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VOL. XIII

JANUARY-APRIL-JULY 1913

Nos. 1, 2, 3

UNIVERSITY STUDIES

PUBLISHED BY THE UNIVERSITY OF NEBRASKA



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THE FIRST LONDON THEATRE, MATERIALS FOR A HISTORY

Charles William Wallace . 1

LINCOLN, NEBRASKA

By transfer
The White House

UNIVERSITY STUDIES

VOL. XIII

JANUARY-APRIL-JULY 1913

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THE FIRST LONDON THEATRE:

MATERIALS FOR A HISTORY

BY CHARLES WILLIAM WALLACE

INTRODUCTORY SURVEY

The story of the first London theatre, from the date of its inception by James Burbage in 1576 to the full florescence of Shakespeare in 1599, has a human interest of its own, and at the same time furnishes a historical background of some of the intimate personal conditions that made the dramatic and histrionic achievements of Shakespeare and his associates at the Globe supreme. That story, based upon a large collection of documents, bringing us into close personal contact with Richard and Cuthbert Burbage, their father, and the life in and about the Theatre, may here be told in a brief survey of the human side as a help to the student in unraveling the voluminous records. The complete history, with other added documents, must wait yet awhile. Around the business arrangements made for building and managing the Theatre, centre the records of the Burbage-Brayne controversy, ranging over a period of nearly twenty years; and about the destruction of the Theatre in 1598, grew the voluminous documents of the Burbage-Allen litigation of 1599 to 1602, recounting their business relations from the first. It is these two interwoven series of records that the present collection presents in entirety.

The twenty-one-year lease of the grounds on which the Theatre

was built and April 13, 1576, expired April 13, 1597. In February, 1597, two months before the expiry, James Burbage, the lessee, died, and the troubles engendered in the course of years between him and others concerning it, now fell upon his widow and administratrix, Ellen Burbage, and their sons Cuthbert and Richard.

The historical background of the conditions in which the Burbages found themselves in 1597-98 ranges from roseate hope to gray reality. They had in these twenty-one years lived through the most remarkable development of theatres, companies, and dramatic methods of all time,¹ and had been near the heart of all changes. Already theatres had come and theatres had gone. Their own, so distinctive in its soleness at first as to be called "The Theatre," was the first to rise. It was begun with high hope, and was maintained through the years under grave difficulties. The first Blackfriars theatre, which opened under Richard Farrant only a few months after the Theatre, came to an end in 1584, in a series of bitter litigations. Its complete history, based upon approximately a hundred documents found by the present writer, is related for the first time in *The Evolution of the English Drama up to Shakespeare*, above referred to.² An old playhouse built at Newington Butts in Southwark at some unknown date, presumably in these early days of development, was in 1599 only a memory, as shown by a contemporary record to be published later. Meanwhile, some of the old inns of London were either prohibited by the City authorities from further use

¹ See Wallace, *The Evolution of the English Drama up to Shakespeare* (Berlin, 1912), *passim*.

² It is greatly to be regretted that a Frenchman, A. Feuillerat, using information derived from me, and finding seven of these hundred Blackfriars documents, hastened to publish them in fragmentary anticipation of my complete work, and afterwards, through the public press and influence upon reviewers of my book, attempted to enlist public opinion by misrepresentation of the facts. Research is beset with many difficulties, but this is one of the things that time will set right. One needs only to lay his fragments by the side of the complete history to find the truth. A statement of the facts may be seen in *The Athenaeum*, January 4, 1913, continued from November 23.

as playhouses, or their companies were driven out of business or into the new theatres in the suburbs.

Companies in all the public theatres shifted and changed like satellites in erratic orbits about central suns. None were stable. Uncertain financial conditions, internal differences, or other theatrical troubles were the common causes. Almost every change of company can be traced to financial difficulties. More than an equal share of these troubles huddled on the backs of the Burbages in connection with the Theatre and its companies from the first. Briefly may we survey the troubled years that led up to the organization of the Burbage-Shakespeare company and the building of the Globe.

James Burbage was reared to the trade of carpenter and joiner. One of his enemies, Robert Myles, goldsmith, said of him in 1592 that "he never knew him but a po^r man & but of small Credit, being by occupacion A Joyner, and reaping but A small lyving by the fame, gave it over, and became A Common Player in playes." Burbage was one of the principal actors in Lord Leicester's company, and in 1574 he and his associates obtained the first royal patent ever granted in England to a company of players. This was primarily intended as a means of protection against the constant opposition of the City authorities. Still the opposition continued, and made acting at the times difficult. Burbage talked the situation over with his brother-in-law and others. He showed them that the erection of a building devoted solely to play-acting would be profitable. There was the constant demand of the Court for plays, and the growing demand of the public. But the opposition of the City made it necessary to find a location outside its jurisdiction. He cast about, and found such a location in the precincts of the old dissolved Hallywell priory in Shoreditch, north of the City. Here he found he could get cheaply, for only 14 *l.* rent per annum, a plot of ground, with some old buildings on it.

Old men and women agreed in the statement of Thomas Bromfield in 1600, concerning the nature of the buildings in 1576, that "they weare houfes of Offyce as A Slaughter houfe and Brewe houfe and low paulterye buyldinges". Richard Hudson, a car-

penter, who worked on them and helped Burbage convert them into habitable places, described them in 1600 as being in 1576 "ould decayed and ruynated for want of reparacions and the best of them was but of twoe stories hie." A man whom Burbage long employed about the Theatre, Randolph May, who knew the property all his life, likewise remembered them in 1600 as "very fymple buyldinges but of twoe storyes hie of the ould fashion and rotten," and adds that they were "ould houses of office and some of them open that Roges and beggars harbored in them."

The principal building was a long, rickety old tile-roofed barn, eighty feet long and twenty-four feet wide, built of timber, one end used as a barn by Hugh Richards of Coleman street, the other end as a slaughter house by Robert Stoughton, butcher. Part of the barn served also as tenements, and one of its occupants at that time, Oliver Tilt, deposed in 1600 that "yt was lyke to have fallen downe and was fo weake as when A greate wynd had come the tenants for feare have bene fayne to goe out of yte." In fact, to keep it from falling down, when making it over into eleven tenements, Burbage had it cross-beamed and strengthened and shored up by the carpenters, Bryan Ellam and his son-in-law Hudson, as they testified, to the Theatre, which was built wholly new only a few feet from it.

Such was the uninviting site, just adjoining Finsbury Fields, chosen for the first London theatre, the cradle of the young English drama. But Burbage was a builder, a planner, and saw possibilities in it. The buildings could be renovated, repaired, made decent, even habitable, and the rent from them would pay back the annual expense of the lease. If a theatre could be built, the income from it would be clear profit. The plan was alluring. So on April 13, 1576, James Burbage secured a lease of the property from the owner, Gyles Alleyn, for twenty-one years at 14*l.* a year, plus a "fine" or bonus of 20*l.*, with provision for a ten-year extension if Burbage should expend 200*l.* on buildings and repairs aside from the cost of building his proposed theatre, and with further provision that such building as he should erect for a playhouse might be taken down and removed by him within the

period contemplated by the lease. For the performance of his part in the agreement, Allen gave Burbage a bond of 200*l.*

Burbage lacked money. Some dozen men who knew him then declare that he was not well-to-do, and some of them testify that he was not worth 100*l.*—an apparent minimization. His brother-in-law, John Brayne (or Braynes), whose sister Burbage had married, was stirred with enthusiasm at the speculative prospects of the project. Brayne was a prosperous grocer in Bucklersbury, near Grocers Hall, well thought of in London, believed by his friends to be worth at least 500*l.*, and commonly reputed to be worth 1000 marks. Whether urged by Burbage, on the representation that the building of the theatre would not cost over 200*l.* and that the profits would be great, as witnesses for the Braine faction in 1590-92 testified, or whether, seeing large hopes in the project, Brayne urged his brother-in-law to let him share with him, as the Burbage faction claimed, Brayne did at any rate join with Burbage in a plan to build and conduct the Theatre on equal shares of expenses and profits, and appears even to have agreed, since he had no children, to leave his half interest at death to Burbage's children, as represented in the Chancery bill of 1588.

The new venture was entered upon with high hopes. Burbage raised all the money he could, even mortgaging the new lease to a money-lender for all he could get on it. Brayne sold his stock of groceries to Edward Collyns for 146*l.* and his house to the elder Collyns for 100*l.* The entire proceeds of 246*l.* he put into the building of the Theatre, 40*l.* of it going into iron-work alone. It was said by some of his friends afterwards that he borrowed still more, that he spent, some said, 500*l.*, some 600*l.*, some 700*l.*, and that Burbage did not spend over 50*l.* One of the most partisan of the witnesses, Robert Myles, himself later litigiously interested in the Theatre by executorship, even says in 1592 that Burbage admitted he spent less than 100*l.* and further reports Brayne as saying Burbage spent but 37*l.* in money, and furnished timber to the value of 50*l.*, charging sometimes 6*d.* for a groat's worth of stuff. But Myles was Burbage's deadly enemy. He adds that Brayne sold all he had to raise money, some 600*l.* to 700*l.*, pawned his clothes and also his wife's, ran in debt, he and

his wife worked as laborers in finishing the building to save the hire of two workmen, while Burbage, if he worked at all, was paid laborer's wages.

On the other hand, Henry Beth, a lawyer of Lincoln's Inn, who had drawn many papers for both Brayne and Burbage, who was familiar with their business, and who had at various times examined their account-books and taken notes from them, deposed at the same time that Brayne's share in the first cost of the Theatre, as he himself had confessed in 1582, was 239*l.* 6*s.* 6*d.* That would make the total first cost to both parties about 480*l.* Unable to raise sufficient money otherwise, they began acting plays in the building before it was finished, and used the proceeds to complete it. Later they spent more money on it, enough to make a total of approximately 700*l.* It was the common impression among their friends and neighbors that the Theatre cost about 1000 marks (666*l.*), and that Brayne paid the most of it. And even Henry Lamman, whose own evidence as well as that of John Allen reveals him as proprietor of the Curtain theatre, after some years of intimate business relations with Burbage and Brayne in managing both the Theatre and the Curtain, gives this as his understanding of the facts. Whoever may have been responsible for raising the funds, it turns out at any rate that each bore the burden equally. That they shared profits equally is also testified by many persons, among the number being Henry Johnson, "gatherer" at the Theatre, who handled all the money, and John Alleyn, one of the actors, an elder brother of Edward Alleyn.

No written agreement appears to have existed between Burbage and Brayne at first. Burbage owned the lease, and Brayne had spent much money on the property. In accordance with their general understanding, Burbage was willing to assign one half of the lease to Brayne. Accordingly, on August 9, 1577, an assignment was drawn up by William Nicoll, the scrivener, whose evidence we have on it. But Burbage did not seal and complete it, because the original lease was still in pawn for a loan to build the theatre. Therefore, on May 22, 1578, Nicoll drew up a bond between them, binding Burbage in 400*l.* to make over one half

of the lease. This bond was sealed and delivered by Burbage, and was in 1590-92 introduced as evidence in court. Nevertheless, Burbage never did make the assignment. The lease remained in his name to its termination, nearly twenty years later.

Within a month or so after the above bond for assignment, the brothers-in-law fell out over the receipts, Brayne charging Burbage with indirect dealing. Robert Myles even says that Burbage had had a false key to the cash-box made by a smith whom he names as one Braye, of Shoreditch, and that he stole money thus from Brayne and from his fellow-actors, also sometimes put money in his bosom, and even confessed his peculations, during these first two years. All of which we may properly discount upon full acquaintance with Myles. The dissension was serious enough to require an arbitration of their interests, which they referred by agreement to two friends, John Hill and Richard Turner. While the arbitrators were considering their claims, Burbage and Brayne went to the office of the scrivener Nicoll to have him draw up papers. There Brayne accused Burbage of wronging him, saying among other things that he had spent three times as much as Burbage on the Theatre. In the midst of their altercation, Burbage struck Brayne with his fist, "and so they went together by the ears," says Nicoll, "In fomuch that this deponent could hardly part them."

On July 12, 1578, just following the quarrel, Hill and Turner signed and sealed the articles of arbitrament, and Burbage and Brayne each gave the other a bond of 200*l.* to perform the conditions imposed. By the terms of the arbitrament, concerning which the direct testimony of John Allen and Ralph Myles in 1592 is particularly valuable, Burbage and Brayne were to be considered as equal partners in the lease, buildings, and profits. The lease could be mortgaged only by both joining in the mortgage. Then the rents and profits were to go to paying off such mortgage. Next, out of the weekly plays, the debts of both parties for the Theatre were to be paid, and meanwhile out of the Sunday plays Brayne was to have 10*s.* a week and Burbage 8*s.* a week. Next, all profits of weekly plays, after payment of the above theatre debts, were to go wholly to Brayne, until he

should be paid the amount spent in excess of Burbage's expenditure. Thereafter, they were to share equally.

The failure of one party or the other to perform the arbitrament was the cause of bitter contention and long litigation for the next twenty years both within the family and without. Moreover, the part of the agreement relating to Sunday plays could not be carried out in full. The City had long insisted on allowing no plays or other recreations on Sunday, and the city records contain many orders prohibiting them. Finally, to stop the practice, Burbage and Brayne were indicted at the Peace Sessions of Middlesex (the record is well known) for acting plays on the Sabbath, the specific performance of Sunday, February 21, 1580, being cited, since a specific charge was necessary, and those before and after being referred to only in general terms. On April 12, 1580, the Lord Mayor complained to the Lord Chancellor of disorders at a play at the Theatre on the preceding Sunday, mentioning that he had begun action against the players, but that, finding the Privy Council had it in hand, he left it to them. These actions and repeated City orders at least interrupted if they did not wholly prohibit their playing on Sundays, thus preventing that part of the arbitrament from being fulfilled,—a point that Burbage's second question to Ralph Myles, April 26, 1592, aimed to establish, but without getting an answer.

Debts were not immediately wiped out. Brayne in fact had gone into debt heavily on his own account, and either before or during the building of the Theatre he had made a deed of gift of his property to save it from creditors. This was a favorite method of Brayne (and others) when heavily indebted. Sometimes he made the deed of gift to William Thompson, his brother-in-law, who had married his wife's sister, sometimes to John Gardner, sometimes to one Ashburnham, or to some one else. For example, in 1579, he made such a deed to Thompson, to save himself from a judgment of 25*l.* 10*s.* 1*d.* in favor of John Hynde, haberdasher, which had been placed in the hands of the bailiff to execute. Also in other cases, not directly connected with the theatre, he took similar action, and left Burbage and his other securities to settle the debt. He got most deeply into debt,

some 800*l.* to 900*l.*, by building the George Inn, in Whitechapel, to which, rather than to the Theatre, many of the financial difficulties that involved the Theatre seemed traceable, as Burbage, attorney Bett, former bailiff James, John Hynde and others in their depositions of 1591-92, indicate.³ In 1597, Brayne and Burbage were indebted in another sum of 5*l.* 13*d.* to John Hynde, the haberdasher. On the afternoon of June 23, about two o'clock, Burbage was arrested for the debt in Gracious street as he was on his way to a play at the Cross Keys there, and was able to free himself only by at once paying the Sergeant at Mace the whole amount.

In spite of the apparent general prosperity of the Theatre, loudly complained of by the puritanical in pulpit, pamphlet, and City orders, the partners could not get out of debt. On September 26, 1579, through the intermediacy of a money-broker, John Prynne, and by mutual agreement of the partners, Brayne and Prynne got of John Hyde, grocer, 125*l.* 8*s.* 11*d.*, for which James Burbage at the same time signed a mortgage of the lease in security for one year. At the end of the year, the amount was not paid, and the mortgage was accordingly forfeited to Hyde on September 27, 1580. Then Hyde, as he relates, agreed with the proprietors to extend the loan, on condition that they pay him 5*l.* a week until all should be paid. This they carried out for only four or five weeks, and the mortgage was again forfeited. Thereby, Hyde became legal owner of the lease of the Theatre. By agreement he allowed Burbage and Brayne to continue the business. But he was greatly dissatisfied with the results, as he received no profits from it. He threatened to put them out, and thereupon in June, 1582, arrested Burbage, who, upon payment of 20*l.* and the signing of a bond to appear at Hyde's house at an hour's notice to be subject to his action, was allowed to go on.

³ Numerous documents—enough to fill a small volume—have been found by the writer in different courts concerning the George Inn, of Whitechapel, relating its troublous early history from the first. They are of no immediate interest beyond showing the financial relations of Brayne, Burbage, and Myles in the business, through which the interests of the Theatre were jeopardized, as here sufficiently observed for the present.

But Burbage complained to Hyde that Brayne took to his own use the money received at plays, and refused to deliver any of it to him or to Hyde. Whereupon Hyde appointed a servant or agent with Burbage to dismiss and put out Brayne from the Theatre. As he could not get rid of Brayne, however, he appointed them to collect and deliver 5*l.* weekly, thinking thus to pay himself with the profits. But by this means Hyde was able to collect only 20*l.* to 30*l.* Brayne never at any time paid any sum on the mortgage.

Meanwhile in 1582, during a bitter suit by Edmond Peckham against Gyles Allen over the ownership of the grounds on which the Theatre stood, Peckham tried to get possession by force, and James Burbage, whose life was on one occasion endangered in protecting the property against Peckham and his servants, was compelled to hire men and to keep them on the premises day and night to guard the Theatre and defend his rights. As Cuthbert Burbage related in 1600, it was for his father's expense in this that he withheld 30*l.* of the rent from Allen, which remained an item of contention and dispute for sixteen years. Two men employed during the whole period of the Peckham siege, Randolph May and Oliver Tilt, gave in 1600 a graphic notion of the situation. As a result of the annoyance, plays were stopped, Burbage lost money, and his company, the Earl of Leicester's servants, who had played there from the first, was broken up. That was the end of Leicester's company in London. Their last recorded performance was *A History of Telomo* at Court on February 10, 1582[-83].⁴ After the Peckham trouble, deposed attorney Bett, Brayne seemed not to care for the Theatre, and said if the profits would not redeem the lease, it might go.

The breaking up of Leicester's company was the beginning of a readjustment of all the London companies. The principal men who caused this condition by leaving the Theatre were Robert Wilson, the dramatist, Richard Tarleton, the famous comedian, John Laneham, and William Johnson. In March, 1583, with the

⁴ For a list of plays at Court, see the present writer's *Evolution of the English Drama up to Shakespeare* (1912), 199-225.

help of Edmond Tylney, Master of the Revels, who assisted in selecting the actors by appointment of her Majesty, a new company was formed around this nucleus, consisting of twelve of the best actors of London, under her Majesty's patronage, called the Queen's Servants.⁵ Thereafter they wore her livery and were given the rank of grooms of the chamber—the first instance of such recognition by royalty.⁵ I shall later publish in extenso a license granted by the City to the Queen's men, dated 28 November, 1583, wherein we learn for the first time that the twelve chosen actors were "Roberte Willson, John Dutton, Rychard Tarleton, John Laneham, John Bentley, Thoby Mylles, John Towne, John Synger, Leonell Cooke, John Garland, John Adams, and Wyllyam Johnson," and that their playing places were to be "at the Sygnes of the Bull in Busshoppesgate streete, and the syngye of the Bell in gratioustreete and nowheare els wthin this Cyttye," for the time being. This company was thereafter the favorite at Court until its dissolution about 1591. Its leader was Robert Wilson, to whom payments for their Court performances were regularly made. The principal rivals of it were the Admiral's and the Chamberlain's men, at the Curtain and the Theatre, as we now find.

It has hitherto been supposed that the Queen's men acted at the Theatre. No document to that effect is known. The new evidence, moreover, indicates that they did not, and that Burbage was not connected with them.

Before the organization of the Queen's players, Burbage had already taken steps. He was a good organizer, and was not without support at Court. Around the remnants of the Leicester's company still remaining with him after the Peckham trouble of 1582, Burbage appears to have reorganized, under the patronage of Lord Hunsdon, cousin to the Queen. Lord Hunsdon's players are first heard of at Court at the following Christmas season of 1582-83. Then, in a well known account of the City's trouble with players in 1584, dated June 18, preserved in *Lansdown MSS.*

⁵ See the account in Stowe's *Chronicle* (ed. Howes, 1615) under 1583; also contemporary records in Collier, I, 247.

41, the Recorder of London reported that "the owner of the Theatre"—by which he could have meant no one else than Burbage—declared he was Lord Hunsdon's man.

The support accorded to Burbage at Court is significant to the next two steps with reference to companies and theatres. It is further stated by Recorder Fleetwood that "Upon Sonndaye my Lo [*i. e.*, Lord Mayor] fent ij Aldermen to the Court for the suppreffing and pulling doune of the Theatre and Curten All the LL agreed therevnto faving my Lord Chamberlen [Lord Charles Howard, 1583-85] and m^r vizch [Sir Christopher Hatton, 1577-1602] but we obteyned a lre to suppreffe them all/" Yet no such order was executed. Then on July 4, 1858, Lord Howard was made Lord Admiral, and Lord Hunsden succeeded him in the office of Lord Chamberlain. Within the next three months, it was thought advantageous for Burbage and Brayne to make an alliance with Henry Lanman, proprietor of the Curtain, which stood adjoining to the Theatre property. The notion was, that the Curtain should serve as an "easer" to the Theatre, as it was put. Accordingly, as Laneman and others deposed in 1592, an agreement and bonds were signed for a term of seven years, dated Michaelmas, 1585, whereby Burbage and Brayne were to have one-half the profits of the Curtain and Theatre, and Laneman the other half. Three months later, during the Christmas season of 1585-86, the Lord Chamberlain's men and the Lord Admiral's played at Court together. Also, in 1590, as John Allen deposed, the Admiral's men were under Burbage at the Theatre.

It would seem that, from 1583, Lord Hunsdon's men (called the Lord Chamberlain's after 1585) acted at the Theatre, and the Admiral's at the Curtain for about two years, and that in 1585 the two companies and their theatres were united under one management. It is well known that the company with which the Burbages and Shakespeare were associated in and after 1594 was the Lord Chamberlain's, and it appears now that the beginnings of that illustrious company go back to 1582-83, when Leicester's company split on the Peckham rock. A further word will be said when we come to the next reorganization of companies as the result of another split at the Theatre in 1590-91.

In 1582-83, Burbage made extensive improvements in the property. Near the Theatre he built a house for his own use, mainly out of new materials, at a cost of 200*l.* On the evidence of Ellam and Hudson, carpenters, he either then or some time before repaired the other buildings, shored up the old long barn to the Theatre, grounselled, cross-beamed, dogged together and strengthened it, so that it was fit for use as tenements. He converted the barn into eleven tenements, which he rented to poor people at 20*s.* per annum, according to the statement of Giles Allen in Star Chamber, in 1602. That the poor people thus housed were a hardship on the parish, as Allen complained after nearly twenty years of their residence there, one may have leave to doubt, when one remembers that wandering rogues and vagabonds previously harbored there. That Burbage improved the old mill-house and other buildings and got considerable rent from them is apparent. The income from the houses probably paid in full the annual rent of 14 *l.* on the Theatre grounds, leaving Burbage his own residence rent-free.

The above expenditures on improvements, amounting to about 220*l.*, were in fulfilment of the agreement to spend 200*l.* on improving the property, besides building the Theatre, within the first ten years, in consideration for which the landlord was to grant a ten-year extension of the lease. But when 1585 came round, and Burbage brought the new lease for Giles Allen to sign, trouble was engendered between them which lasted the rest of Burbage's life.

When Burbage and the scrivener brought Allen the new lease, in the presence of his later witnesses, Philip Baker, John Goldborn, Henry Johnson, and others, he refused to sign it on the ground that it was "not verbatim agreeable with the ould lease," which Burbage told him was the fault of the scrivener's, not his. Then Allen wanted time to consider it. Upon Burbage's refusal or demurrer, Allen said he would take leave. So he pocketed the lease, and never did sign it. A verbatim copy of the 1585 lease, incorporating the substance of the 1576 lease, is preserved in the suit of Allen *v.* Street, 1600. It closes with a special provision

for Allen and his family to have a "room" or box at the Theatre free to see plays at any or all times according as he might wish.

Allen's real reason for not signing lay in his objection to the playhouse and his desire for more money. He claimed also that Burbage had not spent 200*l.* in improvements. So on November 20, 1585, Burbage had the property viewed by three experts in building, former workmen there, Bryan Ellam, William Botham, and William Clerke, who estimated his expenditures on buildings, aside from the theatre, at 220*l.*, and so entered and signed their verdict in Burbage's account-book. Still Allen refused on the evidence to grant the extension. Meanwhile, Burbage made still other improvements, and on July 18, 1586, he had six appraisers value his expenditures, Brian Ellam, John Griggs, William Botham, William Clarke, Thomas Osborne, and Richard Hudson, all practical builders and later important witnesses, who found he had spent 240*l.* in the last three to five years. This likewise they entered and signed as their appraisement in Burbage's account book. But Allen remained obdurate.

Meantime, Brayne became heavily involved in debt, mainly, it seems, through building the George Inn in White Chapel with Robert Miles, goldsmith, at an expense of 800*l.* to 900*l.* as already noticed. He put all his property into the hands of others by deeds of gift to defraud creditors, and absented himself for a time, as also did Miles, so that when the bailiff went to levy on their goods and arrest them, they could not be found.

Under this state of affairs, Brayne died in August, 1586, charging Miles with being the cause of his death. In fact, he died from certain "stripes" Miles had given him, as is brought out in the depositions of Burbage *v.* Brayne in 1591-92. His will, which it is not necessary to publish, an old one, dated 1578, and proved Aug. 10, 1586, makes no mention of the Theatre. At the suit of the widow and executrix, Margaret Brayne, Miles was tried for murder at the coroner's inquest. Yet Miles and Brayne had been close friends, and after this event, the widow and Miles were equally close friends even to her death some ten years later, Miles becoming then her sole legatee. Miles claimed that Brayne at death owed him 500*l.*, and the widow declares in her will that

she owed him more than all she possessed and expressed her lifelong gratitude to him.

After the death of her husband, Margaret Brayne made life at the Theatre during the rest of her existence more exciting than profitable. She received her share from the Curtain for a time, and also from the Theatre for a while. When she had about 30*l.* from the Theatre, Burbage suddenly cut her off from further income in the business, say John Allen, Ralph Miles, John Hyde, and others who took sides later against Burbage. Also, shortly after Brayne's death, the mortgagee, John Hyde, and his father-in-law George Clough, tried to oust Burbage from the Theatre, and put in Clough. But by something in the agreement with Burbage they could not—even when they falsely represented, as Hyde admits, that Hyde had sold Clough the forfeited lease, and Clough brought or threatened suit against Burbage for possession.

Then in the early part of 1587 began a long series of litigations between the widow Brayne and James Burbage. Miles backed her with money, and threatened to spend all he had, if need be, in order to win against Burbage. Also, in 1587, John Gardner died, to whom Brayne had made over some of his property by deed of gift, and the executors likewise sued Burbage. Still he held the fort. In 1588, he in turn sued the widow. And so for the next ten years the contest raged between them—always with Burbage as victor, supported by the decisions of the Court.

Both Burbage and the widow Brayne went to see Hyde again and again in the matter of assigning them the lease. Each wanted it, but Hyde assured them that he would deliver it, not to one of them only, but to both of them, whenever they paid him the rest of the 125*l.* he had loaned on the Theatre, together with interest. Finally, he said he would wait no longer, and would deliver it to the one who should first pay him. Hyde says that Burbage sundry times wanted him to convey the lease to his son Cuthbert, but Hyde was loth to do it, without the widow's consent. Yet meanwhile Hyde was, as he admits, planning to sell the lease to his father-in-law Clough and one Middlemore.

In June, 1589, Burbage and his son Cuthbert appealed to Walter Cope in the matter. Cope was gentleman usher to the

Lord High Treasurer of England, and in that important post had great influence. He was intimate with every high official of the realm, and later himself became one of the powerful men of England under James I. Cuthbert Burbage, a young man of only twenty-two years, according to his own deposition, was then and for some years later employed by Cope as his "servant," probably as clerk in some department of the Treasury. Upon the request of Cuthbert and his father, Walter Cope wrote a letter to John Hyde suggesting that Cope might be of service to Hyde with the Lord Treasurer sometime, if he would be so good as to convey to Cuthbert Burbage the lease of the Theatre. So Hyde did it. He said afterwards, as Bett testified, that if it had not been for Cope's letter he would not have sold to Cuthbert, but to Clough and Middlemore, who very much wanted it. It was a close shave for the Burbages—and possibly for the future drama.

Cuthbert Burbage entered into this arrangement to save his father from the ruin of debts incurred by him and Brayne. He was sorry afterwards that he did it, for otherwise, he said, he might have used his suit to better purpose for his advancement by Cope, as was done by some of his fellows who had not been in service with Cope so long as he had been.

Hyde had owned the lease absolutely, by virtue of the forfeited mortgage, and held it as his, he declares, during the years after the forfeiture. He had a right therefore, later disputed unsuccessfully in the courts, to sell it or otherwise dispose of it at his own pleasure. It was necessary for Cuthbert to borrow most of the money to shoulder the burden. It was proved that the money was either his own or was borrowed by him. How much he paid is not sure. His opposing litigants in 1591-92 claimed it was but 30*l.*, but Hyde himself indicates that it was practically the whole of the 125*l.*, with interest. The lease was accordingly assigned to Cuthbert Burbage and the purchase completed in his name on June 7, 1589, in the presence of Henry Bett, attorney, and others. Still his father continued to manage the Theatre, and the business went on pretty much as before. But the Theatre itself was Cuthbert's. And just here, with this infusion of blood, begins the history that brought about the Globe, of which Cuthbert Burbage

was a principal owner until his death in 1636, forty-seven years after this fateful venture. It is the accident rather than the essential that makes careers. And by this circumstance, conditions arose which not only shaped the careers of Cuthbert and Richard Burbage, but also made a Shakespeare possible.

Meanwhile, the controversy between widow Brayne and James Burbage raged. By Cuthbert's purchase, he was drawn into it, and then Richard also was made a party to the various suits. On November 4, 1590, the widow had obtained the court's order for a sequestration of the property, granting her the moiety claimed, until the case could be heard. But on the 13th, Cuthbert got that order stayed, and was granted instead the Court's order for both parties to perform the terms of the arbitrament of 1578—which, of course, he knew was impossible for the widow, and amounted in effect to a decision against her. Nevertheless, three days later, November 16, 1590, she and Robert Miles, his son Ralph, and their friend Nicholas Bishop assembled themselves and took a copy of the order to the Theatre to force James Burbage to perform its terms. It was on a play day, just as the people were beginning to come to see the performance. The parties concerned, and others then present, notably John Allen, afterwards related graphic portions of the scene that ensued.

When the invaders arrived in the Theatre yard, James Burbage put his head out of the window, and a lively exchange of epithets followed. Then Burbage came down. He told Miles that that Court order was but a piece of paper fit for base soilure, and called him a knave and a rascal, and named the widow as "murdering whore." She and her supporters were determined none the less to carry out their purpose "to stand at the do^r that goeth vppe to the galleries of the said Theatre, to take & Receyve for the vse of the said Margarett, half the money that shuld be gyven to come vppe into the said Gallaries at that do^r."

By that time, Mrs. Burbage, accompanied by her younger son Richard, then about nineteen or twenty years old, arrived on the scene, and "charged them to go out of her grounde, or elles she wold make her fone breake ther knaves heades, and fo hottellie

rayled at them." She and Richard declared in effect to the Brayne contingent "that yf they did tarye to heare the playe as others did, they shuld, but to gather any of the money, that was gyven to go vpon, they shuld not." The Burbages thereupon, not receiving assent, with violence thrust them from the door, threatening "that yf they departed not from that place, they wold beate them away." "And so indede," one of the beaten enemy, Nicholas Bishop, afterwards related, "vpon some wordes vttered by the said Robert Myles to the said Burbages wyffing them to obey the said Order, the said Ry. Burbage & his mother fell upon the said Robert Myles & beate him w^t A broome staffe calling him murdring knave and other vyle and vnhonest wordes."

Then Nicholas Bishop put in a word for the widow, whereupon, as he naïvely relates, "the said Ry Burbage scornfully & disdainfully playing w^t this deponen^{tes} Nose, sayd, that yf he delt in the matter, he wold beate him also, and did chalendge the feild of him." A life-size portrait of the future great actor.

About that time, Cuthbert Burbage came home, and with "great & horrible othes" declared he would keep, against any court order, what he had paid for, and hotly threatened them and bade them get hence.

Meanwhile, some of the actors had arrived on the scene. John Alleyn, brother of Edward Alleyn, relates that upon his arrival he "found the forefaid Ry. Burbage the youngest sone of the said James Burbage there w^t a Broome staff in his hand, of whom when this depo^t asked what fturre was there, he answered in laughing phrafe hew they come for A moytie, But quod he (holding vppe the said broome-staffe) I have, I think delivered him A moytie w^t this & fent them packing." Another study for a painter with a proper sense of the situation. And the father said that if his sons would be ruled by him, they would the next time provide pistols loaded with powder and hempseed to shoot them in the legs.

John Alleyn, though only Burbage's servant, as he says, also remonstrated in behalf of the widow, and appealed to conscience. Burbage did not exactly bid conscience be condemned nor tell Alleyn in precise words that

“Thus conscience does make cowards of us all,”

but he said things that meant as much and swore as Alleyn understood, by “God’s blood,” and other great oaths, “that he cared not for any Contempt, & yf there were xx contemptes & as many Iniunccions he wold w^tstand & breake them all before he wold lose his poffession.”

Other disturbances were caused by Miles and Margaret Brayne at the Theatre or at the home of the Burbages. James Burbage’s own account of this one differs materially from the accounts by his opponents, and lacks the picturesqueness and piquancy they give it.

The above quarrel and John Alleyn’s interference in it led to the withdrawal of the Admiral’s company from the Theatre, of which John and Edward Alleyn were principal members. Eight days after the trouble, namely, on November 24, 1590, John Alleyn went to the Theatre to have a settlement with Burbage for money due to him and his fellows. His testimony furnishes us the first known evidence that the Admiral’s men acted at the Theatre. Burbage refused to pay the amount claimed, and John then “told him that belike he ment to deale w^t them, as he did w^t the po^r wydowe,” and threatened that “yf he did, they wold compleyne to ther lorde & M^r the lord Admyrall and then,” Alleyn continues, “he in a Rage litle Reverencing his hono^r & estate, sayd, by a great othe, that he cared not for iij of the best lordes of them all.” This talk, says Alleyn at the close of his second deposition, was in the tiring room of the Theatre, in the presence of James Tunstall and others of the Admiral’s men,—who then or soon after quitted the Theatre and went across the Thames to Henslowe’s theatres under the management of John and Edward Alleyn.

Within a fortnight after the *mêlée* at the playhouse door, and four days after the tiring-house quarrel with John Alleyn, namely, on November 28, the widow Brayne, backed by Miles, had James Burbage and his sons Cuthbert and Richard arrested for contempt of the Court of Chancery’s order, and on January 30 Cuthbert appeared in court to save his bond given thereon to the sheriff of

London. It is around this alleged contempt of November 16, 1590, when the trouble at the theatre door occurred, that the litigation of the parties and numerous court orders and depositions centred for the next two or three years.

In the midst of the Court's long investigation, in the latter part of April, 1593, Margaret Brayne died, before a decision was reached. By her will, dated April 8 and proved May 3, 1593, she left all the property she had to Robert Miles as executor and sole legatee, and said that not even that could repay him. She specifically bequeathed him the moiety she claimed in the Theatre, and, as a matter of course, he fell heir to the litigation that he had already taken so active a hand in for her. Near the close of the same year 1593, Miles accordingly filed a bill of revivor, and carried the case on till May 28, 1595, when the Court of Chancery hung it up by sending him to the Common Law for relief. That practically ended the case, which had no solid foundation in law or equity, and never would have come into court except for Miles's spite against Burbage and his determination to back the widow at all costs. Such a case could have no standing in the Common Law, and consequently Miles appears never to have attempted to introduce it there, even after the Chancery's suggestion to try it.

During the long litigation, great question was made as to costs and profits to Burbage and his late partner Brayne. In July, 1591, Burbage again had the property viewed, by Ellam, Hudson, Clerke, and others, as they testified on February 25, 1592, and it was found by the viewers that he had spent 240*l.* or at least 230*l.* for new buildings and repairs, aside from the Theatre. Besides, between January 1 and February 25, 1592, Burbage or his son Cuthbert, as Hudson and Ellam, the workmen, testified, had spent 30*l.* to 40*l.* in repairs on the Theatre. On September 30, 1591, attorney Henry Bett, of Lincoln's Inn, deposed that he had often seen and copied out the accounts between Burbage and Brayne. Burbage's books showed expenditures of 220*l.* for buildings near the Theatre, 230*l.* for rent and repairs of the Theatre, 220*l.* 13*s.* 4*d.* for bonds, debts, etc., paid since Brayne's death. One half of all these amounts were due to Burbage from

Brayne. Besides, Brayne's estate still owed Burbage 135*l.* 1*s.* received by Brayne out of the Theatre, as acknowledged by a note in Brayne's own hand.

Burbage's profits were variously estimated. Robert Miles, in his usual exaggerating fashion, estimated in 1592 that Burbage's half-interest in the Theatre had produced him 2000*l.* in the preceding eight or nine years. The estimate of Gyles Allen eight years later, in his Court of Requests Answer in 1600, that Burbage had made a profit of 2000*l.* on the Theatre, is based upon this earlier estimate by Miles, with whom he was bound in a common enmity toward Burbage, and is therefore of no value. Ralph Miles put it at about 100*l.* a year, and John Alleyn estimated it at 100*l.* to 200 marks a year. Henry Laneman's statement should be most nearly correct. He was proprietor of the Curtain, and from 1585 to 1592 had half the profits of the Theatre and Curtain, and Burbage, or he and Brayne, had the other half. Laneman says that in that period Burbage had received profits of 100 marks to 80*l.* a year. And there we may leave it. Even at the most extravagant estimate the profit was modest. Eighty pounds a year then would have purchased about the same necessities of life as 300*l.* today. For money then, as I find from an extensive search among original records of prices of the time, contrary to the usual exaggerated supposition, would purchase from 3½ to 4 times the same value of necessities as now.

No attempt can be made here to disentangle the complicated relations of the various companies and playhouses to each other. Companies shifted greatly. As already observed, the Admiral's men, headed by John and Edward Alleyn, appear to have withdrawn from the Theatre soon after the events above related. Thereafter, the Burbages and the Alleyns belonged to rival companies. The Alleyns united with Henslowe at the Rose and Newington Butts, where the Admiral's company, Lord Strange's company (called in 1593-94 Lord Derby's), Lord Pembroke's, and Lord Sussex's men are heard of in the course of the next few years.

It was by these companies of the Henslowe-Alleyn régime that some of Shakespeare's early plays were acted. Nor is it yet

known that Shakespeare was associated with the Burbages prior to 1594, when, some time after the death of Lord Strange, Earl of Derby, which fell on April 16, 1594, another reorganization of companies was effected. Thereby Edward Alleyn became permanent head of the Admiral's company, and at the same time certain men of the late Lord Derby's company, namely, William Kempe, Thomas Pope, John Heminges, Augustine Phillipps, and George Bryan, united with Richard Burbage and William Shakespeare in the reorganization or formation of that illustrious permanent company under Lord Hunsdon, known throughout the rest of Elizabeth's reign as the Lord Chamberlain's company and thereafter for the next forty years as the King's players. With this company Shakespeare was associated from 1594 to the close of his dramatic career some twenty years later. The first notice of his connection with it is contained in the official record of payment of 20*l.* by the Treasurer of the Chamber "To William Kempe William Shakespeare & Richard Burbage fervauntes to the lorde Chamberleyne" for two comedies acted at Court on December 26 and 28, 1594. According to a letter from Lord Hunsdon to the Lord Mayor in their behalf, October 8, 1594, this company was then acting at the Cross Keys in Gracious street, where James Burbage may have had a company in 1579, when he was arrested on his way to a play there, as above noticed. Their principal playhouses after 1594 appear to have been the Theatre and the Curtain up to the close of 1598, when they set about building the Globe. We have the contemporary evidence of John Marston that *Romeo and Juliet* was acted at the Curtain about 1598. The joint management of the Theatre and the Curtain by the Burbages and Henry Laneman from 1585 to 1592 may have been extended in such way that members of the company owned shares. It is known that at least one of them, Thomas Pope, at the date of his death in 1603, still owned one share in the Curtain, and that even as late as 1623, John Underwood, at his death, owned a share in the Curtain.

