind bars. He underscored Lilburne's call for freedom of religion, freedom of the press and annual Parliamentary elections. Overton followed this pamphlet in August with *An Alarum to the House of Lords*, which escalated the protest. Lilburne, he wrote, “hath got a good cause, and all good people (that desire not to live by the oppression of others) on his side.” Overton's authorship of this second pamphlet was discovered, and he too was arrested and dispatched to Newgate prison.

Parliament continued to hold Lilburne and Overton in prison, even though King Charles had fled to Scotland in June 1646, and the royalist stronghold of Oxford had surrendered, ending the first English Civil War. Many people felt they had been betrayed by Parliamentary forces, which supposedly fought for freedom. Lilburne remained as resolute as ever: “If I be called a state heretic, I answer for myself that the Parliament's own declarations hath made me so, and if I be deluded and deceived, they are the men who have done it.” As historian G.P. Gooch noted, “By its injudicious treatment of the most popular man in England, Parliament was arraying against itself a force which only awaited an opportunity to sweep it away.”

In his pamphlet *London's Liberty in Chains* (October 1646), Lilburne emphasized that the basis of legitimacy is consent: “The Omnipotent God, creating Man in his own Image (which principally consisted in his reason and understanding) . . . made him Lord over the earth. . . . But made him not Lord, or gave him dominion over the individuals of mankind no further than by free consent, or agreement.”

Lilburne became convinced that Parliament betrayed liberty, and he appealed to ordinary people and the Army rank-and-file. In *The Oppressed Mans Oppressions* (January 1647), he wrote: “Tyrannie is tyrannie, exercised by whom soever; yea, though it be by

members of Parliament, as well as by the King, and they themselves have taught us by their Declarations and practises, that tyrannie is resistable . . . what is tyrannie, but to admit no rule to govern by, but their own wils?”

The Levellers gained so much influence in the New Model Army that the Presbyterians who controlled Parliament decided they should try to disband the Army. They passed bills dismissing soldiers without much compensation for their service. Consequently, there was seething discontent, and Lilburne and Overton helped rally the soldiers. A petition, titled *To the Right Honble. and Supreme Authority of this nation, the Commons in Parliament Assembled*, was presented to Parliament. “We still find the nation oppressed with grievances of the same destructive nature as formerly, though under other notions,” it asserted. It called for religious freedom, freedom of speech, free trade, and a rule of law.

### **The Agreement of the People**

Meanwhile, Lilburne's ideas inspired Army radicals to draft the *Agreement of the People*, for a firme and present Peace, upon grounds of Common-Right. The forerunner of modern constitutions, it made clear that sovereignty rested with the people. It called for dissolving the Long Parliament and holding Parliamentary elections every two years. It specified that representation should be proportional to population. It provided freedom of religion. It barred military conscription. It envisioned a rule of law: “That in all Laws made, or to be made, every person may be bound alike, and that no Tenure, Estate, Charter, Degree, Birth or place, do confer any exemption from the ordinary Course of Legall proceedings, whereunto others are subjected.”

The *Agreement of the People* was the issue at the “Army debates” in Putney on October 28 and 29, 1647, where ordinary people discussed the future of their country.

The Army debates seemed to favor radical ideas, a threat to the harsh discipline that was a secret of Cromwell's military success. He ordered his loyal armed forces to intimidate the radicals, and he conducted a court martial for most stubborn opponents. The *Agreement*

of the People was history, but it was a landmark for liberty. Nowhere else in Europe had there been such a serious effort to resolve fundamental issues through discussion.

Lilburne, granted time away from prison while still serving a term, began organizing the first political party. His supporters identified themselves publicly by wearing sea-green ribbons. As House of Lords informer George Masterson reported, Lilburne's agents went "out into every city, town and parish (if they could possibly), of every county of the kingdom, to inform the people of their liberties and privileges, and not only to get their hands to the Petition." Lilburne raised money, held rallies, responded to adversaries. "We must own some visible authority for the present," Masterson quoted Lilburne as saying, "or else we shall be brought to ruin and confusion, but when we have raised up the spirits of the people through the whole kingdom . . . we shall force them to grant us the things we desire."

