

# THE NIGHT THAT SHAKESPEARE STOLE A THEATRE

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In 2018 we are living towards the later stages of the second Elizabethan era. Just over 400 years ago, in the late 1590s, the first Elizabethan age was similarly drawing to a close. But in the reign of Elizabeth I, what profound changes had occurred to England and to London, to society and to commerce, to work and to leisure. Few things symbolise this more exactly than the invention of modern theatre, which occurred during Elizabeth I's reign.

When Elizabeth I acceded to the throne in 1558, the only form of popular theatre was provided by troupes of itinerant players touring England from town to town. This was unchanged practice from Medieval times. There was no question of there being a permanent base for these companies. They arrived in a particular place, touted for business, delivered their performances and moved on - as a limited number of circuses and funfairs still do today. But all that was to change.

In 1567, the first recorded permanent theatre was built in London (The Red Lion, named after the farm where it was built, located 1 mile east of Aldgate in Whitechapel<sup>[1]</sup>). By 1602, there were some 16 permanent venues in operation near the City of London for showing plays. These were mostly situated in clusters to the north, east and the south of the City of London and, crucially, beyond its jurisdiction.

Not that they were generally reserved exclusively for dramatic performances. Many were situated in converted halls or public houses. Most put on a combination of plays, animal baiting and prize fighting. No wonder the City authorities viewed them with fear and suspicion as venues which encouraged licentiousness and disorder. However, what is recognisably the ancestor of modern theatre had been born and plays written in that time are still performed today for their artistic merit, not simply as antiquarian curiosities.

The Elizabethan theatre world was dominated by a small number of names who were very much the equivalent of modern theatre impresarios, such as Cameron Mackintosh. Throughout the history of theatres of this period, the same names reoccur, namely; Alleyn, Brayne, Burbage (James, Richard and Cuthbert), Henslowe and a very small number of others. These men were frequently involved in the building of multiple theatres and often were leading shareholders in the companies of actors who performed in them.

Another recognisable feature of the first Elizabethan age, which has bearing on this matter, is the rise of the legal profession, on the back of a dramatic increase in litigation. Disputes, especially in cities, were increasingly settled by recourse to law and the courts. In a time when contractual relationships were becoming far more prevalent, and were typically complicated, often verbal, disputes were common and lawyers grew rich. The legal disputes relating to the quality of work in building The Red Lion, brought against the carpenters involved, are a brief illustration of this trend<sup>[2][3]</sup> and we shall see what a central role legal disputes played in the subject of this paper. It is against this background, that the events occurred that culminated in Shakespeare stealing a theatre on the night of 28<sup>th</sup> December 1598.

The playhouse imaginatively entitled 'The Theatre' was built in 1576 in Shoreditch by James Burbage (an actor manager) and his brother-in-law, John Brayne (a Grocer, who also owned the Red Lion), to the north of the City of London's boundary. It was built just outside the City's jurisdiction because the City had banned all plays to prevent gatherings of people, as an anti-plague measure, in 1572. In 1575, they went one step further and banned all players from the City<sup>[4]</sup>. This prompted a spate of theatre building close to, but just beyond, City jurisdiction, of which The Theatre was the first.

Brayne lent Burbage the money to build The Theatre, in return for a share of future profits, as well as owning some of the property. This was a purely verbal contract which led to a number of later disputes. Witnesses recalled that there was a suspicion from the start that Burbage was not being straight or honest in his financial dealings with Brayne and others<sup>[5]</sup>.

The Theatre was built on leased land from the dissolved Holywell Priory, which became the Holywell estate. The building itself greatly exceeded the original budget of £200 and costs reportedly spiralled to 1,000 marks (£667 in Elizabethan money)<sup>[6]</sup>, which was being funded by both men. In 1577, Burbage and Brayne finally created a written agreement to share the costs and the profits of the theatre. This stated that although the lease from the landlord (to which we will return) was only in Burbage's name, it was for the benefit of their joint venture<sup>[7]</sup>. The agreement defined the rights and obligations of the two men, so matters were put on a more regular footing, for now.

However, only eighteen months later, both Burbage and Brayne had run out of money once more and had to seek a loan for £125, backed by the lease on The Theatre, from John Hyde, another Grocer. They had a year and a day to repay the £125, otherwise the lease was forfeit. In the event, no money was repaid in the timescale and Hyde thought that the lease was his. Later documents<sup>[8]</sup> show that the two men persuaded Hyde not to foreclose and to enter into a new repayment agreement for £5 per week until the £125 was repaid with interest added. However, even this arrangement was not met.