As the period of Burbage's lease of the Theatre property was drawing to a close, it became necessary for him to provide for the future. The landlord, Gyles Allen, was not disposed to renew

the lease on any equitable terms. The City's authorities had from the first been opposed to theatres. From 1417 onwards, their records are strewn with orders against mummings, disguisings, maskings, interludes, plays, players, and finally theatres, all of which I hope in due course to publish. They had at all times done what they could to expel the companies from their precincts. At the close of 1595, James Burbage provided against opposition of both landlord and City by purchasing for theatrical purposes, at the rather high price of 600*l.*, a part of an old cloister building in the Blackfriars liberties, almost in the heart of the City, but free from its jurisdiction. The purchase was made probably by Christmas, 1595. The earliest information about Burbage's purchase and his proposed new theatre is contained in a letter from Lord Hunsdon, who was disappointed at not getting a chance at it himself, addressed to Sir William More, the recent owner, under date of January 9, 1596, as published by the present writer in *The Evolution of the English Drama up to Shakespeare*. The deed was signed a month or so later, February 4, 1596. On the back of the counterpart in the *Loseley MSS.*, signed by James Burbage, is the important note that possession was given the same day. Burbage paid only 100*l.* down. He and his sons Cuthbert and Richard, on the preceding day, February 3, had given their recognizance to George More, son of Sir William, for the other 500*l.*, which I find was paid off in full on July 23, 1597. Then on July 30, 1596, Burbage mortgaged to Lord Cobham for 28*l.* a little piece of the property that adjoined Cobham's mansion, and on October 12 of the same year, he mortgaged all the rest of the grounds and buildings to Edward Vaughan for 200*l.* This was probably to raise money for making the old priory over into a theatre, which he proceeded almost at once to do. The mortgage to Vaughn was paid in full on March 11, 2 James I (1605).

After completing the above transactions in 1596, and only a short time before his death, Burbage took steps to protect his very considerable estate against any possible claims or contingencies that might arise, by making a deed of gift to Cuthbert of all his personal property, and another deed of gift of the Black-

friars to his second son, Richard—a transfer which was made much of in Robert Miles's attack on the estate in 1597, and in Gyles Allen's great suits against Cuthbert and Richard in 1599 to 1602, and which also, forty years later, caused great suits among Burbage's grandchildren, with serious but unsubstantiated charges of fraud against Cuthbert and Richard for depriving their mother and their two sisters, Alice and Eleanor, of their due portions. All these and many other new records on the Blackfriars will be published by the present writer in dealing finally with their relations to dramatic and theatrical history. The brief mention here given them is necessary to the understanding of other matters in hand.

Also by the close of the year 1596, shortly before his death, James Burbage and his son Cuthbert had taken up with Allen the question of renewing the lease on the Theatre. Allen was unwilling, and made many objections and excuses. The elder Burbage frankly told him that if the lease were not renewed, he would remove the Theatre and take advantage of Allen's bond, as one of Allen's own witnesses, John Goborne, testified on May 23, 1600. Finally, after much delay, a draft of a new lease was drawn up for them by Robert Vigerous, of the Middle Temple, who in 1600 testified to the nature of it. It was agreed, he says, that the lease should extend for another ten years (but Cuthbert Burbage, John Goborne and others on both sides say twenty-one years) at the rent of 24*l.* a year, an increase of 10*l.*, and the payment of a disputed claim of 30*l.*, all of which Burbage was willing finally to yield to, rather than lose the desired extension. Various witnesses testified that there was then no proposal to limit the use of the Theatre as a playhouse to only five years of the period, with requirement that it should then be converted into some other use, as Allen later claimed. That lease was never completed. James Burbage was engaged in the negotiations and was likewise just in the midst of making the old Blackfriars cloister building over into the second Blackfriars theatre, the one of famous Shakespearean memory, when, in February, 1597, he died. Then came the burden of both the Theatre and the new Blackfriars upon the shoulders of his sons Cuthbert and Richard.

Almost immediately in 1597 Robert Miles, executor and sole legatee of the late Margaret Brayne, unable to make out a successful case at the Common Law, to which the Court of Chancery had referred him in 1595, brought suit in the Court of Requests against Cuthbert, Richard, and Ellen Burbage, their mother, as administratrix—cunningly joining Gyles Allen with them as co-defendant—claiming a moiety of the Theatre, and charging fraudulent transfer of the estate to the sons to defeat him and other creditors of their dues—a charge made in vain by him and later by others. Miles estimated the value of the goods on which the widow had taken out administration papers to be 1000*l.*, and claimed that 600*l.* was due to him—all of which may be passed as unreliable. On May 9, 1597, the Court of Requests ordered that his bill should be compared with his bill of revivor of 1593 that was still hung up in Chancery, with the intention of dismissing it if both dealt with the same matter. But on the 27th of May, Miles's attorney was able to get an order that the case should be retained and the defendants should be required to file their answers. No further records in the case are extant, but it is apparent on the face of it that the suit could not succeed.

With the death of their father, followed two months later, on April 13, 1597, by the expiration of the lease on the Theatre grounds, it grew desperately clear to Cuthbert and Richard Burbage that they must have the question of a permanent playhouse settled if they were to maintain the business that had for over twenty years been the support and income of the family. Cuthbert now took up the interrupted negotiations with Allen, who, with old age and prosperity upon him, was inclined to dictate his own terms, and showed himself of an uncompromising and contentious nature. Allen found new excuses for delay. Cuthbert wanted to extend the lease for another period of twenty-one years, claiming some right under the former arrangement for an extension. Allen, however, demanded the 30*l.* which he claimed was still due him for arrearages, required the increased rent of 24*l.* a year, and made other hard conditions. He drew up the draft of a lease, but Cuthbert refused it as unreasonable in its covenants. Finally Allen yielded, on condition that the

Theatre should be used as a playhouse but five of the twenty-one years, and should then be converted into tenements. This slow and partial consent was wrung from him after some two years of conference.

Meanwhile, Allen permitted the continuance of the Theatre by receiving rent therefor in 1597 and 1598. This sort of tenure was precarious. The lessor might on any rent day refuse to accept further payment, and thus close the playhouse. The Burbages were continuing simply under his sufferance, and were at his mercy. Allen himself declares in his Star Chamber suit of 1602, that he had intended to tear the Theatre down and convert its materials to his own use. But he kept this purpose secret, and led the Burbages to believe that he would renew the lease, on the terms above stated. Cuthbert long demurred to the exorbitant terms, but after many conferences finally agreed, even yielding to the heavy condition, related by attorney Vigerous in 1600, of paying a fine or bonus of 100*l.* for the lease. Accordingly, Cuthbert Burbage prepared a lease, engrossed on parchment and provided with wax ready for sealing, which, from the testimony of Vigerous, he appears to have taken to Allen at his home in the country, at Haseley, Essex. Then at the final conference in London in Michaelmas, 1598, a hitch occurred over security.

Cuthbert offered his brother Richard as security for the lease. But Allen "misliked" the notion, and would not accept him. This was only another of Allen's excuses for not granting the lease. Thereupon, the negotiations were broken off, with some heat on both sides. This final conference took place at the George Inn in Shoreditch,⁶ near the Theatre (not the George Inn of

⁶ There were several George Inns of London at that time. The one in Shoreditch (a long distance from the one built by Brayne and Miles in Whitechapel) stood near the Theatre on or near Gyles Allen's estate, and was the place where he stopped whenever he came to town, year after year, to collect his rents. Various depositions, as by Bett, Gascoyne, Hynde, and James on the one in Whitechapel, and by Baker, Goborne, and Johnson on Allen's frequenting the one in Shoreditch and the conferences there held with the Burbages, suffice to prevent confusing the two. See previous note on the voluminous documents relating further to the one in Whitechapel.

Whitechapel, in which Brayne, Burbage, and Miles were involved), in the presence of Allen's principal witnesses, John Goborne, Henry Johnson, and Thomas Nevill, whom Allen had summoned for the occasion, in Michaelmas term, 1598. "And the Christmas next after," say both Goborne and Johnson, "the said Theatre was pulled down and Carried away."

Documentary declaration of the plans and purposes of the Burbages during the weeks that intervened between this final conference and the following Christmas is at present lacking. Their acts alone furnish us with evidence, and these we can read with some understanding from the outcome.

After the final conference with Allen, the Burbages had good reason to fear his purposes. Accordingly they decided to anticipate him, and thus save themselves, by tearing the Theatre down and using its materials elsewhere, as they had before warned him they would do. By a provision in the original lease of April 13, 1576, the lessee had the right, upon certain conditions, to remove the building at pleasure. This they now purposed to do. They could at least save the timbers and use them in setting up a new theatre, if a suitable site could be found. They conferred with some of their associates, notably William Shakespeare, John Heminges, Augustine Phillipps, Thomas Pope, and Will Kempe, and arrangements were made whereby definite plans could be carried out. The story of that enterprise is related by the writer in a separate work presenting the complete history of Shakespeare's theatres, the Globe and the Blackfriars—on the basis of new documents, several mentioning Shakespeare in connection with the site of the Globe—with some account of the dramas acted there, up to 1642. It was agreed that they should unite in forming an organization, altogether novel in theatrical affairs, whereby they should constitute themselves into a company not only to act plays, but to build and own a theatre on the basis of what is termed in law a joint-tenancy. The Burbage brothers had the materials of the Theatre and their experience to contribute. They were willing to furnish half the materials, risk half the expense of building anew, and share half the profits, if these their theatrical associates were willing to undertake the

other half. These five were thus joined with the Burbages in the new venture. It was a rare combination, consisting of the greatest dramatist, the best actors, and the most experienced managers of the time. Neither the Burbages nor their associates can have had much ready money by them, both from the circumstances of the partnership and from the statement of the Burbage family thirty-five years later, that they had to take up the money at interest, which lay heavy upon them for many years.

The young company was fortunate in finding a site for their new building. Southwark was the common resort for sports. There bear-baiting, bull-baiting, and other diversions had long been practised. It had become a popular theatrical centre since the building of the Rose there in 1587 by Henslowe, and the Swan in 1594-5 by Langley. On the Bankside just north of Maiden lane, on the same side of the street as the Rose and within stone's throw to the east of the Rose, lay a waste piece of ground, formerly used as a lay-stall or dumping ground, and this they fixed upon. It had two little old two-room shacks on it. The owner was Sir Nicholas Brend, who was living in the parish of St. Mary Aldermanbury, where both Heminges and young Coudell were living, within a few doors of Shakespeare's residence at the corner of Monkwell and Silver streets. As everybody knew everybody else in the little parish, we may be sure that Heminges and Shakespeare were acquainted with the lawyer and large landowner, who, being a fellow after his own heart and head, and having accordingly married to suit himself secretly and contrary to his father's wishes, had at first been disinherited but had finally, by the death of the elder Brend a few months before, just come into possession of a large inheritance. Brend was a member of the Inner Temple, and was most likely present at the Grays Inn performance of *The Comedy of Errors* by the Burbage-Shakespeare company, December 28, 1594, as one of the Templarians, who were invited and present in large numbers.

The uninviting lay-stall in Southwark, which had only location to recommend it, was a part of Sir Nicholas Brend's new possessions, and it is quite likely that his near neighbors, Heminges and Shakespeare, or one of them, opened negotiations with him

for the company. He wanted 14*l.* 10*s.* a year for it—only 10*s.* more than the original rent of the grounds on which the Theatre had been built. So they struck a bargain, and Brend agreed to lease the grounds to the company for twenty-one years, with term to begin on Christmas day, 1598. This arrangement must have been very near Christmas time, for the company at once took possession, although the lease was not made out and signed until after the holidays, February 21, 1599.

Having decided to remove the Theatre, and having fixed upon a site for rebuilding it, the company acted quickly. The holiday season, when everybody was making merry, was opportune, for they would less likely be interfered with by the land-owner. Accordingly the Burbages, having employed Peter Street as their superintending carpenter, proceeded with ten or twelve other men on December 28, three days after the beginning of their lease on the new site, to wreck the Theatre. These were all carpenters and laborers, enough to do the work with speed. We are not told whether Shakespeare and the rest were present. Probably they were, for the occasion was important, and promised some excitement. It is not likely that their playing before the Queen two nights before, and their preparation of another Court performance for New Year's night kept them away. Even Mrs. Burbage, mother of Cuthbert and Richard, was there as an interested spectator, and a considerable crowd assembled.

The land owner, Gyles Allen, came to town but occasionally from his fine country estate, the manor of Haseley, Essex. But he clearly expected some such action by the Burbages, and so had left a power of attorney with John Goborne, one of his tenants near the Theatre, to stop any action they might take. This representative and Henry Johnson, who likewise acted for Allen, at once hastened to the scene of operations and ordered them to stop. Perhaps the Burbage faction used a little finesse if not indirection with them, or perhaps Goborne and Johnson used a little indirection afterwards in their depositions, for they claimed that the men in charge explained that they meant only to take the present building down and set it up again on the same grounds—which is manifestly untrue, for both Goborne and Johnson knew person-

ally, as we have seen, that the Burbages had no further lease on those grounds. So the work went ahead, and in a short time they had removed all the timbers across the Thames to the new site just north of Maiden lane in Southwark, thus anticipating Allen in his own purpose to tear the Theatre down and use its materials, who in the Court of Requests suit of 1600 claimed that they took advantage of his absence from town to accomplish their sudden and secret purposes. The whole proceeding was almost as sudden and precipitate and complete as the work of a band of Hallowe'en pixies, and was probably entered into with a similar sense of humor pervading their more serious determination.

Then followed great suits at law and equity. Giles Allen immediately in the following term, Hilary, 1599, began a suit, first recorded in Easter following, in the Queen's Bench, nominally against Peter Street, the head carpenter, but in fact against the Burbages, in the course of which the unexecuted lease of 1585, incorporating substantially the original lease of 1576, is quoted verbatim, and the history of the tenure of the property is related from 1576 to 1599. Allen estimated the value of the Theatre at 700*l.*, and claimed also 800*l.* damages.

In the following January, 1600, Cuthbert Burbage brought suit for relief in the Court of Requests, and that Court stopped Allen's proceedings in the Queen's Bench, first by an injunction, April 10, 1600, and finally by decree of October 18, 1600. It was a tremendous suit. The pleadings found by Halliwell-Phillips, and particularly the voluminous depositions unearthed by me and now first printed, furnish a gray background for the history of the new Globe and the Shakespearean drama. Allen lost his case, and by the final decree of October 18, 1600, was forbidden ever again to bring suit on the tearing down of the Theatre.

Still Allen persisted. He was of a prominent family, brother of the former Lord Mayor of London, and was not to be beaten. Proud, wealthy, defiant, angered at the outcome, and humiliated by Cuthbert Burbage's having him arrested for contempt of Court during the preceding suit, thus disgracing him in Essex, and binding him over in a bond of 200*l.*, Allen then almost immediately after the adverse decision, in the next term, Hilary,

1601, sued Cuthbert in the Queen's Bench on the same matter under the subterfuge of breach of agreement. This, too, could not but fail.

Allen had a further grudge to square, because William Smith, of Waltham Cross, who had testified in favor of the Burbages in the Requests suit, was, as he claimed, the real prosecutor against him, and had furnished Burbage all the money for carrying on the litigation. Still determined on his course of annoyance and possible ruin to the new Globe and the Burbage-Shakespeare company there, Allen next brought suit in the Star Chamber, still on the same matter, but under the shifted charges of riot, perjury, etc. That it likewise failed is sufficiently indicated by Sir Francis Bacon's opinion upon it, referred to in the demurrer of Hudson and Osborne, June 12, 1602. His charge that Cuthbert and Richard Burbage had threatened to stab some of his witnesses for testifying in the Requests suit and that by such intimidation he lost that suit, may be taken to be as devoid of fact as his charges of riot, perjury, suborning of witnesses, and forgery of a court record prove to be. The final decree in Star Chamber is lost. This ended Allen's litigation, and finally closed the long and turbulent history of the first London theatre.⁷

Just prior to its demolition, the Theatre was not only a bone of contention between lessor and lessee, but was also under ban of the Queen, according to the well-known order of the Privy Council, 28 July, 1597, requiring that it and the Curtain should "be plucked down." It is noteworthy that this order, unexecuted by the City authorities, to whom it was directed, is the last known notice concerning the Theatre in connection with plays there. The Theatre was closed but not yet torn down when *Skialetheia*

⁷ Several other suits involving Giles Allen, the Earl of Rutland, Cuthbert Burbage, Francis Langley, and others, in the Court of Exchequer, Court of Wards, Star Chamber, etc., relate *inter alia* to certain property held by Cuthbert in 1597 and later, but they have no bearing upon the Theatre, besides mere location, as presented for example in the depositions of Mary Hobblethwait, Leonard Jackson, John Rowse, etc., extracts from which may be seen in Halliwell-Phillips, *Outlines*, I, 352-53. Those of any importance on the subject will find their due place in the final presentation.

was entered on the Stationer's Register for publication, September 15, 1598, and is there mentioned thus:

". but see yonder
One, like the unfrequented Theatre,
Walks in dark silence and vast solitude."

Moreover, as already mentioned, according to John Marston's *Scourge of Villainy*, Satire XI, entered September 8, 1598, a week earlier than *Skialetheia*, the Burbage-Shakespeare company was about that time acting *Romeo and Juliet*, not at the Theatre, but at the Curtain, which likewise had not been "plucked down" according to order. Here the company probably remained until the completion of the Globe, about the following May, 1599, according to a record I have found mentioning it, in connection with Shakespeare, as "de novo edificata."

The important new state of affairs, whereby Cuthbert and Richard Burbage on the one side and Shakespeare, Heminges, Phillipps, Pope, and Kempe on the other were formed into a company that should endure to the end of their lives, swinging the drama during the next fifteen years into the highest prominence ever attained in the world, and opening up a history that will be read with interest to the end of time, claims our full attention in certain other works on Shakespeare and his theatre, to which the present collection of records forms the gray background. Had the Brayne-Miles contention succeeded, the new company would not have come into being, and if Allen's legal onslaughts on the Burbages had not failed, their company must have suffered great danger if not ruin.

The changed tone of the dramatic products of Shakespeare and his associated actors fairly synchronizes with the business difficulties in their new enterprise—the wasteful, vicious suits of Allen, the almost immediate withdrawal of Kempe in 1599, the restrictions upon their acting, the successful rivalry of the children actors under the Queen's patronage, the Essex conspiracy of 1601 in which they were involved, and death that took off two of their number, in 1603 and 1605. The thought of possible disruption of a life-enterprise could not have been the least of cares that

weighed upon Shakespeare and his fellows. The ominous note struck that shuddered through their lives, and the sharp heel of tragedy trod loud across the boards of the Globe. Not less than the rest but more sensitively, perhaps, did Shakespeare feel it, and he recorded the common tragic sense that was upon them all in the very themes chosen for enactment. Prior to the Globe enterprise, his plays had been on the sunnier side. *Henry V*, the first new play at the Globe, was the last clear note of untrammelled life for many years. Then came the treachery and misguided statesmanship in *Julius Caesar*, the vanquishing of idealism in the play of *Hamlet*, and the whole series of tragic interruptions of noble aspirations in the plays that range down the years to those more placid days when, about 1608-9, doubt and discord and threatened disaster were safely weathered. The following documents, aside from the history they hold, show in this regard some of the mere business conditions that made Shakespeare possible, and some of the difficulties that wrought in him supreme achievement.

The materials for a history of the Shakespearean theatre and drama grow apace. After the labors of Malone, Chalmers, Collier, and Halliwell-Phillips in their life-long searches for documentary evidences, it was gradually thought that the end was reached. The field long lay almost fallow, until about ten years ago, when the present writer took it up, with the result that vast new sources have been opened that enrich dramatic and theatrical history. Today no department of research is looked to with larger expectations. By the encouragement of the better sort, in spite of annoyances from a narrow circle, the scholar's dream of bringing all these materials into a complete corpus may be realized. I am glad to be the inspirer of scholarly research, and have given help freely to many worthy students, whose work I heartily welcome. But my researches have unfortunately attracted also another sort, an envious few, who find out by one means or another what records I have examined or am having prepared for examination, and then proceed to "discover" a document here and there for hasty publication. Such but hinder scholarship, divide and confuse the public. It is easy for them to "leaf"

through a set of records when once the way is pointed out either publicly or privately.

It is but fair, therefore, to other scholars as well as to myself to say that the field I have opened is now fairly worked out. There remain, of course, innumerable details to complete, and the slow process of correlating and presenting the materials in permanent and useful form. On a conservative estimate, approximately three million records have been searched under my direction, in public, private, and municipal archives. Most of these had not previously been examined. I have reasons to believe that I have now reached all documents of first importance in the public archives and among the London City records for the Tudor-Stuart period of stage-history. The more varied and interesting field of private, provincial, and continental archives, which should yield valuable results, invites earnest students, to whom I shall be glad to give help and encouragement. This announcement of the state of research will prevent any duplication of results by others, and should enable any investigator to choose a line of direction that will not lead him into conflict with work thus done and now preparing for publication. I shall be pleased to give information to any scholar who is engaged in a serious piece of work contributive to knowledge in this department of research.

The present collection of records on the Theatre is a fair example of some of the materials gathered for publication on other Shakespearean theatres, as the Globe, Blackfriars, Whitefriars, Swan, Fortune, Hope, Red Bull, Cockpit, Salisbury Court, etc. Others already published by the present writer, relating to theatres, dramatists, etc., may be seen in *University Studies* for 1905, on *Shakespeare*; 1908, on *The Children of the Chapel at Blackfriars 1597-1603*; 1909, *Three London Theatres of Shakespeare's Time* (twenty-eight documents on Red Bull, Fortune, and Bear Garden); 1910-11, *Shakespeare and his London Associates* (fifty-six documents). Others may be seen in *Globe Theatre Apparel*, Taylor v. Heminges (privately printed, August, 1909); *The Times*, London, October 2 and 4, 1909, on *Shakespeare and the Globe* (the Ostler-Heminges documents); *The*

Times, March 28, 1913, *A London Pageant of Shakespeare's Time* (with Burbage and Rice as speakers and Anthony Munday as author, from the City archives); *Harper's Magazine*, March, 1910, on a signed deposition by Shakespeare, and his life in London; *Century Magazine*, August and September, 1910, on Shakespeare's Globe and Blackfriars; *Shakespeare-Jahrbuch*, 1910, on Gervase Markham, Dramatist, and thirty-nine defendants, chiefly actors; *Keyzar v. Burbage* (privately printed, 1910); *Englische Studien*, 1911, on the Swan, Jonson, Nash, etc. (with bibliography of documents published from the Court of Requests, p. 344); and especially *The Evolution of the English Drama up to Shakespeare*, a volume dealing with over 500 records (Berlin, 1912).

The principal documents in the present collection are the voluminous depositions, which bring us into intimate touch with the people and events they deal with in connection with the Theatre. These were discovered by the writer and his devoted wife a few years ago in the course of a complete search of the proceedings of the Court of Requests, and the equally unknown Town Depositions of Chancery. The uncalendared records of these two enormous classes for the period of my research, in the reigns of Elizabeth, James I, and Charles I, had not before been examined since they were filed away three centuries ago, and were prepared for inspection at my request. Such materials as they contain in any way elucidating the history of the drama and stage, and of dramatists and actors, I now have and shall in due course publish, as soon as the task can be completed of bringing together the results with all related matters from various other original sources in a permanently useful form. The complete series of documents arising out of the trouble in different courts over the two events of building the Theatre in 1576 and of tearing it down in 1598 here follow.

CHRONOLOGICAL ARRANGEMENT OF DOCUMENTS

[The documents are printed in the following chronological order. None have previously been published in extenso, with the exception of five court orders printed by Collier. Documents hitherto known are indicated in head-notes or foot-notes. Those belonging to the present writer's

researches are here marked with an asterisk (*). The total list comprises ninety-nine documents, some of them grouped in sets, according as the originals are fastened together or separate. With reference to other documents, see *Introductory Survey*.]

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[NOTE.—In printing the documents, signs of contraction are expanded into italics. Where no sign of contraction occurs, the shortened form is retained, except in the case of Latin documents, which are expanded in full, the Roman type showing in all cases what letters stood in the original. There is, therefore, no uniformity in spellings or expansions. The transcripts have been carefully proof-read against the originals before putting them into type, and the correction of the printed proofs has been generously carried through by the Editor of the *Studies*, during my absence in Europe. The object has been to be faithful to the originals in word and letter, and thus to make this publication of the documents of lasting value.]

BURBAGE V. BRAYNE

Chancery Proceedings, Series II, 222/83.

[Bill and Demurrer. Date at upper left-hand corner of Bill all decayed away, except the final "8" and the right edge of the "8" just before it, giving the date as 1588. As the first order of the Court was in Hilary (February 17), 1588-9, the suit was filed in the preceding term of Michaelmas, 1588.

The entire left third of the Bill and the left half of the Demurrer rotted away. Officially repaired at my request, 1908. (See further, note at close of Demurrer.) Bill originally about 22 inches wide and 17 inches long; Demurrer originally about 15 × 9.

In the following transcript, the first number inserted within the brackets indicates the line; the second number, the approximate number of inches missing at the beginning of that line.]

BILL

[158]8

To the right Honorable Sr Xpofer Hatton Knight
Lord Chancellor of England

[Humble complaining sheweth] to yo^r good Lordshipp James Burbedge of [Hallywell] in [Shordiche Crypple gate London] gentleman Cutbert Rychard Alce and Ellen Burbedge the Children of the faid James and Ellen his wief That wher yo^r faid Orator [James Burbage was poffessed of a leafe granted by]

one Giles Allen gent in or about the xvij yere of the Reigne of the Queenes most Excellent Ma^{tie} that now ys of and in certaine decayed Barnes vacant ground and garden plottes scituat & [being in Hallywell in Shordiche aforefaid for a] terme of Certeyn yeres yet [to endure] for [a yearly] rent of xiv^{li} to be quarterly paied and in the faid Lease did promyse and Covenante to and wth the faid Giles Allen to build in & vpon the demised [premisses 4—3] buildings for Tenementes to be erected vpon the premisses the some of two hundrethe poundes and the same to be done and fynished by a certain tyme [5—9] for the Accomplishm^t wherof the faid James yo^r faid Orator was constraigned to borrowe dyvers somes of monye and to impawne his faid [lease 6—8] buildinge and erectinge of a plaie howse or Theatre & other the buildings for Tenementes as is aforefaid. The w^{ch} one John Brayne Late of White [Chappel 7—9] he practised to obteyne some interest therin, presumynge that he might easelie compase the same by reason that he was naturall brother [to your faid Orators wife 8—9] diuers somes of monye) he made meanes to yo^r faid Orator James Burbidge, that he might haue the Moietie of the aboue named Theatre & [9—9] that in consideration therof he would not only beare and paie haluf the chardges of the faid buildinges then bestoed & thereafter to be bestoed [10—9] yo^r Orato^{rs} aforfaid her Children shuld haue the same Moietie so to him to be conveyed and assured, making semblance that his industrie was [11—9] children of his sifter as is aforfaid/ Whervpon yo^r faid Orator James Burbidge did become bound to the faid Braine in 400^{li} [12—9] effect That yo^r faid Orator shuld at the request of the faid John Braine his executo^{rs} or assignes convey to him the faid John Braine his [executors or assignes 13—9] to be erected vpon the premisses demyfed by the faid Giles Allen to yo^r faid Orator/ wth futch Covenantes and warranties as yo^r Orator might [14—9] Lease made by the faid Giles Allen was then or thereafter shuld be chardged wth by any acte then done or thereafter to be done by yo^r [faid Orator 15—9] monye borrowed by yo^r faid Orator as by the same obligacion and condicion more at Lardge yt doth and may appere./ And after the [16—9] amountinge vnto exceedinge chardges about the faid

buildinges then of habillitie to support the same and havinge gotten yo^r said Orator to be bound [17—9] to redeeme the said Leafe nor had wherwth to *proced* in those manner of buildinges wherein he had procured yo^r Orator to enter into [18—9] chardge any fomes of monye growen due for the said buildinges nor paie the Moietie of the rent aforaid but wth yo^r Orato^{rs} monye the *profittes* [19—9] welth of the said Brayne before, beinge conferred and weyed wth the *costes* vpon the said Inn by him bestoed after yt manyfettlie appered And [20—8] and fynishinge of the said buildinges to his gret hinderance as is well to be proved. And after for that yo^r said Orator James Burbedge had no bond [21—8] foe by him to be receved out of the *premisses* from thenforthe vpon the said buildinges & maintenance therof he the said Brayn and the said James Burbedge yo^r [said Orator 22—7] Arbitrem^t of certaine Arbitrato^{rs} who thervpon according to the^r said submissiō did delyver vp An Award or Arbitrem^t in wrighting, dated about the [xxth] yere [23—7] John Braine shuld not be comprised wth in the compase of the said Arbitrem^t but that aswell by force therof as by vertue of the said Arbitrem^t yo^r said Orator [24—7] Theatre and buildinges and of the Moietie of the *profittes* therof whensoever the said Braines would demaund the same wth futch exceptione of *Actes* as is aforaid [25—7 with] w^{ch} Arbitrem^t yo^r said Orator did content himsealf and did *permitt* and suffer the said John Braine to receive the moietie of the *profittes* of the said Theatre and [26—7] one his *parte*. But the said John Braine beinge a verie subtell *persone* and confederating him sealf wth one Robert Myles of London Gouldmithe

Tomfone of [27—7] thei might impouerishe yo^r said Orato^r and to depryve him of his interest and tearme for yeres in the said Theatre and buildinges and to bring him into the daunger [28—7] same he the said Braine not meaning to gyve the said Moietie nor his interest therin to yo^r said Orato^{rs} the Children aforaid nor the Leafe of the said Geordge [29—6] the Moietie of the *profittes* of the *premisses* as is aforaid the w^{ch} *promise* was made aswell before as after the said Arbitrem^t made as is aforaid. but practising to depryve [30—6] againe made a deed of gift to the said Tomfson and therby did gyve and graunt to him all his

goodes & chattels wherof he was then or therafter shuld be possessed. wherby yo^r [31—6] for the Recoverie of the bond of 200^{li} to hym forfeited by the said Braine for the not performynge of the said Arbitrem^t nor to levie the same out of his goodes & chattells [32—6] against the bodie of the said Braine for the same the w^{ch} during his lief he was Loathe to do for that he was his brother in Lawe as is aforfaide. The benefitt [33—6] the said Tomfone, the said Braine for the mayntenance of his said frawde & devices procured the executo^{rs} or adminiftrato^{rs} of the said Tomfone to conveye to the said Robert [34—6] so graunted to the said Tomfone by the said Braine wth the Lease of the said Inn called the Geordg also at his owen deathe or not longe before he fearinge [35—6] ample conveyance of all his goodes & Chattells w^{ch} he then had to the said John Gardiner & to others to the intent that he or thei by force therof shuld or might enter into [36—6] or other the premiffes or that the said Myles by vertue of the same deed of gift made to the said Tomfone shuld challdenge or demaunde the same or to incurr the daunger [37—6] in the tyme of his sicknes & not longe before his death promised confessed and agreed wth yo^r said Orator James Burbedge and his said wief in the *presence* [38—6] of the said Myles That afwell the Moietie of the premiffes and all matters whatsoever concerning the said Theatre and buildinges and his moietie therin to be assured & [39—6] had receved of & by the premiffes as namelie the Lease of the George in Whitechappell were and shuld be and remaine yf he died (for that he had no children and for [40—6] premiffes) to yo^r Orato^{rs} the Children aforfaid whose advauncem^t he then seemed gretlie to tender And further promised to yo^r said Orato^r that his said bondes shuld be [41—6] of yo^r said Orator James Burbedge. And after the said John Braine died in A^o 1586. by meanes wherof Now So yt ys yf it may please yo^r Honor the [42—6] adminiftracion of the goods of her said Late husband the w^{ch} she practised then to haue) by the said John Gardener and Robert Myles by reasone y^t thei claymed the same goodes & chattells [43—6] conveyances) vnder the cullor of a will supposed to be made by the said Braine longe before the said conveyances so made to the said gardiner

and Tomfon, the w^{ch} is supposed to be rased [44—6] that any futch will shuld be maynteyned or *produced*. yet by vertue therof and being therein nominated to be executo^r to her said husband/ she now as executor goethe about to arrest yo^r said [45—6] pretending that he did not performe the said Arbitrem^t (as in truthe he did) and for the said bond of 400^{li} pretending that yo^r Orato^r hath also forfeited the same as in truthe he hath not. And [47—6] said husband denying that her said husband made any futch promiffes as is aforaid ether for the cancelling or conveying of the premiffes to yo^r orators aforaid And the said Robert Myles by [48—6] then to sue yo^r said Orato^r James burbedge for the said bondes but hath entered into and vpon the said Theatre & buildinges & troublethe yo^r Orators & his tenants in the^r peaceable possession [49—6] bothe the yffues & profittes therof by vertue of the Conveyaunces made to him therof. And the Administrato^{rs} of the said John Gardener who deceased in A^o 1587 to whom the said bond [50—6] made to the said Gardener demaunde & go about to sue yo^r said Orato^r James burbedge for the said two feuerall bondes. And amongst them by reafone of multiplicite of [51—6] ther conveyaunces, & fomye denying the same to be good) thei do all ioyne together to imprifone yo^r said Orato^r James burbedge therby to enforce him to yeld to ther requestes And [52—6] impertinent accions only to procure him to gret chardges & to his impoverifhem^t for euer, the rather because by thes devices he can not haue the said 200^{li} due to him by the said [53—7] Braine. In tender confideracione of the premiffes And for that the said Margarett Braine Robert Myles and Gardiner the Administrato^r of the said John Gardner [54—7] said Lease so being mortgaged & forfeited as is aforaid and haue the said Lease to them reconveyed, do now demaunde the same moietie & will not permitt the Children aforaid [55—7] all the said promiffes the w^{ch} now yo^r said Orato^{rs} are vnhable to do by reafone that the same promiffes were done in secrett & in the presence only of the said Robert [56—7] or gone beyond the seas so that yo^r Orato^{rs} can not haue ther Testemonye in the premiffes by w^{ch} meanes yo^r said Orato^r James Burbedge is wthout [57—7]

the said bondes or to enforce them to cancell the same nor the children aforaid by the ordinarie courſe of the common Lawe aforaid can not procure the [58—7] the *premiſſes* ſo *promiſed* to them by the ſaid John Braine. the w^{ch} to do the ſaid Braine was bound in conſcienc to ſee performed and that the ſaid bondes ſhuld [59—7] done by the ſaide John Braine & by yo^r ſaid Orato^r James burbedge ioynctlie in contradiction of the matters conteyned in the ſaid bond & Arbitrem^t ſo [60—7] not be performed yf thei or any of them had lawfull intereſt therin/ as thei haue not. May it therfor pleaſe yo^r Honor to graunt to yo^r ſaid [61—7] directed to the ſaid Margaret Braine Robert Myles & Gardener commaunding them and everie of them *perſonallie* to appere in the Court of Chancerie [62—6] then and ther to make aunſwer to the *premiſſes* And further to command the ſaid Margaret Braine Robert Myles & Gardener to [63—7] other the^r ſaid *Conveyaunces* ſo to them made only to *perturbe* yo^r ſaid Orators as is aforaid, to the end the ſame may be then [64—7] and abide ſuch further order as to yo^r honor ſhalbe thought to agree wth equitie & conſcienc. And all yo^r ſaid [65—7] in all felicetic.

ffraunces Morgan [attorney]

ANSWER AND DEMURRER

[Date and whole left half of
this ſkin mouldered away]

[The Joint and ſeveral aunſwere & demurrer of]
Margaret Brayne wydowe and Robt [Myles twoe
of the defendantes to the Bill of] Complainte of
James Burbeidge and other []

[1—7] the ſaid Bill of Complainte is very vntrue and inſuffi-
cyeut in the [2—7] contryued of ſet purpoſe to put the ſaid def^{tes}
to wrongfull [3—7] that he the ſaid Complaynant might ſhadowe
his bad and vnconſcionable [4—7] defend^{tes} ſhalbe Compelled
to make any ffrurther Aunſwere to [5—7] and inſufficiency therof
nowe and at all tymes [6—7] ſaieth that the ſaid Compl^{tes} in ther

tedious and vntrue bill do [7—6] said Gyles Allen vnto the said Complaynantes neither what [8—6] vnto the said Complayantes as in the said Bill is also fet downe [9—6] Certaine date or tyme of any fuch bonde wherein he and [10—6] hundreth poundes to abyed a Certaine awarde and arbitrament [11—6] when they yeilded vpp any fuch arbitrament. And fforther fetteth [12—6] wth this def^t Robert Myles, and John gardyner who is not nowe [13—6] neither doth the said Comp^l fet fforth any fufficyent Con- fideracion [14—6] of the said leaffes in the said Bill mencyoned vpon the Children of the [15—6] The said Margaret Braine the other defendant beinge his wief wthout [16—6] and diuers other in the said Bill mencyoned over tedyous to be Recyted. The [17—6] of this honorable Courte yf they or either of them fhallbe Compelled [18—6] fufficyent bill. And for the infufficiency therof thei pray to be difmyffed owt of this honorable Courte [19—6] wrongfully fufteyned .

Scott [attorney]

[The preceding Bill and Demurrer, in a badly damaged state, were discovered by me among the Chancery Proceedings at the Public Record Office in the summer of 1908, and on August 7, while still registered as "kept out" on my name, they were sent to the official in charge of the Repairing department. Before they got back to me, about a fortnight later, a Mrs. Stopes learned of their existence, and applied for them. (The dates of these events, I may say, are recorded in the official registers of the Public Record Office.) I informed her at once that they were still at the Repairing department on my name, told her their contents, since she was curious to know, referred her to the court orders connected with them, and gave her my purpose of complete publication in extenso. Fortunately for scholarship, I did not tell her of the more important records, the voluminous depositions. Her assumed "discovery" of the Bill, Demurrer, and some of the court orders, later referred to in her amateurish first effort at theatrical history in the *Fortnightly Review*, July, 1909, is only one of several "coincidences," some of them of a graver nature, that have occurred during the last few years since I opened this field of research, as mentioned in the Introductory Survey.]

BURBAGE V. BRAYNE

Chancery, Decrees and Orders, 30 & 31 Elizabeth, Hilary, vol. 1588 "A," 485; also 1588 "B," 449.

xvij^o die ffebruarij [1588-9]

James Burbage and others }
 — p^{ltes} Margaret Brayne } fforasmuche as this Courte was this
 widowe Robte Miles and } present daye informed on the p^{les}
 John Gardyner def^{tes} } behalf that the def^{tes} haue put in a
 very insuffcient demurrer to the
 p^{les} bill of complainte wthout shew-
 ing any good or suffcient cause
 therof It ys therefore ordered that the confideracion of the said
 bill and demurrer be referred to m^r D^r Carewe one of the M^{rs}
 of this Courte To thend he may Reporte vnto this courte whether
 the same demurrer be suffcient or not, if not Then a *Subpoena*
 ys awarded against the def^{tes} wthout further mocion to answere
 directly to the p^{les} bill of Comp^l and to all the materyall pointes
 thereof And the defend^{tes} Attorney ys to be warned hereof

BRAYNE V. BURBAGE.

*Chancery Decrees and Orders, vol. 1589 "A," 610; also in 1589
 "B," 597. Easter, 32 Elizabeth (1590).*

[While Dr. Carew was carrying out the order of February 17, 1588-9, in the case of Burbage v. Brayne, a cross-bill was filed by the widow and Myles, to which the Burbages filed a demurrer. Unfortunately, both bill and demurrer in this suit of Brayne v. Burbage are missing, but the Court's orders are preserved. Both cases run parallel, and were taken together by the Court. Hence we have orders and depositions from this date on to the death of the widow in 1593, sometimes under the title of Burbage v. Brayne, sometimes under Brayne v. Burbage.]

xxj^o die Maij [1590]

Margaret Brayne p^l James }
 Burbage Cuthbert Burbage } fforasmuchas this Courte was this
 and Richard Burbage de- } present day informed on the de-
 fend^{tes} } fend^{ts} behalf that the def^{tes} haue
 put in an Insuffcient demurrer to
 the p^{les} bill of complainte wthout

shewing any good or sufficient causes thereof It ys therefore ordered that the consideration of the said bill and demurrer be Referred to M^r D^r Cefarr one of the M^{rs} of this court To thend he may Reporte vnto this Courte whether the same demurrer be sufficient or not If not then a *Subpoena* ys awarded against the def^{tes} to answer directly to the p^{les} bill of complainte and to all the materall pointes thereof. And the def^{ts} Attorney ys to be warned when the p^{rem}ises shalbe considered of

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 109; also in 1590 "B," 113. Michaelmas, 32 & 33 Elizabeth (1590).