## Imprisoned Again

In January 1648, as a result of Masterson's tips, Parliament ordered Lilburne to stand trial for sedition and treason—and he was again imprisoned. He wouldn't stop talking. "I fell of preaching law and justice out of Sir Edward Coke's *Institutes* (then in my hands), and the Parliament's own declarations, to the soldiers that guarded the House, telling them that they were raised to fight to preserve the liberties and freedoms of England, but not to destroy them, which they must of necessity do if they laid violent hands upon me to force me to prison upon the House's illegal warrant, and in making me a slave they subjected themselves to slavery." The soldiers fell under his spell and had to be replaced with tough Puritan recruits. Lilburne reported that he was saved when his wife defiantly stood between him and soldiers brandishing their swords.

Cromwell faced the prospect of renewed civil war. There wasn't any settlement with King Charles I. Scottish forces seemed likely to cross into England at any moment. The English navy vowed its loyalty to the king and

moved to blockade London. Accordingly, the House of Commons needed support from the Levellers, who had presented petitions with over 8,000 signatures demanding Lilburne's release. On April 18, 1648, it voted to drop charges against Lilburne. The next day, the House of Lords concurred. Parliament further voted Lilburne £3,000 as compensation for his suffering in prison ever since the Star Chamber proceedings—but Lilburne refused to accept any taxpayer money.

By November, Cromwell had crushed the king's forces, and many in the Army wanted to execute the king. But Lilburne declared that liberty depended on a balance of power: "I look upon the King as an evil man in his actions, and divers of his party as bad: but the Army has cozened us in the last year; and fallen from all their promises and declarations, and therefore could not rationally any more be trusted by us without good cautions and security . . . and the Parliament as bad as they could make them; yet there being no other balancing power in the Kingdom against the Army but the King and Parliament, it was to our interest to keep up one tyrant to balance another."

It became apparent that Army officers might prevail, and Lilburne met with Commissary-General Henry Iverton about a commitment to Leveller principles. But they raised objections, especially to religious toleration and representative government. While Lilburne was hoping to resolve constitutional issues, Army officers grabbed power. On December 6, Colonel Thomas Pride forcibly prevented 240 Presbyterian Members of Parliament from entering the House of Commons, thereby purging opponents of the Army. As pressure mounted to hold a special trial for King Charles and execute him, Lilburne countered that such a trial would be a treacherous step backward away from a rule of law, and that there wouldn't be anyone left to limit the power of the Army. The king was beheaded on January 30, 1649. Cromwell hailed this as an event "which Christians in after times will mention with honor."

Lilburne proved to be more perceptive than John Milton, who had rushed into print with a pamphlet defending the execution. Milton



put all his confidence in Cromwell, whom he referred to as “our chief of men,” and he worked as a government secretary in Cromwell’s emerging dictatorship.

Lilburne picked up his pen again. In *Englands New Chains* (February 1649), he lamented, “where is that liberty so much pretended, so dearly purchased?” He attacked the purged “Rump” Parliament—which consisted of 60 or 70 Members—for bypassing trial by jury, interrogating a Member about his religion, passing a law to conscript seamen, imprison people for debt, and enforce restrictions on printing. He renewed his call for ending religious tithes, government-granted monopolies, and restrictions on printing.