In 1582, Hyde had Burbage arrested for non-payment of the debt, at which Burbage produced £20 and persuaded Hyde that he could make further payments<sup>[9]</sup>. John Brayne was also in trouble with other creditors but managed to evade arrest and, despite frequent searches and enquiries, the local bailiff, William James, could not track him down. In 1586, John Brayne died, leaving his widow, Margaret Brayne, as the sole beneficiary of his estate, including his interest in The Theatre. She sued Burbage in 1586 (together with Robert Myles, another former business partner and an executor of John Brayne's will) as there had been no payments made since Brayne's death. Myles subsequently brought two further suits against Burbage, both of which also failed<sup>[10]</sup>.

Nor was the traffic one way; in 1588, Burbage countersued Margaret Brayne. A lawsuit that also went nowhere<sup>[11]</sup>. When Margaret Brayne eventually died in 1593, with matters still unresolved, she asked Robert Miles to continue to pursue Burbage for the benefit of her daughter. However, subsequent events overtook any further attempt by Miles to pursue James Burbage<sup>[12]</sup>. When James Burbage died in 1597, his sons, Richard and Cuthbert, seamlessly picked up these various legal disputes and continued to defend their family interests until 1600, when the various litigation efforts amongst the parties finally petered out, for reasons that will become apparent.

Turning to the lease for the land on which the theatre was built, the land was owned by Giles Allen. He had purchased the land, jointly with his father, from Christopher Bumpsted in 1556<sup>[13]</sup>. Originally the land had belonged to the Holywell Priory, but on dissolution of the monasteries, it had been sold into private hands. The lease entered into in 1576 lasted for twenty years and as long as James Burbage spent at least £200 on building the theatre, he had the right to remove its structure from the land during the duration of the lease. In 1596, the lease expired and was, by this time, held by John Hyde. He agreed that he would surrender the lease to Richard and Cuthbert Burbage, and Margaret Brayne, for £30. Cuthbert Burbage paid the £30 outright and therefore claimed he was the sole leaseholder inheriting it from his father.

Before he died, James Burbage had tried, unsuccessfully, to extend the lease with Giles Allen beyond the twenty year period<sup>[14]</sup>. Cuthbert and Richard Burbage continued the negotiations but without success. So the theatre 'went dark' while Giles Allen claimed that he now owned the building on the site and that The Theatre was his since the lease had expired and the building still stood on the land<sup>[15]</sup>.

We now come, literally, to the *dramatis personae*. The Theatre was originally the base for the acting company, Leicester's Men, under the patronage of Robert Dudley, Earl of Leicester. That company was replaced by The Admiral's Men in the 1580s, of which Richard Burbage was a member.

Most of the company left for the Rose Theatre, after falling out with Richard Burbage, to be replaced by The Lord Chamberlain's Men (later The King's Men, after James 1 became the company's patron in 1603), founded in 1594, who operated under the patronage, and protection, of Henry Carey, 1st Baron Hunsdon, the Lord Chamberlain (a role which involved organising court entertainment). Later his son, George Carey, who also became Lord Chamberlain, succeeded his father's patronage of the acting company. Richard Burbage was both principal actor in, and principal manager of, The Lord Chamberlain's Men.

This is the company to which Shakespeare attached himself sometime in the early 1590s. He was employed as a commissioned playwright, being paid £6 for each play he wrote and that the company performed; usually with Richard Burbage playing the lead role. In 1596, when the company was expelled from The Theatre, as the lease had expired, they continued to operate from the nearby Curtain Theatre (also located in Shoreditch and built on a pasture field alongside Holywell Lane, again by James Burbage and John Brayne, and which had opened in 1577<sup>[16]</sup>).

But the Burbages were not content to see their family's investment in The Theatre simply revert to Giles Allen. In 1598, they approached five members of The Lord Chamberlain's Men, William Shakespeare, John Heminges, Augustine Phillips, Thomas Pope and Will Kemp, with a proposition. They would create a new theatre on a new site for their company. Each of the actor-sharers would now become part owners of the theatre in which they played. Each person approached was offered 10% of the profits in the new theatre. Richard and Cuthbert Burbage would provide the building materials for a new playhouse (worth roughly £700), if the five others would each cover 10% of the remaining construction costs and the costs of running the theatre<sup>[17]</sup>. The five men agreed and a new company was formed.