Mercurij iiij^{to} die Novembris [1590]

Margaret Braynes exec of John Braynes deceased p ^l James Burbage and Rich- ard & Cuthbert Burbage def ^{tes}	}	fforasmuch as this court was this present daye informed by M ^r Scott being of the p ^{les} Councill That shee havinge exhibited A bill into this Co ^{rt} against the def ^t for and con- cernyng the moyety of the Theater and other tenementes w ^{ch} the said James Burbage was by an agreem ^t had betwene him and the p ^{les} late husbände to assigne to the executo ^{res} adminiftrato ^{res} or assignes of her said husbände and to suffer him and them to enjoye yt for and duringe the whole terme to come in a lease made of the said Theate ^r or of the grounde wherevpon yt standes and of other the p ^{rem} ises to the said James Burbage by one Gyles Allyn He the said James Bur- bage hathe not only put in an yll demurrer to that bill w ^{ch} hathe bene overruled by order of this co ^{rt} But also dothe by himself & thother def ^{tes} take awaye the whole gayne and benyfytt of the saide Theate ^r and other p ^{rem} ises from the p ^l Albeit shee and her husbände haue bene at very greate charges in buylding thereof to the some of vj C ^{li} and did for A tyme enjoye the moyety of the p ^{rem} ises accordinge to the trewe meanynge of the said agreem ^t It ys therefore ordered That yf the def ^{tes} shall not by this daye senight shewe vnto this court good cause to the con-
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trary Then A Sequestracion shalbe graunted of the moyety of all the yffues and profyttes of the premiffes vntill the matter shalbe here heard and determyned or otherwifc ordered by this co^{rt}

[The above order was first printed by J. P. Collier, modernized throughout, in his *Memoirs of the Principal Actors* (Shakespeare Society, 1846), p. 8.]

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 145; also in 1590 "B," 150. Michaelmas, 32 & 33 Elizabeth (1590).

Veneris xiiij^o die Novembris [1590]

Margaret Brayne wid p^l } fforasmucheas vpon the openynge
James Burbage Cutberd } of the matter this present daye by
Burbage and others def^{tes} } M^r S^rieaunt Harrys beinge of the
def^{tes} Councell and feakinge for
staye of A sequestracion prayed by
a former order on the p^{les} behalf and also vpon the hearinge of
M^r Scott beinge of the p^{les} councell what he could faye touching
the cause It seemed vnto this co^{rt} That there was an Arbytrament
heretofore made betwene the p^{les} late husband & the said James
Burbage the xijth daye of July in the xxth yere [1578] of her
Ma^{ties} Raigne by one Richard Turnor & John Hill touching the
same matter w^{ch} ys nowe agayne brought in question And that
nether of the partyes did nowe shewe any suffycient cause where-
fore the same Arbytram^t or awarde should not be performed It
ys therefore ordered That the said award or Arbytram^t shalbe
well and truly observed and performed accordinge to the teno^r
& trewe meanynge thereof Aswell by the p^l and all claymyng from
by or vnder her As also by the def^{tes} and euery of them and all
claymyng from by or vnder them or any of them And the said
order for sequestracion shalbe stayed

[The preceding order caused a tremendous row at the Theatre, and gave occasion for many of the later depositions in the case. Three days after the order, namely, on Nov. 16, 1590, Margaret Braynes, Robert Myles, his son Ralph, and Nicholas Bishop went with this order to the Theatre,

and attempted to stand at the door and take the money for entrance to the play. But Richard Burbage and his mother beat Myles off with a broom-staff, and drove them all away, after a furious quarrel by all parties concerned. Then, a fortnight later, Myles and his faction had the Burbages up for contempt of Court, as shown in the next order. The whole story is told with graphic details in the course of the numerous depositions.]

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 270; also in 1590 "B," 280. Michaelmas, 32 & 33 Elizabeth (1590).

xxviii die Novembris [1590]

Margaret Braynes vid p ^l James Burbage and others defendautes	}	Robert Miles made othe that the faid Burbage and Cutbert Bur- bage haue broken an order made in this Courte, the xiiij th of Novem- ber laft. Therefore an <i>attachment</i> is awarded againft the faid parties to the fherif of Middlefex.
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Idem, vol. 1590 "A," 317; also in 1590 "B," 327.

Sabbati xxx^o die Januarij [1590-91]

Margaret Brayne wid p ^l Cutbert Burbage def ^t	}	The faid def ^t hath this <i>present</i> daye made his <i>perfonall</i> apparaunce in this co ^{rt} vpon an <i>attachment</i> for faving of his bond made to the fherif of london
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BRAYNE v. BURBAGE.

Chancery Town Depositions, Bdl. 218, No. 93. Michaelmas, 32 & 33 Elizabeth (1590).

INTERROGATORIES.

Articles vpon the parte and behaulf of James Burbadge and Cuthbert Burbadge and others Defend^{tes} to John Hide grocer And Georg Cloughe gentelman Against Margaret Braine Widdoe Compl^t.

- 1 **Imprimis** whither did one John Brayne the husband of the Compl^t, and one John Prynne broaker, take vp, borrowe and owe to yo^u about the xxvj daye of Septemb A^o 1579 the some of — 125^{li} 8^s 11^d. / yf thei did: then, whither did the said James Burbadge the defend^t about the same tyme, Mortgadge and convey to yo^u the said John Hide, the Lease, and all his title therin, of and in the Theatre, and other edificions in Hallywell, in the Countie of Middlesex, the w^{ch} he had of one Giles Allen and Sara his Wief vpon Condition/ That yf the said some of 125^{li} 8^s 11^d were Repaid to yo^u or yo^r assignes w^{thin} xij Monethes & one daie, next ensuing after the said septemb^r in A^o 1579 by The said James Burbadge, that then yo^u shuld Reconvey to him the said Lease and Theatre, and other the premiffes againe. And whither was not the said Lease and other bondes made by Giles Allen, for the enjoying Thereof, Deliuered into yo^r handes and possession, at the tyme of the said Conveyaunc sealed by the defend^t/ wth and by the consent and appointm^t of The said John Braine yea or no
- 2 **Item** whither was not the said Lease and the said James Burbadge the defendantes title theirin, absoluteli forfeited and lost to yo^u, for the nonpayement of the said 125^{li} 8^s 11^d, according to the tyme lymyted for the payem^t Thereof, & to the effect of the said deed of Mortgadge, And whither did yo^u not repute and accompt yo^r self, to be therby Rightfull owner of the said Lease and title of this defend^t James Burbadge yea or no

- 3 **Item** whither was not this defend^t, for yo^r better fecuretie, bound to yo^u Ioyntlie wth the faid Braine and Pryne, in abond of 200^{li} wth Condicion endorfed, aſwell for the repaym^t of the faid mony at the faid tyme appointed, as for the performance of the Covenantes and for performing The faid mortgadge yea or no And whither did the faid Brayne or prynn performe the fame/
4. **Item** were yo^u not offended, that the faid Burbadge and Braine, did not repaie yo^u The faid 125^{li} 8^s 11^d And did you not Threaten, to put the faid Burbadge out of poſſeſſion of the faid Theatre, and buildinges, for that yo^u receyved no profitt therby: And did not yo^u arreft therypon the faid Jeams Burbadge, by proces out of her Ma^{tes} bench, about June in A^o 1582 And whither did not he ther vpon come to yo^r howſe wth the officer or balie, that had him vnder arreft, And whither did not yo^r wief in yo^r abſence, accept of xx^{li} paid then to her, to yo^r vſe by the faid defend^t, And did ſhe not diſcharge the faid defend^t, from the faid Bailie, vpon Condicion that the faid defend^t, ſhuld come To yo^u when yo^u ſent for him, to take order in the premisses. And whither did not he repaire to yo^u accordingle, And whither was he not conſtrayned to gyve yo^u, newe bondes wth a fuertie, for The forthcomyng at yo^r howſe, of this defend^t, at an howers warning to be ſubject to yo^r actions.
- 5 **Item** did not The faid defend^t complayne to yo^u, that the faid Braine had Receyved and gotten into his handes, agret porcion of money levied in the faid Theatre, at the playe tymes, And that he would catche what he could, And That the faid defend^t could not enforce him, to delyver any parte therof neyther To this defend^t, nor to yo^u towards an agreem^t wth yo^u in the premisses/ yea or no/
6. **Item** did not yo^u therypon, ſend yo^r ſervauntes to Chardge the faid Braine not to deale any further wth any thinge, concerning the faid Theatre, Except he would deliuer to yo^u, The mony he Receyved: And did yo^u not appoint one of yo^r ſervantes with the faid James Burbadge, as in yo^r faid Right, title and intereſt, to

discharge, dismise and put out the said John Braine, from the said Theatre yea or no.

7. **Item** whither were yo^u not constrained, by reason the said Braine would not departe wth the mony he had Receyved, to appoint one of yo^r *seruautes* and this defend^t, to gather vp. v.^{li} weekelie, during the tyme of plaies; thinking by that meanes, to have paid yo^r feale out of the Theatre, for that yo^u sawe that the said Braines, was so Badd a fellowe: And howe mutche mony Receyved yo^u by That rate, to yo^r remembrance, and was it aboue xxx.^{li} yo^u so receyved; or les./yea or no
8. **Item** During thes payme^{tes} whither held yo^u still The said Lease in yo^r Handes, And whither did the said Braine afterwarde^s paie yo^u any other or more mony, then that w^{ch} was brought to yo^u weeklie out of the said Theatre. yea or no.
9. **Item** whither did not yo^u, after the death of the said Braine, and after the receiptes abovesaid, saie, that yo^u had sett ouer and assigned the said Lease, and bondes to Cloughe yo^r father in Lawe, & whither did not he sue the said James Burgadge, and the said Pryne Therupon, after the death of Braine And whither did not the said Cloughe, go about to put out The said defend^t out of the said Theatre, yea or no after Braines his death and whither did not Burbadge tell yo^u, that he could not accomplishe futch order, as the said Cloughe or yo^u had sett downe, and prescribed to him, for the redemption of his said Lease yea or no
- 10 **Item** whither did not m^r walter Cope, attendant vpon the Lord *Treasurer*, write his letteres to yo^u, & therby earnestly entreate, that yo^u would sell to his *seruaunt* Cuthbert Burbadge, yo^r title and interest of the said Lease the rather, for that he might help to discharge his father out of manie troubles, w^{ch} the said Braine & his said father, might haue susteyned about conveyances & bondes, made by them, about the said Theatre, when was the said *lettre* written to yo^u. And what conteyned it as yo^u rememb^r

- ii **Item** Whither did not yo^u therupon make an agreem^t wth the said Cuthbert, for yo^r said Leafe and title. And whither were yo^u paid the mony by him agreed vpon, at his handes & by his appointm^t. And whither did yo^u convey to him accordinglie the said Leafe. And whither by all this fpace, did the executors of the said Braine paie to yo^u any mony for the premiffes. yea or no.

DEPOSITIONS

Ex parte Jacobi Burbage

Octauo Dec 33 E. Regine

Jo. Hide of London grocer of thage of lvij yeres or theraboutes fworn &c. i. *Interrogatory* That true it ys one Jo Brayne late hufband of the Comp. and one Jo. Prynne a Broker did take vp, borow and owe vnto hym this dp^t about the xxvj day of Sept 1579. the fome of 125^{li} 8^s 11^d. or thereaboutes as this dp^t remembereth and he doth alfo well know & remember that the said James burbage the now def did about the fame tyme morgage and convey vnto hym this dep^t the leafe and all his title therin of and in the Theatre and other buyldinges in Halliwell in the Comitatu of Middlesex the w^{ch} he had of one Giles Allen and Sara his wief Vppon Condicion to this effect that if the said fome of one hundred xxv^{li} were repaid to hym this dp^t or to his affignes wthin twelve monethes and one day next enfewing after the said September 1579 by the said James burbage That then he this Dep^t fhuld reconvey to hym the said James the said leafe and Theatre and other the premiffes agayne And as he remembereth the leafe and other bondes made by Giles Allen for the enjoying therof were delivered in to his handes and poffeffion at the tyme of the said conveyance fealed by the def. w^{ch} was donne wth the content and appoyntm^t of the said Jo Brayne./

- 2 That not only the said leafe but the said James burbage the Def title therin was absolutely forfeited and loft to hym this Depon^t for the none paym^t of the said fome of 125^{li}—8—11. or theraboutes according to the tyme lymyted for the paym^t thereof and to theeffect of the said dede of morgage And he this dp^t did

accompt and repute hymself to be therby rightfull owner of the faid leafe and title therin of the faid James Burbage

- 3 That the def for this dp^{tes} better securite ftode bound to hym this dep^t ioyntly wth the faid brayne and Pryne in a bounde of 200^{li} (as this dep^t remembereth) wth condicion indorfed afwell for the repaym^t of the faid money at the tyme appoynted as for the performace of the Couenantes and performyng the faid morgage w^{ch} Brayne and Pryne nor either of them did performe
- 4 That true it is he was offended that the faid burbage and Brayne did not repay hym the faid some of 125^{li} 8^s 11d And did therupon threaten to put the faid burbage out of poffeſſion of the faid Theatre. and buyldinges for that he this dep^t received no proffitt thereby and therupon did cauſe the faid James burbage to be arreſted by proces out of her ma^{tes} Benche about June as he remembereth 1582. And the faid James Bur: did therupon come to this dp^{tes} houſe wth the officer or bailif that had hym arreſted and this dp^{tes} wief in his abſenſe did accept of xx^{li} paid vnto her to his this dp^{tes} vfe by the def And the fame def was therupon either by hym this dep^t or his wief but precifly by whether of them he doth not nowe remember diſcharged from the bailif vpon Condicion that he the fame def ſhuld come vnto hym this dp^t when foever he the fame dep^t did fend for hym to take order in the premiſſes. And the faid def did accordingly repaire vnto hym and did geue vnto hym this Dep^t new boundes wth a furety for his furthcoming to this dp^{tes} houſe at an houres warning to be ſubiect to his this dp^{tes} accions./
- 5 That true it is the Def burbage did complayne vnto hym that the faid brayne had received and gotten in to his hands a g^t porcon of money leviad in the faid Theatre at the play tymes and that he wold catch what he cold and that he the fame def cold not enforce hym to deliver ay part therof neither to hym the faid def nor vnto hym this dp^t towards an agrement wth hym this Dep^t in the premiſſes.

6. That he thervpon did fend his *Servantes* to chardg the faid Brayne not to deale ay further wth ay thing concerning the faid Theatre, except he wold *deliver* vnto hym this dp^t the money he *received*. And this *deponen^t* remembereth that he did appoint one of his *Servantes* wth the faid James burbage as in his this dep^{tes} right title and intereft to difchardg difmyffe and put out the faid Brayne from the faid Theatre/
7. That by reafon the faid braine would not departe wth the money he had *received* he this dep^t was conftreyned to appoynt one of his *Servantes* and the faid Ja. Burbage the def to gather vp vⁱⁱ wekely during the tyme of playes thinking by that meanes to haue p^d hym felf wth the proffites of the Theatre ffor that he faw the faid Brayne to be fo bad a fellow And this dp^t by that rate did *receive* in money to the fome of xx or xxxⁱⁱ as he remembereth./
- 8 That during the faid paym^{tes} he held ftill the faid leafe in his handes. And depofeth that the faid Braine did not afterward pay vnto hym this dp^t ay other or more money than that w^{ch} was brought to hym wekely out of the Theatre as aforefaid
- 9 That after the death of the faid Braine and after the receptes as aforefaid he did fay and gaue it out in fpech that he had fet ouer and affigned the faid leafe and bondes to one George Clough his this dp^{tes} ffather in lawe but in truth he did not fo neither did the faid Clough to this dp^{tes} remembrance and as he thinketh few the faid James Burbage and the faid Pryne or either of them after the death of the faid Brayne. But this dp^t thinketh that the faid Clough his father in law did go about to put the faid def out of the Theatre or at left did threaten hym to put hym out And as this dp^t remembereth the faid burbage did tell hym that he cold not accomplifh fuch order as he this dep^t and his faid ffather in law Clough had fet downe and prefcribed to hym for the redemption of his faid leafe
- 10 That m^r Walter Cope being Attendaunt vpon the *Lord* Treafaurer

did write his *letteres* to hym this *dp^t* thereby intreating hym that he wold fell to his the fame *m^r* Copes *Servante* Cuthber burbage his title and interest of the faid leafe the rather for that he might help to discharg his father (meaning the def) out of may [=many] troubles w^{ch} brayne and his faid ffather might haue fusteyned about conveyances and bondes made by them concerning the Theatre And to this *dp^{tes}* best remembrance the fame were the effect of the contentes of the faid *letteres* But the certeyne tyme when the fame *letteres* were so written he remembereth not/

- 11 That he did thervpon make an Agrem^t wth the faid Cuthbert for his faid Leafe and title and interest therein and was truly paid the mony by hym agreed vpon at the handes of the fame Cuthbert and by his appoyntm^t and this *dp^t* did convey vnto hym the faid leafe accordingly. And deposeth that by all this space Thexecuto^{rs} of the faid Braine did not pay vnto hym this *dep^t* ay one peny for the *premisses*. And more this *dp^t* faith not in this matter/

pro burbage

Die & Anno *predictis*

George Clough of London Clotheworker of thage of xlviiiij or theraboutes fworn &c 1. 2. 3. 4. 5. 6. 7. & 8. *Interrogatories* he cane not depose

- 9 That on a tyme but certainly how long fithens he remembereth not. one Jo Hide of London grocer who had married this *dp^{tes}* wiefes daughter told hym this *dp^t* y^t he had certeyne mony owing vnto hym by one burbage and one brayne as this *dp^t* remembereth and y^t for his securitie of the paym^t thereof he had assigned vnto hym a leafe of the Theatre and told this *dp^t* that he cold not haue his money p^d and therefore requested hym this *dp^t* being his father in law to go vnto the faid burbage to demand of hym the money he owed hym and to fay that he had assigned ouer the faid leafe to hym this *dp^t* And this *dp^t*. thervpon went diuers and fondry tymes to the faid burbage and received money of hym due to the faid Jo Hide wherof he made vnto the fame Jo Hide an Accomp.

from tyme to tyme as he *received* the fame but to how moch the fame monies did a mount vnto this dp^t remembereth not. Neither did he at ay tyme to his *remembrance* feue the fame James burbage or one Js. Prynne concerning the faid Leafe nor went about to put the now def out of the Theatre nor ay thing elles to that *Interrogatory* canne depose nor more faith in this matter

[Signed] George Cloughe

BRAYNE v. BURBAGE (CONTEMPT)

Idem. Bdl. 221, No. 12. Hilary, 33 Elizabeth (1591).

Interrogatories to be mynyftred on the parte and behalf of Margaret Braines widowe Compl^t againft James Burbage & Cuthberte Burbage defend^{tes} vpon contempt

- 1 **Inprimis** whether were you Cuthbert Burbage *prefente* at the Chauncery Barr the xij of Nouember 1590 the Court ther beinge moved by yo^r owne Councell m^r Seriant Harris to ftay and Order before granted vpon a Sequestracion of the Moytie of the Theatre at the fute of Margaret Brayns the nowe Compl^t. Against yow and others And wheth^r did not yow them wth the Content of your faid Councell Caufe and order to be fett downe for to performe the Arbitram^t made and Ordered by Richard Turner and John Hill betwene the faid James Burbage & John Braines the hufband of the nowe Complain^t Dated the xij of Julie in the xxth yere of her Ma^{ties} reigne yea or no/
- 2 **Item** whether do yow James Burbage and Cuthbert Burbage knowe of your owne knowledge or otherwife haue hard fay that one Robert Myles wth diuers others vpon the xvjth of Nouember laft paf^t did come in the behalf and in the name of the Nowe Compl^t to the nowe dwellinge howfe of the faid James Burbage your ffather and ther did demande of yow both the performance of the faid Award accordinge to the faid Order And wheth^r did not yow both then fay that yow would not ftand to anie fuch

order and that the Court of Chancery should not Cofen yo^w Cuthberte of your right yea or no, and what was yo^e speaches yow both then vsed

- 3 **Item** whether did not yow James borbadges faye or specke thes wordes in this interrogatory foloinge or wordes to that Efecte Cuthberte Burbage yo^u heard the said James your ffather say that he would not obey the said Order and threaten the said Roberte Myles to beate him of the grounde and that he cared not a tord for Conscience wth other odious termes and what was the wordes your ffather and yow then vsed to the said Roberte Myles Declare the whole truth therein
4. **Item** whether do yow James and Cuthberte Burbage know the said Margaret Braines the nowe Compl^t. wth divers other persons accompanying wth her sithence the Order made came to the Theatre and ther Demanded of yow and your ffather and of the tenants such rentes as were due and behinde for the Moitie of the theatre and all such somes of money as were then dewe accordinge to the said Arbitrement made as beforefaid and whether did yow say or here your ffather say or both yo^r the said Compl^t had nothinge to do ther and that yow would not obey the said order and ffurther said that yf she or any for her or in her behalf came any more vpon the said ground yow would beate them from the same and did not yow both vsie her wth most vnfemely and bad speaches Declare yo^r knowledge therin
- 5 **Item** wheth^r did yow Cuthberte Burbage vpon the xxixth of Nouemb^r nowe last Come into the howse of one Henrie Bettis in Shordich wher the said Robt Myles then chanced to be and ther in scoffinge manno^r did aske him when he would Come againe to the Theatre for any more Rent in the Compl^{tes} behalf and whether did not yow say then that yf he did Come anie more abought anie such matter he should be thoroughly payed home notwthstandinge the said Order or wordes to the like effect and what was the wordes yow then vsed to him towchinge the same. speake to your knowledge

- 6 **Item** wheth^r did yow James Burbage heare or knowe of any Order to be made in the chancery the xiiijth of Nouemb^r 1590 vpon a moticion made by m^r Seriante Harris beinge of yo^r councill for a stay of a sequestracion of a moiety of y^e Theatre and other the tenem^{tes} and wheth^r haue yow both done you^r best endeuer to performe the said Arbitram^t & Order made as aforefaid yea or no
 Scott [Attorney]

DEPOSITIONS

*Responfio Cuthberti Burbage vnus defendentum,
 ad articulos Margarete Braynes viduae fuper
 Contemptum ut asseritur capta per Henricum
 Johnes in Cancellaria Examinatorem./*

Cuthbert Burbage seruaunt to Walter Cope esquier gentleman vsfer to the lorde Treafurer of England/ of the age of xxiiij yeres or therabouts fworn and ex^d the xvj Daye of ffebruary in the xxxiiij yere &ct To the first Interrogatory that he was *present* at the Chauncery Barre the xiiij daye of November laft past 1590 when M^r Serieant Harrys did move the co^rte on the behalf of this depo^{tes} ffather to staye an Ordre w^{ch} was before graunted by the same/ vpon A Sequestracion of the one Moytie of the house or building called the Theato^r in Shordyche/ wth out Bishops gate London/ at the Sute of the now complainant/ At w^{ch} tyme and mocion the co^rte ordered/ that an Arbytryment made by Rycharde Turno^r & Jo. Hill named in this Interrogatory betwene James Burbage this depo^{tes} said ffather and Jo. Braynes deceifed late husband to the now complainant in Julye in the xxth yere of her Ma^{tes} Reign/ shuld be performed & fulfilled by ether sydes/

To the 2. that it is true indede/ that Robert Myles named in this Interrogatory/ and others w^t him came to this depo^{tes} ffathers dwelling house in Hallywell by Shordiche vpon or about the xvj day of November/ aforefaid/ for & in the name of the now comp^l as he said/ and Demanded Rent/ and the performance of the said Award according to the said Ordre/ and what answer

this depo^{tes} faid ffather made vnto him he faith he Remembreth not/ but this depo^t. made him anſwer/ that he ſhuld haue no Rent ther he wold ſufficientlie anſwer the co^rte the cauſe why/ when he were called/ and w^t all told him that Braynes nor his wyfe had no right there/ ffor it was his this depo^{tes} & he had boght it w^t his owne proper money as they well knewe/ And vtterlye denyeth that he faid/ that he wold not ſtand to any ſuche order & that the Co^rte of Chauncery ſhuld not Cofyn him of his right/ Nor any word of ſuche vnreuerend/ & vnduetyfull ſpeche

To the 3. that when the faid Myles came to this defend^{tes} fathers houſe as aforſaid in the laſt former Interrogatory he came in ſuche rude & exclamable fort/ as indede his faid ffather threatened to ſett him away of his ground/ yf he wold not go his waye quyetlie/ And faith that true it is he this depo^t heard not his faid ffather ſaye/ nor vtter vnto him any ſuche ymperious Wordes/ as that he wold not obey the faid Ordre/ Nether did ether this depo^{tes} faid ffather/ nor he this depo^t threaten to beat the faid Myles/ Nether did he this depo^t hear his faid father vtter any ſuche an vnreuerend & vnſemelie worde of Conſcience/ as is fo malyceouſlye & vngodlie ſett down in this Interrogatory/

To the 4. that he cannot certenlye depoſe/ what anſwer or ſpech this Depo^{tes} faid ffather made or vttered to the comp^l at any tyme ſhe came to him/ or to the Theater/ for any Rent or other Demaunde/ concerning the moytie of the ſame/ for he did not heare the ſame/ Or at the leaſt he did [not] hede the ſame/ And what anſwer this depo^t made to her/ and the faid Myles he hath depoſed before/ And ſo faith ſtill/ that/ nether ſhe nor any by or vnder her/ haue any thing to do ther/ ffor it is this depo^{tes} right/ & none ellſe/ And otherwyſe to this Interrogatory he faith he cannot depoſe/

To the 5. that true it is/ he this depo^t fins he was ſerued w^t the faid Attachem^t/ chaunced to mete the faid Robert Myles at one Henrye Bettes houſe by Shordiche Church/ where the faid

Myles began to Gybe & Scoffe this depo^t/ concerning moche of the matters depending in Sute betwene the said comp^l/ and this depo^{tes} said ffather & him this depo^t/ and that she shuld haue this & that And this depo^t told him/ that nether he nor she could do more then Justice bidd them/ and that he was fure/ the right was in him this depo^t/ and therfor wifhed him to deale no furth^r in the matter/ nor to come againe to Demaunde any Rent there/ ffor yf he did/ this Depo^t wold paye him truelie/ But wth out that/ that he added these wordes/ viz^t/ notwthstanding the said Ordre/ for he sayd it not/ .

To the 6. that for his own parte he can fay no more/ then he hath before said/ And this for his true answer to the said Interrogatories/

[Signed] Cuth: Burbadge.

James Burbage of Hallywell in Shordiche w^{out} Crypple gate London gentleman of the age of lx yeres or therabouts sworne and exd the Daie and yere aforefaid &ct To the first *Interrogatory*. That he doth thinke/ ther was fuche an order fett down in the Co^rte of Chauncerye for the stay of the said Sequestracion/ at the mocion of M^r Serieant Harrys/ in the behaulf of this depo^t and of his sone Cuthbert Burbage/ for to that end/ this Depo^t and his sayd sone gave him iust Infruccions of the matter/ and accordinglie this Depo^{tes} Counfell opteyned the fame/ And faithe that at that tyme/ at the mocion of ther counfell/ ther was an ordre fett downe/ that the Arbitrym^t & Award w^{ch} was made & ordred/ betwene this depo^t and Jo. Braynes deceffed the husband of the now comp^l/ by Rychard Turno^r & Jo. Hill named in this *Interrogatory* shuld be performed & done/ and this Ordre was made in Julye in the xx yere of her Ma^{ties}/ Reigne/ and w^{ch} this Depo^t for his parte hath performed/ as farre as in him hath layne/ as he verelie beleveth/

To the 2. that true it is/ Robert Myles named in this *Interrogatory* w^t ij^o other persons w^t him whose names he knoweth not/ in

Novemb^r laſt paſt the certain Daye he now remembrethe not/ did in the behaulf of the now comp^l come to this Depo^{tes} Dwelling houffe nere the Theater in Shordiche/ and there did demaund firſt of this depon^{tes} fone/ the moytie of the ſaid Theatre & the Rentcs of the ſame to her uſe/ and of the performance of the ſaid Award/ and what anſwer this Depo^{tes} ſaid fone made him thervnto/ he cannot certainly tell But he ſaith/ that this Depo^t being w^tin the howſe/ hearing A noyce at the do^r/ went to the do^r/ and ther founde his fone the ſaid Cuthbert and the ſaid Myles ſpeaking lowde together/ And aſking what the matter was/ the ſaid Myles did as afore Demaund the moytie of the ſaid Theatre/ and the Rent therof/ and the performance of the ſaid Award on the Comp^{tes} behalf and then this Depo^t told him/ that/ the Ordre did not warrant any ſuche demaund of Rent nor of any moytie of the ſaid Theater/ And for the performance of the ſaid Award/ he told him that he this Depo^t for his parte could not performe it better/ then he had done/ And then the ſaid Myles ſayd/ that by the ſaid Award the moytie of the Theater/ & the Rent therof are to be had & Receyved by & to the uſe of the ſaid comp^l/ So it was indede qd this depo^t/ before Jo. Braynes himſelf & he this depo^t/ Did after the making of the ſaid Awarde/ Joyne in A graunt to one Henry Laynmann gent/ of the one Moytie of the ſaid Theater & of the proffittes and comodities growing therby for certain yeres yet enduring/ as by the Dede yerof maye appere/ and bound them ſelf in g^t bondes for the performance therof/ And further ſaith that long after the ſaid Arbytryment and award & before the graunt made to the ſaid Laynman the ſaid Braynes the comp^{tes} ſaid huſband did procure this depo^t to morgage the leaſe of the ſaid Theatre for the ſome of Cxxv^{li} & od money to one John Hyde of London grocer/ for one yere/ & after that for another yere/ w^t A proviſo that for the none paym^t of the ſaid ſome at A daye/ the ſaid leaſe to be forfeittyd/ w^{ch} was forfettet accordinglie by the none paym^t of the money. So as then the ſaid Hyde was fullye and abſolutelye poſſeſſed therof/ to diſpoſe of the ſame at his will and pleaſur/ by w^{ch} meanes/ he this depo^t doth verelie take it/ that the ſaid Arbytryment/ and award was determyned & diſſolued/

To the 3. that true it is, he for his owne part did neuer faye that he wold not obey the Ordre of the chauncerye/ But he this depo^t being nerely vrged and dared by the faid Myles/ w^t g^t threates & wordes that he wold do thys/ and could do that/ to the vndoing and g^t Dyfgrace of this depo^t and his fone he this depo^t told him/ that/ it was too moche to face him so on his owne grounde/ & that he knew/ he could not anfw^r it/ And that yf he wold not leave his Rayling & quyetye departe/ he this depo^t wold/ fend him away/ w^tout that/ that ever this depo^t did ever fay or thinke the vnreuerend wordes fett down in this *Interrogatory* against Confcience furmyfed by the faid Myles to be vttered by this Depo^t/ at that tyme/

To the 4. that true it is/ the faid comp^l accompanied w^t the faid Myles and others came to the faid Theater to the *Tenantes* therof/ and there verye ymperyouflie fyns the faid Order/ did chalendge & Demaunde Rentes of the fame as due vnto her for the moytie of the fame/ according to the faid Arbytryment/ And anfw^r was made vnto her/ and them that came w^t her/ both by the faid *tenantes* and Cuthbert this depo^{tes} fone/ that she had nothing to do there/ and that they neuer knew her to haue any intereft in the fame/ But what the substance of ther talke was then betwene them/ he cannot Depose ffor he was not *present* therat/

To the 5. that he can fay nothing but by heare faye

To the 6. that he cann fay no more in effecte/ then he hath before faid to the first *Interrogatory*/ Nor more faith to all the faid *Interrogatories*/

[Signed] By me James Burbage

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 456; also in 1590 "B," 455. Hilary, 33 Elizabeth (1590-91).

xxiiij die Marcij [1590-91]

Margaret Brayne
widowe playntif
Cutbearde Burbage
James Burbage def^{tes}

} Whereas the def^{tes} haue bene examyned vpon Interrogato^{res} at the p^{les} fuyte towchinge the breache of an order made in this Courte betwene the faid par^{ties}: It is ordered

by the Right worship^{ll} the M^r of the Rowlles that the Consideracion of their examynacions be Referred to M^r Docto^r Cesar one of the M^{rs} of this Courte To thende he maye Confider and Reporte to this Courte whether the faid def^t or eyther of them haue Committed anye Contempte or not That further order maye be taken therevpon accordinglye And the faid def^{tes} or their Attornes are to be warned when the p^{remiffes} shalbe so considered of/

[The above order was first published, modernized throughout, in Collier's *Actors* (n. s.), p. 9.]

BURBAGE v. BRAYNE

Chancery Decrees and Orders, vol. 1590 "A," 493; also in 1590 "B," 497. Easter, 33 Elizabeth (1591).

Sabbati xxiiij^{to} die Aprilis [1591]

James Burbage p^t
Margaret Brayne & Robte
def^t

} fforasmuche as this co^{rt} was this p^{esente} daye enformed on the p^{les} behalf That the faid def^{tes} hathe in A very fryvolous and Infuffy-

cynth demorrer to the p^{les} bill w^{thout} showinge any good cause thereof Therefore the confyderacion of the faid bill and demorrer ys Referred to M^r D^r Carewe one of the M^{rs} of this Co^{rt}

To thend he maye confyder and report to this co^{rt} whether the faid demurrer be fuffycynt or not yf not Then A *subpoena* ys awarded againft the def^{tes} to make A *perfect* and dyrect aunfwere to the p^{les} bill of Comp^l and to all the materyall poyntes thereof And the def^{tes} Attorney ys to be warned when the *premisses* fhälbe fo confydered of

[The above order, modernized in spelling, was printed by J. P. Collier in his *Actors* (*u. s.*), p. 9.]

BURBAGE v. BRAYNE

Chancery Decrees and Orders, vol. 1590; "A," 720; also in 1590 "B," 725. Trinity, 33 Elizabeth (1591).

Martis xv^{to} die Junij [1591]

James Burbage p^l
Margaret Brayne
Myles def^t

} fforasmuche as this co^{rt} was this
} *presente* daye enformed on the p^{les}
} behalf That the faid defte hathe
} put in an Infuffycyent demorrer to

the p^{les} bill wthout shewing any good cause thereof Therefore the confyderacion of the faid bill and demorrer ys Referred to M^r D^r Carewe one of the M^{rs} of this co^{rt} to thend he maye confyder and reporte to this co^{rt} whether the faid demorrer be fuffycyent or not yf not Then A *subpoena* ys awarded againft the def^t to make *perfect* and dyrect aunfwere to the p^{les} bill of Comp^l and to all the materyall poyntes thereof And the def^{tes} Attorney ys to be warned when the *premisses* fhälbe fo confydered of/

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1590 "A," 818; also in 1590 "B," 831. Trinity, 33 Elizabeth (1591).

xx^o die Julij [1591]

Margaret Brayne
widow p^l
Cuthberte Burbage
and James Bur-
bage defend^{tes}

} fforasmuche as M^r D^r Cefarr one
of the M^{rs} of this Courte to whose
confideracion the def^{tes} examina-
cions vpon Interogatories towch-
inge the breache of an order made
in this Courte was referred can not

nowe attend the same It ys therefore by the Right worshipfull
the M^r of the Rowles ordered that M^r D^r Hone one other of the
M^{rs} of this Courte shall confider aswell of the same contempte
As also heare and end the cawse in question betwene the said
parties yn this Courte, yf he can yf not that then he certifie into
this Courte aswell what he shall finde towchinge the saide con-
tempte As also his opinion of the said cawse And by whose
defalt he can not end the same wherevpon suche further order
shalbe taken therein as to this Courte shalbe thought meete.

[The above order, modernized throughout, was first printed in Collier's *Actors (u. s.)*, p. 10.]

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1591 "A," 16; also in 1591 "B," 18. Michaelmas, 33 & 34 Elizabeth (1591).

Marti xij^o die Octobris [1591]

Margaret Brayne
wid p^l
James Burbage
and Cutbart Bur-
bage df^{tes}

} Vpon the opening of the matter this *pre-*
ente daye by M^r S^rieant Harrys being of
the def^{tes} councell and comynge to showe
caufe wherefore an attachm^t should not
be awarded against them vpon A re-
porte lately made by M^r D^r Hone one

of the M^{rs} of this co^{rt} of a contempt supposed to be comytted on the def^{tes} behalf It ys thought meete and so ordered by this courte That no advantage or further proceeding shalbe had vpon that reporte But that M^r D^r Stanhope and M^r D^r Legg two of the M^{rs} of this courte shall confyder and reporte to this co^{rt} whether the def^{tes} or either of them haue comitted any contempt or not in breache of A former order Layd to their charge vpon whose reporte fuche order shalbe *peremptoryly* taken wthout further delaye as to this co^{rt} shall be thought meete

BRAYNE v. BURBAGE

Chancery Decrees and Orders, vol. 1591 "A," 151; also in 1591 "B," 163. Michaelmas, 33 & 34 Elizabeth (1591).

xiiij^o die Novembris [1591]

Margaret Brayne
widowe p^l
James Burbage &
Cutbert Burbage
def^{ts}

} Vpon the opening of the matter in vary-
ance to the right worshipfull the M^r
of the Rolles by M^r Scott on the be-
half of the said p^l after the Ryfing of
the courte It appered that before this
tyme the confyderacion of the causes

was Referred to M^r D^r Stannop and M^r D^r Legg two of the M^{rs} of this co^{rt} who haue heard the cause and the councell on bothe *partes* and haue made A reporte in wryting vnder bothe their handes being in hec Verba By order of the xijth of october laft wee haue had the councell on bothe *partyes* before vs and entring into the confyderacion of the contempt comytted to vs to examyne them Wee doe fynde that wee could not well *proceede* to examyne them before John Hyde of London grocer and Raphe Myles of London Sopemaker were examyned towching the cause and one Nicholas Bushop and John Allen vpon the contempt in the Interrogatoryes against the said def^{tes} *pretended* wherevpon yt was concented by Councell on bothe fydes That the courte would be pleased to geve aucthority vnto vs to geve othe vnto

all these parties to answer to such Interrogatories on either side to be ministered as by their council Learned should be ministered vnto them and vpon their depoficions wee maye better proceede to examyne the pretended contemptes As by the same Certyficate maye appere It ys ordered That the matter be agayne Referred to the said M^r D^r Stannop and M^r D^r Legg and aucthority ys geuen vnto them by this co^{rt} to call all the said persons named in the said Certyficate or reporte and to examyne them vpon their othes vpon such Interrogatories as ys mentioned in the said reporte To thend this co^{rt} maye the better be enforced towching the said supposed contempt/

[Thus the whole case was placed in the hands of the two Masters in Chancery, Dr. Legg and Dr. Stanhope, to be heard and determined. Accordingly, they examined many witnesses during the succeeding year. It is not practicable to arrange the depositions in exact chronological order, because some of the five following sets of them were taken concurrently with others. They are here placed, therefore, in the order in which they were filed by the Court, the depositions of Hyde, Myles, Bishop, and Allen, mentioned in the above report, coming next to the last, and their cross-examinations in behalf of the Burbages, last, in the series of examinations in this case.]

BRAYNE v. BURBAGE

Chancery Town Depositions, Bdl. 226, No. 9, Michaelmas 33 and 34 Elizabeth (1591).

INTERROGATORIES

William Clerk *iuratus*
25 Feb 1591 *coram*
Mat Carew

Articles to be ministered vpon the parte and behaulf of James Burbage and Cuthbert Burbage Defend^{tes} againt Margaret Braines the executrix of John Braynes Complaynante, to Giles Allyn gentelman, Bryan Ellame, Richard Hudfone, [John Grege,

William Botham, (stricken out)] W^m Clarke, Henry Bett gentleman scryvener.