### “John o’ the Tower”

In March, Army officers dispatched about a hundred soldiers to seize Lilburne in his room at Winchester House. He, along with Richard Overton, William Walwyn, and Thomas Prince, were taken to Parliament and summoned before Oliver Cromwell’s Council of State, which demanded to know if he was the author of *Englands New Chains*. He refused to cooperate, protesting that the officials were reviving high-handed practices from the Star Chamber. Then he told the crowd gathered outside what was going on. Cromwell, frustrated by the intransigence of these Levellers, reportedly thundered: “I tel you, Sir, you have no other Way to deale with these men, but to break them in pieces . . . if you do not break them, they will break you!” Accused of treason, they were sentenced to the Tower of London.

Levellers circulated petitions for “honest John o’ the Tower,” signed by some 40,000 people. They held rallies where people displayed their sea-green ribbons. People sang about “the bonny Besses in the sea-green dresses.” Cromwell told his Council of Officers: “I thinke there is more cause of danger from disunion amongst ourselves than by any thinge from our enemies.”

Lilburne, Overton, Walwyn, and Prince issued a new *Agreement of the People*, which elaborated on their libertarian views. When

Cromwell heard about it, he reportedly fumed that “the Kingdome could never be settled so long as Lilburne was alive, and that either he would stop his mouth or burst his Gall, rather than run the hazard of such discontents and mutinies as are dayly contracted in the Army by meanes of his Seditious scribbling.”

In France and Scotland, royalists recognized the late King Charles’s son Charles as the legitimate successor, and there were reports that royalist forces were assembling in Ireland. Accordingly, Cromwell planned a military campaign to subdue Ireland, which had been revolting against English rule since 1641. But Levellers resisted. They gained much support among soldiers who hadn’t been paid for their previous campaigns.

Soldiers plotted revolt in Salisbury, Banbury, Aylesbury, Oxford, Lancaster, Plymouth, Bristol, Carlisle, Windsor, Derbyshire, and Yorkshire. Cromwell captured hundreds of rebels and hauled the ringleaders before firing squads. Twenty-three-year old Robert Lockier led about 60 men to seize the regimental colors and lock themselves inside London’s Bull Inn until their claims were satisfied. Cromwell captured him and ordered him shot, and the Levellers gave him a farewell fit for a general—more than a thousand soldiers in his funeral procession, his coffin covered with sprigs of rosemary dipped in blood. Four regiments rebelled, and Leveller agitation threatened a widespread mutiny, but Cromwell struck fast, crushing the Levellers at Burford in May 1649.

Cromwell promoted a holy war against Ireland. When he learned that Protestant royalists were based in Drogheda and Wexford, on Ireland’s east coast, Cromwell ordered a massacre that Irish rebels would never forget. “The Enemy were about 3000 strong in the Town,” he reported after storming Drogheda. “I believe we put to the sword the whole number of the defendants . . . ordered by me to put them all to the sword. . . . I am persuaded this is a righteous judgment of God upon these barbarous wretches. . . .” After slaughtering everybody in Wexford, Cromwell suggested that the town was fair game for English settlers. Cromwell transferred title for vast Irish lands to English

owners. Historian George Macaulay Trevelyan observed: "In Ireland as Oliver left it and as it long remained, the persecuted priests were the only leaders of the people because the English had destroyed the class of native gentry. The Cromwellian settlement rendered the Irish for centuries the most priest-led population in Europe."

As Lilburne's two sons were dying of small-pox, he issued another pamphlet from the Tower of London, *The Legal Fundamentall Liberties* (June 1649). It attacked Army officers for ruling "over us arbitrarily, without declared Laws, as a conquered people. . . . And besides . . . we would not trust their bare words in generall onely, for they had broke their promise once already, both with us and the Kingdom; and he that would break once, would make no conscience of breaking twice, if it served his ends."

Out on bail to visit his family, Lilburne further escalated attacks during the summer of 1649. He aimed to incite rebellion with his pamphlet *An Outcry of the Youngmen and Apprentices of London* (August 1649). Addressing the soldiers, he wrote: "Do you justify these actions done in the name of the army? Do you uphold the *Agreement of the People* so far as to use your swords in its defense? . . . We earnestly beseech you to acquaint us whether from your hands . . . we may expect any help or assistance in this our miserable distressed condition. . . . You . . . the private Souldiers of the Army, alone, being the instrumentall authors of your own slavery and ours." No wonder Cromwell reportedly resolved that "either Lilburne or himself should perish for it."