The new company then needed a site on which to erect their new playhouse. Heminges and Condell, heard that Sir Nicholas Brend was looking to rent out some land in Southwark, near to the Rose theatre, which was the base for The Admirals Men (whose principals were Henslowe and Alleyn) and the great rivals of The Lord Chamberlain's Men. The five principals acquired an inexpensive lease for 31 years from Brend, which commenced on Christmas Day 1598<sup>[18]</sup>. Now, the plan to obtain the building materials for the new theatre became apparent; the Burbages intended to dismantle The Theatre and reuse its valuable timber frame. Over the Christmas period of 1598, Giles Allen was celebrating festivities at his country house in Essex. The Chamberlain's Men performed for Elizabeth 1 on 26<sup>th</sup> December and were due to give a further performance on New Year's Day.

There was therefore a narrow window in which to execute their plan. It was a snowy Christmas in London, with overcast skies day and night; difficult weather for anything involving outdoor building work<sup>[19]</sup>.

The new company's principals, almost certainly including Shakespeare, together with a retained master-builder, Peter Street, and a group of workmen, all armed, arrived at the site of The Theatre on 28th December and proceeded to dismantle the structure, under the cover of darkness. Soon a crowd gathered hearing the noise of the work, some in favour of the Burbages and some defending Giles Allen's interests. Those protecting Allen were outnumbered and the theatre was taken to pieces, the timbers being removed offsite and stored in Peter Street's warehouse near Bridewell Stairs until the spring of 1599, when the wood could be taken across the Thames to the Southwark site<sup>[20]</sup>.

Unsurprisingly, this action provoked a storm of litigation. Returning to London after the New Year celebrations, Giles Allen wasted no time in suing the Burbages for trespass and launched his action on 20 January 1599<sup>[21]</sup>. Cuthbert Burbage launched a counterattack through a 'bill of complaint' regarding the old Holywell lease launched on 26 January 1600, to which Giles Allen responded on 4 February and Cuthbert Burbage further responded on 27 April 1600<sup>[22]</sup>.

Giles Allen's deposition of 1601 described the incident and stated that Cuthbert Burbage, Peter Street and their crew did

riotously assemble themselves together and then and there armed themselves with divers and man unlawful and offensive weapons, as namely, daggers, bills, axes, and such like, and so armed did then repair unto the said Theatre. And then and there, armed as aforesaid, in very riotous, outrageous, and forcible manner and contrary to the laws of your Highness's realm, attempted to pull down the said Theatre, whereupon divers of your subjects, servants and farmers, then going about in a peaceable manner to procure them to desist from that their unlawful enterprise. They, the said riotous persons aforesaid, notwithstanding procured then therein with great violence, not only then and there riotously resisting your subjects, servants and farmers, but also then and there pulling, breaking and throwing down the said Theatre in very outrageous, violent and riotous sort, to the great disturbance and terrifying not only of your subjects, said servants and farmers, but of divers others of your Majesty's loving subjects there near inhabiting<sup>[23]</sup>.

A graphic description from a man who wasn't there.

In this action, Allen claimed £800 damages plus 40 shillings for trampling on the grass. But it was to no avail. All Allen's litigation failed. He eventually gave up the pursuit in 1603, Cuthbert Burbage having repeatedly raised successful injunctions against Allen's actions. The Burbages, Shakespeare and the others removed the timbers with impunity and without ever being called to account by Allen<sup>[24]</sup>.

Meanwhile, in Southwark, the timbers were used to create the frame for the Globe theatre, which was the base for The Lord Chamberlain's Men / King's Men until the 1640s, when the puritans pulled down all of London's theatres to make way for housing.

Even with the seasoned timbers from The Theatre being deployed, several corners were cut in the construction of the Globe, such as having thatch instead of tiles for roof covering. Not entirely surprisingly, the Globe had to be rebuilt after it burnt down in 1613, to be replaced by a 'second' Globe theatre. This all took place on the location that is currently occupied by the modern Globe theatre, which is still performing Shakespeare's work today.

The rest, as they say, is history. Shakespeare achieved global, lasting fame with all his greatest tragedies (Hamlet, Macbeth, Othello, King Lear) being performed for the first time at the Globe (the first play performed in the new theatre was almost certainly Julius Caesar in September 1599)<sup>[25]</sup>. He also became a wealthy man. It is estimated that his share in the Globe brought in over £100 / year. The risks that he took, in investing in the venture, and being a party to the removal of the timbers from The Theatre, paid off and he profited greatly from both. That concludes the examination of the events leading up to, and the aftermath of, the night that Shakespeare stole a theatre.

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