- .1. **Imprimis** Whither did yo^u knowe John Braines whilest he lyved. And whither do yo^u knowe the parties plaintife and defendauntes. And how longe haue yo^u knowen them.
- .2. **Item** whither did James Burbage the one of the defend^{tes} take a Lease of yo^u of certaine void ground & decayed Tenementes in Hallywell, wheron the Theatre is now builded. And whither did John Brayne at the enfealinge of the said Lease or at any tyme before, make sute or require of yo^u to be ioyned with the said Burbage in the said Lease. Or to make the same in trust to the same Burbege to his the said Braines vfe. Yea or no.
- .3. **Item** what fyne or Jncome did the said Burbege paie or bynd himselfe to paie to yo^u for the said Lease. And how much therof is to yo^u paid And how much is vnpaide. And whither did the said John Braines paie to yo^u any parte therof Or promyse to paie yo^u any parte therof. And whither did yo^u alwaies repute the said Burbedge to be yo^r Tenante only of y^e premiffes Yea or no. And what rent did yo^u receyve for the premiffes before yo^u demyfed the same to Burbag
- .4. **Item** whither did Braines at any tyme paie to yo^u any rent for the said Theatre and premiffes by yo^u demyfed to the said Burbege. And whither was ther not owinge vnto yo^u fix yeres before the death of the said Braines more or lese the some of the fyftie and one poundes or therabout parte of w^{ch} said some beinge for the said fyne, & parte for Arrerages of Rent, And who p^d yo^u the same/
- .5. **Item** whither did yo^u vewe the new buildinges and the Repracions done by the said Burbage vpon & in certaine decayed howesef houlden of m^r Allyn in Hallywell, To what some of mony did yo^u eftymate the said buildinges and Reparacions. Or what some or fomes of monye do yo^u knowe or haue herd faye that the said Burbage did bestoe in the said New buildinges & in the decayed

howfes adioyninge to the faid Theatre & vpon the Repairyng of the Theatre And whither did John Braine or his executor beftoe or laie out any mony theron or paye any thinge towardes the faid Buildinges or Reparacions, yf he did, How mutche did he difburfe or paie/ And whither was ther iij^{xx}x^{li} [= 70 l.] beftoed on the Theatre fince Braines death yea or no

- .6. **Item** what fome of monye hath the faid Burbage difburfed in Repayringe of the Theatre more then Brayne did Joyne wth him in allowaunce of the fame Reparacions, And how know yo^u the fame. And what Bondes wherin the faid Braines & Burbage were ioyntlie bound, hath the faid Burbage paid and difchardged fythenc the deathe of Braines And to what vallewe do the faid Bondes arrife vnto. And whither did the faid executrix ioyne wth him in the payem^t therof. And what other fomes of monye hath he paid wherof the moitie ought to haue byne p^d by Braines or his executo^{rs} as yo^u knowe or haue herd. And how knowe yo^u the fame
- .7. **Item** whither was ther any Arbitrem^t made betwen them about the endinge of the controverfies moved betwen them for the pro-fittes of the Theatre. And whither was the Arbitrem^t obferued. And what fome of mony did the faid Burbage demaunde of Braines by force of the faid Arbitrem^t. And how know yo^u the fame.
- .8. **Item** whither do yo^u knowe or haue herd faye That the faid Burbage had Mortgaged forfeited & loft his faid Leafe to one John Hyde grocer, And whither did the faid Hide arreft the faid Burbage vpon pourpoafe to haue removed him from thence/ And whither haue yo^u herd or did yo^u knowe of yo^r owne knowledge that Cuthbert burbedge the other defend^t did purchafe and buy wth his proper monye the faid Leafe of the Theatre of the faid Hide. And to his owne vfe onely. yea or no
- .9. **Item** what haue yo^u herd the faid Hyde confefe and faie towchinge futch fomes of monye as he receyved at the Theatre. And whither haue yo^u herd him faye That he neuer made any agreem^t

wth Braine nor Burbage the father for the reconveyinge of the said Leafe to them. And that the fomes of monye by him Receyved, were the profittes of the Theatre And not for the mony lent vpon the Leafe, nor for the redemption therof / nor for vfurye for the forbearinge of his monye. yea or no

NOTE TO THE EXAMINER.

[This note is attached in front of the interrogatories, but belongs chronologically after them as here placed.]

A brief noate for the ease and fpede of the examiner, fhewing how many Articles are to be objected, to eache partie to be examined on thes Articles & whervnto thei can aunfwer.

Imprimis to m^r Allen the firft. fecond, third, & fowerth, onli for him

Item. to Brian Ellam Richard Hudfon [*John Griges Carpenters W^m Botham Ralf Bettes* (stricken out)] & W^m Clarke plafterers firft & fyft.

Item to Henry Bett, & Gall fcrivener, 1. 6. 7. 8. 9.

[All the above witnesses were examined except Gall the scrivener. Their depositions now follow.]

DEPOSITIONS.

Ex parte Jacobi Burbage et Cuthberti Burbage defendentum verfus Margaretam Brayne viduam querentem Tefte examinatore per Henricum Johnes in Cancellaria Examinatorem/

Henrie Bett, of the parifhe of S^t Leonardes in Shorditche, in the Countie of middlefex gentelman of the age of xliij yeres or therabout, fworne and examined the lafte daie of September in the

xxxiiijth yere of the reigne of o^r Sovereigne Ladie Queen Elizabeth
by vertue &c

1. To the first Interr. That he knewe John Braine when he was
lyvinge, and that he knowethe the parties Defendantes and Com-
playnante, & hath knowen them thes xiiij yeres & vpwardes
2. 3. 4. To the ij. iij and iiij Interrogatories he can not depoafe
5. 6. To the v and vj Jnterr. he depoafethe and faiethe, That he was
not present, when the buildinge, latelie erected by James Burbege
or his assignes, nere the Theatre were viewed/ but beinge in Com-
panye wth the viewers therof, thei did estimate the chardge thereof,
to arrise to 220^{li} & vpwardes the w^{ch} matter certaine worckmen
also affermed; who did acknowledge that they had receyved a good
parte therof, fortheir wo^kmanfhip and other thinges; wherof,
they also affermed, that nether Braines, nor his executo^{rs}, did
paie to them any thinge. but what some of monye certainelie, the
said James Burbege did bestoe, ether vpon the new buildinge of
the Theatre, or vpon the repayinge of the same, this depon^t
knowethe not of his owne knowlege, nor what monye he hath paid,
since the death of Braine, but by the accomptes of the said Bur-
bege, the w^{ch} this depon^t hath often seene and coppied out, yt it fett
down. That the said Braine and his executo^{rs}, did owe to him
the moitie of 220^{li} bestoed as is aforefaid. And the moitie of
230^{li} paid by the said Burbege for rent, and for repayinge of the
Theatre and the moitie of 220^{li} 13^s 4^d, paid by the said Burbege,
for the discharginge of bondes debtes, and other expences, lince
the death of Braine, besides the some of 135^{li} 1^s. the w^{ch} the
said Braine, by a noate vnder his owne hand, confesse the to haue
receyved out of the Theatre, and to be accomptable for the same;
but whither the said accomptes, payem^{tes} & demandes of the said
James Burbege, be true or false, he faiethe he knowethe not; but
he faiethe, that he is verie sure that the noate, that the said John
Braine hath fett downe, for the receipte of the 135^{li} 1^s, is the
proper hand writinge of the said Braine: And more to thes Interr
he faiethe not/

7 To the vij Interrogatory he faiethe, That ther was an Arbitrem^t made, betwene Braine & Bvrbege in writinge, afwell for the certaine dispoafinge, of the *profittes*, levied in the Theatre and Tenem^{tes}, as in directing the faid Braine, when, and how, fuch fomes of monye, as he the faid Braine had difburfed, aboute the buildinge the faid Theatre, fhuld be to him paid: for the certaintie wherof, this depon^t referrethe himfelf to the faid arbitrem^t, only he faiethe, that nether the faid Braine nor his executrix the now comp^l haue obferved the fame, nor by their owne fpeeches and affirmacions, neuer will *performe* the faid arbitrem^t, and further to this Interrogatory he can not depoafe of his owne knowledge/

8. 9. To the viij and ix Interrogatory he depoafethe and faiethe, That the faid James Burbege wth the confent of John Braine did mortgage the Leafe of the Theatre, to one John Hyde the w^{ch} was to him forfeited, who did therupon arreft the faid Burbege intendinge (as this depon^t takethe it) to take the advauntadge therof, and to expell the faid Burbege and Braine, and to that end did fend one of his fervautes, to collecte and gyve order, that futch monye, or the beft *parte* therof, as was receyved at the Theatre, fhould be brought and paied to him, and becaufe he did not receyve futch fomes of monye, in that wife, as was to his likinge, he the faid Hyde gave order to George Cloughe, father in Lawe to him the faid Hyde, to demaunde his monye, or to remove the faid Burbege out of the Theatre, by w^{ch} meanes, the faid Cloughe did go to the faid Theatre, and threatened to remove the faid Burbege from thence, fynce the deathe of the faid Braine (as this depon^t remembrethe) And this depon^t further faiethe, that for a fome of monye the certaintie wherof he rememb^reth not, the faid Hyde, did fell his title in the faid Leafe, to Cuthbert Burbege one of the defend^{tes}, at the payem^t of *parte* wherof, this depon^t was prefent, at ij feverall tymes, the w^{ch} monye fo paid to the faid Hyde, was the *proper* monye of the faid Cuthbert (as this depon^t is *perfwaded*) and he beleeveth it, the rather, for that the faid Cutbert did then declare, that he was faine to borrowe *parte* therof the w^{ch} he affirmed he would not haue done, but only to haue

redemed and deliuered his father, from many encombraunces, whervnto he and Braine, had rune them fealues into, about the faid Theatre, at w^{ch} tyme the faid Hyde likewife affermed, that yf one m^r Coape, had not written to him about the faile therof, to the faid Cutbert, that he never fhould haue had it, for that one m^r middelmor & his father in Lawe Cloughe, were importinat wth him for the fame/ And further to this Jnterrogatory he can not depoafe, favinge that he well remembrethe, that the faid Hyde, hath often confeffed and fworne to this depon^t that the mony by him Receyved at the Theatre was in his owne right, and nethe^r for intereft, nor by waye of Compoftion of his principall debt, but what he now will fwearre or afferme this depon^t knowethe not/ nor further faiethe to all the faid Jnterrogatories/

[Signed] Per me Henricum Bett

Gyles Allen of Hafelye in the Counte of Effex gentleman of the age of lviiij yeres or theraboutes fworn and ex^d the thirde daye of November in the yere aforefaid &c To the firfte Interrogatory. that he did verye well knowe John Braynes deceffed named in this Interrogatory./ And knoweth all the parties p^{tes} and Defend^{tes}/ And faith that he knewe the faid Jo. Braynes fondry yeres before he dyed/ And hath knowen the parties to this Sute about viij or x yeres/ but yong Burbage he hath not knowen but about ij^o or iij yeres/

To the 2. that about xiiij or xv yeres paf^t as he now Remembreth James Burbage one of the now deffend^{tes} did take A leafe of this depo^t for the, terme of xxj yeres of fome of the then voyd ground & Ruynous tenem^{tes} w^tin the precinct of Hallywell nere Shordych/ vpon part wherof the playing place called the Theater/ now ftandeth./ And faithe that nether the faid Jo. Braynes/ nor any other for him did ether make Sute to this depo^t at any tyme before the enfealing of the faid leafe, to be Joyned w^t the faid James Burbage in the faid leafe, nor to make the faid leafe, in truft to the faid James Burbage, to the vfe of the faid Braynes/ But faithe/ that in verye trothe the faid leafe was fueded for/ by the faid Burbage & not ment any way to the faid Braynes

To the 3. that he cannot now Remember how moche for an Incombe or ffyne for the faid leafe he did receyve or was to Receyve of the faid James Burbage/ But he thinketh he had some therof in hand/ and A bonde for the paym^t of the rest/ not fullye yet difcharged/ the certenty how moche yerof was payd in hand/ and yet is vnpayd/ he cannot certenlye depofe/ for that the faid Bonde is now remayning at his houle in the cuntrye/ Of w^{ch} ffyne or Jncome the faid Jo. Braynes paid no penny to this depo^t for any thing he can Remember/ nor promyfed to paye this Depo^t any part therof/ And faith that he never reconed or reputed any perfone or perfonnes whatfoever as his tenant of the premiffes fyns the making of the faid leafe but onlye the faid James Burbage/ And faith that the Rent w^{ch} this Depo^t receyved for the premiffes before the making of the faid leaffe to the faid James Burbage/ was as he thinketh about xiiij^{li} by yere/ Marye he faith that fyns the making of the faid leafe/ Cuthbert Burbage the faid James Burbage fonne/ did paye this Depo^t Rent for the faid premiffes how often he Remembreth not/ faying vnto this depo^t/ that then he was this Depo^{tes} tenant of the premiffes/ by reafone he had [*Redemned the faid leafe his ffathers interest thereof* (stricken out)] the faid leafe/ But fhewed no assignem^t or other Conveyance to this depo^t made vnto him of the fame

To the 4. that he doth not Remember that the faid Johnne Braynes paid this Depo^t Rent at any tyme/ for the faid premiffes/ And faith that he cannot tell when the faid Braynes dyed/ But he faith that he well Remembreth that about vj yeres now paf^t/ ther was owing this Depo^t partlie for part of the faid ffyne or Jncome/ and partlie for arrerages of Rent for the faid premiffes/ about ffyftie poundes & vpwarde of the w^{ch}/ fo moche as was payd yerof was payd by the faid James Burbage & his assignes for any thing he now Remembreth/ But he faith ther is remayning & vnpayd of the fame, the fome of xxx^{li}/ at this daye/ Vpon the rest of the *Interrogatories* he is not ex^d/ by the direccion of the parties Defend^{tes} And more he faith not/

[Signed] Gyles Aleyn

Bryane Ellam of Silverftreete london Carpenter of the age of lviij yeres or therabouts fworne and ex^d the xxv daye of ffebruarye in the yere aforefaid &c To the firft Jnterrogatory that he did knowe Jo. Brayne whille he liued/ And knoweth all the parties p^l and Defend^{tes}/ and hath known them about xiiij or xv yeres/

To the 5. that he was one emonges others/ that of late yeres did view the new buildinges and the reparacions fett vppe & done by the now Defend^{tes} or of one of them of dyvers decayed howfes and Roomes in hallywell by Shordiche wthout Biffhops gate london/ taken of M^r Allen mencioned in this Jnterrogatory. And faith that they were viewed twice/ And faith that in ther Judgem^t, the faid new buildinges and reparacions in all manner of workes of the fame/ could amount to no leffe then about the fome of CCxl, or CCxxx^{li}/ the charge wherof for any thing this Depo^t doth know or then did heare/ was the faid defend^{tes}/ or one of them/ And fo hath this Depo^t and the reft of the viewers therof fett Down/ vnder ther handes/ and markes in A memorandum therof made in the defend^{tes} booke in Julye laft paft/ as by the fame maye appere/ And further faith that the faid defend^{tes} or one of them haue beftowed in further building & Reparacions of the Theater there [*& other the houfes in hollywell aforefaid (stricken out)*] wthin this vj or vij weekes paffed/ to the value of xxx or xl^{li} as this depo^t dothe eftymate the fame/ And for any coft & charges beftowed vpon the premiffes or vpon any part therof/ ether by the forefaid Jo. Brayne deceffed before he dyed/ or by his Wyfe the now comp^l fins his deceffe/ he faith he can fay nothing/ Only he Remembreth that the faid Braine being partener (as he tooke him) w^t James Burbage now one of the defend^{tes}/ of & in the premiffes/ payd this depo^t for fome work w^{ch} this depo^t did vpon the fame premiffes before he dyed the fome of xl^s, [*at fondrye tymes (stricken out)*]/ at the leaft xiiij yeres paffed/

Vpon the reft of the Jnterrogatories he is not ex^d by the dyrecion of the faid defend^{tes}/ or of one of them/

[His mark] /K

Rychard Hudfon of Pudding lane london Bricklayer of the age of xxxj yeres or therabouts fworne and ex^d the daye & yere aforefaid &c To the first Interrogatory. That he did know Johne Brayne deceffed named in this Interrogatory/ And knoweth all the parties p^l and defend^{tes}/ And faith that he knewe the faid Jo. Brayne about ij^o yeres before he dyed/ And hath knowen the comp^l and the defend^{tes} about A dofen yeres/

To the 5. that he was one emonges others/ that in Julye laft past/ did Survey and view the new buildinges and the reparacions done by the now defend^{tes} or by one of them/ in & vpon certen decayd houfes & places in hallywell nere shordiche wthout Bishops gate london/ And faith that in ther Judgem^t they could recone it to no lesse then CCxli^l or therabouts/ as by A memorandum vnder ther handes and markes written in the defend^{tes} Book of the fame/ may more plainely appere/ And further faith that the faid defend^{tes} or one of them haue fins that view bestowed in further building & repairing of the Theater or playhouffe there/ wherin he this depo^t was one of the workmen/ to the value of xxx^{li} or therabouts/ And faith that he cannot tell what some of money the faid Brayne/ in his lyf tyme or his wydow the now comp^l fins his decefe paid for or towards the building or Repayring of the faid Theater/ and other the premiffes/ But he faith that he did heare faye, that the faid Brayne/ and James Burbage now one of the defend^{tes} were parteners together of the fame Theater & other the premiffes/

Vpon the rest of the Interrogatories he is not ex^d by the dyrecion of the defend^{tes} or of one of them./

[Signed] Richard hudfone

William Clerke of Mugwelltreete wthin Cripple gate london plasterer of the age of lxxij yeres or therabouts fworne & ex^d the daye and yere aforefaid &c To the first Interrogatory. that he did not know Jo. Brayne named in this Interrogatory/ nor his wydowe the now Comp^l and of the ij^o defend^{tes} he knoweth

but James Burbage the ffather/ and hath known him about xiiij
or xiiiij yeres/

To the 5. that he was one emonges others, that at the Request
of the said James Burbage, did in Julye laft paft view the new
buildinges and reparacions of certain decayed howfes in hallywell
nere shordiche/ w^tout Biffhops gate london/ holden of one M^r
Allen there/ and they did judge in ther confcience that the
charges of the fame did amount to no leffe then CCxliⁱⁱ at the
leaft/ as they did then vnder ther handes and markes fett down
the fame in A Memorandum wrytten in the defendantes booke
as may appere by the fame/ And to the rest of this Jnterrogatory
he faith he cannot certenlye depofe/

Vpon the rest of the Jnterrogatories he is not ex^d by the direc-
cion of the defend^{tes} or of one of them/

[His mark] +

BURBAGE v. BRAYNE

*Idem, Bdl. 226, No. 10. Michaelmas, 33 and 34 Elizabeth, and
Trinity, 34 Elizabeth (1591-92).*

[Two skins of Interrogatories, one of them being for Hynde alone,
attached to seven paper sheets of depositions.]

INTERROGATORIES

Jurata coram me
Thoma Legg 8^o Maij 1592
Willms James Juratus
25^o Julij 1592 coram Jo. Hone

Articles to be mynyftred to Ellyn Gafcon late,
wief of W^m. White [*James Norman* (stricken
out)], Henry Bett, [*John Meade, Thomas Rum-
ney* (stricken out)], John Hynde and others
vpon the parte and behaulf of James Burbadge
Complaynante againft Margaret Brayne widdoe,
and Robert Myles Gouldfmythe defend^{tes}.

1. **Imprimis** did yo^u knowe John Braines whilest he lyued. And whither do yo^u knowe the parties plaintife & defend^{tes} And how longe haue yo^u knowen them.
2. **Item** what some of monye did the faid John Braines and Robert Myles owe to Noble, or White. And for what cause was the fame due. And whither was yt for Tymber and certaine worcke & frames erected in the Inn called the George in whitechappell. And whither did the plaintif Burbage become a fuertie for the fame. Yea or no.
3. **Item** did not the faid Braines and Myles promise to the faid white. That he shuld dispoase haue and hould a Myll howse scituat in the faid Inn vntill he had leved the faid debt at v.^{li} yerlie. Or els that the faid White shuld haue the rent of v.^{li} yerlie out of the fame Myll howse. And whither did the faid Myles and Braines speake to yo^u to entreat the faid White to accept the fame. And how came yt to pafe that the faid white had nether the Myllhowse nor rent.
4. **Item** was not the faid white offended therwth. And did not he thervpon take out proces to Imprifone them and ther sureties. And whither did the faid defend^{tes} entreat the Compl^t to become bound in a Recognizance or statute for the true payem^t of the mony accordinge to an order then taken. And whither did the faid white affigne and fett ouer to the Compl^t & to one Gardener the Bonde of the faid Myles, wth a lettre of Attorney to sue them yea or no. And who now hath the fame bond & lettre of Attorney. And whither did the defend^{tes} promise to dischardge the p^l therof
5. **Item** whither do yo^u knowe the hand writinge of the faid John Braine. And of Robert Myles. And whith^r is this lettre here presente the proper hand writinge of the faid Myles. And what some of mony did the faid Myles and Braines, or Myles him self, shewe yo^u in ther Accomptes or confese that the plaintif did

- owe to them, as paid by them for him to one John Hynd. And whither did thei or any of them declare to yo^u, that the plaintiff had paid to them or any of them all futch fomes of mony as had byn paid to the said Hynd for him. And whither did Thomas Rumney subscribe this Bill as witnes that the mony therin expressed was paid for the discharge of the said Myles. yea or no. And what can yo^u Roger Saunders saie therin
6. **Item** whither is this Bill of Accompt the proper hand of John Braine. And whither was the same written after the Award made between the p^t and the said Braine. And what haue yo^u herd the said Braine saie concerninge the said Arbitrement. And whither did he accompt the same to be dissolved, & not to be performed. And what reason had he so to saie. And whither is the fome of monye therin expressed that w^{ch} the defend^{tes} do challenge as laid out vpon buildinge of the Theatre by John Braine more then the plaintife beftoed. Yea or no.
7. **Item** what and how manye deedes of giftes haue yo^u knowen or haue herd That John Braine hath made of his goodes and Chattells. To whom haue the same byne made. How longe sythen, and for what confideracion. And whither were ther any futch made sythence the date of the said will & Testament of John Braine. And whither did the said Margaret Braine not wthstandinge the said deedes of gift, and will, go about to take letters of Administracion of the goods and Chattells w^{ch} apperteyned to her said Husband. And what was the cause she proceeded not therin as yo^u thincke. And whither do yo^u thincke that yt was the meaninge of Braines at his death, to make Myles a witnes of his Will and last Testament. Yea or no.
8. **Item to what** vallew or some of monye doth the bondes appere to arrive vnto, the w^{ch} Burbage hath discharged sythence the death of Braines wherof the said defend^t ought to haue paid a Moitie. Or what some of monye haue yo^u herd, that the said Burbage hath paid, or is to paie for Braines, sythenc his death.

And what may he inflie clayme in yo^r confcience of her towardes the fame. Or what may fhe duellie challenge of him the Compl^t by reafone of the Theatre. declare yo^r knowledge therin, And whither haue yo^u herd ther differences or Accomptes betwene them. Yea or no.

9. **Item** how longe is yt fynce That the faid Braines and Myles did abfente them feaulues for their Credito^{rs}. And how mutche monye did thei then owe. And whither were thei fo indebted for any caufe concerninge the Theatre. to yo^r knoweledge or as yo^u haue herd.
10. **Item** what fome of monye did Braines confefe to yo^u that he receyved out of the Theatre. And whither did he faie that the fame did arrife to a greter or leffer vallewe, then that w^{ch} he laid out, about the buildinge of the faid Theatre. And whither do yo^u thincke, that Braine did rune into Bondes and Credite for thinges about the faid Theatre, and imployed the monye he receyved ther, about other affaires. And that he neuertheles imputed that the ground of his hinderance and lofe, was by the Theatre and the buildinge therof
11. **Item** what thinge or matter Materiall do yo^u knowe or can yo^u declare concerninge the fomes of monye by Braine difburfed aboute the Theatre in his lief tyme Or by her the defend^t fythence his death. Or of or concerninge the will of the faid Braines. And the deedes of gift by him made. And for what vfe or pourpoafes the fame were made. And who maynteyneth the futes of the faid Margaret, And for what confideracion. declare yo^r knoweledge therin. And how often to yo^r knoweledge is the faid Robert Myles indighted for comon Imbarracie & Adultri or as yo^u haue herd, And whither was he called before the Coroners Inqueft for the death of Braine. Yea or no/

NOTE TO EXAMINER

[This note is attached in front of the interrogatories to the previous set of depositions, No. 9, in this same bundle 226, but belongs to the present set filed just after it and numbered 10.]

A Briefe noate for the ease & fpede of the Examiner, shewing how many Articles are to be objected to each partie, to be examined one thes Articles, & wherto thei can aunfwer.

- + *Imprimis* to Ellyn Gafcone. 1. 2. 3. 4.
Item to James Norman. 1. 2. 3. 4. 5. 6. 7. 11.
- + Item to Henry Bett. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11.
- + Item to [*John Mead* (stricken out)] M^r William James. 1. 5. 6. 7. 9. 11.
Item to [*Thomas Ramey* (stricken out)] and Rog^r Saunders. 1. 5.

[Of the above witnesses, only those were examined against whose names the examiner placed a cross, as will be seen by comparing with the depositions themselves.]

INTERROGATORIES TO HYNDE

John Hind Juratus
24 Julij 1592
Edw Hank

Interrogatories to be ministred vnto John Hinde on the behalf of James Burbage Plaintiff against Margaret Braine widdow and Robert Miles bear Clerk def

- Impr.** whether did yo^u John Hinde knowe one John Braine in his lief tyme, and whether do yo^u now know the partie plaintiff James
1. Burbage yea or noe./
- Itm** whether did yo^u John Hinde about xiiij yeares past in Anno 1579. the xxiiijth of June abowt twoe of the Clock in the afternoone
2. fend the Sherif his Officer vnto the Crofkeys in gracious fstreet

being then the dwelling howse of Richard Ibotson Cittizen and Bruer of London, and ther by vertue of precept to attache the bodie of this Complaynt, for the some of ffyve poundes one fhillinge and a pennye w^{ch} yo^u John Hinde had Recouered for coftes & Charges in lawe againft the faid John Braine & the faid Compl^t by a Nifi prius out of Ma^{tes} Benche at Westminfter tried in the guildhall in London, And whether did this Compl^t James Burbage fatiffie and paie vnto the faid Officer the faid some of v^{ll}. 1^s. 1^d. to yo^r vfe, And whether received yo^u the faid money of the faid Officer yea or noe/.

DEPOSITIONS

Ex parte Jacobi Burbage querentis versus Margaretam Brayne viduam et Robertum Myles defendentes Teste examinatore per Henricum Johnes in Cancellaria Examinatorem/

Henry Bett of the parishe of S^t Leonardes Shorditch, in the Countie of Middlesex gen, of the age of xliij yers or therabout, fworne and examined the Laſte daie of Septemb^r, A^o 1591 in the xxxiiijth yere of the raigne of our Sovereigne Ladie Quene Eliz &ct,

- 1 To the first Interrogatorie, that he hath knowen the Compl^t. James Burbege, about xiiij yers, and hath knowen the faid Robert Myles, and Margaret Braine the defend^{tes}, as longe, and that he well knewe John Braine whilst he lyved, by the fpace of many yeres
- 2 To the second iij and iiij Interr and to the matters in them Conteyned, this depon^t faith. That he the faid John Braine or Robert Myles, or both of them, were indebted to one Noble a Carpenter, for a frame for a howse, & certaine tymber beſtoed about the Inn, called the George in white Chappell, the certaine some wherof he remembrethe not, the w^{ch} debt one W^m white demaunded of them, by reaſone that he had taken to wief, the executrix or Adminif-

tratrix, of the goods of the faid noble, And did sue the faid Braine for the fame, in her Ma^{tes} co^{rt} called the kinges benche, in w^{ch} action the faid Burbege the Compl^t, became baile, wth others; and therin were overthroen & condempned/ whervpon afwell the faid Braine, as the faid Myles, did entreate this depon^t. to travell to the faid white, who was then this depon^{tes} Landlord, to take some reasonable order therin, & by the appointm^t, of the faid Braine & Miles, this depon^t. did offerr to the faid white, the rent of a Myll howfe, beinge v.^{li} *per annum*, or therabout; erected in the faid Inn, to be yerlie paid to the faid white vntill the faid debt, were levied, wherby the faid Burbege might be difcharged of the fame debt; the w^{ch} afwell the faid Miles, as the faid Braines, promifed alwaies to do, and to faue him the faid Burbege harmeles therin, but for that the faid v^{li}. rent, nor the faid myll howfe were not conveyed, ouer, to the faid white; nothings was then done nor any conclufion made in the matter. by w^{ch} meanes the faid White, did afterwarde pourfue the faid Braine and Burbege, wth others, the fuerties in the faid action, & had fome of them at the laft in prifone. But for that the faid Braine was then dead; an order was taken by the faid White, wth the faid Margaret Braine, and wth Burbege and one Gardener, that thei fhuld be bound in a ftatute, or Recognifauce to the faid white, for the paym^t of a certaine fome of monye, at certaine tymes appointed, in refpecte of the faid debt; the w^{ch} bond was fo made, and the bonde wherin the faid Myles and Braines, or one of them was firft bound in vnto the faid noble, for the monye for the fame frame, was affigned and fett ouer wth aucthoretie, from the faid white, to the faid Burbege, and the reft, to fue the faid Miles for the fame yf in cafe he did not yeld fome monye for the fame frame, for that the fame came only to his handes, after the death of Braine, the w^{ch} bond and aucthoretie (as this depon^t hath herd faie) was deliuered to the faid Myles by the faid margaret, to prevent the faid Burbege therin, and further herin he faiethe not

To the v Interrogatory this depon^t faiethe, That the *lettre* or writinge produced & to him fhewed at the tyme of this his exami-

nacion, is the proper hand writinge of the faid Robert Miles written to the faid Burbege, the now Compl^t. this he knowethe to be true, for that he this depo^t at the request of the faid Burbege, who was moved therat, did go to conferr wth the faid miles, about the matters therin./ who did then confesse, that the same was his hand, & thate he did demaunde, the Moitie of the xxvj^{li} x^s i^d. of the faid Burbege/ paide to the faid John Hynd in the Interr named/, by force of a precept and execucion laid on him the faid Myles as a fuertie for Braines, yt beinge also, the debt of the faid Burbege; acknowledginge also, that he had receyved vj^{li} of the faid Burbege towardes the faid moitie, but at what tyme the faid letter was written, this depon^t remembrethe not, but he thinckethe yt was since the dethe of Braine, and this depon^t further faiethe That in the life tyme of the faid Braine, the faid Myles and Braines, reasoning together about dyvers matte^{rs}, in ther accomp^{tes}, befor this depon^t, he the faid Myles did chardge the faid Braine that he had susteyned dyvers troubles, for him, and recited his trouble for the faid debt, At w^{ch} tyme, the faid Braine did then afferme, before the faid Miles, That he for his parte had paid to the faid Miles, to fatiffie Hynd, the one half of the faid monye paid to Hynd & that Burbege, whom he called his brother, had fatiffied the other half also, and therupon he produced a Booke of Reconinges betwene them importinge asmutche, the w^{hc} the faid Miles, did not then contradict, but rather confessed, only reporting and ftanding vpon his trouble, for the same. and more in this matter he now remembrethe not, but refferrethe him self to his examinacion taken in that matter in London.

To the vj Interr this depon^t faiethe, That the noate and fomutch of the writinge therin vndefaced now produced and to him shewed, at the tyme of this his examinacion, is the proper hand writinge of John Braine, the w^{ch} he well knowethe, for that he had often sene him write, and that he knowethe that Burbege did demaunde the same somes of monye, in the faid noate, confessed to be by him the faid Braine Receyved, beinge 135^l 1^s wth other somes afterwardes by him Receyved, the w^{ch} he refused to yeld,

aunfweringe in the prefence of this depon^t, to the faid Burbege, that he would deteyne the fame towards the payem^t of that some of monye, by him laide out, towards the first buildinge of the Theatre, the w^{ch} the faid Braine, confessed in A^o 1582 to be but 239^{li}—6^s—6^d for his parte in all/ And all be it, the faid deteyner, was contrarie to the award, w^{ch} was made betwene them in that matter, yet he affermed, that he neyther could nor would performe the fame award: all this matter this depon^t knowethe to be true, for that he hath byne often tymes required, by both the faid parties, to heare ther differences, and to write fuch matter as thei thought fitt to be equall betwene them, and further in this matter he faiethe not faving that he beleevethe that the noate and name of Rumneys, produced, to be the proper hand wryting of the faid Rumney/

To the vij Interr he faiethe, That yt was a Comon thinge, wth the faid John Braine, to make deedes of gifte of his goodes and Chattelles, the reafone was as this depon^t taketh yt, to prevent his Credito^{rs} afwell before buildinge of the Theatre, as fince, for he beinge redie to be imprifoned for debt he would prepare futch fafetie for his goodes, as he could/ by thofe deedes, who [sic] fomtyme were made to one Tomfon, and fomtyme to one Gardener, and as this depon^t hath herd to one m^r Afhebourndham, and others: but the reafon whi thei do not challenge the fame goodes, accordinge to their giftes, this depon^t knowethe not, and he further faiethe, that he is perfwaded in his confcience, that yt was not the meaninge of the faid Braine at the tyme of his deathe, to make any will, nor to call Myles then, to be a witness therof, for that at his deathe (as this depon^t. hath herd it credeblic reported) he charged Miles wth his deathe, by certaine ftripes geven him by Miles who was afterwardes, called by the fute of the faid Margeret, befor an enqueft held by the Crouner for the Countie of Middlesex, for the enquirie therof. and alfo for that the faid Braine did walke at libertie, wth the faid Miles by licence of ther Credito^{rs}, by force of certaine tolleracions to them made, and otherwife.

To the viij Interr and to all the matters in it conteyned, he can say no otherwife than he hathe faid and depoafed, beinge examined vpon the parte and behaulf of the faid Burbege, beinge defend^t at the fute of the faid Margaret Braine, favinge that he thinckethe, that Braine, did Receyve more monye by a grete fome then he laid out in the Theatre, and that yt could not be his vndoing for he beleevethe, that he was not of fuch abillitie, as the faid Miles reputethe him to haue byne, before the buildinge of the Theatre, the rather for that he had made one or more deedes of giftes of his goodes, ether before, or in the tyme of the buildinge therof and further to this Interr faieth not

To the ix he faiethe That true it is he this depo^t at the Request of the faid Brayne did write certaine petitions, for the fame Braine and Myles, to crave favore at ther Credito^{rs} handes, to whom thei did owe about viij or ix C^l, the w^{ch} was not (as he takethe it) for any matter concerninge the Theatre, but for Matters concerninge the Inn called the george in white chappell/ and more to this Int he faith he can not certainlie depoafe/

To the x and xj articles this deponent faieth, That Braine would never plainlie declare, how mutch he had receyved concerning the Theater, for that he alledged, yf the trve vallew and fome; were known that yt would hardlie be allowed him but yt feemed by his taulke, that he had gayned & receyved a grete deale of monye, more then he had disbursed: But after that certaine futes were moved betwen one M^r Peckham, and Giles Allen, about the intereft and title of certaine Land in Hollywell, wherof the Theatre was parcell, the faid Braine did take and keepe the moft parte of that he did receyve contrarie to the forefaid arbitrem^t, and femed to be careles of the fame Leafe, the rather, for that yt was mortgaged; and would often tymes confesse, that yf the faid Leafe might not be redemed wth the profittes therof, that yt fhould neuer be redemed for him/, and made careles and inconvenient bargaines, about the faid leafe, after it was mortgaged; and faith that befor the faid Leafe was conveyed to Cuthbert Burbege, the faid

John Braine died, after whose death the said Margaret did take vp some monye at the plaie howse, called the Curtine, but by what right or by whose sufferance, she so receyved the same, this depon^t knowethe not, and to that point of thes Interr about the mayntenance of the said Margaret Braine in these futes, this depon^t faiethe, That he can say nothinge but he hath heard yt reported, that the said Myles hath made great boast, that it is he, that will maynteyne and defend her herin, al be it she did procure his trouble before the coroners enquest and did impute to him the death of her husband, and procured him to be indighted as a comon barreter, but of his owne knoweledge herin, he knoweth nothinge, nor further, Matter to thes Interr to his *presente* remembraunce can declare/

[Signed] Per me Henricū Bett.

Elene Gafcoyne wyfe of Percyvall Gafcoyne of london peawterer of the age of 1the yeres or therabouts/ fworn and exd the viij Daye of Maye in the xxxiiij yere &ct

To the first/ Interr/ that she knew Jo. Braynes deceffed/ And knoweth the now comp^l James Burbage/ And knoweth Margaret the said Jo. Braynes wydow, and also Roberte Myles, the nowe defend^{tes} in this caufe/ and faith that she hath knowne the now comp^l James Burbage about a dozen or xiiij yeres and the said wydow braynes about the same space/ but for the other defend^t Myles/ she faith that she hath not known him but about x yeres/

To the 2. Int. that as she dothe Remember/ the said Brayne & Myles did owe to this depo^{tes} late husbände Noble/ the some of xx^{li} or therabouts vpon ther bonde/ and when the said Noble dyed/ the said debt grew due to her fecond husband Whyte in the right of this depo^t/ as Executrice of her husbandes/ Nobles will/ And faith that the said money grew due for Carpentrye wo^rke at the Jn w^out Allgate called the George/ w^{ch} money/ being vn-payed in her husband Whytes dayes/ the said whyte caused the said Brayne to be arested for the same/ and then vpon composition and a daye fixed for the paym^t therof/ James Burbage the

now comp^l/ and one Gardener were furetyes for the paym^t of the fame/ and of more money w^t all/

To the 3. that she doth well Remember/ that ther compoficion for the paym^t of the faid debt to the faid whyte was v^{ll} by yere/ till the fame debt were fullye payd/ But out of what place/ or thing/ it was to be payd/ she faith she doth not fo Remember/ And to the rest of this Jnt she faith she cannot depofe/

To the 4. that true it is bothe she this depo^t and her faid husband Whyte made many Jo^rneys from ther houffe in St Johnes ftrete to the place called the Theater beyond Shordiche/ to the faid Brayne/ for the faid money/ but had it not w^t the w^{ch} this depo^{tes} faid husband Whyte was moch offended/ and in the end fewd the faid Suretyes for the fame/ Whervpon the faid Brayne & his furetyes did compound the matter w^t the faid Whyte/ & for the performaunce of ther compoficion/ they became bound to the fame Whyte ether in A Statute or Recognifaunce/ But whether her faid husband Whyte/did affigne & fett over to the faid James Burbage/ or to any ells, the bond wherin the faid Brayne and Myles ftood firft bound for the paym^t of the money w^t A *lettre* of Atto^rney to few them thervpon/she faith she cannot certenlye depofe/ Nor more can fay to this Jnt/ Vpon the rest of the *Jnterrogatories* she is not ex^d/ by the direction of the faid James Burbage the now comp^l/

[Her mark] ✕

Johne Hynde of london haberdaffher/ of the age of lxiiij yeres or therabouts fworne and ex^d the xxiiij daye of Julye in the yere laft aforefaid &ct

To the firft Jnt mynistred vnto him/ that he knew Johne Brayne/ named in this Jnt whille he lieved/ and knoweth James Burbage the now comp^l

To the 2. that true it is he this depo^t about xiiij yeres past/ w^{ch} as he thinketh was in Anno Dni/ 1579. and as he taketh it/ about

the xxiiijth Daye of June in the after noon/ did caufe one Saunders/ then one of the Se^riauntes at mace to the Shyreff of london/ or his yeomen/ to arrest and attache the body of the now comp^l as he came down Graces fstreet towards the Croffe Keys there/ to a Playe/ for the some of fyve pounds & xiiij^d/ the w^{ch} this depo^t by Ordre of lawe had before that Recovered for charges in Sute of law againft the faid Johne Brayne/ and the now comp^l/ by a nifi prius tryed in the Guilde Halle/ london And the faid Saunders did accordingleie execute his p^rcepte, vpon the bodye of the faid comp^l/ And whether it was that daye/ or how foon after/ he doth not now Remember/ the faid Saunders came to this depo^t/ and payd vnto him/ the faid some of v^{ll} xiiij^d in discharge of the faid Recouerye/ And this is as moche as he can faye to thefe Jnt/

[Signed] by me John Hynd

William James of Chapell Ifode in the Countie Dublyn wⁱⁿ the Quenes Ma^{tes} Realme of Ireland/ gent of the age of xlj yeres or therabouts fworne & ex^d the xxiiij daye of July in the yere aforefaid &ct

To the firft Jnt. that he did knowe John Braynes deceffed named in this Jnt And knoweth all the parties p^l and defend^t/

To the 5. that he doth think he knoweth the hand wrytinge of the faid Jo. Braynes/ partlie by waye of wryting of his owne name to some Acquittance or Acquittances/ made to this depo^t/ And partlie for that about Anno 1579 he saw the hand of the faid Jo. Brayne to a dede of gyft produced by one William Thomson of Ratcliffe before this depo^t when he was the lord wentwo^rth bayliffe of his Mano^r & libertyes of Stebnethe/ this depo^t being then to extend the goodes of the faid Jo. Braynes/ at the Sute of one Jo. Hynde/ for xxv^{ll} x^s i^d debt & damages or therabouts Recouered againft the faid Jo. Brayne/ w^{ch} Dede of gyft (as this depo^t then took it) was made by the faid Braynes to the forefaid William Thomson/ that maryed the faid Braynes wyves Sifter/

rather of *purpose* to defeat and defrawde the said Execution/ and others that afterwardes came against him/ then of troth or true *meaning*/ And therefore this depo^t wold not allowe of the said dede/ But to the handwryting of Robert Myles/ he knoweth it not And more or further to this Jnt. he faith he cannot depofe

To the 6. that he doth verelie think in his confcience/ that the Bill of Accompte shewed to this depo^t in a Booke of Reconinges at the tyme of this his *Examinacion*/ is the *proper* handwryting of the said Jo. Braynes/ But whether the fame Bill was written after/ or before any Awarde passed betwene them/ he faith he *can* not tell/ Nor more can faye to this Jnt./

To the 7. that he *cannot* tell/ nether hath he heard of any mo Dedes of Gyfte that the said Jo. Brayne made to any other *per*-*fone* or *per*-*fon*es of his goodes and chattells other then he hath before said in the 5. Jnt. And to the rest of this Jnt. he faith he *cannot* depofe/

To the 9 that he *cannot* tell how long it is fyns/ that the said Jo. Braynes/ and the foresaid Robert Myles did absent them selves from ther Credito^{rs}/ nor how moche money they owed ther Credito^{rs}/ nor how ther debt grew/ But he faith that he well Remembreth that in Anno 1582 or therabouts/ he this depo^t being Bayliff of the Mano^r and libertyes afore said/ ther was Dyrected vnto him/ at the Sute of one Anne Wilbram wydowe/ one Execution of an C^{li} debt against the body of the said Jo. Braynes/ But after long travell and ferche made for the said Jo. Braynes/ he this depo^t nor any vnder him could fynde him/ by reafone wherof/ he this depo^t was dryven to make his Reto^rne of non est inventus/ And further faith that about A^o xxv^{to} of her said Ma^{tes} Reigne/ ther was another Execucion Directed vnto him/ against bothe the said Jo. Braynes/ and the foresaid Robert Myles at the Sute of one Jo. Banberye gentleman for lxxx^{li} debt/ by vertue wherof this depo^t was not onlye to extend ther goodes but also to attache ther bodies/ but by reafon they both absented

them selves/ he this depo^t made the lyke Reto^rne for ther bodyes as aforefaid/ But inqyred of ther goodes to that value/ and certified the fame accordingle/ And what other some or fomes of money they owed to any other *persone* or *perfon*es at that tyme/ other then he hath before faid/ he faith he knoweth not but he thought them to be gretly in debt for that Braines afterward told him this deponent that they had a proteccion vnder S^r Water Waler knight/
Nor more cann faye to this Jnt./

To the rest of the Jnt. this depo^t faith that he cann say nothing Nor more faith in this matter/

[Signed] W James

BRAYNE v. BURBAGE

Idem, Bundle 228, No. 11, Hilary, 34 Elizabeth (Jan.-Feb., 1591/2.).