Cromwell seems to have feared there might be a dangerous backlash if Lilburne were executed. He couldn't be court-martialed, since he wasn't in the army. If he were charged with sedition, he could be expected to document a case that Cromwell's "Rump" Parliament and Council of State violated well-established English law. Levellers taunted Cromwell:

"A Fig for the Rascals, whate'er they can do,

Though their plots are laid deep, yet John's are so too."

## Lilburne Charged with High Treason

On September 14, 1649, Attorney-General Edmund Prideaux demanded to know if Lilburne had written *An Outcry of the Young Apprentices of London*, but Lilburne denied the government's right to question him. A warrant for his arrest was issued five days later, and at the Guildhall, London, he was charged with high treason.

"Dressed carefully in doublet buttoning down to the hips," wrote biographer Pauline Gregg, "with lace at the neck and cuffs, trousers slashed and decorated, good boots and spurs, there was nothing at first glance to indicate the struggle he had been through. It was apparent, however, that strife over the years had coarsened his features, that the delicacy of the young man's face had gone. The disfigurement caused by his eye injury many years before gave his face in repose a slightly saturnine look. He no longer curled his hair back from his ears, as he had done as a young man, but let it hang to his shoulders, slightly grizzled and somewhat unkempt. The expanse of forehead was more apparent than ever, and the profile still showed the high ascetic nose. It was perhaps in the eyes and the mouth that the greatest difference showed. At twenty-three Lilburne held the simple belief that the demonstration of an injustice led to its abrogation. Seven years later disillusionment and bitter struggle had left their mark in the set of his mouth and the challenge in his eyes."

As always, Lilburne handled his own defense. He caught the Attorney-General and judge by surprise. They had expected him simply to express general principles and deny that the court had jurisdiction. Instead, with Edward Coke's *Institutes* and other law books by his side, he tied up the proceedings with one technical objection after another. He demanded to see the indictment against him. He picked apart circumstantial evidence that he was the author of *An Outcry of the Young Apprentices of London*. He noted that the "Rump" Parliament's sedition law was enacted after he had already been imprisoned in the Tower of London. Despite the judge's

objections, he repeatedly told the jury that they were empowered to issue a verdict on laws as well as the facts in his case.

The trial was over in two days, and he won a stunning acquittal. Levellers struck a silver and copper-gilt medal in his honor. It showed his picture and was inscribed with these words: "John Lilburne saved by the power of the Lord and the integrity of his jury who are judge of law as well as fact. Oct. 26, 1649."

Unfortunately, he got into disputes while trying to collect rent from former royalist properties given him as compensation for his unjust imprisonments. One of the cases was judged by Parliament, which saw an opportunity to get even: in December 1661, Lilburne was fined £7,000, banished from England, and threatened with execution if he ever returned. In Holland he read books like Plutarch's *Lives* and John Milton's *Defense of the People of England*. He corresponded with friends in England and met with exiles, his every move watched by spies—royalists blamed him for the execution of King Charles I, while Cromwell's people suspected he was conspiring with royalists. Meanwhile, he wasn't earning any money, and Elizabeth Lilburne pawned household goods to make ends meet.

The only institution which conferred some legitimacy on Cromwell's regime, by now known as the Protectorate, was the Long Parliament, which had sat for a dozen years without an election. In 1653, Lilburne broke his discreet silence and wrote *L Colonel John Lilburne Revived* which encouraged people to demand new Parliamentary elections. On April 20, 1653, Cromwell dissolved the "Rump" Parliament. Rather than take the risk of elections, he asked congregational churches to nominate worthy candidates from which the regime's Council of Officers would make selections.