[One skin of interrogatories, with a small paper note pinned to it, *ut infra*. Skin good, down to Interrogatory 12; bad from there on, some portions nearly illegible. Skin thonged to 12 large sheets of paper, usual deposition size, bearing signed depositions, *ut infra*.]

INTERROGATORIES.

Intergatories to be ministred on the *parte* & behalf of Margarett Braynes widowe Complaynant agaynst James Burbage Cuthbert Burbage & others defendantes

- I **Imprimis** whether doe ye knowe the *partye* playntif, & the *parties* defendantes yea or no, Yf so then, whether doe ye knowe of any fute *Commened* by the faid Margarett Braynes agaynst the fayd defendauntes of & Conceareinge her tittle vnto the moitye of the Theato^r and all the howses, and other landes and tenementes therevnto belonging in the *parishe* of Saynte Leonardes in Shor-dyche in the Countye of Midlefex, yea or no.

- 2 **Item** whether doe ye knowe of your owne knowledge, or have heard faye, that divers Controverfies and Contentions weare betweane the fayd James Burbage and one John Brayne the late houfbande of the fayd Complaynant nowe difceafed touchinge the fayd theato^r. And whether did not they submitt themselves vnto the arbitrament of Certayne *perfon*es for the pacificatione of all matters betweane them. And whether did not the fayd arbitrators awarde that the fayd James Burbadge hys executo^{rs} and affignes shoulde enjoy the one moitye of all the *profittes* of the *premisses* And the fayd John Brayne hys executo^{rs} and affignes shoulde enjoye the other moitye of the *proffettes* yea or no.
- 3 **Item** whether did not they also awarde that yf occasione shoulde be to morgage the *premisses* for the borrowinge of money to pay *debtes* or for the *perfourmeinge* of any necessar^ye thing Con-*cearneinge* the Theato^r, that then bothe they shoulde ioyne in morgage, and the money *comminge* and *rylinge* of the *profittes* of the fayd Theato^r to goe to the redemptione of the fayd morgage yea or no.
- 4 **Item** wheather did not the fayd James Burbadge and the fayd John Brayne accordinge to the fayd arbitrament morgage the fayd Theato^r and other the *premisses* vnto one John Hyde Citizen and Groser of London for the some of one hundrede twentye and fyve poundes or there aboutes to be repaid at a Certaine day and tyme in the fayd morgage lymitted yea or no.
- 5 **Item** whether was the fayd Theato^r and other the *premisses* for-*fatid* vnto the fayd John Hyde yea or no, for that he was not payed hys money at fuche dayes and tymes as was by the fayd morgage agreed vpon Yea or no.
- 6 **Item** what somme or sommes of money was payd vnto the fayd John Hyde by the fayd John Brayne and the fayd James Burbadge in the lyf tyme of the fayd John Brayne before the forfeiture of

the *premisses* and what *fomme* or *fommes* of money was left vnpayed at the tyme of the death of the faid John of the aforefayed *fomme*, fo^r the w^{ch} yt was morgaged for & what ys paid fythens his death.

- 7 **Item** whether did not the faid John Hyde often tymes faye vnto the faid John Brayne and the faid James Burbage and vnto the now *Complainant* and to others that if he were payde his monye that was dewe and confideracion for the forbering of hit that he woulde never take any advantage of the faid forfeiture/
- 8 **Item** whether did not the faid John Hide promiffis vnto the faid *Complainant* that yf he were payde his monye that then he woulde assure the *premisses* vnto the faid *Complainant* and vnto the faid James Burbage becaufe he had hit from the hufbonde of the faid *Complainant* and the faid Burbage and nowe by the death of her hufbonde his *parte* belongeth to the faid *Complainant* and the rather to for [sic] that he was payde all his monye favinge Thyrtye poundes or thereaboutes in the life of the faid Brayne/
- 9 **Item** whether did not the faid Margarett Brayne offer to paye the faid thyrtye poundes vnto the faid John Hyde if he woulde reaffure the *premisses* over to her and if he woulde fo doe she woulde be bounde to convaye over a moitye therof vnto the faid James Burbage in faying that althowgh Burbage woulde defeate her of her righte yet she woulde not fo deale with him And what aunfwer made the faid John Hide thervnto/
- 10 **Item** whether did not the faid James Burbage of purpofe detayne the *proffites* of the *premisses* in his one handes of purpofe to make a forfeiture vppon the morgage ye or no And whether did not the faid James after the death of Braynes vtterly denye the faid *Complainant* to receaue any more *proffites* of the *premisses* Contrary to the Arbitramente wherby the faid John Hyde was not payde his monye accordinge to the faid Arbitramente with the *proffites* of the *premisses* as oughte to haue binne by the awarde/

- 11 **Item** whether did not the faid James Burbage intreate the faid John Hide to conuaye the *premisses* vnto Cutbarde Burbage his sonne of porpofe to defeate the faid *Complainant* of her moyetye in the *premisses* ye or no, if so then whether did not the faid John Hyde faye that she shoulde haue her moyetye before he woulde conuaye the *premisses* excepte both the faid James and the faid Cutbarde woulde promiffe that she shoulde haue her moyetye and righte at there handes. ye or no/
- 12 **Item** whether did not the faid James and Cutbert often tymes *promiffe* the fayd Complaynaunt that she shoulde haue her moitye in the *premisses*, and for that *purpose* he suffered her to enioye yt and after putt her moſte vnconſcionablye from yt./
- 13 **Item** whearas there was an order the thirteanthe of November in the two & thirtythe yeare of the Queanes M^{tes} raigne made in the Chauncerye betweane the faid James Burbage Cuthbert Burbage & others *defendants* and the faid Margarett Braynes *Complainant* that eche *partie* and their *affignes* shoulde *performe* an arbitrament made *Concearneinge* the *premisses*, and wheather did not the fayd Margarett Braynes fo^r her *parte* come diuers tymes to the theato^r & other the *premisses* to entreate the fayd James Burbage and the fayd Cuthbert Burbage that she might enioye he^r moitye of the *premisses* accordinge to the arbitrament & order thearin taken and what weare the *ſpeeches* of the faid James, Cuthbert & Richard Burbage therevnto to your remembraunce, And what do you knowe thearin *ſpeake* yo^r wholl knowledge/
- 14 **Item** what *fomme* or *fommes* of money or other *profittes* hathe the faid James Burbage and Cuthbert Burbage receeved for the Theator and other the *premisses* ſithens the laſt accompte or reconeinge made betweane the fayd John Braynes & James Burbage to your knowledge or remembraunce, and what you knowe thearin, *ſpeake* yo^r wholle knowlege And what yo^u thinke the faid John Braynes beſtowed in buildinge of the Theator [for his

parte] and what money is dewe vnto him by any of the Burbages to yo^r knowledge

Scott [Attorney]

[Pinned to this skin of Interrogatories is a slip of paper addressed to Mr. Henry Jones, examiner, by Dr. Legg, Master in Chancery, as follows:]

M^r Jones M^r D^r Stanhope & I are defyrours that yow take y^o examinacons of fuch witenes w^{ch} fhall be sent to yow in a caufe betwen widowe brayne pl. & two burbadges defendantes.

[Signed] Tho Legge

[On the upper left corner of skin is the note of three of the four examinations, as follows:]

Joannes Hyde iuratus

29 Januarij 1591

Radulphus Myles iurat/

29 Januarij 1591

Tho Legge

Nicholaus Bifhopp iuratus

29 Januarij 1591

Tho Legge

DEPOSITIONS

Responſio Nicholai Biſſhoppe ad ar^{los} Margarete Braynes querentis verſus Jacobum Burbage et Cuthbertum Burbage defendentes/ per ordinem Curie capta per Henricum Johnes in Cancellaria Examinatorem/

Nicholas Biſſhope of the pariſhe of whyte chapell w^tout Allgate london Sope ma^{ker}/ of the age of xxxij yeres or therabouts fworne and ex^d the xxix daye of Januarye in the xxxiiij yere & ct^r

To the firſt Jnt. that he doth know all the parties *plaintif* and defend^{tes}/ And knoweth ther is Sute betwene the ſaid parties/

for and concerning matter of the Theater at Hallywell/ the particularitie wherof he knoweth not/

To the 2 that he doth knowe ther was some Sute betwene James Burbage one of the now defend^{tes}/ and Jo. Brayne deceffed the late husband of Margaret Brayne/ in matter concerning the faide Theater/ And to the rest of this Jnterrogatory he faith he cannot depofe/

To the 3 that he is ignorant

To the 4 that he is ignorant

To the 5 that he is ignorant

To the 6 that he is ignorant

To the 7 that he can fay nothing

To the 8 that he can fay nothing

To the 9 that he can fay nothing

To the 10 that he can fay nothing

To the 11 that he can fay nothing

To the 12 that he is ignorant

To the 13 that he doth Remember he hath fene fuche an ordre as in this Jnt. is mencioned/ for the performance of fuche an Arbytryment/ And doth know that the faid Margaret Braynes w^t one Robert Myles came at feuerall tymes to the faid Theater & namely vpon one of the playe dayes and intreated James Burbage one of the now defend^{tes} that she might enioye her Moytie of the premiffes according to the Awarde/ and Ordre of the Chauncerye/ And the anſwer w^{ch} James Burbage made therunto/ was

that before she shuld haue any thing to do there/ she shuld shewe good ordre for it/ and then she said Myles said that he had a sufficient ordre of the Chauncery for the same/ & shewed him some papers/ and then she said James Burbage called his Rascall & knave/ and said that before he wold lose his possession/ he wold make xx contemptes/ and then/ the wyfe of the said James/ and ther yongest sone called Rychard Burbage/ fell vpon the said Myles & beat him and drave both him and the compl^l away/ saying that yf they did tarye to heare the playe as others did/ they shuld/ but to gather any of the money/ that was gyven to [*come in* (stricken out)] go vpon/ they shuld not/ And faith that Cuthbert Burbage the other of the defend^{tes} was not there/ to his Remembraunce/

To the 14. that he [is] vtterlye ingnorant/ Nor more can saye to all the said Jnterrogatories/

[Signed] Nicholus Byshop

John Allen of the parishe of S^t Buttolles wthout Bishops gate london Jnholder of the age of xxxv yeres or yeraboutes sworne and ex^d the vjth daye of ffebruary in the yere aforesaid & ct^r. To the first Jnt that he doth knowe all the parties plaintif & defend^{tes} named/ And knoweth of the Sute betwene the said compl^l/ and the said defend^{tes} concerning her tytyle in the moytie of the place called the Theater and of the houses and tenem^{tes} longing to the same/ in S^t leonardes parishe in Shordiche nere london/

To the 2. that he doth knowe that whille the now compl^{tes} late husband Brayne lyved/ the originall of the said Sute and controuercyes began betwene him & James Burbage the one of the now defend^{tes}/ for & about the interest & tytyle w^{ch} the said Brayne had in the said Theater & premiffes/ And faith that he hath credible heard/ and beleveth to be true, that for A quyet end & order to be had in the said Sute & controvercie then betwene them/ they did submitt themselves to the Arbytryment & Award

of indyffrent ffrendes/ and that they made and Award in the fame betwene them/ the certentye wherof he knoweth not/ But he hath heard it fayd/ that they Awarded the one half of all the profittes growing by & of the faid Theater to the faid Brayne his executo^{rs} & affignes/ and the other half to the faid James Burbage/ his executo^{rs} and affignes/

To the 3. that he is *ingnorant*

To the 4. that he hath heard James Burbage the one of the now defend^{tes} faye & affirme/ that he and the faid Johne Brayne did Morgage the faid Theater and the foresaid premiffes/ to John Hyde named in the Jnt/ vpon the some of one hundredth twentie and fyve poundes or therabouts/

To the 5. that he hath hearde both the faid James Burbage/ and the now comp^l faye & afferme that the faid Morgage fell forfeited to the said Hyde/ for the not repaym^t of the faid Cxxv^{li} at the daye fixed for the repayment therof/ by the faid Morgage/

To the 6. that he is *ingnorant*

To the 7 that he can fay nothing

To the 8. that he can fay nothing

To the 9 that he can fay nothing

To the 10. that he doth think in his conscience/ that the faid James Burbage did detayne the profittes of the premiffes in his own handes of purpofe/ that the faid morgage fhuld be forfeited/ And after the death of the faid Jo. Brayne/ did vtterlye deny/ that the now comp^l fhuld receyve & have any more benefitt or profit of the fame/ contrarye to the foresaid Awarde/ So as therby the faid Hyde was not payd his money w^t the proffyttes of the premiffes/ as it was truelie ment and intended by the faid Award/

To the 11. that he can fay nothing

To the 12. that he knoweth not whether the said defend^{tes} did promiffe the comp^l that she shuld haue the Moytie of the profittes of the *premyffes*/ But he faith that he well knoweth that she had for a tyme, her parte in the *premyffes* and did enioye it/ but how afterwardes she was put from it/ he faith he knoweth not/ otherwyse then as he thinketh/ by the wrongfull dealing of the defend^{tes}/ w^t her/

To the 13. that he doth knowe/ that after the compl^{tes} husband Brayne dyed/ And y^t Sute followed afterwardes betwene her then wydowe/ and the said defend^{tes} concerning her tittle by her husbandes death to the one half of the profittes of the said Theater/ in the Chauncerye/ the said Co^rte of Chauncerye made an Ordre/ that aswell the defend^{tes} as the said comp^l shuld on ether of ther partes/ performe the Arbitrym^t & Award w^{ch} had bene made before that/ betwene the said Jo. Brayne/ and the said James Burbage/ w^{ch} was/ as is beforesaid/ that ether of the said Jo. Brayne/ and James Burbage/ shuld by even porcions devyde the proffittes and benefit Ryfing by the vse of the said Theater/ betwene them/ ther executo^{rs} and assignes/ And faith that he hath sene the same comp^l w^t one Myles come Dyvers tymes to the said Theater/ & hath desyred the said defend^{tes}/ that according to the said Arbytrament & Ordre of the Chauncerye/ she might take Receyve and enioye her Moytie of the said profittes/ And the said defend^{tes} and one other of the said James Burbage sones called Ry. did raylle vpon the comp^l/ and the said Myles & w^t vyolence Drove them out/ [*And sayd that they wold not leave the possession of the* (stricken out)] saying that she shuld haue no Moytie there/ And then this depo^t/ being there/ did as a *seruaunt* wishe the said James Burbage to [*take hede* (stricken out)] haue A conscience in the matter saying vnto him/ that he him self knew that the woman had A right in the same by her husband/ and y^t it was her husbandes welthe that builded the Theater/ as every bodye knoweth/ and he then did *answere*/ hang her ho^r qd he/ she getteth nothing here/ lett her wyn it at the *Commen* lawe/ and bring the Shiref w^t her to put her in possession/ and then he wold

tell her more of his mynde/ Then this depo^t told him that though he overreached her husband being but a plaine & fymple man/ yet she being enforced to feke remeadye against yo^u/ hath the Chauncerye being the highest co^rte and A co^rte of confcience on her fyde and hath an Ordre out of the fame to haue her moytie therof/ Confcience qd he/ godes blood what do yo^u tell me of Confcience/ or Ordres/ No qd this depo^t/ Remember yo^r self well/ ffor yf my lord Chauncello^r/ make an Ordre against yo^u/ yo^u were best to obey it/ otherwyse it will prove A contempt/ and then yo^u shal purches my lord Chauncello^{rs} Displeasure/ and he made answere that he cared not for any contempt/ saying/ that yf ther were xx contemptes/ and as many Jniuncions he wold w^tstand them all/ before he wold lose his possession/ And further faith that/ when this Depo^t about viij Daies after came to him for certen money w^{ch} he deteyned from this depo^t and his fellowes/ of some of the Dyvydent money betwene him & them/ growing also by the vse of the said Theater/ he denyed to pay the same/ he this depo^t told him that belike he ment to deale w^t them/ as he did w^t the po^r wydowe/ meaning the now comp^l/ wishing him he wold not do so/ for yf he did/ they wold compleyne to ther lorde & M^r the lord Admyrall/ and then he in A Rage litle Reuerencing his hono^r/ & estate/ sayd/ by a great othe/ that he cared not for iij of the best lordes of them all/ And further faith/ that at the tyime when the comp^l and the said Myles Requyred (as is beforefaid) her Moytie of the said Theater & premiffes this depo^t found the foresaid Ry. Burbage the yongest sone of the said James Burbage there/ w^t A Broome staff in his hand/ of whom when this depo^t asked what sturre was there/ he answered in laughing phrasè hew they come for A moytie/ But qd he (holding vppe the said [*staff of that stuck in the* (stricken out)] broomes staff) I haue, I think deliuered [*them* (stricken out)] him A moytie w^t this & sent them packing/ and then this depo^t sayd vnto him & his ffather/ that the said Myles might haue an Accion against the said Rychard/ Tufche qd the father/ no J warraunt yo^u but where my sone hath now beat him hence/ my sones/ yf they wilbe Rueleed by me/ shal at ther next coming pro-

vyde charged Pistolles w^t powder and hempfede/ to floote them in the legges/ But to his Remembrance he saw not Cuthbert the other defend^t there/

To the 14. that he knoweth not whan the last Accompte was made of the profittes of the said Theater betwene the said James Burbage/ and the said Jo. Braynes/ But he saithe/ that for these v. yeres he verelie thinketh that the said James Burbage hath Receyved at the least of the *profittes* of the said Theater & other the *premisses* to the same belonging/ an hundreth poundes or CC *markes* by yere/ for his owne share/ And more he saith not to all the said *Interrogatories*/

[Signed] Jo^a Allein.

Raphe Myles of london Sope maker/ but free of the company of the Gold smythes/ of the age of xxvij yeres or therabouts sworne & examyned the xth Daye of februarye in the yeare afore-said & c^r To the first Jnt that he doth knowe all the *parties* p^l and defend^{tes} And knoweth that ther hath bene & yet is Sute & *contrauercye* betwene them/ for the one half & Moytie of the Place called the Theater at Shordiche nere london/ & of the howses & tenem^{tes} longing to the same/

To the 2. that he hath heard by credible report/ and beleveth to be true that ther was *controvercy* and *contencion*/ betwene Jo. Brayne deceased the late husband of the now comp^l/ and James Burbage one of the now defend^{tes}/ touching the said Theater/ And that they submitted them selves to the ordre and Arbitryment of certen *perfon*es for the pacyfication therof/ to witt one John Hill/ and Richard Turno^r And that they made an Award betwene them in Julye 1578. in the xxth yere of her Ma^{tes} Reynges/ by w^{ch} Awarde/ they ordred that the said Jo. Brayne his executo^{rs} & assignes shuld haue & enjoye the one half or moytie of the *Rentes* and *profittes* Ryfing and growinge of the said Theater & of the howses & buildinges therunto belonging/ and the said James Burbage his executo^{rs} and assignes to haue & enjoye the

other half or moytie of the *premisses*/ w^t Dyvers other *covenantes* as by the fame Award maye more at lardge appere/ w^{ch} this Depo^t hath redd/

To the 3. that the said Arbitrato^{rs} did also award/ that yf occasion fhuld move them to borow any some of Money for the paym^t of ther debtes owing for any necessarye vse & thing concerning the said Theater/ that then the said James Burbage and the said Jo. Brayne/ fhuld Joyne in pawning or morgage of ther estate & interest of & in the fame/ and the money that fhuld ryfe of the Rentes and proffittes of the fame Theater & of the howfes apperteyning therunto/ fhuld go to the Redempcion of the said Morgage/ The w^{ch} Morgage being redemed/ and fuche debtes as then were owing dew for & about the matter of the said Theater being payde/ that then the said Jo. Brayne his executo^{rs} & assignes fhuld take haue & enioy to his owne vse/ all the proffittes of the said Theater till he were satiffyed of fuche some of money as the said James Burbage was owing vnto him for and in lieu of fomoch more money lade out & defrayed by him vpon & about the said Theater/ then the said James Burbage had lade out in the fame/

To the 4. that he doth knowe/ that for the some of one hundreth twentie & fyve poundes/ or therabouts/ the said James Burbage and John Brayne did morgage ther lease & interest of the said Theater & of the *premisses* longing to the fame/ to Jo. Hyde grocer named in this *Interrogatory*/

To the 5. that he hath heard faye/ that the said Morgage fell forgotten to the said Jo. Hyde/ for that the said money was not repayd vnto him at the dayes lymyted for the paym^t therof/

To the 6. that he hath heard the said Jo. Hyde *confesse* and affirme after the deceffe of the said Brayne that he was satiffyed of all the money w^{ch} he lent vpon the fame Theater [*w^t the interest*

therof, in the lyf tyme of the *faid Jo Brayne* (stricken out)] fav-
ing the fome of xxx^{li} or therabouts/ as he Remembrethe/

To the 7. that he hath heard the *faid Jo. Hyde* promes to the now
Comp^l the *faid Braynes* wydow fyns her husband dyed/ in the
prefence & hearing of this depo^t and others/ that yf he were payd
the money that was behynde vnpayd/ of the fome w^{ch} he lent
vpon the *faid Morgage*/ he wold never take any advantage of
the furfetture of the *faid Morgage*/

To the 8. that he hath heard the *faid John Hyde* promise the *faid*
comp^l/ in the *prefence* & hearing of the *foresaid perfones*/ that
yf he were payd his money behynde vnpayd/ he wold deliuer
vppe the lease that laye forfeited in his hande/ to her & the *faid*
James Burbage/ as it was morgaged vnto him by the *faid Burbage*
& her husband *Brayne*/

To the 9. that he was *present* w^t others/ whan the *faid Comp^l* the
wydow *Brayne*/ offred to the *faid Jo. Hyde*/ that yf he wold
deliuer vppe the lease vnto her/ she wold make shyft for the
money that was behynde/ and wold be bounde to assure to the
faid James Burbage, the one half therof/ although he went about
to do her wrong in it/ Wherunto the *faid Jo. Hyde* made an-
swer/ that he wold not fo do/ but whan qd he/ I haue my money/
I will deliuer it vppe to yo^u both/ as I had it of yo^r husband &
him/ and then she told him faying/ M^r Hyde yf yo^u do otherwyfe/
yo^u do vndoe me/ ffeare not M^{res} Brayne (qd he) I wilbe as good,
as my worde whan I am payd my money/ ffor had it not bene
for yo^r husband whom I knew to be of Credit/ I wold not haue
delt w^t the other/ or wo^rdes to this effecte/

To the 10. that he did heare faye fyns the deceffe of the *faid*
Brayne/ y^t the *faid James Burbage* did earnestlie *purfuade* the
faid comp^l to bestow all the money that she was hable to make in
reparing and building about the *faid Theater*/ and in that respecte

he suffred her A certen tyme/ to take & Receyve the one half of the *profittes* of the Gallaries of the said Theater vntill she had spent & bestowed vpon the same/ all that she had Receyved and A great deale more/ And then on a foden he wold not suffer her to receyve any more of the *proffittes* there/ saying that he must take & Receyve all, till he had payd the *debtes*/ And then she was conftrayned as his *seruaunt*/ to gather the money/ & to deliuer it vnto him/ and shortly after/ he wold not suffer her any way to medle in the *premisses*/ but thrust her out of all/ and so vseth her to this Daye/ against Dyvers Ordres out of the Co^rte of Chauncerye/ in verye contempcyous fort/

To the 11. that he can say nothing

To the 12. that he can say no more then he hath before said to the xth *Jnterrogatory*/

To the 13. that he doth knowe/ ther was such an Ordre/ & to the same effecte/ as in this *Jnterrogatory* is mencioned/ the w^{ch} Ordre the said comp^l being verye willing to *performe* the same/ went Dyvers tymes w^t sondrye her frendes and neighbo^{rs} to the now defend^{tes}/ and demaunded of them her moytie of the Rentes and *profittes* of the said Theater & *premisses* according [to] the said Ordre/ and they did vtterlye deny so to do/ in the hearing of this depo^t and others of credit and reputacion/ the said James Burbage saying he wold obey no such Ordre/ nor cared not for them/ Revyling the comp^l w^t termes of Murdring ho^r & otherwife & chardged her & her companye to get them of his gronde/ Or elles he wold fett them of w^t no ease/ At w^{ch} tyme Cuthberde Burbage the other defend^t came to them/ and then the said comp^l demaunded of him/ the *performance* of the said Ordre/ and he made answer/ he wold not stand to any such ordre/ and willed her & her companye to gett them thence saying thow haft nothing to do here/ nether shalt thow haue any thing to do here/ and so w^t moche threatening and manacyng, she and her companye went awaye/

To the 14. that he hathe heard faye by credible reporte/ that the said James Burbage/ & his assignes & *servauntes*/ fyns the deceffe of the said Jo. Brayne/ hath Receyved great somes of money/ to the value of feaven or eight hundreth poundes/ of Rentes and proffittes growing of the said Theater and the appurtynces longing & adioyning to the same/ & deteyneth in his & his sones handes/ aswell the comp^{tes} part/ w^{ch} she ought to haue both by the said Awarde/ and ordre of the Chauncerye/ as ther owne/ to the po^r womans vtter spoyll & vndoing/ her said husband having bestowed & lade vppon the same (well known to them that knewe him) vj or vij^{Cli} more/ then the said James Burbage did/ Soas by this g^t wrong mynistered by the defend^{tes} to the now comp^l/ the comp^l being indebted abrode to the value of foure or fyve hundreth poundes/ she is enforced to hyde her self/ and to lieve in g^t myferye/ But whan the last Accompt was made betwene the said Brayne and the said James Burbage/ he knoweth not/ But he faithe that it doth appere by the Booke of Reconing of the proper hand wrytinge of the said Brayne/ made betwene him and the said Burbage in his lyfe tyme/ that the said James Burbage was then in his debte of the one moytie of CCxxxix^{li} & od money/ And otherwyfe to this Jnt. he faith he cannot depose/ Nor furth^r faithe in this matter/

[Signed] *per me* Raphe Miles

Johne Hyde of london Grocer/ of the age of lx yeres or thera-
boutes s^worne and ex^d the xijth daye of ffebruarie/ in the yere
aforesaid & ct^r

To the first Jnt. that he doth know all the parties *plaintiff* & defend^{tes} named in this *Interrogatory*/ And faith that he hath heard of Sute and controuersy depending betwene the said parties/ for & concerning the Theater beyond Shordiche wthout Biffhops gate london/ the certentye of w^{ch} Sute/ he cannot depose

To the 2. that he did heare fay/ that in the lyfe tyme of John

Brayne deceffed/ the late hufband of the now comp^l ther was
fome contencion/ and controuercye betwene him and James Bur-
bage one of the now defend^{tes} Concerning the faid Theater/
But what end the fame contencion took/ he faith he is ingnorant

To the 3. that he is ingnorant

To the 4. that true it is/ the faid James Burbage and the faid
John Brayne did Joyntlie Morgage the intereft they had in the
faid Theater to this depo^t vppon & for the fome of Cxxvⁱⁱ as he
doth now Remember or therabouts/ to be repayd at a yeres end
as [this deponent] doth now call to mynde/

To the 5. that for nonpaym^t of the faid money they forfeited the
faid Theater to this depo^t/ and fo remayned forfeited vnto him
feuerall yeres/

To the 6. that nether the faid James Burbage/ nor John Brayn
payd vnto this depo^t any part or parcell of the faid money ether
before the faid forfeiture/ nor long after it was forfeited/ Nor
how moche was left vnpayd of the fame at the death of the fame
Jo. Brayne/ Nor how moche therof hath bene payd fyns his
deathe/

To the 7. that it is verye true/ that he this depo^t/ did many and
fondrye tymes tell bothe the faid Jo. Brayne/ the faid James Bur-
bage/ the now comp^l/ and others her ffrendes/ that yf he this
depo^t were payd his money that was behynde due [and fome
reasonable confideration] for the forbearing therof/ that he wold
never take any advantage of the faid forfeiture/

To the 8. that it is true indede/ he this depo^t did dyvers tymes tell
the now comp^l/ that yf he were payd his money/ he wold make
ouer the faid Theater to her and the faid James Burbage by caufe
her hufband & the faid Burbage did Joyntlie Morgage it vnto him/
And this anfwer he this depo^t made vnto the faid comp^l, fondrye
yeres/ and at the laft he told her that fyns he had forborne his

money so long/ he could do it no more/ so as they that came first to paye him/ should haue it of him/ as he doth now Remember/

To the 9. that it maye be the said comp^l did offer this depo^t the money behynd vnpayd vnto him/ of the said Mortgage/ ffor she came many & often tymes vnto him concerning the same/ but in troth he doth not Remember she made him any suche offer/ But he faith that yf she had/ and had performed the same/ he wold rath^r haue put it over vnto her/ then to the said Burbages/ ffor that she did greatlie complayne vnto him/ that James Burbage did her wrong/ & foght to put her from it/ And faith that to his Remembrance/ he did not heare her saye that yf this Depo^t did put it over to her/ she wold be bounde to convey the one Moytye of it to the said James Burbage/ And otherwise to this Jnterrogatory he faith he cannot depose/

To the 10. that he can say no more/ but that he did heare saye/ y^t the said James Burbage after the death of the said Jo. Brayne/ dyd denye/ the comp^l to receyve any of the profittes of the said Theater/

To the 11. that true it is/ the said James Burbage was sondrye tymes in hand w^t this depo^t, that vpon the paym^t of the money behynde and some confideracion for the forbearing therof/ he this depon^t should convey over the premiffes to his sone Cuthbert Burbage/ and this depo^t was verye loth so to do/ wthout the content of the comp^l/ And at the last he and his sone brought to this depo^t A *lettre* from one M^r Cope one of the Lord Treasurers gentlemen/ the said Cuthbertes M^r/ that he this depo^t wold at his Request and as he might be able to do this depo^t any frendship or pleasure in any his occasions to his lord & M^r/ should convey over his interest of & in the premiffes to his seruaunt Cuthbert Burbage the sone of the said James vppon the paym^t of suche money as was due vnto him & vnpaid/ and vpon some confideracion for the forbearing of it/ And this depo^t (partlie at

the said gentlemans Requeft/ and partlie at instant entreatye of the said James Burbage & his said sone) did indede vppon the confideracions aforefaid convey over the premiffes to the said Cuthbert/ But whether this depo^t faid vnto them that he wold not fo do/ except the comp^l had her moytie in the fame/ or not/ he doth not Remember/ But he well Remembreth/ that he wiffhed the said Burbages to do the comp^l no wronge/ her husband was dead/ & had left her in g^t lack/ and that he did vndoe him felf/ by entring in the doinges of the Theato^r/ and they faid/ & many tymes haue faid/ that they wold do her no wronge/

To the 12. that true it is, the said Burbages did promes this Depo^t that took what was the compl^{tes} right & due to haue/ that she fhuld haue it at ther handes

To the 13. that he can fay nothing

To the 14. that to the firft poynt of this *Interrogatory* he faith he can fay nothing/ And to the fecond poynt of the fame he faith/ that he doth thinke that when the said Braynes entred into the Accion of the said Theater/ he was wo^{rth} fyve hundreth poundes at the leaft and by commen fame wo^{rth} A thowfand markes/ and A man well thought of in london/ And this depo^t verelie thinketh he beftowed the fame/ or the moft part thereof vppon the fame Theater/ to his vndoing/ And to the laft poynt of this *Interrogatory* he faith he cannot depofe/ And more he faith he cannot faye to all the said *Interrogatories*/

[Signed] per me John Hyd grocer

BRAYNE v. BURBAGES

Idem, Bundle 228, No. 10, Hilary and Easter, 34 Elizabeth (Feb., April, May, 1592).

[Four skins of interrogatories—one to John Hyde, one to Nicholas Bishop, one to Ralph Miles, and one to John Allen—thonged in this order to the depositions, which are incorrectly arranged in the following order—Bishop, 2½ sheets, Miles, 3 sheets, Allen 2, Hyde 1.

The following transcripts are arranged, however, in the chronological order in which the depositions were taken, which is also the order of the interrogatories—Hyde, Bishop, Miles, Allen—the interrogatories to each being placed immediately before the answers to it, as the more convenient.

These four depositions, taken in behalf of the Burbages, are in effect the cross-examination of the plaintiff's four principal witnesses.]

INTERROGATORIES TO HYDE

Articles to be ministred to John Hyde Citezein
and grocer of London as followeth.

*ex parte Jacobi Burbage
et Cuthberti Burbage.*

Impr whether are you John Hyde examined in the Courte of Chauncerye in and vpon the Questions and to these matters followinge, or to Articles to theeffecte thereof, And whether haue yow declared yo^r knowledge and conscience therein yea or no.

Bothe how and of whome yow had the Lease of the Theater to yow conveyed/ And vpon what confideracion And that before yow did grauntt the fame to Cuthbert Burbage yow did repute the fame to be yo^r owne duringe the faide Lease.

And that yow did not compoude wth John Brayne for yo^r title in his life tyme, And that yow did at noe tyme receyve moneye of him by force of anye fuche Composition And that yow at noe tyme ment or had caufe to deale wth the faide John Brayne for the faide Lease or anye parte thereof, nor wth any other on the behalf of the plaintyfe or any for her.

DEPOSITION OF JOHN HYDE

*Responſio Johannis Hyde ad ar^{los} Jacobi Burbage
et [Cuthberti] Burbage/ defendentum verſus
Brayne viduam querentum [per] ordinem
Curie capta per Henricum Johnes in Canc[el-
laria] Examinatorem/*

[This heading stricken out by the clerk on rearranging the depositions for filing.]

Johne Hyde of london grocer/ of the age of lx yeres or therabouts sworne and ex^d the xxj daye of february in the xxxiiij yere & ct^r To the first Interrogatory That he hath bene ex^d twyce alrebye before now in this Co^{te} in the matters in controuercye betwene the comp^l & the now defend^{tes}/ that is to saye/ first in the substance of the Cause/ and secondlye now of late vpon matter of contempte alledged by the comp^l against the defend^{tes}/ wherein he thinketh he hath sayd truelye/ according to his conscience knowledge & Remembrance/

To the 2. that one Prvne A Broker/ was the first man that offred the lease of the Theater in morgage to this depo^t/ and after he had broght this depo^t acquainted w^t James Burbage/ and one Jo. Brayne/ he the sayd James Burbage & Brayne did Joyntlye/ morgage to this depo^t the said lease for one Cxxv^{li} or yerabouts and Joyntlie they and the said Prvne as he Remembreth did entre into bonde to this depo^t for the Redempcion therof/ at A daye/ but it was forfeitted to this depo^t/ at the least v or vj yeres [first written vij or viij yeres] or therabouts as he Remembreth in w^{ch} space/ he this depo^t did repute the same lease to be his owne during the yeres therein then to come/

To the 3. that after the said lease became forfeitted to him this depo^t/ It was agreed on both fydes/ that yf the said Burbage and Brayne or ether of them/ did pay this depo^t v^{li} A weke/ till all the foresaid Morgage money were payd/ w^t some reasonable consideration for the forbearing of it/ that then they shuld haue ther lease againe/ w^{ch} they performed by the space of iiij^{or} or v. weekes after/ but they performed no more/ and so suffred ther lease to be ones againe forfeitted to this depo^t/ And faith that in troth he this depo^t did never compounde w^t the said Brayne for the right and interest this depo^t had in the said lease by the said forfeiture at any tyme/ in the lyfe tyme of the sayd Brayne/ nor ever receyved any money of him to his Remembrance vpon any suche compoficion/ And to the rest of this Interrogatory/ he

faith/ that he can fay no more in effecte/ then he hath heretofore depofed & fayd on the comp^{tes} behaulf in the matter of the faid contempt/ Nor further can fay to thefe Interrogatories/

[Signed]: per me John Hyde

INTERROGATORIES TO NICHOLAS BISHOP

Interr^s to be mynyftered vpon the parte and behaulf of James Burbage and Cuthbert Burbage to Nycholas Bifhop, accordinge to an order made the xij of Nouemb^r A^o xxxiiij^o R^{ne} in a cawfe betwene Margaret Brayne p^l & the faid Burbages defend^{tes}.

1. **Inprimis** whither are yo^u fervaunte to Raphe Myles: And whither haue yo^u feene An Arbitrem^t w^{ch} one Hill and one Turner did make, betwen one John Brayne, and the faid James Burbage, about the Theatre. And what doth the faid Margaret Brayne clayme therby to yo^r knoweledge. And whither do the players of enterludes, vse to plaie in the faid Theatre vpon the fabothe day yea or no
2. **Item** who placed yo^u to be a Collecto^r at the faid Theatre, at that tyme when Robert Myles did place Collecto^{rs} at the doares of the faid Theatre, vnder the cullor of an order made in the Chauncerie, That afwell the partie p^l as thes defend^{tes} fhould performe the aforfaid Arbitrem^t. And what were yo^u appointed to collect. Whither did the p^l. at that tyme fhewe fourth the faid Arbitrem^t, Or require thes defend^{tes} to performe the fame. And whither did thes defend^{tes} require her to fhewe her auctoretie fhe had, and the fame Arbitrem^t. And whither did thei the faid defend^{tes} offerr to the p^l. that yf her aucthoretie were fufficient, to Collect the profittes of the faid Theatre, that thei would admitt her quietlie fo to do. What aunfwer was made therto, And who made the faid aunfwer. And whi did fhe refufe to fhew furthe any aucthoritie for her doinges to yo^r knoweledge.
3. **Item** wherin do yo^u knowe that thes defend^{tes} or any of them, hath committed any contempt, againft the Court of Chanceri or

againſt any order made in the ſaid Covrt. And wherin do yo^u knowe that the p^l hath performed the Arbitrem^t; And wherin haue the defend^{tes} broken, or not performed the ſaid Arbitrem^t. to yo^r knowledge.

4. **Item** whither haue yo^u herd Robert Myles report that the Theatre was his, And that he had moſt right therunto And that he would pull the ſaid defend^{tes} out of the ſaid Theatre by the eares. What ſome of mony hath he, or his ſonne Raphe Myles reported that the fute againſt theſe defend^{tes} had coſt him or them, And what ſome haue thei ſworne to ſpend, for the removinge theſe defend^{tes} from the Theatre.
5. **Item** what title or promyſe of title in the ſaid Theatre haue yo^u herd the p^l to make to the ſaid Robert or Raphe Myles. And what haue yo^u herd them boaſt thei ſhuld gayne therby. And whither do yo^u thincke in yo^r conſciencie, that Robert Myles or Raphe Myles ſhall haue ſome intereſt or proſitt out of the Theatre in Lieu of ther chardges and travell after the ſame ſhalbe recovered from the defend^{tes} yea or no.
6. **Item** whither did yo^u at ſuch tyme as Robert Myles or the p^l place Collecto^{rs} at the doores of the Theatre as is aforeſaid heare James Burbage ſaye theſe wordes. Conſcienc. Godes bloud what tell yo^u me of conſcienc or orders Or theſe wordes. I care not for any contempt. Or theſe wordes, I care not for iij of the beſt Lordes in England. yf yo^u did heare them, then who was by and preſente when yo^u herd thoſe wordes. And to whom were thei ſpoken. And whither were thoſe wordes ſpoken to the playntif yea or no And whither was the preſente when Myles did ſo often tymes come to the Theatre to demaund a moitie of the profittes therof yea or no.

DEPOSITION OF NICHOLAS BISHOP

Reſponſio Nicholai Biſſhoppe ad ar^{lo}s Jacobi Burbage & Cuthberti Burbage verſus Margaretam Brayne viduam capta per Henricum Johnes in Cancellaria Examinatorem per ordinem Curie/

Nycholas Biffhoppe of the parifhe of whytechapell w^tout Allgate london Sopemaker/ of the age of xxx yeres or therabouts fworne and ex^d the vjth Daye of Aprill in the xxxiiij yere & ct^r To the firft Jnt myniftred vnto him/ That he was never *feruaunt* to Raphe Myles named in this Jnt. but was & is now his *partener*/ And faith that he hath fene fuche an Award or Arbitryment But who made the fame/ he now remembreth not/ but he doth Remember/ it was about the matter of the Theatre/ And faith that by the fame Awarde/ Margarette Brayne the now comp^l doth clayme to haue of right the one Moytie or half of the profittes growing by the vfe of the faid Theatre/ and of all fuche Rent^{es} as do ryfe of fuche tenem^{tes} & howfes longing to the fame/ w^{ch} profittes do ryfe by reafon of the wekelie playes & interludes that are vfed to be playd there/

To the 2. that he was requested by the faid Margaret Brayne and Robert Myles/ the ffather of the faid Raphe Myles/ to go w^t them to the Theater vppon A playe daye/ to ftand at the do^r that goeth vppe to the gallaries of the faid Theater/ to take & Receyve for the vfe of the faid Margarette/ half the money that fhuld be gyven to come vppe into the faid Gallaries at that do^r/ according to the forefaid Award/ & an order made thervpon by the co^t of Chauncerye/ Requesting this depo^t in very earneft maner/ to refift no violence or other w^tftanding of him fo to do/ that fhuld be made to or againft him in fo doing/ by the faid Burbages/ At w^{ch} tyme for the better auctho^e of the faid Margarette fo to do/ ther was fhewed fourth in the hande of the faid Myles to the faid Burbages both the faid Arbitrym^t/ and Ordre of the Chauncerye/ and requyred the faid Burbages to fuffre the *performance* therof/ But true it is/ the faid James Burbage & his wyfe & his fone Rychard Burbage did w^t vyolence thruft this depo^t/ and the faid Margarette/ and Robert Myles away from the faid do^r going vppe to the faid Gallaries/ w^t vehement threat^{es} & manaffing/ that yf they departed not from that place/ they wold beate them away/ And fo indede vpon fome wordes vttered by the faid Robert Myles to the faid Burbages wyffhing them to obey the faid Ordre/

the faid Ry. Burbage & his mother fell vpon the faid Robert Myles & beate him w^t A broome staffe calling him murdring knave w^t other vyle and vnhonest wordes at w^{ch} tyme the faid James Burbage told the faid Robert Myles/ that he had but A paper/ w^{ch} he might wype his tale w^t/ and rather then he wold lose his poffession/ he wold committ xx contemp^{tes}/ And by cause this depo^t. spake then somewhat in the favo^r. of the po^r womman/ that she did nothing then but by authoritie of the faid Ordre/ the faid Ry. Burbage scornfully & diddainfullye playing w^t this depo^{tes} Nose/ fayd/ that yf he delt in the matter/ he wold beate him also/ and did chalenge the field of him at that tyme/ And the cause why the faid Robert Myles kept fast in his hand the faid Ordre/ was/ for that the faid Burbages wold haue torne the same in peeces/ yf they had had the same/ in ther handes/ And otherwyfe to this Jnt he faith he cannot depose/ then he hath before now deposed on the part & behalf of the faid Margarette Brayne/

To the 3. that in his Judgem^t/ the faid Burbages haue committed g^t contempt againt the co^t of Chauncerye aswell at this tyme as before in not performing the faid Awarde/ & fulfilling the same Ordre/ And that the faid Margarette hath in his Judgem^t performed the Ordres of the faid Co^rte/ and wold be glade of the performance of the faid Awarde/

To the 4. that he never heard the faid Robert Myles saye that the Theatre was his/ or that he had great right therinto/ Or that he wold pull the faid Burbages out of the Theater by the eares/ But he faith/ that he hath heard the faid Robert and Raphe Myles saye/ that they had lade out A g^t deale of money for the faid Margarette in this Sute/ but how moch in particuler/ he did not heare them saye/ And to the rest of this *Jnterrogatory* he faith he can say nothing/

To the 5. that he never heard the faid Margarette Brayne open or declare/ of any Tytle or promise of Tytle/ the faid Robert & Raphe or ether of them shuld haue of her/ of & in the faid

Theater/ Nor ever heard them or ether of them boaft/ what they fhuld gayne therby/ by any graunt from the faid Margaret/ But he faith that he doth think in his confcience/ that the faid Robert Myles/ is like to haue fome Recompence/ or fome intereft from her therof/ yf fhe recover againft the faid Burbages/ for his charges & travell vfed for her in this Sute/ as this depo^t thinketh in his confcience/ he is worthie to haue in Equitie/ To the 6. that he can fay no more/ then he hath before faid/ to the fecond Jnterr/ And more he faith he cannot faye in this matter then he hath now/ & before this tyme fayd on the parte & behaulf of the faid Margaret Brayne/

[Signed] Per me Nicholas Byfhopp

INTERROGATORIES TO RALPH MYLES

Interrogator^s to be mynyftered to Raphe Myles of Londone foapemaker accordinge to an order made the xiiij daye of Nouember A^o xxxiiij^o R^{no} in the cawfe Betwene Margaret Braine p^l and James Burbage and Cuthberte Burbage defend^{tes}

- 1 **Item** whither do yo^u knowe, or haue yo^u herd, feene and read an Arbitrem^t that was made by one Hill and on Turner betwen James Burbage on the one parte And John Brayne on the other parte concerninge the Theatre, And what title therby, was geuen to John Braine & his executo^r in the faid Theatre to yo^r knowledge,
2. **Item** whither do yo^u knowe or haue yo^u herd, That in the fame Arbitrem^t yt is expreffed, That the mony collected at the Theatre fhuld be to the vfe and for the paym^t of fuch debtes, as ether the faid Brayne, or the faid Burbage fhould rune into, about the buildinge or repayringe of the fame Theatre. And that before thofe debtes were paide that the faid Braine nor his executo^{rs} fhuld haue nor enjoy the fame or the profittes therof, only x^s by the weeke excepted to be defaulted for the faid Braine out of

the said profittes, for such plaies as should be shewed vpon the fondaies only. And whither do thei vse to plaie on the fondaies ther, yea or no.

3. **Item** whither haue yo^u seen herd or rede That in the same Arbitrem^t it is also expressed. That yf the said Braine or the said Burbage or both of them, had occasion to vse any mony for any thinge concerninge the faide Theatre or for the paym^t of any debt made for or about any matter towching the same, That then yt should and might be Lawfull for the said Burbage to mortgage or sell the Lease to hym made for the levying of suche needfull mony. And whither was the said Lease of The theatre, mortgaged accordinglie to John Hyde grocer wth consent of the said Brayne. And whither was yt to him forfeited for none payem^t of the money so borrowed, yf it were, then what title in yo^r Judgem^t hath the said John Braine or his executrix the p^l. to the said Theatre or to the *profittes* therof & how much therof is she in right to haue to yo^r knowledg.
4. **Item** whither do yo^u knowe or haue yo^u herd y^t the said Braine, fythenc the makinge of his will, wherby he did appoincte the p^l to be his executrix hath & did make a deed of gifte of all his goodes & Chattells: to on Tomfon, or to yo^r father, or to one M^r Afbournham. or to one John Gardyner. And whither did thei or any of them by vertue therof clayme the goodes & Chattells of the said Brayne. and his title in the said Theatre. yea or no. And what is the cawse whi thei nor none of them do now shew forth the same but conceale the said deed or deedes of gifte to yo^r knoweledge.
5. **Item** whither did the p^l. and Robert Myles yo^r father place Collecto^{rs} at the doares of the Theater, vnder the cullor of an order made in the Chauncery that aswell the *partie* playntife as thes defendantes Burbage should *performe* the Arbitrem^t aboue said. ffor what pourpose were the said Collecto^{rs} so placed at the Theatre And whither did the p^l then and ther shewe fourth the said Arbitrem^t and offerr to *performe* the same to thes defend^{tes}

And whither did the said defend^{tes} or any of them require to see the aucthoretie the p^l had to place any collectors ther, And whither did she shewe her aucthoretie. And whither hath she befor that tyme or synce that tyme performed the said Arbitrem^t. And yf she haue then shewe wherin & in what pointes she hath performed the fame, And in what pointes thes defend^{tes} haue not performed the fame. And whither did she at the same tyme require thes defend^{tes} to performe the same Arbitrem^t. And what matter did she require them to performe conteyned in the said Arbitrem^t.

6. **Item** wherin do yo^u knowe that the defend^{tes} haue, or any of them hath, comitted contempt against the Court of Chaunceri, or against any order made in the same Court, yf thei haue then shewe wherin.
7. **Item** whither do yo^u knowe, or haue herde that James Burbage on of theis defend^{tes} by his deed in wryting wth the advise and consent of the said John Brayne did convey or graunte any parte of the Theatre and profittes therof to one Henry Lenman. And whither doth he yet receyve and collect and take any profittes of the said Theatre so graunted. And whither doth the playntiff knowe therof or that she knewe of the said graunt in thee lief tyme of her said husband yea or no. yf she did knowe therof, Then whi doth she now clayme a Moitie of the said Theatre of thes defend^{tes}.
8. **Item** whyther hath the p^l geven or graunted, or promysed to gyve or graunt, to yo^r father, or to yo^rfealf her pretended title in the said Theatre. Or what parte therof haue yo^u or are yo^u to haue, And what parte therof is yo^r father to haue, so soane as, or after the same shall be recovered of the p^l, from the defend^{tes}. And what some of mony did yo^u gyve to one Henry Bett, to comence sutes or plaintes in the name of the p^l. against the defend^{tes} or any of them for the recoverie of the said Theatre. And by what aucthoretie or title did yo^u so delyver monye for mayntenance of such sutes. And whither did yo^u or yo^r father saie that the Theatre was his,

and that he would spend all that he had but he would pull the defend^t out of the said Theatre by the eares. yea or no.

9. **Item** whither did yo^u at such tyme as Robert Myles and the p^l did place Collecto^{rs} at the doares of the Theatre as is aforfaid heare James Burbage saye thes wordes: Conscienc. Gods bloud what tell yo^u me of conscienc or orders. Or thes wordes. I care not for any contempt. Or thes wordes I care not for .iiij. of the best Lordes in England. Yf yo^u did heare them, then who was by and *presente* when you herd these wordes And to whom were thei spoken.

DEPOSITION OF RALPH MYLES

Raphe Myles sone of Robert Myles of Whyte Chapell parishe w^out Allgate london Bachelor/ of the age of xxvij yeres or therabouts/ sworne and ex^d the xxvj daye of Aprill in the yere aforesaid xxxiiijth &ct^r To the first Jnt. that he doth know and hath sene & redde/ an Awarde that was made by one Turno^r/ and one Hill/ betwene James Burbage/ of the one parte and Jo. Brayne deceased of the other parte/ concerning A controvercye betwene them about the Playehouffe called the Theater by w^{ch} awarde the said Brayne was entytled to haue the one Moytie of the Rentes and proffittes Ryfing & coming by & of the same Theatre/

To the 2. that it is parcell of the said Awarde/ that the money Receyved and taken of the Rentes and proffittes coming of the said Theatre/ shuld be to the vse & for the payment of suche debtes/ as ether the said Brayne/ or the said Burbage were then in/ for the building and repaying of the said Theatre/ And that before those debtes were satisfiied & discharged nether the said Brayne/ nor the said Burbage/ nor ther Executo^{rs}/ shuld haue nor enioye any parte or parcell therof to his or ther owne vse/ but onlye that the said Brayne shuld haue x^s by the weeke for & towardes his house keeping/ and the said Burbage to haue viij^s as he remembreth weekelye out of the same for & towardes his house keping

of the profittes of such playes as shuld be playd there vpon fundaises/ And that when the said debtes were discharged/ that then the said Brayne shuld take & Receyve all the Rentes and profittes of the said Theatre/ to his own vse/ till he shuld be answered/ suche somes of money w^{ch} he had lade out/ for & vpon the same Theatre/ more then the said Burbage had done/ And then the Rentes & profittes of the same/ to go in devydent equallye betwene them/

To the 3. that it is also parcell of the said Awarde/ That yf the said Brayne & Burbage/ shuld haue any occasion to vse any money nedefull to be bestowed vppon the said Theatre/ or for the paym^t of any money towching the same/ that then it shuld & might be lawfull for the said Burbage and Brayne/ to morgage the lease therof for A somme of money for that purpose/ And faithe that true it is, the said lease w^t bothe ther consentes was morgaged to Jo. Hyde grocer of london vpon the some of one Cxxv^{li}/ as he hath credible heard/ And y^t by report they forfeited the said lease to the said Hyde/ for nonepaym^t of the money lent vppon the same/ Albeit the said Hyde, did frome tyme to tyme promes & beare in hand the said Brayne in his lyfe tyme and to his wyfe the now comp^l fyns his deceffe the said Braynes Executrice/ that he wold take no forfeiture of the same/ yf he were payd his money due/ and ordinarye consideracion for the forbearing therof/ And therfor this depo^t thinketh in his conscience/ that the now comp^l hath as great interest in the said lease/ as the said Burbage hathe/ ffor he faithe/ that whan the said Burbage and his sone/ by pollycie betwene them/ did Redeme the said lease/ ther was no more owing to the said Hyde/ but xxx^{li} or therabouts/ as the said Hyde confessed to this depo^t/ in the w^{ch} Redempcion/ the said comp^l had bene well hable to haue Joyned/ yf the said James Burbage had ether suffered her to haue had her Moytie of the profittes of the said Theater, as by the said Award she was to haue had/ or had gyven her warning of his intent for the Redempcion of the same/ And further faith/ that he this depo^t doth well Remember that the said comp^l did offer to the said

Hyde/ in this depo^{tes} *prefence*/ to paye him fo moch as was be-
hynde of his Money lent w^t confideracion therfore/ yf he wold
deliuer the faid leafe to her/ & that the faid James fhuld haue
his Moytie of the proffittes therof, afwell as she/ But he made
anfwer/ that as it was morgaged vnto him by both her husband
Brayne/ and Burbage/ fo would he deliuer it vppe/ to both Bur-
bage & her/

To the 4 that he can fay nothing

To the 5. that he can fay nothing

To the 6. that true it is/ that at fuche tyme he this depo^t & others
went at the comp^{tes} Requeft w^t her to the now def^{tes}/ to Requier
them to *performe* the faid Awarde/ as by an Ordre made in the
Chauncerye they were ordred to do/ the faid James Burbage
wyfe/ charged them to go out of her grounde/ orelles she wold
make her fone breake ther knaves heades/ and fo hottellie rayled
at them/ And then the faid James Burbage her hufbande looking
out at A wyndoe vpon them/ called the comp^l murdring ho^r/ and
this depo^t & the others villanes Rascalls and knaves/ and then the
comp^l fayd vnto him/ that she was come to requyre of him the
performance of the award/ as the Co^{te} of Chauncerye had ord-
red to do/ and then he cryed vnto her/ go go/ A Carte A cart
for yo^u/ I will obey no fuch ordre/ nor I care not for any fuch
ordres/ and therfor it were beft for yo^u and yo^r companions to
be packing by tymes/ for yf my fone Come/ he will thumpe yo^u
hence/ W^t that in maner his fone came home/ of whome the
comp^l did alfo Requier the *performance* of the faid Award, ac-
cording to the faid Ordre of the Chauncerye/ and then he in veye
hotte fort/ bidd them gett them thence/ orelles he wold fett them
forwardes/ faying I care for no fuche Ordre/ the Chauncerye
fhall not gyve away what I haue payd for/ Nether fhallt thou
haue any thing to do here/ Whille I lyeve/ gett what Ordres
thow canft/ And fo w^t great & horrible othes vttered by both him

& his ffather/ that they wold do this & that/ the comp^l and her company went ther wayes/.

To the 7. that he can fay nothing to any effecte

To the 8. that by the othe that he hath taken/ he knoweth of no graunt or promes made by the comp^l/ ether to this depo^t/ or to his ffather of the comp^{tes} Tytle in the Theatre/ nor more can faye to that poynt of this *Interrogatory*./ And to the rest of this *Interrogatory* concerning Bett named in the fame/ he faithe that he can fay no more but this/ That whan (on a tyme) the said Bett at the Request of the comp^l did *pervse* her wrytinges/ he did (whan he had done and told her what everye of them concerned) require money for his paynes/ But the comp^l having none to gyve him/ she prayd this depo^t to lend her A cople of fhillinges/ and this depo^t lent her the fame/ and she gave Bett the fame/ Whervppon the said Bett went & diclosed to the defend^{tes}/ the whole ftory that he conceyved of her wrytinges/ and so hath ever fyns that tyme wrought w^t them what he could/ againft the said Comp^l/ And otherwyfe to this *Interrogatory* he said he cannot depofe/

To the 9. that he can fay nothing/ ffor he was not *present* at fuche wordes or fpeeche/ Nor more can faye to any further effect to all the forefaid *Interrogatories*/

[Signed] *per me* Raphe Miles

INTERROGATORIES TO JOHN ALLYN

Interrogator^s to be mynyftered ypon the *parte* and behaulf of James Burbage and Cuthbert Burbage, to John Allyn, accordinge to an Order made the .xiiijth of Nouemb^r A^o xxxiiij R^{ne}.

1. **Imprimis** whither do yo^u knowe, or haue yo^u herd, seene or rede, an Arbitrem^t that was made betwene John Braine whileft he

lyved, and James Burbage by one Turner and Hill. What title therby was geven to the said John Brayne & his executo^{rs} of and in the Lease of the Theatre in Hallywell made to the said James, by on Gyles Allyn. And whither do yo^u knowe that on Henry Lenman hath or had any parte of the profittes of the Theatre. Yf he had, then who graunted to him the fame. And how longe is yt since he receyved such profittes to yo^r knoweledge. And how longe is he yet to receyve the fame as yo^u haue herd. And whither did John Braine agree that Lenman should receyve y^e fame

- 2 **Item** whither did Margaret Braine, and Robert Myles, in yo^r preference place Collecto^{rs} at the doares of the Theatre to collect the profitte therof, vnder the cullor of an order made in the Court of Chaunceri. That aswell the partie p^l. viz the said Margaret, as the said James Burbage and Cuthbert Burbage defend^{tes} should performe the Arbitrem^t above named. And whither did the said Margaret at that tyme shewe furth the said Arbitrem^t, or offerr to performe the same to the said defend^{tes}. And whither did the said James Burbage require the same, & to see the^r aucthoreties thei had to place the said Collecto^{rs}. yea or no. And whither did not the p^l. refuse plainli to performe the requestes of the said Burbage. Yea or no.
3. **Item** wherin do yo^u knowe that the defend^{tes} haue, or any of them hath comitted any contempt against the Court of Chaunceri, or what order hath thei or ether of them broken in Contempt of the same Court to yo^r knoweledge.
4. **Item** whither hath the said Myles confessed to yo^u. That he had to do wth the said Theatre, and that the same was his. And that he would pull the defend^{tes} Burbages out therof by the eares. yea or no. And whither hath he confessed that he and his had more to do ther then Burbege had and that his title therof viz of the said Theatre was better then Burbages. And that he had

his title from the p^l. How longe is yt fynce he vsed thes wordes to yo^u. Yf the said Myles did not vse thes wordes to yo^u or fuch like, then whi did yo^u tell the said James Burbage, that he vsed fuch wordes to yo^u. And whi did yo^u require the said James to conceale whatfoeuer yo^u tould to hym of the said Myles, to the end yo^u might Lerne of the said Myles his whole *proceedinges* therin.

5. **Item** whither did not Raphe Myles the sonne of the said Robert Myles, afferme to yo^u that the wordes and speaches of the said Robert were true. And what somes of mony did thei or ether of them sware thei would spend to ouerthroe the said Burbage. And what wordes hath the said Ralphe vsed to yo^u about the said Theater, and his or his fathers title therin to yo^r remembrance/
6. **Item** whither haue not yo^u byn present in the lief tyme of Brayne, when he and Burbidge did delyver the one haulf of the profittes collected by them at the Theatre to the aboue named Henry Lenman or his deputes. And fync his death by the said Burbage. And whither do yo^u thincke that the said Lenman had any right to haue fuch profittes. Yf he had whi do yo^u sware That y^e p^l hath good right and title to haue haulf the profittes collected in the Theatre/ And whither were the wordes w^{ch} yo^u alledge to be spoken by James Burbage viz thes wordes. (Conscienc Godes bloud, what tell yo^u me of Conscienc, or orders. or thes wordes I care not for iij of the best men in England. Or that he would Committ xx contemptes &c) whither were thei spoken when the said Myles or the p^l did place Collecto^{rs} at the Gates of the Theatre by force of the order aforaid. Or when were thei spoken and who was *presente* when thei were spoken to yo^r knowledge And in what place. And whither were thei spoken to the plaintiff yea or no.

DEPOSITION OF JOHN ALLEN

Johne Allen late of the parifhe of S^t Buttollphes wthout Bifhops gate London ffree of the company of the Jnholders of london of

the age of xxxv yeres or therabouts fworne and ex^d the vjth daye of Maye in the yere aforefaid & ct^r To the frst *Interrogatory*/ that he hath credible heard faye/ that ther passed an Arbitryment or An award betwene James Burbage of the one part/ and Jo. Brayne named in this *Interrogatory* now deceffed on the other parte/ concerning the controuercye betwene them of the proffittes of the play houle of the Theater/ by the w^{ch} Arbitryment/ (as this depo^t did heare faye/ the one half of the proffittes of the faid Play houle was awarded to the faid Brayne his executo^{rs} and assignes/ and the other half to the faid James Burbage/ his executo^{rs} and assignes/ And faithe/ that one Henrye Laynmann had (and as he thinketh yet hathe & doth receive) part of the proffittes of the fame/ & so must till Mychaclmes now next coming but by whose graunt/ he knoweth not/ But wheth^r the faid Brayne did consent therunto/ he knoweth not/

To the 2. that to his now Remembrance, he can fay no more, then he hath hertofore depofed on the complainantes behaulf to the 13 *Interrogatory*. And further faithe, that at the fame tyme when the faid comp^l, and the faid Robert Myles came to demaund of the faid James Burbage & of his fone/ the performance of the forefaid Arbitryment/ and ordre of the Chauncery concerning the one half of the proffittes of the faid Theater/ the faid comp^l and Myles/ femed to be readye & willing w^{out} any deniall to shew to them/ by what auctho^o they were to haue the fame/ yf the defend^{tes} wold haue demaunded the fame/

To the 3. that he doth verelie thinke/ that the faid James Burbage hath committed A contempt to the faid honorable Co^rte of Chauncerye/ in Maner & fourme/ as this depo^t hath depofed vppon his othe before to the fame 13. Jnt/ on the compl^{tes} behalf/ wherunto/ for the better proof therof/ he doth referre him self/

To the 4. that the faid Robert Myles did at no tyme confesse to this depo^t/ that he had any thing to do w^t the faid Theater then as A freind by the compl^{tes} *lettre* of Atto^rney to do for her in the

fame/ Nor ever heard him faye that he wold pull the faid James Burbage out of the fame by the eares/ Nether dyd this depo^t tell the faid James burbage or any of his fones/ any fuche tale of the faid Myles/ Nor ever byd the faid Burbages or any of them to conceyle y^t he had told him or them/ any fuche wordes of the faid Myles/ nor any fuche fpeche to that effect/ to his nowe Remembrance/

To the 5. that ther hath paffed at no tyme/ any fuche fpeche betwene the faid Robert Myles or Ralphe his fone to this depo^t as are fett down in this *Jnterrogatory*/

To the 6. that in the lyfe tyme of the faid Brayne/ this depo^t did not fee Burbage & Brayne gyve or deliuer the one half of the proffittes of the faid Theatre/ to the forefaid Henry lenmann/ But he faith/ that he hath fene the faid Burbage paye to fome/ to the vfe of the fame lenmann/ fome money of the fame proffittes/ fyns the deceffe of the faid Brayne/ w^{ch} proffittes (as this depo^t hath heard the faid James Burbage faye) were due vnto the faid Lenmann/ and that he & the faid Brayne were both bounde by wryting to paye the fame vnto him/ in confideracion that the faid lenmann did graunt vnto them the one half of the proffittes of the other play houfe there by/ called the Curten/ in w^{ch} half he doth thinke the comp^l is to haue her devydent w^t the faid Burbage/ afwell as her moytie of the Theater/ And fo ought she to haue the whole moytie of the Theater/ by the faid Arbitryment & ordre & half of the other Moytie of the *proffittes* of the Curten/ by the Agreem^t w^t the faid Lenman fo long as the tyme of the fame Agreem^t is to endure/ And faith that the wordes menconed in his former Examiniacion/ to the 13 *Jnterrogatory* fpoken by the faid James Burbage/ viz/ Confcience/ Godes blood what tell yee me of confcience/ or Ordres/ that he cared not for any Contempt/ & yf there were xx contemptes/ & as many Jniunccions he wold w^tftand & breake them all before he wold lofe his poffeffion/ were vttred w^tin the Theater yard/ whan the comp^l and the faid Myles came to defyre him to performe the faid Arbytry-

ment & ordre/ w^{ch} he thinketh to be about A yere past in the hearing of one Nycholas Bifhopp/ this depo^t & others/ And the other wordes spoken by him/ menconed in the fame 13 *Interrogatory* of his said former *Examinacion*/ viz. I care not for three of the best lordes of them all/ were vttered by him in the Attyring houffe/ or place where the players make them readye about viij daies next after/ in the hearing of one James Tunftall this depo^t and others/ And this for his true answer to all these *Interrogatories*/

[Signed] Joⁿ Allein

[When Dr. Legg and Dr. Stanhope were ready to make their report after considering the preceding voluminous evidence, namely, in April, 1593, Widow Bayne died, and the suit naturally died with her. But by her will, dated 8 April, 1593, and proved 3 May, following, she left her supposed interest in the Theatre and all her possessions to Robert Myles. Thereupon, as legatee and executor, Myles filed a bill of revivor, which is lost, and the case proceeded to the end in his name.]

BRAINE v. BURBAGE

Idem. Bdl. 226, No. 11. Trinity 34 Elizabeth (1592).

Jo: Grigges et Robertus Myles
jurati 29 Julij 1592 coram
Jo: Hone./

Intergatories to be mynyftred on the parte and behalf of Margarett Braynes Wydowe Complaynaunte agaynst James Burbadge, Cuthberte Burbadge, and others *Defendantes*/

I. **Imprimis** whether doe ye knowe the partye Complaynante Margarett Brayne, and James Burbadge, and Cuthbert Burbadge and other the *Defendantes*, ye or no. Yf so then whether doe ye not knowe one Gyles Allyne gentleman ye or no, And whether was not he feazed of a vacante peace of grounde a Myll howfe,

and certaine other tenem^{tes} in S^t Leonardes in the parifhe of S^t Leonardes in Sordyche in the Countye of Midlefex, ye or no

- 2 **Item** whether have you heard or knowen of yo^r owne knowledge of any Conference that was had betwene the fayd James Burbadge and one John Brayne difceafed of the takinge of the fayd peace of vacante ground in Leafe and other the landes and tenementes at the handes of the fayd Gyles Allyne, and whether did not the fayd James defyre the fayd John Brayne to ioine wth him in takinge thearof to the intente to buylde a theato^r or a playinge howfe, and declared what greate proffitt woulde ryfe vnto them bothe by yt, yf they fo did, And what was the Aunfweare of the fayd John Brayne therevnto to your remembraunce./
- 3 **Item** whether did not the fayd James earnestlye intreate him to ioine wth him in takinge of yt, otherwyfe he was not able to buylde yt, for yt woulde Cofte fyve tymes fo muche as he was worthe, And whether did not the fayd John Brayne and he agree fo to doe, And that yt fhoulde be taken at Allyns handes only in the name of Burbadge, but notwthstandinge to the vfe of bothe.
4. **Item** whether was not a Leafe thearof taken accordinglye of the fayd Gyles Allyne wth Covenautes therin Conteyned to buylde the fayd Theato^r or playinge place, And whether did not the fayd James Burbadge after the takinge thearof promys the fayd John Brayne to assure him of a moitye of the theato^r and the proffittes thearof after yt was buylt together wth the other landes and tenem^{tes}, and bounde him felf in a bonde fo to doe./
5. **Item** whether did not the fayd John Braynes (Jmmediatlye after that promyse) make a greate fome of money to the intente to erecte & buylde the fayd howfe, and then hyred workemen provyded tymber, and other neccessaryes to builde yt wthall, and whether did not he bestowe in buyldinge therof the somme of one thousand Markes at the leafte for his parte and whether did not

he vtterlye forfake hys trade of livinge, the w^{ch} he had before planted himself in to his greate proffitte, and by the meanes of the fayd James Burbadge did forfake yt, and wholly imploye himself and all that he coulde make about the theato^r in fellinginge all his stocke, and was not he therby vtterlye vndone./

6 **Item** what thinke you that the faid James Burbadge bestowed for his parte, and whether was he able to bestowe the somme of one hundred pounce, or was of fuche Credytt, that he was able to make the somme of one hundred markes to helpe to buylde yt, & was yt not wholly donne in effecte wth the money of the fayd John Brayne, & by his Credyt, And what you knowe hearin, speake your knowledge./

7 **Item** when yt was buylt, and divers playes therin performed, and greate somme and sommes of money Collected by fuche as did repayre thither to see them, whether did not the faid Burbadge Contrary to hys owne promyse therin, w^{ch} was that the fayd John Braynes shoulde have half the proffitte of all the premiffes, often tymes filche out of the Commone boxe by a Counterfayte keye to open yt, divers greate somme & sommes of money in defraudinge of his Companions and the faid John brayn And whether did not the faid James Burbadge often tymes hyde money in hys bosome or aboute himself of fuche money as was gathered, and shoulde have bene equallye devyded betwene them, & keptt yt to himself & what you knowe thearin, speake yo^r knowledge or in eny other his like bad practiffes as that yo^u haue hard or knowe//

8 **Item** whether doe ye knowe of yo^r owne knowledge, or have hearde faye, that divers Controuersies & Contentions weare betwene the fayd James Burbadge, & the faid John Brayne touchinge the fayd Theato^r, & whether did not they submitt them felves vnto the Arbitrament of Certayne persones for the pacificacion of all matters betweane them, and whether did not the faid Arbitrato^{rs} awarde that the fayd James Burbadge hys executo^{rs}, & Affignes shoulde enioye the one moitye of the proffittes of the

premyffes, & the faid John Brayne his executo^{rs} & Affignes shoulde enjoy the other moitye of the *proffittes*, ye, or no.

- 9 **Item** whether did not they awarde also, that yf occasione shoulde be to morgage the *premyffes* for the borrowinge of money to paye *debtes* for the *perfourminge* of any necessfarye thinge concearn-
ing the theato^r, that then bothe they shoulde ioyne in morgage,
& the money Cominge & ryfinge of the *proffittes* of the faid
Theato^r, to goe to the redempcion of the faid morgage, ye or no
- 10 **Item** whether did not the faid James Burbage & the faid John
Braynes accordinge to the fayd Arbitrament morgage the fayd
Theato^r & other the *premyffes* vnto one John Hyde Citizen &
grofer of London for the *fomme* of one hundred twentye & fyve
poundes or thereaboutes to be payed at a certayne day & tyme in
the faid morgage limited, yea, or no.
- 11 **Item** whether was the fayd Theato^r & other the *premyffes* for-
faited vnto the fayd John Hyde ye or no for that he was not payed
his money at fuche daies & tymes, as was by the fayd morgage
agreed vpon ye or no.
- 12 **Item** what *fomme* or *fommes* was payed vnto the fayd John Hyde
by the fayd John Braynes & the fayd James Burbadge in the lyf
tyme of the fayd John Braines before the forfeiture of the *premyffes*, & what *fomme* or *fommes* of money was left vnpaid at the
tyme of the deathe of the fayd John Braynes, for the w^{ch} yt was
morgaged for, & what ys payed fythence hys deathe/
- 13 **Item** whether did not the fayd John Hyde often tymes faye vnto
the fayd John Brayne & the fayd James Burbadge & vnto the
nowe Comp^l & others, that yf he weare payed his money that was
dewe, & confideracion for the fore bearinge of yt, that he woulde
neuer take any advantage of the fforfayture ye or no./
- 14 **Item** whether did not the faid John Hyde *promyfe* vnto the fayd

Complainant, that yf he weare payed hys money that then he woulde assure the *premyffes* vnto the faid *Complainant*, & vnto the faid James Burbadge becaufe he had yt from the houfband of the faid *Complainant*: & the faid James Burbadge, & nowe by the deathe of her houfbande his *parte* belongeth to the faid *Complainant*, & the rather to for that he was payed all his money favinge thirte pounde or therabouts in the lyf of the faid Braynes, by the meanes of the faid Braynes, & what you knowe hearin; fpeake yo^r knowledge./

- 15 **Item** whether did not the fayd Margarette Brayne offer to paye the fayd thirte pounde vnto the fayd John Hyde yf he woulde reafsure the *premyffes* over to her, & yf he woulde fo doe, fhe fhoulde be bounde to Convaye over a moitye thearof vnto the faid James Burbadge, in fayinge that althoughe Burbadge woulde defeate her of her right, yet fhe woulde not fo deale wth him, & what Aunfweare made the fayd John Hyde therevnto.
- 16 **Item** whether did not the faid James Burbadge deteyne the *proffites* of the *premyffes* in his owne handes of *purpose* to make a forfayture vpon the morgage, & therevppon to take yt againe in his owne name or to his owne vfe in the name of his chylde or freinde, ye or no, & whether did not the fayd James after the deathe of Braynes vtterly denye the fayd *Complainant* to receive any more *proffites* of the *premyffes*: Contrary to the arbitram^t, whearebye the faid John Hyde was not payed his money accordinge to the faid arbitramente wth the *proffites* of the *premyffes* as yt ought to have bene by the awarde:./
- 17 **Item** whether did not the faid James Burbadge intreate the fayd John Hyde to Convaye the *premyffes* vnto Cuthbert Burbadge his fonne of *purpose* to defeat the faid *Complainant* of her right of the moitye in the *premyffes*, & whether did not he procure M^r Cope to labo^r in hys behalfe wth M^r Hyde to Convaye yt to hys fonne Cuthbert to the vfe of the fayd James ye or no, Yf fo then whether did not the fayd John Hyde faye that fhe fhoulde have her moitie

before he woulde Conveye the *premisses*, excepte bothe the fayd James & the fayd Cuthbert woulde *promiffe* that she shoulde have her moitie & right at their *handes* ye or no, & what you knowe hearin, speke yo^r knowledge

18 **Item** whether did not the fayd James & Cuthbert often tymes fythence the redemption therof, *promife* the fayd *Complainant*, that she shoulde have her moitye in the *premisses*, as her housbande had, & for that *purpose* he suffred her to enioy yt for a tyme, vntill he had obteyned his *purpose*, and after putt her moſte vnconſcionablye from yt./

19 **Item** what *fomme* or *fommes* of money or other *proffittes* hathe the fayd James Burbadge and Cuthbert Burbadge received for the Theatour and other the *premyſſes* fythence the laſte accompt or reconinge made between the fayd John Braynes and James Burbadge to yo^r knowledge or remembraunce, and what ye knowe hearin ſpeake yo^r wholl knowledge and what doe ye thinke the ſaid Braines beſtowed in buildinge of the theato^r for his *parte*, & what money ys owinge vnto him by any of the Burbadges to yo^r knowledge, and what money hathe the fayd Burbadge beſtowed./

Scott [attorney]

[Here ended the original list of interrogatories. Then, before witnesses were examined, questions 20, 21, 22 were added.]