Lilburne inquired if he could get a pass to return home but was asked if he would stop making trouble, and he replied: "I am as free born as any man breathing in England (and therefore should have no more fetters than all other men put upon me)." Weeks went by, but no pass arrived, and the impatient Lilburne crossed the English Channel on June 14. The

next day, he was captured by sheriffs and brought to Newgate prison. Awaiting a likely trial, he wrote another pamphlet, *Plea in Law*. He harangued the court about his right to see the indictment, and eventually he got a copy. He disrupted proceedings by raising technicalities and challenged the legitimacy of the law which was the basis for it. He played to the jury. He buttressed his case by reading from Edward Coke's *Institutes*. He countered allegations of his royalist ties by writing yet another pamphlet. Jury verdict: "John Lilburne is not guilty of any crime worthy of death."

He was returned to the Tower of London, then to the Castle Orgueil on the Isle of Jersey, and later to Dover Castle. He missed the birth of another child. At Dover Castle Lilburne became a Quaker and preached for Quakers when periodically he was let out on parole.

During August 1657, he was on parole in Eltham, visiting his wife. His health began to fail. On August 29, the day he was due back at Dover Castle, he died in her arms. He was only about 43. "I shall leave this Testimony behind me," he had remarked, "that I died for the Laws and Liberties of this nation." Some 400 people followed his plain wood casket for burial in a Bethlehem churchyard near Bishopsgate.

Oliver Cromwell died the following year, and his son Richard tried to hold the Puritan Protectorate together, but people had had enough of it. Factions within the Army began to fight one another. Fearing chaos, Parliament turned to the Stuart heir who became King Charles II. He didn't, however, regain all the obnoxious powers that his father had possessed. Royal prerogative courts like the Star Chamber never came back. Parliament, not the king, controlled taxation. This was part of John Lilburne's lasting legacy.

Many of his daring demands for criminal justice reform came true, too. Historian George Macaulay Trevelyan observed, "the Puritan Revolution had enlarged the liberty of the accused subject against the prosecuting Government, as the trials of John Lilburne had shown. . . . Questions of law as well as of fact were now left to the Jury, who were free to acquit without fear of consequences; the

witnesses for the prosecution were now always brought into court and made to look on the prisoner as they spoke; witnesses for the defense might at least be summoned to appear; and the accused might no longer be interpellated by the King's Counsel, entangled in a rigorous inquisition, and forced to give evidence against himself. Slowly, through blood and tears, justice and freedom had been advancing." Added historian H. N. Brailsford: "thanks to the daring of this stripling, English law does not aim from the first to last at the extraction of confessions. To Americans this right appeared so fundamental that they embodied it by the Fifth Amendment in the constitution of the United States."

## A Forgotten Man

But Lilburne became a forgotten man. His pamphlets were unsigned and easily lost. His many stirring lines were buried amidst voluminous prose about specific legal cases which later generations didn't care about.

The next thinker to develop a bold vision of liberty was the philosopher John Locke, whose *Second Treatise on Government* presented a compelling case for natural rights, private property, representative government, a separation of powers—and the right of rebellion if government thwarted individual liberty. But Locke seems not to have read writings by Lilburne or any of the other Levellers. Oxford University scholar Peter Laslett did conclude, though, that it was "from conversation and casual contact, not from documentary acquaintance, that Locke inherited the fruit of the radical writings of the Civil War."

Under Charles II, vengeful Parliamentary royalists, eager to get even for their suffering during Cromwell's regime, enacted the "Clarendon Code." It barred religious dissenters (those who preached against the Church of England) from entering a town or city. It provided prison terms for anybody caught in a dissenting worship service. There were fears of intensified persecution when, in 1679, Charles II became seriously ill, because the

likely successor was his brother James, who was an ardent Catholic.

The Earl of Shaftesbury (Anthony Ashley Cooper) and his compatriots in London's Green Ribbon Club—the name recalled Leveller days—promoted the succession of the Duke of Monmouth (James Scott), the happy-go-lucky son of Charles II by one of his court mistresses. Monmouth gathered a military force and marched from town to town, greeted by bonfires and church bells. By 1682, Shaftesbury, Algernon Sidney, Richard Rumbold, and others in the Green Ribbon Club contemplated a general insurrection. Charles II struck back, and Shaftesbury fled to Holland, but at Rumbold's Rye house, remaining Green Ribbon rebels plotted the king's assassination. They were caught and executed. Rumbold, who had been a Leveller, delivered a famous scaffold speech affirming Leveller principles. "I am sure there was no man born marked of God above another," he declared, "for none comes into the world with a saddle upon his back, neither any booted and spurred to ride him."

Thomas Jefferson adapted Rumbold's phrasing in one of his last letters, June 24, 1826: "All eyes are opened, or opening, to the rights of man. The general spread of the light of science has already laid open to every view the palpable truth, that the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred ready to ride them legitimately, by the grace of God."

English historian John Richard Green was among the few nineteenth-century authors to recognize the crucial importance of the Levellers. "For the last two hundred years," he wrote, "England has been doing little more than carrying out in a slow and tentative way the schemes of political and religious reforms which the army propounded at the close of the Civil War."

Behind many of our most fundamental civil liberties there stood John Lilburne, a mere apprentice who helped develop a bold new vision of liberty, took a principled stand, risked his life, defied tyrants, and got his story out. He suffered that we might be free. □



THE FREEMAN  
MAY 1997



# What's the Best Measure of Inflation?

"The Consumer Price Index overstates increases in the cost of living by about 1.1 percentage point a year."

—Michael Boskin, Stanford University<sup>1</sup>

According to recent surveys, most professional economists believe that the Consumer Price Index (CPI) consistently overstates the cost of living in the United States by one percentage point or more. Even pro-market economists such as Michael Boskin and Milton Friedman assert that the CPI, which is prepared monthly by the Bureau of Labor Statistics, exaggerates changes in the living expenses.

As a result of these studies, the government hopes to establish a more accurate CPI and thus save Washington billions of dollars. The CPI is used to index federal taxes and Social Security payments. A lower CPI could increase tax revenues by \$70 billion and reduce Social Security checks by \$75 billion over a five-year period. It could substantially reduce the federal deficit.

The CPI is determined each month by a survey of prices of 364 items that compose a typical bundle purchased by urban consumers during the base period, 1982-84. Items include food, consumer goods and services, rent, and property taxes. Each month several hundred

survey workers visit approximately 21,000 stores in urban areas and collect prices on these items. The CPI is a market basket index of these items, valued according to a weighted average.

## What's Missing in the CPI?

Unfortunately, the price-index methodology is defective in two ways. First, the current CPI fails to take into account quality improvements, new products, substitutes, and sale prices. As a result of these omissions, many economists argue that the CPI tends to *overestimate* the cost of living in the United States.

Second, the CPI does not include all items determining an individual's cost of living, and this fact may cause the CPI to consistently *underestimate* the cost of living. How many people buy a fixed market basket of goods and services that match in any way the government's survey for "an urban family of four"?

For example, I have two children in college. According to government surveys, college tuition and related expenses have risen at double-digit rates over the past decade or two. But the CPI doesn't cover college expenses.

My family and I also travel frequently outside the United States. Overseas the dollar has lost much of its purchasing power over the past 20 years. How does the CPI reflect the dollar's decline? It doesn't.

Crime has been a problem in our community, so we bought an expensive security protection plan for our home. The CPI

*Dr. Skousen is an economist at Rollins College, Department of Economics, Winter Park, Florida 32789, and editor of Forecasts & Strategies, one of the largest investment newsletters in the country. The third edition of his book Economics of a Pure Gold Standard has recently been published by FEE.*