20 **Item** wheather doe yo^u knowe that thear was an order in her Maties Courte of Chauncery the xiiijth of November in the xxxijth yeare of her highnes Reigne That Margaret Brayne *plaintif* and James Burbadge and Cutbarte Burbade *defendants* mad the xijth day of Julie in the xxth yeare of her graces Reigne Betwixt the ſaid John Brayne one the one *partie* And the ſaid James Burbadge one the other *partie* by Rychard Turner and John Hill Arbitradores. Confearninge the Theavter in Holloway and the *proffites* theareof./

21 **Item** wheather haue the ſame James Burbadge and Cutbarte

Burbadge performed and accomplished the said Arebitrement
ackordinge to the said order yea or noe/

- 22 **Item** in what poyntes haue the said James Burbadge and Cutbarte
Burbadge or eyther of them or any other person comprised in the
said order broken or infringed the said Arebitrement or order and
herein discouer yo^r whole knowledge//

DEPOSITIONS

Ex parte Margarete Braynes viduae querentis
versus Jacobum Burbage et Cuthbertum Bur-
bage defendentes Teste examinatore per Hen-
ricum Johnes in Cancellaria Examinatorem/

Johne Grigges of Puddinglane london Carpinter of the age of
xliij yeres or therabouts sworn and ex^d the xxix daye of Julye
in the xxxiiij yere &c To the first Jnterrogatory. that he doth
knowe all the parties p^l and Defend^{tes}/ And knoweth Gyles Allen
gentleman named in this Jnterrogatory. And faith that the said
Gyles Allen was owner & feyfed of A pece of voyd grounde, A
mill house, and other howses or tenem^{tes} in the parishe of St
leonardes in Shordiche wthout Bishops gate london/

To the 2. that he doth knowe that James Burbage one of the nowe
Defend^{tes}, and John Braynes decessed named in this Jnterrogatory
the now compl^{tes} late husbande/ did take A lease of the said
Gyles Allen of the said voyde pece of grounde & of the said myll
houffe/ & other the said premiffes/ But what conference or
convercacion passed betwene the said James and the said Jo.
Brayn concerning the taking of the premiffes of the said M^r
Allen/ or concerning what profit & commoditie wold grow vnto
them therby by building A playe house therppon/ he faith he
was never pryvie therof nor present therat/

To the 3. that he did heare it crediblye reported/ that it was
agreed betwene the said James Burbage/ and the said Brayne/

y^t the faid leafe fhuld be made in the name onlye of the fame James/ and yet to the vfe of them bothe/ and otherwyfe to this *Interrogatory* he faithe he cannot depofe

To the 4. that he cannot tell what the *contentes* or *covenantes* of the faid leafe were/ Nor more can faye to this *Interrogatory*. faving he faith that he hath heard & beleveth it is true/ that the faid James Burbage ftandeth bounde to the faid Braynes/ that during the faid leafe/ the faid Braynes his executo^{rs} or affignes fhuld haue & Receyve the one half of the *Rentes* & *proffittes* that fhuld ryfe & growe by & of the fame/

To the 5. that he doth knowe/ that vpon fuche promiffes and fpeche as paffed frome the faid James Burbage to the faid Braynes/ of the g^t welth and profitt that fhuld ryfe vnto them/ by building A Theater or playe houfe/ & other buildinges vpon the faid voyd grounde/ he the faid Braynes being A man of g^t welth, and of A welthie Trade/ provided A g^t fomme of money/ hyred wo^rkmen/ provyded Tymber and all other nedefull thinges for the building of the faid Theater in fomoche/ that this Depo^t thinketh in his confcience he beftowed theryppon for his part what firft and laft/ the fomme of one thoufand *markes* at the leaft/ wherby hoping of the g^t welth that fhuld ryfe vnto him by the fame/ he gave vppe his trade/ fold his stocke/ his houfe he Dwelt in/ in Bucklers berye london/ & wholye ymployed all he could make towards the faid Buildinges/ and fetting fourthe the fame/ to his own vtter vndoing at the laft./

To the 6. that he [*doth verelie thinke, that* (stricken out)] cannot certenlie tell how moche the faid James burbage beftowed for his part vppon the building of the faid Theater & other the *premisses*/ But he faith that he doth thinke in his confcience/ that the faid James Burbage was not at the tyme of the firft begynning of the building of the *premisses*/ wo^rth aboute one C *markes* in all his fubftance/ for he & this Depo^t were familierlie acquainted long before that tyme/ and ever fyns/ So as he verelie thinketh the

faid James Burbage hath not in all bestowed ther vppon/ the full value of one hundreth poundes/ but that it was the money and goodes of the faid Braynes that fett vppe & fynished the fame/ w^t the helpe of the profittes that grewe by playes vied there/ before it was fully finished/

To the 7. that he is *ignorant*

To the 8. that he doth knowe/ that in the lyfe tyme of the faid Johne Braynes/ ther fell out great contencion & varyaunce betwene him and the faid James Burbage about the profittes and the vnhoneft *parciall* dealing/ of the faid James/ concerning the faid Theater/ But what end the fame contencion tooke whill the faid Braynes lyved/ he faith he knoweth not/ nor more can faye to this *Jnterrogatory*.

To the 9. that he is *ignorant*

To the 10. that he doth knowe that the faid James Burbage and Braynes did ioyntlie morgage ther faid lease of the Theater to one hyde A grocer of london/ but for how moch money/ or otherwyfe/ he faith he knoweth not/

To the 11. that he hath heard by credible report/ that the faid lease was forfетted to the faid Hyde/ for nonpaym^t of the money they borrowed ther vppon/ both at the tyme it shuld haue bene payd, and long tyme after/

To the 12. that he is *ignorant*

To the 13. that he is *ignorant*

To the 14. that he *can* say nothing

To the 15. that he *can* say nothing

To the 16. that he can fay nothing

To the 17. that he can fay nothing

To the 18. that he cannot depofe

To the 19. that he can fay no more then he hath before faid/

To the 20. that he can fay nothing

To the 21. that he can fay nothing

To the 22. that he can fay nothing/ Nor more can fay to all the
forefaid *Interrogatories*/

[Signed] per me John Grigges

Edwarde Collyns of Bucklers berye london grocer of the age of
xxxix yeres or therabouts fworne and ex^d the Daie and yere
aforefaid &c To the firft *Interrogatory*. that he dothe knowe
all the parties p^l/ and Defend^{tes}/ but knoweth not Gyles Allen
named in this *Interrogatory*/ And to the reft of this *Interrogatory*
he faith he cannot depofe/

To the 2. that he cann fay nothing

To the 3. that he can fay nothing

To the 4. that he hath credyblie heard faye, and beleveth it to be
very true/ that the faid James Burbage one of the now defend^{tes}
and Jo. Braynes the comp^{tes} late hufband deceffed tooke A leaffe
of the grounde whervpon the playing houffe called the Theater
now ftandeth/ & of other howfes there/ but of whome they tooke
the fame/ Or what the contentes yerof is/ he faith he knoweth
not/ And further to this *Interrogatory* he faithe he cannot
depofe/

To the 5. that this Depo^t being *feruaunt* in Bucklers berye afore-

faid to one Robert Kenningham grocer/ in w^{ch} Streete the faid Jo. Braynes Dwelled alfo/ and of the fame Trade/ he the faid Braynes at the tyme he Joyned w^t the faid James Burbage in the forefaid leafe/ was reputed emonges his neyghbo^{rs} to be wo^{rth} one thowfand poundes at the leaft/ And that after he had Joyned w^t the faid Burbage in the matter of the building of the faid Theater/ be begann to flack his own trade/ and gave him felf to the building therof/ and the chefe care therof he tooke vpon him/ and hyred wo^rkmen of all fortes for that purpose/ bought Tymbre and all other thinges longing therunto/ and paid all/ So as in this Depo^{tes} confcience he bestowed thervpon for his owne parte the fome of one thowfand markes at the leaft/ in fomoche as his affeccion was gyven fo greatlie to the fynifhing therof/ in hope of great welth & profitt during ther leafe/ that at the laft he was dryven to fell to this Depo^{tes} ffather his leafe of the howfe wherin he dwelled/ for one C li/ and to this Depo^t all fuche wares as he had left/ and all that longed therunto Remayning in the fame for the fome of one Cxlvj^{li} & od money/ wherof this Depo^t did paye for him to one Kymbre an Jremonger in london for Jron wo^rke w^{ch} the faid Braynes bestowed vpon the fame Theater/ the fome of ffourtie poundes/ And after wardes the faid Braynes tooke the matter of the faid building fo vpon him/ as he was dryven to borow money to fupplie the fame/ faying to this Depo^t that his brother Burbage was not hable to help the fame/ and that he found not towardes it aboute the value of ffiftie poundes/ fome parte in money/ and the reft in stuff./

To the 6. that he can fay no more/ then he hath before faid/ in the laft former *Interrogatory*.

To the 7. that he is *ignorant*

To the 8. that he Remembreth ther fell out variaunce & contention betwene the faid James Burbage/ and as he thinketh the faid Braynes/ or his wyfe the now compleynant the w^{ch} variance they consented that friendes fhuld hear & arbytrate the fame/

whervpon this Depo^t was Requested to say to the faid Arbytrato^{rs} being in the Temple Church/ what he could fay of the habilitie of the faid Braynes/ whan he & Burbage Joyned together in the foresaid leafe & building of the Theater/ and this Depo^t declared truelye vnto them/ what he could faye of the faid Braynes/ But whether the faid Arbytrato^{rs} made any Award betwene them/ Or yf they did/ what the substaunce therof was/ he faith/ he is vtterlye ignorant/ Nor more can fay/ to this Jnterrogatory.

To the 9. that he *can* fay nothing

To the 10. that he is ignorant

To the 11. that he is ignorant

To the 12. that he is ignorant

To the 13. that he *can* fay nothing

To the 14. that he can fay nothing

To the 15. that he can fay nothing

To the 16. that he can fay nothing

To the 17. that he can fay nothing

To the 18. that he can fay nothing

To the 19. that he is ignorant/ nor more can fay to this Jnterrogatory then he hath before faid/

To the 20. that he can fay nothing

To the 21. that he is ignorant

To the 22. that he can say nothing/ Nor further faith to all the fore said Interrogatories/

[Signed] by me Edwarde Collyns

Robert Myles of the Parishes of whytechapell w^tout Allgate london free of the companie of the goldsmithes of the age of liij yeres or therabouts sworne and ex^d the xxx Daye of Julye in the yere afore said &c To the first Interrogatory/ that he dothe know the now comp^l/ And all the defend^{tes} And knoweth also Gyles Allen gentleman named in this Interrogatory. And faith that he doth knowe that the said Gyles Allen was of late seyed and owner emonges other landes & tenem^{tes} w^tin the parishe of S^t leonardes in Shordiche wthout Bishops gate london in & about the late Dissolued Pryorye called hallywell there/ of A parcell of voyd grounde/ and of dyvers other landes & tenem^{tes} parcell of the same Pryorye/

To the 2. that he doth knowe and was *present* at tymes whan the said James Burbage did earnestlie insynuate his brother in lawe John Braynes deceffed the now comp^{ltes} late husband/ for the taking of A lease of the said Gyles Allen of the said pece of voyd grounde to builde the now playhouffe called the Theater ther-vppon/ earnestlie informing him/ that it wold grow to ther contynuall great profitt & commoditye/ through the Playes that shuld be vsed there everye weke/ But the said Braynes being of A welthie trade alrebye/ and A grocer in Bucklers Burye london & Ryche was verye lothe to deale in the matter of the said lease/ Notw^tstanding in the end by the contynuall perswasion & meanes made vnto him by the said James Burbage the said Braynes Joyned w^t him in takeng the said lease/ But he faith/ that he hath heard the said Jo. Braynes many & often tymes saye/ that the drawing of him by his brother Burbage to deale in the matter of the said Theater/ was his vtter vndoing/ and that he wold never haue entred yerin but by the swete and contynuall perswasions of his said brother in law Burbage/ And for the charges that shuld haue bene bestowed vppon the building of the same

playe houffe/ he this Depo^t did heare the faid Burbage tell the faid Braynes/ that it fhuld not excede the some of CCⁱⁱ/ But this Depo^t faith that after the faid Braynes had lade out vpon the building & Doing therof to the value (as he faid) of fyve hundreth poundes or therabouts/ he this Depo^t heard the faid Braynes charge the faid James Burbage/ that where he made him beleve the building therof fhuld not excede the charge of CCⁱⁱ/ he the faid Braynes had lade out fyve hundreth poundes already vpon the fame/ and then this Depo^t heard the faid Burbage tell him/ it was no matter praying him to be contented/ it wold fhortlie quyte the coft vnto them bothe/ or wo^rdes to like effecte./

To the 3. & 4. that he hath heard the faid Braynes faye/ that his Brother Burbage was the onlye meanes/ that he entred in the taking of the faid leafe/ and building of the faid Playe houfe/ and that yf he the faid Braynes wold not Joyne w^t him therin he himfelf fhuld never be hable to builde it/ for it wold coft fyve tymes fo moche as he was wo^rthe/ And faithe that the faid Braines told this Depo^t/ that he was advyfed to fuffre the faid Burbage to take the faid leafe in his owne name and he to convey ouer to him the faid Braynes his executo^{rs} and affignes the moytie or half of all the profittes growing by the playes & Rentes there/ and Burbage to haue the other moytie / [*leaft yf the faid Braynes fhuld John w^t him* (stricken out)]/ and herevpon the faid Burbage entred into CCCCⁱⁱ bonde to the faid Braynes to performe the fame as by the fame bond may appere And this the fayd Braynes fayd he was advyfed to do/ leaft yf the faid leafe had come in both ther names/ the Survyvo^r fhuld go away wth all/ All w^{ch} or to the fame effecte the faid James Burbage hath confeffed to this Depo^t dyvers and fondrye tymes to be true/

To the 5. that vpon the promys & proteftment of the faid James Burbage, to the faid Jo. Braynes/ that he his executo^{rs} and affignes fhuld during the faid leafe haue & Receyve/ the one half of the proffittes that fhuld Ryfe by the faid Playes there to

be vsed/ and A dyvydent or half also of all the Rentes of fuche howfes and thinges as were graunted & were w^tin the Compaffe of the said lease/ fo the said John Braynes made a g^t some of money/ of purpose & intent/ to go to the building of the said Playe houffe/ and thervp^on did provyde Tymbre/ and other stufte nedefull for the building y^erof/ and hyred Carpenters/ and plaisterers for the same purpose and paid the wo^rkemen contynuallye/ So as he for his part lade out of his owne purce & what vpon Credit about the same/ to the some of vj or vij^c li. [=6 or 700*l.*] at the least/ And in the same tyme feing the said James Burbage nothing able ether of him self/ or by his credit to contrybute any like some towards the building therof/ being then to be fynished/ or ells to be lost that had bene bestowed vp^on it alredye/ the said Braynes was dryven to sell his house he Dwelled in/ in Bucklers bery and all his stock that was left/ and gyve vpe his trade yea in the end to pawne & sell both his owne garmentes and his wyves & to ren [sic] in debt to many for money to fynishe the said Playe houffe/ & fo to ymploye himself onlye vp^on that matter/ and all whatsoeuer he could make/ to his vtter vndoing/ ffor he faith/ that in the latter end of the fynishing therof/ the said Braynes and his Wyfe the now comp^l. were dryven to labo^r in the said wo^rkes/ for saving of some of the charge/ in place of ij^o laborers/ Whereas the said James Burbage went about his owne busynes/ and at sometymes whan he did take vp^on him to do some thing in the said wo^rkes/ he wold be/ and was allowed A workmans hyre/ as other the workmen there had/

To the 6. that he hath heard the said James Burbage confesse vp^on the accomptes and Reconinges had betwene him & the said Braynes concerning the said lease and the matter of the buildinge of the said Playehouffe/ that all the charge w^{ch} he was at/ in the accomplishing of the premiffes from the begynning to the end did not amount to the full value of one Cⁱⁱ/ w^{ch} this Depo^t verylie thinketh to be true/ ffor he never knew him but A po^r man & but of small Credit/ being by occupacion/ A Joyner/ and reaping but

A small lving by the fame/ gave it over/ and became A *commen* Player in playes/ And further faith/ that he doth knowe/ that his Credit was fuche/ as nether *merchant* nor *Artificer* wold gyve him Credit for the value of x^{li} vnles his brother Braynes wold Joyne w^t him/ being A man well knowne in london both of his own wellth and of good credit/ And faith y^t he hath heard the faid Braynes by earnest othe afferme/ that all the readye money w^{ch} his brother Burbage brought fourthe to be ymployd towards the building of the faid Theater was but about [*fyftie & od poundes* (stricken out)] xxxvij^{li}/ and the rest that made vppe about the some of fyftie & od poundes w^{ch} was in maner all that he bore towards the faid charge/ was in od peces of Tymber/ waynescott & fuche like thinges and his own labo^r/ wherin the faid Braynes told this Depo^t/ his brother Burbage made him to allow him/ in some thinges the value of vj^d for A grote/ So as this Depo^t knowethe y^t the whole building of the *premisses* in effecte and the taking of the faid leafe/ was done at the only charge of the faid Braynes by his own goodes/ & credit/

To the 7. that whan the faid Playe houffe was fynished/ and playes performed in the fame/ and great somes of money gathered & had of the repairers therunto the faid Braynes told this Depo^t that his brother Burbage/ contrarye to his faith and promes that the faid Braynes fhuld haue parte & partelyke of the fame/ did by the space of about ij^o yeres/ purloyne & filche therof to him self moch of the fame money/ by A secret key w^{ch} he caused one Braye A Smyth in Shordiche to make for him of the *Commen* box where the money gathered at the faid Playes was by both ther consentes putt in/ by meanes wherof he did not onlye playe false w^t him the faid Braynes to A great value as it was thoght but also Dickeyve his fellowes the Players/ And many tymes wold thruft some of the money Devident betwene him & his faid ffellowes/ in his bofome or other where about his bodye/ Dickeyving his fellowes of ther due Devydent/ w^{ch} was equally to haue bene devyded betwene them/ All w^{ch} this Depo^t dothe verelie beleve to be true/ ffor that he hath heard the faid James Burbage vppon

fynding of the fame falce key/ confesse fo moch in effecte to the
said Braynes/ praying him to forgyve him/ and he wold yf he
lyeved make him Recompence/ saying it was the Devill that led
him fo to do/ And further to this *Jnterrogatory* he faith not/

To the 8. that he hath bene privie and *prefent* at & of dyvers vari-
ances & contencions betwene the said Jo. Braynes & James Bur-
bage for & concerning the matters & *profittes* of the said Theater/
and that they did submitte them selves therin to the Award &
Arbytryment of one Ry. Turno^r/ and Jo. Hille/ men of great
honestye & credit/ to make a fynall end of all matters in queſtion
betwene them, who vppon great discreffion and indifferiencye be-
twene them bothe/ having throughlye heard ther grefes/ and
Demaundes did Arbitrate & Award in wryting Jndented betwene
them readie to be ſene that from thenſforthe the said Jo. Braynes
his executo^{rs} & affignes ſhuld haue/ receyve & enioye to them &
ther owne vſes/ during the said leafe/ the one half or moytie of
the *profittes*/ that ſhuld grow & ryſe by the playes to be vſed
ther/ and alſo of the *Rentes* ffynes & other yerelie *profittes* of
ſuche other tenem^{tes} & places there/ as ſhuld yerelie grow due for
the fame/ and the said James Burbage his executo^{rs} and affignes
to haue alſo the other moytie of the *premiſſes* During the said
leaſe in lyke maner/

To the 9. that he doth knowe that the said Arbitrato^{rs} did alſo
Award betwene them/ That yf occaſion ſhuld move them the said
James Burbage and Jo. Braynes to morgage the said leafe vppon
the Borowing of any ſome of money to paye *Debtes*/ concerning
the said Theater/ that then they both ſhuld Joyne in the fame
morgage/ and that money coming of the *proffittes* of the said
Playes & the other said *Rentes* and ffynes/ to go to the Redemp-
cion of the said leafe/ as by the said Award may appere/

To the 10. that he doth knowe/ and ſo is it confeffed by depofi-
cions in the Chauncerye/ that the said James Burbage and Jo.
Braynes did according to the said Arbitryment/ having ſpeciall

nede/ morgage ther faid leafe/ and the dymfyed *premisses* therin to one Jo. hyde grocer of london/ for the some (as he Remem-breth) of one Cxxv^{li} or theraboutes payable at A certen Daye/

To the 11. that he doth knowe/ that the faid Cxxv^{li} was not payd to the faid Jo. hyde at his Daye/ nor long after/

To the 12. that he doth knowe that ther was payd to the fayd Jo. hyde/ in the lyfetye of the faid Jo. Braynes/ as the faid hyde did confesse to the now comp^l. all the faid Cth and xxv^{li} faving the some of xxx^{li} or theraboutes/ But whether it was payd before the faid leafe was forfeitted or no he faith he cannot depose/ Nor whan or how the faid xxx^{li} was payd/ after the deceffe of the faid Jo Braynes/

To the 13. that he did heare the faid Jo. Braynes faye before his deceffe many & often tymes/ that the faid Johnne hyde did faithfullye promes vnto him that yf he were payd his principall debt/ and some reasonable confideracion for the tyme he did forbear the same/ he wold never take the advauntage of the forfeiture of the leafe/ And fyns the death of the faid Jo. Braynes, he this depo^t did dyvers tymes heare the same Jo. hyde faye to the now comp^l that he wold never take any forfeiture of the faid leafe yf he might haue his money that was due behinde/ and any reasonable confideracion for the forbearing therof/

To the 14. that he did heare the faid Jo. hyde faye and promes to the now comp^l/ that yf he were payd his money/ w^t some indyferent confideracion for the forbearing therof/ that he wold reaffure the *premisses* to the said comp^l and to the faid James Burbage/ in respecte it was morgaged vnto him/ by both the compl^{tes} husband and the faid Burbage/ faying that he verylie tooke it/ that by the death of the compl^{tes} husband/ his right & interest of & in the same/ did belong to the same comp^l/

To the 15. that he doth verie well Remember/ that on a tyme after

the deceffe of the faid Braynes/ his wyfe the now comp^l went to the faid Jo. hyde and this Depo^t & others in her companye/ and offered him/ to paye him the money that was behynde vnpayd/ w^{ch} by his owne confeffion was but xxx^{li}/ yf he wold conveye over vnto her the faid leaffe/ and that yf he wold fo do/ ſhe wold be bounde to affure the faid James Burbage of the moytie of all the *proffittes* and *Rentes* therof/ faying in verye dede/ Although the faid Burbage wold & fought to defeat her of her right therein/ yet wold not ſhe fo deale w^t him/ and then the faid hyde made her an^r/ faying Whan I am payd my money/ then will I make it ouer to yo^u & burbage as yo^r husband & Burbage made it to me/ or ſpeche to the ſame effecte/

To the 16. that he doth knowe that after the death of the faid Jo. Braynes/ the faid James Burbage did deteyne in his own handes/ the *proffittes* and *Rentes* of the faid *premiſſes*/ of purpoſe (as it was thought) that the faid leaſe ſhuld fall forfeſted to the faid hyde/ & fo that he might take it over of the faid hyde in his own name/ or in the name of ſome other to his uſe/ as it trulie fell out after/ And faith that after the death of the faid Braynes the faid James Burbage/ did vtterlye denye the comp^l to take or Receave any more of the *proffittes* or *Rentes* of the faid *premiſſes* *contrarye* to the expreſſe meaning & Wordes of the foreſaid Awarde & Arbitryment/ Wherby the faid Jo Hyde was not payd his money according to the faid Arbitryment/ w^t the *Rentes* and *proffittes* of the *premiſſes*/ as it ought to haue bene by the faid Arbitryment/

To the 17 that true it is the faid James Burbage (as the faid Jo hyde told this Depo^t) Did fo labo^r him/ what by the faid Burbage wyfe/ and ſpeciallye by *lettres* from one M^r Cope one of the lord Treaforers gentlemen/ that he ſhuld make ouer his intereſt & claime of & in the faid leaſe/ to Cuthbert Burbage the ſone of the faid James Burbage/ the other now Defend^t/ [*to the uſe of him the ſame James Burbage* (ſtricken out)]/ vppon the payment of the faid xxx^{li} & ſome further conſideracion/ meaning as this

Depo^t thinketh in his conscience/ to Defeat the comp^l of her right in the *premisses*/ And then the said hyde anfred/ this Depo^t that he graunted the rather therunto for that bothe the said James Burbage & his said sone Did faithfullie *promes* him/ that the said comp^l shuld haue her *contynuall* moytie of the *proffittes* and *Rentes* of the *premisses*/ w^{ch} they faithfullie promised vnto him (as he said) so to do/ During the tyme of the said lease/ the w^{ch} (as he said) he wold not haue done yf he had known they wold not haue lett her quyetlie haue the same/

To the 18. that he doth well Remember/ that the said James Burbage after the death of the said Braines & before the Redempcion of the said lease did for a tyme suffer the comp^l to take some of the *proffittes* of the said Playes/ so long as she was hable to laye out money/ to the necessary vse of the said Playe houffe/ to the some of xxx^{li} or therabouts as she reported/ And no longer/ Whervppon this Depo^t on the comp^les behalf both before & fins the Redempcion of the same charged them w^t the same/ and the said James made him an^r/ that she shuld haue her moytie according to the said Award/ whan all ther *Debtes* were payd/ and that she shuld susteyne no wrong ether at the handes of him/ or of his sone/ And likewyse this Depo^t meeting w^t the sayde Cuthbert dyvers tymes & falling into speche w^t him of the said comp^les wrong mynistred vnto her by his ffather & him in that they w^hheld her right from her of the Theater/ he answered/ that for his own part he was very well contented that the comp^l shuld haue her part of the said *Proffittes*/ yf his father wold agree to it/ being forye that ever he did entre into that *accion*/ ffor that he had both lost his tyme/ and trobled his M^r in the same/ Whereas some other Sute vnto his M^r/ would haue bene more profitable vnto him as had bene to some of his fellowes that had not serued his M^r so long as he had and wished he had never Delt in it/

To the 19. that he dothe verelie thinke in his conscience that the said James Burbage/ and his said sone/ and ther assignes fyns the last *Accompt* or *Reconing* had & made betwene him the said James and the said Jo. Braynes for the *proffittes* & *Rentes* of the Theater

& the howfes & tenem^{tes} there/ w^{ch} was about viij or ix yeres past/ to his Remembrance/ haue Receyved of Rentes and proffittes growing therby to the value of two thousand *markes* at the least for his owne parte/ And so moche shuld the said Braynes/ and the now comp^l haue had for ther partes of the said proffittes and Rentes/ yf they had had right/ Befydes the moytie of CCxxxix^{ll} w^{ch} the said James Burbage was to paye to the said Braynes as to one of the Credito^{rs} of money lent out & lade fourth by him vppon the premiffes/ and w^{ch} the said James Burbage gave his word & promes to paye him/ together w^t interest for the same/ so long as it shuld be vnpayd/ of the w^{ch} money this Depo^t heard the said Braynes saye A litle before his deceffe/ that he had not receyved one peny/ And shewed to this Depo^t also/ A bill of xvj^{ll} debt of the said James Burbage w^{ch} he was neuer payd also And befydes the moytie of the value of certen tymbre lead/ Brick/ Tyle/ lyme & sand/ left of the building of the said Theater/ wothe (as the said comp^l affirmethe) an hundreth poundes or an hundreth *markes* at the least/ And further to this *Interrogatory* he cannot depose/ then he hath before Deposed & sayd/

To the 20. that he doth knowe and was *present* whan the Ordre mencioned in this *Interrogatory* was made in the Co^t of Chaucerye/ betwene the said comp^l/ and the now defend^{tes} in the favo^r of the same defend^{tes}/ Albeit the said def^{tes} did in g^t contempt Difobey/ and w^t heynous *presumptuous* wordes/ neglecte & sett the said Ordre at nought/ and the Arbytryment before mencioned allowed & confirmed by the same/ in all Respectes and poyntes/

To the 21. that he can say no more in effecte/ then he hath laft before said to the laft former *Interrogatory*/.

To the 22. that he referreth him self to certen Depoficions of Witneses taken in this co^{rte} of late/ concerning the manifest and scarce tollerable contempt of the Def^{tes} & other of ther company/ against the said Ordre/ and the said Arbitrym^t/ All w^{ch} Duelye

and charitablye being confidered/ he this Depo^t Doth verylie think in his confcience/ that the now comp^l is by this Sute vtterlye vndone/ and Dyvers of her ffrendes hyndered that haue Relieved her to the value of ffyve hundreth markes/ at the least/ And more to the forefaid *Jnterrogatories* he faith not/

[Signed] By me Robart Miles

Henry Laneman of london gentleman of the age of liiiij yeres or therabouts sworne and ex^d the daie and yere aforefaid &c To the first *Jnterrogatory* that he doth knowe all the parties of the named comp^l and defend^{tes}/ And to the rest of this *Jnterrogatory* he faith he cannot depose/

To the 2. that he can fay nothing

To the 3. that he can fay nothing

To the 4. that he can fay nothing

To the 5. that he cannot depose/ onlye he did heare/ that the building of the Theater at hallywell cost A thowfand markes/ but who did bestowe the charge yerof he knoweth not/

To the 6. that he can fay no more/ but that the comen speche went/ whan the faid Theater was in building that it was Braynes money & Credit that builded the same/ and that James Burbage was at y^t tyme verye vnhabable to Joyne therin/

To the 7. that he can fay nothing

To the 8. that he did heare of some contencion & variance that fell out betwene the faid James Burbage/ and the faid Jo. Braynes after the fynishing of the faid Theater and after that plaies were performed therin/ And that the faid Contencion & variance was by ther consentes put to the Arbitryment of certen perfones/ and that the faid perfones did make an Awarde betwene them/ wher-

unto he doth referre him self for the troth of the fame/

To the 9. that he Doth ftill referre him self to the faid Awarde/

To the 10. that he is *ingnorant*

To the 11. that he is *ingnorant*

To the 12. that he is *ingnorant*

To the 13. that he is *ingnorant*

To the 14. that he is *ingnorant*

To the 15. that he *can* fay nothing

To the 16. that true it is/ about vij yeres now fhallbe this next Wynter/ they the faid Burbage & Braynes having the *profittes* of Playes made at the Theater/ and this Depo^t having the *profittes* of the playes Done at the houffe called the Curten/ nere to the fame/ the faid Burbage and Braynes taking the Curten as an Efore to their playe houffe/ did of ther own mocion move this Depo^t that he wold agree that the *proffittes* of the faid ij^o Playe howfes might for vij yeres fpace be in Dyvydent betwene them/ Wherunto this Depo^t vpon reofonable condicions & bondes agreed & confented and fo *contynueth* to this Daie/ And faith that at the firft mocion of this agreem^t the faid Braynes had his porcion duelye answered him of the faid *profittes*/ and vntill he dyed/ But after his deceffe the faid Burbage began to abridge his wyfe the nowe comp^t of that her husband had of the *premisses*/ and fhortlie after put her from all/ to the w^{ch} vpon some myflike had by this Depo^t of the vnkynde dealing of the faid Burbage, w^t the faid Braynes wyfe, he this Depo^t told him many tymes that he did her wrong/ telling him that the comen fame went that it was braynes that was at the chefe charge of the building of the faid

Theater/ And otherwyfe or more to this Jnterrogatory he faith he cannot depofe

To the 17. that he can fay nothing

To the 18. that he can fay nothing

To the 19. that he doth verelie thinke that the faid James Burbage fyns the Death of the faid Braynes who to this Depo^{tes} Remembraunce Dyed wⁱⁿ the firft yere of ther compoficion and agreem^t w^t this depo^t hath receyved & had for his parte of the proffittes of the faid ij^o playe howfes/ one yere w^t another to this daye/ the fome of one hundreth markes or fourfcore poundes by the yere/ And this is all that he can faye to this Jnterrogatory/

To the reft of the Jnterrogatories he faith he cannot depofe/ Nor more faith in this matter/

[Signed] Henry lanman

William Nicoll of london Notary publiq aged xliiij yeres or thereabouts fworne & examined the laft daye of Julye in the yere aforefaid &c.

To this firft Jnterrogatory that he doth knowe the faid Margaret Brayne the Complainant and James Burbage one of the defend^{tes} and hath knowen them by the fpace of xv^{en} or xvj yeres pafte but he doth nott (to his now remembraunce) knowe the faid Cutbert Burbage or the faid Giles Allyn named in the faid Jnterrogatory/

To the 2. 3. 4. & 5. Jnterrogatories this Deponent faieth that about fiftene yeres pafte the faid James Burbage and one John Brayn Deceaft late husband of the faid Complainant came to this Deponent to his then fhop in the parifhe of S^t olave in thold Jury in london and required to have a leafe & Covenantes drawn betwene them of the moytie of certen howfes or Tenementes barne ftable Theatre gardeins and other premisses w^{ch} the faid James Burbage then held by leafe of one Giles Allyn of Hal-

lowell in the Countie of *middlesex* gent and Sara his wief fet and being (as this deponent taketh it) at Hollowell nere vnto ffynnesberry feildes in the Countie of *middlesex* then shewing vnto this deponent as he now remembreth the Copy of the said lease at w^{ch} tyme the said James Burbage and John Brayne did declare to this deponent that though the lease was taken in the name only of the said James Burbage/ yet it was ment to be for both their vies and therefore he the said James Burbage was willing to assure the one moytie of the premisses to the said John Brayne/ Whervpon this deponent did drawe and engrosse an Indenture of lease betwene them dated the ixth daie of August in the xixth yere of the raigne of o^r most gracious soveraigne lady that now is, to the effecte of their then agreementes./ W^{ch} lease so engrossed this Deponent thinketh (to his now remembrance) was not sealed by the said James Burbage/ for that the originall lease made to him by the said Giles Allyn and Sara his wief was then at pawne for money w^{ch} was borowed for the building of the said Theatre/ And therefore the said John Brayne afterwarde about the xxijth of may in the Twentieth yere of the raigne of o^r said soveraigne Lady did require this deponent to drawe an obligation wherein the said James Burbage should be bound to the said John Braynes in foure hundreth poundes for the making vnto the said John Brayne his executo^{rs} admini^{strato}rs or assignes a good and lawfull lease graunt and other assurance of the moitie or one Jijt half of all and singuler the said Theatre and other the premisses graunted to the said James Burbage by the said originall lease and of all the benefit of the Covenantes grauntes and agreementes comprised in the said lease w^{ch} bond or obligation this deponent made and engrossed according to the agreement betwene the said parties./ and afterwarde the said James Burbage did seale and delyver as his dede the said obligation to the said John Brayne in the presence of this deponent and one John Gardyner as by the said obligation and teste thereof wher-vnto he this deponent referreth him self (being shewed vnto him at this his examinacion doth appere/ And further this deponent saieth that shortly after the sealing of the said bond there grew

some Contencion betwene the said James Burbage and John Brayne touching the yndifferent dealing and collecting of the money for the gallories in the said Theatre for that he well remembreth the said John Brayne did thinck him self much agreyved by the indyrect dealing of the said James Burbage therein/ and coming then both together in the shop of this deponent about bondes of arbitrament w^{ch} this deponent thincketh he made betwene them to abide the order & arbitrament of one Richard Turner and John hill/ they the same James Burbage and John Brayne fell a reasoning together of the yll dealing of the said James Burbage./ at w^{ch} tyme this deponent was present and doth well remember that the said John Brayne did declare theis wordes or the like in effect how he had left his trade and fold his howse by the meanes of the said James Burbage to Joyne with him in the building of the said Theatre and that he had disbursed a great deale more money about the same then the said James Burbage had/ and there repeated what he had laied out and what the said Burbage had laied out (the certen *sommes* the deponent doth not now certainly remember) but he thincketh that the *somme* then disbursed by the said John Brayne was three tymes at the least as much more as the *somme* then disbursed by the said James Burbage, and in the end declared so many wordes of the ill dealing of the said Burbage towards him in that dealing of the Theatre/ that Burbage did there strike him wth his fist and so they went together by the eares In somuch that this deponent could hardly *part* them/ And further this deponent saith that afterwardes the xijth daie of July in the said Twentieth yere of the raigne of o^r said *souveraigne* Lady the said Richard Turner and John Hill did make enseale and geve vp their award betwene the said James Burbage and John Brayne in the presence of this deponent and George Goffe then his apprentice as by the said award Indented and the Teste therof w^{ch} was shewed to this deponent at this his examynacion doth appere/ and more to the said Interogatories to his now remembrance he cannot depose/. To the vjth Interogatory this deponent thincketh that the said James Burbage at the tyme of the taking of the said lease of

m^r Allyn and his wief was not able to bestowe for his parte of his owen money wthout Credit) the somme of one hundred poundes towardes the building of the said Theatre for that this deponent thincketh that he the said Burbage was not then worth a hundred poundes and as towching his credyt he thincketh it was but smale/ and more he cannot depofe/

And to all the rest of the said Jnterogatories this deponent faieth he cannot depofe otherwise then he hath alredy depofed/

[Signed] per me William Nicoll

WILL OF MARGARET BRAYNE

Commissary Court of London, Register 1592-97, p. 26.

[The will of John Brayne, an old one, dated 1 July, 1578, and proved 10 August, 1586, just after his death, is also registered in this court, in the register for 1585-92, p. 29. But as he had disposed of most of his property by deeds of gift, and the will makes no mention of theatrical interests, no further notice need be taken of it. The widow, of course, claimed the moiety of the Theatre as executrix.]

In the name of God Amen the eight daye of Aprill Anno 1593 in the xxxvth yeere of the Reigne of our fouereigne Lady Elizabeth by the grace of god Quene of Englande ffrance and Irelande defendor of the faith &c I Margaret Braine of the parishe of St^t Mary Matfellow alias whitechapell in the Countie of Middlesex widdow beinge wholl in mynde fyck of body but of a perfect memory and remembraunce laude and prayfe be given to allmightie god therefore doe make and ordeine this my present writinge conteyninge herein my laft will and Testament in manner and forme followinge that is to faye ffirst and principally and aboue all thinges I comende my soule to allmightie god my maker and to Jefus Christ his sonne my favio^r and redemer trusting in and by his merittes and precious blood fheddinge to be saved and to attaine liefe euerlastinge And as concerninge the difpoficion of all and singular such my goodes Chattles ymplementes and houfhold stuff and other goodes whatfoeuer movable and vnmov-

able which I am now investet or w^{ch} to me is or shalbe by any manner of wayes or meanes howfoeuer appurteyninge or belonging I freely and wholly geve and bequeth the same in manner and forme followinge That is to saye Item I geue and bequeth vnto Robart Miles Cittizen and goldsmith of London in consideracion that I am greatly indebted vnto him in such greate some and somes of money that all the goodes I haue in the wholl worlde will nothings countervaille the same all such interest right propertie claime and demande whatfoeuer which I the saide Margaret Brayne haue should or ought to haue of in or to the one moytie or halfe parte of the playhouse comonly called the Theater Nere Holliwell in the Countie of Middlesex And also my mynde and will is that the saide Robart Miles shall haue all the benefite proffitt and comoditie thereof any faige [sic] comynge or growinge or w^{ch} by any meanes may discende or come by vertue of the saide moytie or half parte of the Theater to me in Right belonginge as aforesaide Item I geue and bequeth vnto the saide Robart Miles all and all manner of bandes bills specialties debtes somme and somes of money whatfoeuer as I now haue or w^{ch} by vertue of any such bandes or specialties may be gotten wonne or obtayned or which now and here after shall growe dewe and payable And lastly I geue and bequeth vnto the said Robart Myles all and singular my goodes Chattalls houshold stuff and other of my goodes whatfoeuer Item my will is in consideracion partly of the premiffes that the saide Robart Miles shall keepe educate and bringe vp Katherine Braine my husbandes daughter of whome I hope he wilbe good and haue an honest care for her preferment And I make and ordeine the saide Robart Miles sole Executor of this my saide Testament and last will It witnes whereof I the saide Margaret Braine haue herevnto sett my hande and seale the daye and yeres first aboue written *signum dicte* Margarete Brayne *Sigillatum et deliberatum* in presencia Georgij Harrison for Nicholas Bishop John Patterfon witnesses Burbary Bishop and Elizabeth Hunt/

[Proved May 3, 1593.]

MYLES v. BURBAGE

Chancery Decrees and Orders, vol. 1593 "B," 785. Hilary, 36 Elizabeth (1593-4).

xj^o die ffebruarij [1593-4]

Robte Myles p^{lt}
James Burbage
Cutbert Burbage
and others def^{tes}

} fforasmuch as this Cowrte was the present
dayYnformed by M^r Scott beinge of the
p^{ltes} councell That the Matter wherein
Margarett Brayne was latelye p^{lt} against
the aboue named def^{tes} tstandinge here-

tofore Referred vnto M^r D^r Stanhop and M^r D^r Legg two of
the M^{rs} of the Cowrte and they beinge redye to make theyr Re-
port the sayd Margarett then p^{lt} dyed. fynce w^{ch} tyme the said
Robte Myles hath exhibited A bill and Served proces vpon the
def^{tes} to Anfwere the same to revyue the said form^r fuyte and the
orders of Referment made theirevpon in the same state yt stood
at the tyme of the former p^{ltes} deathe It ys therefore ordered
that the sayd M^{rs} of this Cowrte fhall att the nowe p^{ltes} fuyte take
the lyke confyderacion as they were to doe of the Matters to
them before referred at the former p^{ltes} fuyte and make fuche
Report thereof as by the former orders made in that behalf they
were appoynted to doe That fuch further order may be taken
therevpon as to this Cowrte fhالبة thought meete/

BURBAGE v. MYLES

Chancery Decrees and Orders, vol. 1594 "A," 857; also in 1594 "B," 862. Hilary, 37 Elizabeth (1594-5).

xiiiij die Marcij [1594-5]

James Burbage p^l
Robte Miles defendt

} fforasmuche as the Right honorable
S^r John Puckeringe knight Lorde
keeper of the greate Seale of Eng-

land was this present daye informed on the p^{les} behalf by M^r

Borne beinge of his Councill that the faid parties haue croffe billes the one against the other and that witneffes in the faid feverall cawfes are examined and publicacion at one tyme by consente of the faid parties was longe synce had And that the cawfe wherein the faid Burbage ys p^l for the most parte Concernethe the other And that the cawfe wherein the faid Miles is p^l ys appointed to be heard at the Rolles Chappel on Monday the xxiiij day of May next It was therefore most humbly desired by the faid M^r Borne ffor that the matter wherein the faid Burbage is p^l against the faid Miles was first comenced and is also Reddy for the hearinge as aforefaide might be also heard together wth the other cawfe wherein the faid Miles is p^l on the xxviiijth day of May next at the faid Chappell of the Rolles It is ordered by his Lo: that if the faid Miles shall not by the second Retorne of the next terme showe vnto this Courte good cawfe to the contrarye then the faid cawfe wherein the faid James Burbage is p^l is fet downe to be heard on the faid xxviiijth day of May wthout further mocion to be made in that behalfe And the faid Miles or his Attorney ys to be warned hereof/

MYLES v. BURBAGE

Chancery Decrees and Orders, vol. 1595 "A," 130; also in 1595 "B," 140. Easter, 37 Elizabeth (1595).

xxviiij die Maij [1595]

Robte Miles p^l
James Burbage
and Cutberte Bur-
bage defend^{tes}

} The matter in question betweene the
faide parties towchinge the moytie of the
leafe of the Theator in the bill men-
tioned and the proffites thereof Comynge
this present day to be heard in the

prefence of the Councill learned on bothe partes It was alledged by the defend^{tes} Councill that the faid p^l had not only a bonde of 400^{li} made vnto him by the def^{tes} for the Affinginge over of the fame moytie vnto him wherevpon a demurrer ys nowe joyned at

the comon lawe, but also an other bonde of 200^{li} made for the performance of an Arbytrament made betwene the said parties w^{ch} the said p^l pretendeth to be also forfyted by the def^t And therefore as the said Councell alledged the p^l hathe no neade of the Ayde of this Courte for the said leafe and profittes It ys therevpon thought fitt and soe ordered by this Courte that the said p^l shall proceede at the comon lawe against the said defend^t vpon the said bondes To thend yt may be feene whether the p^l can Relive him selfe vpon the said bondes or not But if yt fall out that the p^l canot be Relived vpon the saide bondes Then the matter shall Receive a spedy heringe in this Corte And fuche order shalbe geven therevpon As the equity of the cavse shall Require And in the meane tyme the matt^r ys Reynd[=Reteyned] in this courte

[End of the case in Chancery. This final order, with modern spelling and wrong date of 1596 for 1595, was printed first by J. P. Collier, *Actors* (*n. s.*), p. 10.

Myles was unable to get relief at the Common Law. The secret of the matter is that the case of Widow Brayne and Myles had no foundation in either law or equity, and that it was prosecuted solely by Myles's money from the first, out of malicious enmity by her and him toward the Burbages. Failing in both the Chancery and the Common Law, Myles again took up the case, after the death of James Burbage in 1597, this time in the Court of Requests, as shown in the next document, to harass his widow and his sons Cuthbert and Richard Burbage.

It would have been remarkable if Shakespeare had not fused some of Myles's traits into immortal features, particularly his Shylock-like insistence on the pound of flesh. Such annoyances to the close business associates of the great dramatist, hindering the success of the company, can hardly have failed to leave a residuum of human experience plastic to the hand of the poet.]

MYLES v. BURBAGE AND ALLEN

Court of Requests Proceedings, Uncalendared, Bdl. 306.

BILL

[Bill only. No answer has ever been attached to it. Filing entry, regularly placed on back of bill, wanting. Undated; but internal evidence shows the bill was drawn early in 1597, shortly after the death of James Burbage, which fell in February. The first court-order on it is dated May 9, 1597. The suit is an attack on the Burbage estate. Having failed in his previous long litigation, Miles as executor of the late Margaret Brayne, now claims a moiety of the Theatre and 600 *l.* as due to him. Giles Allen is cunningly made co-defendant with the Burbages. It is evident on the face of it that the case could not stand in either law or equity.]

To the Quenes Moſte excellent Ma^{tie}
in her highnes courte of Requeſte

Humblye complaynyng ſheweth vnto your Moſte excellent ma^{tie}
your ma^{tes} moſte faithfull ſubiect Robert Myles of London Gould-
ſmythe execu^{or} of the laſt will and teſtament of Margerette
Braynes Deceaſed executrix of the laſt will and teſtament of
John Braynes her huſband alſo Deceaſed That wheras one Gyles
Allen gent and Sara his wief did for a ffyne of twentye powndes
wherof one haulf was paid by the ſaid John Braynes and the other
by one James Burbage Deceaſed by their Deede Jndented Demyſed
and leaſed to the ſaid James Burbage in the eighteenth yeare of the
Quenes Ma^{tes} reigne Dyvers meſſuadges and tennementes and
vacant peeces of grounde in Hallowell in the countye of Myddle-
fexe for the terme of twenty and one yeares rendring the yearly
rent of fowrtene powndes in which Demyſe or leaſe the ſaid James
did covenante to beſtowe two hundreth powndes in buyldinges
in and vppon the Demyſed premyſſes Jn conſyderacyon wherof
the ſaid Gyles and Sara did covenante to and with the ſaid James
and his aſſignes that hee the ſaid Gyles and Sara and their heyres
and aſſignes within tenn yeares followyng the begynyng of the ſaid

demyse would make a New Demyse or lease of the premises to the said James or his assignes for one and twenty yeares to begynne att the making of the said demyse rendring the lyke rent as aforefaid and vpon the lyke covenantes as the former demyse was made except as in the said covenantes is excepted for Making of which said lease the said Gyles also became bounde to the said James in a some of money vnknowne to the said Robert and also the said Gyles and Sara did further covenante to and with the said James and his assignes that att any tyme before the end of the first lease aforefaid the said James and his assignes mighte haue taken Downe and carryed away all such buyldinges as should be buylded by the said James and his assignes in a gardyne and void grownd demysed by the said former lease excepte such buyldyngs as should bee buylt by the expense of the said two hundreth powndes And wheras also the said James beyng not able to buyld accordinge to the agreement made and to his Desire vpon the Demyfed premises dyd both before and after the said first Demyse and lease soe taken agree and promyse to and with the said John Braynes that the said John and his executo^{rs} should haue the bennefyte and profyttes both of the first demyse and lykewyse of the second demyse which was to bee made and also of the covenante and covenantes aforefaid and of all other covenantes and bondes by the said Gyles and Sara or any of them for or conferring the premises to the yntent and in consyderacyon that the said John should dysburse a moytye both of the said two hundreth powndes and of all other chardges which should aryse and growe in buyldyngs or otherwyse concerning the premises nowe soe yt ys and yt maie please your moste excellent ma^{tie} that since the first Demyse and agreement as aforefaid the said John Braynes dyd ioyne with the said James in the buyldyng aforefaid and dyd expend thervpon greater somes then the said James that ys to saie att least fyue or fixe hundreth powndes after which tyme the said John Did for a tyme perceyue & take proffyttes of the moytye of the said demysed premises by the assent of the said James as also by an arbitrament betwene them made by Richard

Turnar & John Hill vntill the faid James did morgage the faid leafe vnto one John Hide for a hundreth twentye fyue powndes or theraboutes and did forfeyte the faid leafe vnto the faid John Hide for non payment of thirty powndes only all the which Money thirty powndes excepted was paid by the faid John Braynes vnto the faid John Hide who allwayes made faithfull promyse that vppon the paiem^t of the faid thirty powndes and some conyderacyon befide for the forbearng of the money hee would assure the leafe back agayne vnto the faid John Braynes and the faid James Burbage and theyr assignes all the which hee was Moved vnto by the reason that hee the faid John Hide dyd know of the faid agrement and ioynt expenfes and *perceptyon* of proffyttes by the faid John and James before the faid morgage after the which tyme the faid Hide by covyne of the faid James and one Cutberd Burbage his sonne contrarye to his faithfull promyse that hee would assure the faid leafe vnto the faid John Braynes and to the faid James Burbage not any waye takyng advantage of the faid morgage did conuaye the faid leafe vppon paiement of the faid thirty powndes to the faid Cutberd only to defeate the faid agrement which faid conuaieance was some feaven yeares agoe or theraboutes since which tyme the faid Cutberd hath taken all the proffyttes of the faid leafe The which faid leafe is nowe expired And the faid James Burbage is Deceased and the faid Braynes being yndetted yn the some of fyue hundreth powndes to this compl^t made his wief Margerette his executrix and Died which Margerette allfo remaynyng in the Dett as aforefaid to yo^r faid subiect made him to that end her executo^r and Died fithence which tyme the faid Robert as executo^r to the faid Margerette the executrix of the faid John Braynes hath often required the faid Cutberd and Gyles and Sara to *permytte* and suffer him to take Downe fuch buyldinges as by the covaunte aforefaid were to be taken downe and to allow this compl^t the moytye of the tymber and other thinges or the value of the moytye therof and allfo this compl^t hath often required the faid Gyles and Sara according to the covaunte aforefaid to make to him as executo^r of Margerette Braynes aforefaid executrix

of the said John a lease of the moytye of the premysses before Demyed accordinge to the covenante and agrementes aforefaid and allso although the said Robert hath required the said Cutberd to allowe him the arrerages of the moyty of the *proffyttes* of the Demyed *premysses* aforefaid receyved by the said Cutberd fythence the conveyance therof to him Made by John Hide aforefaid yett that to Doe they vtterly Deny contrarye to all equitye and good conscience and Wheras allso the said James had taken all the *proffyttes* of the said demyed *premysses* contrarye to the truste aforefaid vntill thassignement made by Hide as aforefaid to the said Cutberd and because hee was other wyse yndebted to the said Braynes in obligacyons in fixe hundred powndes and fithence Died intestate and one Ellen Burbage hath taken admynistracyon of the goodes of the said James and hath gotten goodes and chattells of his into her handes amounting to a thousand powndes refuseth to paie and allowe to this comp^t the arrerages of the moytye of the *proffyttes* taken by the said James before the said assignem^t and allso to paie the said other *Dettes* alledging shee hath noe goodes in her handes vnadmynistred wherby yo^r ma^{tes} pore subiect is likely euery waie to be Defeated except hee maie haue some releyf before yo^r ma^{tye} in this honorable court And forasmuche allso as yo^r ma^{tes} pore subiect is altogether without his remedy att the common law for the recouerye of the moytye of the *proffittes* of the Theater & other the landes and tenementes soe wrongfully taken by the said James and Cutberd Burbage by the reason that the said John Braynes had noe assignem^t made vnto him of the said lease soe taken by the said James Burbage of the said Gyles Allen although yt were taken as well to the vse of the said John Braynes as vnto the vse of the said James and soe lykewyse of the said benefytte of all the covenantes conteyned in the said lease and forasmuche allso as yo^r Ma^{tes} pore subiect hath noe remedye by the common lawe to compell the said Gyles Allen and the said Sara to make a New lease according to his covenantes conteyned in the said lease for a longer tyme although hee is ynteressed yn all equitye in the same as executo^r vnto the said Margerette Braynes the execu-

trix of the said John Braynes who bestowed all the Coft in effect vpon the buyldinges & stood vpon the faithfull promas of the said James & Cutberd to have a moytie of the said lease to be assigned and forasmuche also as yo^r Ma:^{tes} pore subiect ys all-together wthout his remedye vpon the said bondes of fixe hundredreth poundes as aforefaid they being made void by the connyng practyzes of the said James Burbage Cutbert Burbage & the said Ellen by attachme^{tes} & oth^r devyfe And forasmuche also as the said Gyles Allen and Sara haue bynne required to make a lease of the moytie of the premyffes as aforefaid who hath refused foe to doe In tender confideracyon wherof Maie yt please yo^r Ma:^{tes} the premissis confided to graunte vnto yo^r pore subiect yo^r moste gracious writte of Pryvye seale to be Derected vnto the said Ellen Burbage Gyles Allen & Sara his wief and Cutbert Burbage comaunding them *personally* to appeare before yo^r ma:^{tes}. counsell of yo^r highnes court of Requestes att a certeyne tyme therin lymytted & appoynted then and there to anfwere the premyffes and also to abide such order and Derectyon as shall seme to stand with goode confcience And yo^r subiect accordinge to his Duty wyll Dailie praie for yo^r Ma:^{tes} raigne in all happines long to raigne ouer vs To the pleasure of Allmightye God.

Scott [attorney]

COURT ORDER, MAY 9, 1597

Requests, Misc. Books, vol. 48 (Draft Order Books)

Nono die Maij [A^o xxxix R^{no} Elizabeth (1597)]

Roberte Myles compl^t Cuthbert Burbage and others defend^{tes} vpon the mocion of m^r Walter beinge of counfaill wth the said defend^{tes} yt is Ordered that the Atturteis on bothe fydes conferr the bill preferred by the *plaintiff* into her ma:^{tes} highe Corte of Chauncery against the said def^{tes} together wth his bill heare dependinge in this corte, And yf vpon reporte thereof to be made yt shall appeare that they bothe conteyn one matter in substaunce and effecte, Then the same matter shalbe fromhence dismissed/

COURT ORDER, MAY 27, 1597

*Idem.*xxvij^{mo} die Maij A^o *predicto* (1597)

ffor afmuche as in the caufe at the fute of Roberte Myles compl^t againft Giles Allen and others defend^{tes} Mr Scott beinge of counfaill wth the faid compl^t hathe this day enformed her Ma^{tes} counfaill in this corte that the perfons named in the bill w^{ch} formerly depended in Chauncery concerninge this caufe and in the bill nowe dependinge in this corte concerninge the fame caufe are not all one but feuerall and diftincte Therefore vppon mocion of Mr Scott aforefaid yt ys Ordered (notwthftandinge any former Order) that this caufe fhalle retheyned in corte to be heard in the fame, And that the faid defend^{tes} fhall make their full and perfect Aunfweres vppon their othes vnto the faid compl^{tes} bill in this corte wthout delay at their perills/

[Succeeding orders, if any, are lost. The Order Books that should have contained them are missing. It is doubtful if answers were ever made, as above ordered. In any case, they are not now extant, for we have searched the records of the Court of Requests from end to end and transcribed for publication all the theatrical documents they contain, without coming upon the answers referred to.]

ALLEN *v.* STREET*Queen's Bench, Trinity, 42 Elizabeth. (1600), m. 587.*

[This suit was brought by Giles Allen nominally against Peter Street, the carpenter, but in effect against Cuthbert Burbage, for tearing down the Theatre. In the course of it, the unexecuted lease of 1585, incorporating main parts of the original lease of 1576, is quoted entire. The case was stopped by the Court of Requests, first by injunction of April 10, 1600, and finally by decree of Oct. 18, 1600. See next suit. The present suit was found by Halliwell-Phillipps, who quoted extracts from it in his *Outlines*, I, 348-49, 359-60, 361-373. Allen caused the pleadings to be entered on the records, contrary to an order of the Court of Requests of May 31, 1600. See affidavit of Cuthbert Burbage on it, June 11, 1600, Sir Julius Caesar's order, of same date, for arrest of Allen for contempt, Allen's statement of the affair, in his Star Chamber suit, *Allen v. Burbage*, 1602, and the examination of Richard Lane in the same suit.]

Adhuc de Termino sancte Trinitatis Teste J. Popham

Midd ff Memorandum quod alias scilicet Termino Pasche Anno regni domine Elizabethæ nunc Regine Angliæ quadragesimo primo coram eadem domina Regina Apud Westmonasterium venit Egidius Aleyn Armiger per Johannem Tanner Attornatum suum Et protulit hic in Curia dicte domine Regine tunc ibidem quandam billam suam versus Petrum Strete in Custodia Marrescalci &c de placito transgressionis Et sunt plegii de prosequendo scilicet Johannes Dov & Ricardus Rov Que quidem billa sequitur in hec verba ff Middlesexia ff Egidius Aleyn Armiger queritur de Petro Strete in Custodia Marrescalci Marefcalcie domine Regine coram ipsa Regina existente de eo quod ipse vicesimo die Januarij Anno regni domine Elizabethæ nunc Regine Angliæ quadragesimo primo vi & armis &c Clausum ipsius Egidij vocatum the Inner Courte yarde parcellam nuperi Monasterij Prioratus de Hallywell modo dissoluti Apud Hallywell in Comitatu predicto fregit & intrauit Et herbam ipsius Egidij ad valenciam quadraginta solidorum adtunc in Clauso predicto crescentem pedibus suis ambulando conculcauit & consumpsit Et quandam structuram ipsius Egidij ibidem fabricatam & erectam vocatam the Theater ad valenciam septingentarum librarum adtunc & ibidem diruit divulfit cepit & abcariauit Et alia enormia ei intulit contra pacem dicte domine Regine ad dampnum ipsius Egidij octingentarum librarum Et inde producit sectam &c

Et modo ad hunc diem scilicet veneris proximum proft Craftinum sancte Trinitatis isto eodem Termino vsque quem diem predictus Petrus Strete habuit licenciam ad billam predictam interloquendum Et tunc ad respondendum &c Coram domina Regina apud Westmonasterium venerunt tam predictus Egidius Alleyn per Attornatum suum predictum quam predictus Petrus Strete per Thomam Petre Attornatum suum Et idem Petrus defendit vim & iniuriam quando &c Et quoad venire vi & armis ac totum & quicquid quod est suppositum fieri contra pacem dicte domine Regine nunc preter fraccionem & intracionem in clausum predictum & herbe predicte conculcacionem & consumpcionem Necnon

dirupcionem divulcionem capcionem & abcariacionem *predicte* Structure vocate the Theater idem Petrus dicit quod ipse in nullo est inde culpabilis Et de hoc ponit se super patriam Et *predictus* Egidius similiter &c Et quoad *predictam* fraccionem & intracionem in *clausum predictum* & herbe *predicte* conculcacionem & confumpcionem necnon dirupcionem divulcionem capcionem & abcariacionem *predicte* Structure vocate the Theater idem Petrus dicit quod *predictus* Egidius accionem suam *predictam* inde *versus* eum habere seu manutenere non debet quia quoad *predictam* fraccionem & intracionem in *clausum predictum* & herbe *predicte* conculcacionem & confumpcionem idem Petrus dicit quod *predictus* Egidius Alleyn dudum ante *predictum* tempus quo supponit *transgressionem* illam fieri *seisitus* fuit de & in *predicto* *Clauso* cum *pertinentiis* in quo &c in *dominico* suo vt de feodo Et sic inde *seisitus* existens idem Egidius postea & ante *predictum* tempus quo &c scilicet die Anno regni dicte domine Elizabethæ nunc Regine Angliæ apud Halliwell *predictam* in *predicto* Comitatu *Middlesexia* dimisit concessit & ad firmam tradidit cuidam Cutberto Burbage executoribus & Assignatis suis *Clausum predictum* cum *pertinentiis* habendum & tenendum *Clausum predictum* cum *pertinentiis* eidem Cutberto Burbage quidem ambabus partibus placeret reddendo *pro* inde annuatim durante termino *predicto* quatuordecim libras legalis monete Angliæ heredibus & assignatis suis ad quatuor anni terminos videlicet ad festa Annunciacionis beate Marie virginis Nativitatis sancti Johannis Baptiste sancti Michiaelis Archangeli & Natalis domini per equales porciones virtute cuius quidem dimissionis *predictus* Cutbertus in *Clausum predictum* cum *pertinentiis* in quo &c intrauit & fuit inde possessionatus per quod idem Petrus vt seruiens eiusdem Cutberti ac per eius mandatum *predicto* tempore quo &c in *predictum* *Clausum* in quo &c fregit & intrauit Et herbam in *Clauso predicto* crescentem pedibus ambulando conculcavit & consumpsit prout ei bene licuit Et quoad *predictas* dirupcionem divulcionem capcionem & abcariacionem *predicte* structure vocate the Theater idem Petrus dicit quod dudum ante *transgressionem* illam superius fieri suppositam pre-

dictus Egidius Alleyn & Sara vxor eius fuerunt coniuncte seifiti de *predicto clauso* vocato the Jnner Courte dudum parcella dicti nuperi monasterij Prioratus de Hollowell modo difoluti in dominico suo vt de feodo Et ijdem Egidius & Sara sic inde seifiti existentes dudum ante *transgressionem predictam* superius fieri suppositam scilicet decimo tercio die Aprilis Anno regni dicte domine Elizabethæ nunc Regine Anglie decimo octauo apud Hollywell *predictam* in *predicto Comitatu Middlesexia* per quandam Jndenturam factam inter eisdem Egidium Alleyn per nomen Egidij Allyen de Hollywell in Comitatu Middlesexia generosi & Saram vxorem eius de vna parte & Jacobum Burbage de londonia Joyner ex altera parte cuius alteram partem sigillis ipsorum Egidij Alleyn & Sare vxoris eius sigillatam idem Petrus hic in Curia profert dimiserunt *clausum predictum* cum *pertinentiis* inter alia eidem Jacobo Burbage habendum & tenendum *clausum predictum* cum *pertinentiis* prefato Jacobo Burbage executoribus & assignatis suis a festo Annunciacionis beate Marie virginis vltimo elapso ante datum Jndenture *predicte* vsque finem & terminum viginti & vnus annorum extunc proxime & imediate sequentem & plenarie complendum & finiendum Et *predictus* Jacobus Burbage per eandem Jndenturam conuenit & concessit pro se hereditibus executoribus administatoribus & assignatis suis & pro quolibet eorum ad & cum prefato Egidio Alleyn & Sara vxore eius hereditibus & assignatis suis quod ipse idem Jacobus Burbage executores vel Assignati sui tam in confideracione *predicte* dimissionis & termini annorum per Jndenturam *predictam* concessam quam pro & in confideracione Maheremij laterum anglice Bricke tegularum plumborum & omnium aliarum rerum anglice stufte *provenientum* de tenementis horreo & omnibus alijs *premissis* per Jndenturam *predictam* dimissis ad eius aut eorum custagia & onera infra decem annos proxime sequentes datum Jndenture *predicte* impenderent & exponerent in & super edificacionem alteracionem & emendacionem *predictarum* domorum & edificiorum pro melioracione eorundem vt in eadem Jndentura *predicta* prefertur per prefatum Jacobum Burbage executores seu assignatos suos faciendas summam ducentarum librarum legalis mo-

nete Anglie ad minus valore tanti *predictorum veterum Maheremij & rerum anglice* stufte circa eadem *impendendorum & expendorum* Computato *parcella predicte summe ducentarum librarum* Et veterius *predicti Egidius Alleyn & Sara vxor eius* conuenerunt & concefferunt *pro seipfis & heredibus executoribus administratoribus & assignatis suis & pro quolibet eorum* ad & cum *prefato Jacobo Burbage executoribus & assignatis suis* per eandem *Jndenturam quod ijdem Egidius & Sara vel vnus eorum* vel heredes vnus eorum ad aliquid tempus vel tempora infra decem annos *proxime sequentes datum Jndenture predicte* ad & super *licitam requificionem vel demandam predicti Jacobi Burbage executorum administratorum vel assignatorum suorum* ad eius & eorum *custagia & onera in lege facerent aut fieri caufarent* *prefato Jacobo Burbage executoribus aut assignatis suis* novam dimiffionem seu conceffionem *similem conceffioni in Jndentura predicta* specificate *omnium predictorum Mefuagiorum tenementorum terrarum fundi & soli & ceterorum premifforum per Jndenturam predictam preconcefforum pro termino viginti & vnus annorum* incipiendo a die *confeccionis eiusdem conceffionis sic faciente/ reddendo proinde annuatim predictum annualem redditum* quatuor decem *librarum* ad *fefta premencionata & sub talibus condicionibus conuencionibus Articulis & agreementis* quales ante & post hanc *conuencionem in predicta Jndentura mencionantur & expreffantur & non aliter preter hanc conuencionem pro confeccione* nove dimiffionis *infra decem annos & predictam conuencionem pro impendicione anglice the bestowinge predicte summe ducentarum librarum prout per eruditum concilium predicti Jacobi executorum vel assignatorum suorum* *rationabiliter advifaretur vel devifaretur modo & forma predictis/* Et vltierus *predicti Egidius Alleyn & Sara vxor eius* conuenerunt & concefferunt *pro seipfis heredibus executoribus & assignatis suis & quolibet eorum* *separatim* *conuenit & conceffit ad [&] cum prefato Jacobo Burbage executoribus & assignatis suis* *quod licitum foret eidem Jacobo executoribus seu assignatis suis in confideracione impendicionis & expoficionis predictarum ducentarum librarum* modo & forma *predictis* ad aliquod tempus & tempora

ante finem *predicti termini* viginti & vnus annorum *per predictam* Jndenturam concessi aut ante finem *predicti Termini* viginti & vnus annorum post confectionem Jndenture *predicte* virtute eiusdem Jndenture concedende habere diruere & abcarare ad eius aut eorum proprium vsu imperpetuum omnia talia edificia & omnes alias res qualia edificata erecta aut supposita forent anglice sett vpp in & super *gardinum* & locis vacuis anglice the groundes *per Jndenturam predictam* concessis aut aliqua parte inde *per predictum* Jacobum executores vel assignatos suos aut *pro* teatro *vocato* a theater or playinge place aut *pro* aliquo alio licito vsu *pro* eius aut eorum Commoditate preter talia edificia qualia post hac facta fuerunt virtute *premissorum predictorum* racione impendicionis & expoficionis *predicte* summe ducentarum librarum absque aliquo impedimento clamatione tribulacione vel interrupcione *predictorum* Egidij Alleyn & Sare vxoris eius aut alterius eorum aut heredum executorum administratorum & Assignatorum eorum vel alicuius eorum aut aliquarum aliarum persone vel personarum in vsu anglice behalfe iure aut titulo aut *per* remedium anglice by the meanes vel procuramentum eorum vel aliquorum eorum Et vltorius idem Petrus Streete dicit quod *predictus* Jacobus Burbage virtute dimissionis *predicte* in tenementa *predicta* cum *pertinentiis* intrauit & fuit inde possessionatus Et sic inde possessionatus existens idem Jacobus Burbage ad eius custagia & onera infra *predictos* decem annos *proxime* sequentes datum Jndenture *predicte* impendit & exposuit de & super edificacione alteracione & emendacione tenementorum & edificiorum *predictorum* *per ipsum* Jacobum Burbage vt *preferatur* de & super *premissis* faciendis summam ducentarum librarum legalis monete Anglie valore tanti *predictorum* veterum Mahere mij & rerum anglice stuffe circa eadem impensorum & expofitorum accomputato *parcella* *predicte* summe ducentarum librarum Et vltorius quod *predictus* Jacobus infra *predictos* decem annos *proxime* post datum Jndenture *predicte* ad eius propria onera & expensa fabricauit & erexit super *predicta* vacua funda Structuram *predictam* *vocatam* the theater in narratione *predicta* specificatam Et vltorius idem Petrus Streete dicit quod *predictus* Jacobus Burbage post confectionem Jndenture *predicte* & infra

predictos decem annos proxime sequentes datum Jndenture predicte scilicet primo die Novembris anno regni dicte domine Regine nunc vicesimo septimo apud Hallywell predictam in Comitatu Middlesexia predicto ad eius propria onera & custagia retinuit quendam Willelmum Danyell armigrum nunc scruientem ad legem fore a concilio suo ad devisandum novam dimissionem similem dimissioni in eadem Jndentura specificate omnium predictorum mesuagiorum tenementorum terrarum fundi & soli & ceterorum premissorum per Jndenturam predictam preconcessorum pro termino viginti & vnus annorum incipiendo a die dati Jndenture predictae sic vt prefertur faciende Et quod predictus Willelmus Danyell postea scilicet predicto primo die Novembris anno vicesimo septimo predicto apud Hallywell predictam in Comitatu Middlesexia predicto devisauit vnam novam dimissionem premissorum predictorum que quidem nova demissis sequitur in hec verba ff This Jndenture made the fyrst daye of November in the Seaven & twentythe yeare of the reigne of our soueraigne ladye Queene Elizabeth &c Betweene Gyles Allen of Holliwell in the Countye of Middlesex gen & Sara his wyfe of the one party And James Burbage of london Joyner of thother party witnessethe That the saide Giles Allen and Sara his wyfe of one assent & consent in accomplishing & fulfilling of a certayne Covenante conteyned & mencioned in one former Jndenture of lease made of the landes & tenementes herafter mencioned bearing date the thirteenth daye of Aprill Anno domini 1576 and in the eighteenth yeare of the raigne of our fore sayde soueraigne ladye queene Elizabeth made betweene the sayde Gyles & Sara his wyfe one thone partie and the sayde James Burbage on thother have sett & to ffarme letten & by thes presentes doe sett & to farme lett vnto the sayde James Burbage all thos two howses or tenementes wth appurtenances w^{ch} att the tyme of the sayde former demise made weare in the seuerall tenures or occupacions of Johan Harrison widowe & John Dragon and also all that howse or tenement wth Thappurtenances together wth the gardyn grounde lyinge behinde parte of the same beinge then likewise in the occupacion of William Gardiner w^{ch} sayd gardeyn plott dothe extende

in bredthe from a greate stone walle there w^{ch} doth inclose parte of the gardyn then or latlye beinge in the ocupacion of the sayde Gyles vnto the gardeyne ther then in the ocupacion of Ewin Colfoxe weaver & in length from the same howse or tenement vnto a bricke wall ther next vnto the feildes commonly called ffinfbury feildes And also all that howse or tenemente wth thappurtenances att the tyme of the sayde former dimise made called or knowne by the name of the Mill howse together with the gardyn grounde lyinge behinde parte of the same also att the tyme of the sayde former dimise made beinge in the tenure or ocupacion of the forefayde Ewyn Colefoxe or of his assignes w^{ch} fayde gardyn grounde dothe extende in lengthe from the same house or tenement vnto the forfayde bricke wall next vnto the forefayde feildes and also all these three vpper romes wth Thappurtenances next adioyninge to the forefayde Mill house also beinge att the tyme of the fayde former dimise made in the ocupacion of Thomas Dancafter shomaker or of his assignes and also all the nether romes wth thappurtenances lyinge vnder the same three vpper romes and next adioyninge also to the forefayde house or tenemente called the mill house then also beinge in the seuerall tenurs or ocupacions of Alice Dotridge widowe & Richarde Brockenburye or of ther assignes together with the gardyn grounde lyinge behynde the same extendyng in lengthe from the same nether romes downe vnto the forfayde brickwall nexte vnto the forefayde feildes And then or late beinge also in the tenure or ocupacion of the forefayde Alice Dotridge And also so much of the grounde & soyle lyeinge and beinge afore all the tenementes or houfes before graunted as extendethe in lengthe from the owtwarde parte of the forefayde Tenementes beinge at the tyme of the makinge of the sayde former dimise in the ocupacion of the forefayde Johan Harryson & John Dragon vnto a ponde there beinge next vnto the barne or stable then in the ocupacion of the right honorable the Earle of Rutland or of his assignes & in bredthe from the forefayde Tenemente or mill house to the midst of the well beinge afore the same tenementes And also all that great barne with thappurtenances att the

tyme of the makinge of the sayde former dimise made beinge in the seuerall occupacions of Hughe Richardes Jnholder & Robert Stoughton Butcher And also a little peece of grounde then inclosed wth a pale and next adioyninge to the forefayde barne & then or late before that in the occupacion of the sayde Roberte Stovghton together also wth all the grounde & soyle lyeinge & beinge betwene the sayde neyther romes laft before expressed & the forefayde greate barne & the forefaide ponde that is to saye extendinge in length from the forefayde ponde vnto a ditche beyonde the brick wall next the forefayde fieldes And also the fayde Gyles Allen & Sara hys wyfe doe by thes *presentes* dimise graunte & to farme lett vnto the sayde Jeames burbage all the right title & interest w^{ch} the sayde Gyles & Sara haue or ought to haue of in or to all the groundes & soile lyeinge betwene the forefayde greate barne and the barne being at the tyme of the fayde former dimise in the occupacion of the Earle of Rutlande or of his assignes extendinge in lengthe from the forefayde ponde & from the forfayde stable or barne then in the occupacion of the forefayde Earle of Rutlande or of his assignes downe to the forefayde bricke wall next the forefayde feildes And also the sayde Gyles & Sara doe by thes *presentes* demise graunt & to fearme let to the sayde Jeames all the sayde voide grounde lieynge & beinge betwixt the forefayde ditche & the forefayde brich-wall extendinge in lenght from the forefayde brickwall w^{ch} inclofeth parte of the forefayde garden beinge att the tyme of the makinge of the sayde former demise or late before that in the occupacion of the sayde Giles Allen vnto the forefayde barne then in the occupacion of the forefayde Earle or of his assignes and also free intire egressse & regresse in to & from all the forefayde dimisfede *premisses* and euery parte therof afwell to & for the fayde Jeames Burbage his executors adminiftrators & assignes as to & for all & euery other *person* & *persons* cominge or reparinge to the *premissis* before demisfod or any *parte* therof by any such wayes as were at the makinge of the sayde former demise vfed & occupied to the said *premissis* in the right of the sayde Gyles as also by such brydges & wayes as then or att any tyme

after that weare or shalbe hereafter made throughe the forefayde brickwall into the forefayde feildes at all & euery tyme & tymes convenient hereafter duringe all the tearme of yeares hereafter graunted without any lawfull stoppe lett trouble or interruption of the sayde Gyles Allen his heres or assignes or any of them or of any other *person* or *persons* in his or their behalfe right or title or by his or their meanes or *procurement* all w^{ch} *premiss*s before graunted are scituate lyeinge & beinge in & neere Hollowell aforefaide (excepte & referued vnto the sayde Gyles Allen & Sara his wyfe & to their heires & assignes & to such other *person* or *persons* as shall or doe inhabite or make aboade in the Capital Mefuage or tenement ther or any *parte* thereof w^{ch} att the makinge of the sayde former demise was in the occupacion of the sayde Gyles or his assignes & to & for the *Tenantes* of the sayde Gyles w^{ch} doe & shall dwell in Hollowell aforefayde free libertie to fetche & drawe water att the forefayde well from tyme to tyme duringe the sayde Tearme so that they shall receyve the commoditie of the sayde well doe from tyme to tyme amonge them ratably vpon lawfull request beare & paye to the sayde Jeames Burbage his executors or assignes the one halfe of all such Charges as shalbe layede out in & about the needfull repaying & amendinge of the sayde well from tyme to tyme as often as neede shall require duringe the sayde terme & also free ingresse & regresse to & for the sayde Gyles & Sara his wyfe & there heyres assignes executors & *seruantes* & to & for the reverend father John Scorye Byshoppe of Hereford & Elizabeth hys wyfe & their *seruantes* & assignes into out & from the forefayde greate garden att the tyme of the makinge of the sayde former demise or late before that belonginge to the sayde Gyles into the forefayde feildes by the bridge and waye which then was therunto vied & occupied at all lawfull tyme & tymes duringe the termes of yeares herevnder graunted to have & to holde all the sayde hovses or *Tenementes* barne gardens groundes & all other the *premiss*s before graunted except before excepted vnto the sayde Jeames Burbage his executors & assignes from the day of the makinge of this *present* demise vnto the full ende & tearme of

xxj^o yeares from thence next and imediatlie followinge & fully to be compleate & endede yeilding & payinge therefore yearelie duringe the sayde Terme vnto the sayde Gyles Allen & Sara his wyfe or to one of them & to the heyers & of the same Gyles & Sara forteene poundes of lawfull monie of Englande att fower feaftes or tearmes in the yeare that is to saye att the feaftes of the birthe of our lorde gode the Annunciacion of our ladye the nativitie of S^t John Baptift & S^t Michaell thearchangell by even porcions And the sayde James Burbage for him his executors Adminiftrators & affignes dothe Covenaut promife & graunt to & with the sayde Gyles Allen & Sara ther heires & affignes & euerye of them by thes presentes That he the sayde Jeames Burbage his executors adminiftrators or affignes at his and ther owne proper coftes & charges the sayde houfes or tenementes barne gardens & all other the premiffes before graunted and all privies to the premiffis or any parte therof belonginge made or to be made in all manner of needfull reparacions well & sufficiently shall repare vpholde sustayne make skoure clenfe mayntayne & amende from tyme to tyme when and so often as neede shall require & the same so well & sufficiently repaired clenfed scoured and amended in the ende of the sayde terme of xxj^{tie} yeares shall leave & yeild vpp vnto the sayde Gyles & Sara and to the heirs & affignes of the same Gyles & the sayde Gyles Allen & Sara his wyfe for them & ther heirs executors & adminiftrators doe covenant & graunt & euerye of them seuerally covenanteth & graunteth to & with the sayde Jeames Burbage his executors adminiftrators & affignes by thes presentes that yt shall or may be lawfull to & for the sayde Jeames Burbage his executors adminiftrators & affignes or anie of them att anie tyme of tymes hereafter duringe the first tenn yeares of the sayde terme of xxj^{tie} yeares to alter change remove or take downe any of the howles walles barne or byldinges now standinge & beinge in & vppon the premiffis or any parte therof & the same to make frame & sett vpp in what forme or fashion for dwelling howse or howfes as yt shall seeme to the sayde Jeames Burbage his executors or affignes for the bettringe therof so that the premiffis

& new buyldyngs hereafter to be made shall or may be reasonably for tyme to tyme sett att a more value & greater rent then nowe by these Jndentures they are set or lett for towardes the doeing & finifhing wherof in forme aforefayde the sayde Gyles allen & Sara his wyfe for them their heyers executors adminiftrators and assignes doe covenante & graunt & euery of them seuerally covenanteth & granteth to & wth the sayde Jeames burbage his executors adminiftrators and assignes by thes *presents* y^t yt shall & maybe lawfull to & for the sayde Jeames burbage his executors & assignes to haue & take to his & ther owne *proper* vse & behofe for *euer* all the tymber tyle bricke yron leade & all other stuffe whatfouer of the sayde oulde howfes or buildinges w^{ch} shall come by reason therof and further the sayde Jeames burbage for him hys heyres executors adminiftrators & assignes and for euery of them dothe by thes *presentes* covenante & graunte to & wth the sayde Gyles Allen & Sara ther heires & assignes & euery of them in forme followeing that ys to saye that he the sayde Jeames burbage his executors & assignes the buildings covenanted by the sayde Jeames burbage his *executors* or assignes by the sayd former Jndenture to be by him or them made shall att all tymes after the makinge therof att the *coftes* & *charges* of the sayde Jeames his executors or assignes repaire keepe make & mayntayne from tyme to tyme as often as neede shall bee duringe the sayde Terme by thes *presentes* graunted and all the sayd meffuages buildings gardens tenements & other the *premiss*s & euery parte therof together wth the forefayde brick wall next the forefayde feildes or annother as goode highe & subftanciall as the same is in the stead therof to be made sufficiently repayred made & amended in thende of the sayde Terme shall leave & yealde vpp vnto the sayde Gyles Allen & Sara their heires & assignes And further that yt shall or may be lawfull to & for the sayd Gyles Allen & Sara his wyfe & the Survivor of them their heires & assignes of them or any of them wth twoe or three artificers or workmen wth them or any of them att any one tyme convenient in euery yeare yearly duringe the sayde Terme quietlye to enter & come into the sayde meffuages or tenements barne buildings &

all other the *premisses* & *euery parte* therof their to *veve* searche & se whether the *reparacions* therof be well & sufficiently amended made *mayntaynede* kepte as the same ought to be or not So as the same Gyles & Sara or the Survivor of them or the heirs or assignes of them or either of them before such tyme as he she or any of them shall come to *veve* the same *premisses* to give to the sayde Jeames burbage his executors or assignes att the *premisses* fourteene dayes warninge therof And of the defaultes & lackes or *reparacions* ther fonde beinge needfull to be repaired after the buildinge therof to gyve monicion or warninge att the *premisses* to the sayde Jeames burbage his executors or assignes or to the inhabitants dwellers or occupiers of the *premisses* or any parte therof for the tyme beinge to repara make & and amende all such defaultes of *reparacions* needfull to be amended as shalbe ther so fonde wthin one yeare next after such warninge gyven & the sayde Jeames burbage for him his executors and administrators and for euery of them covenanteth & graunteth by thes *presentes* to & wth the sayde Gyles Allen & Sara ther heires executors and assignes & euery of them well & sufficientlye to repayre make & amende all such defaultes of *reparacion* as shalbe so fonde wthin one yeare next after warninge therof gyven as is aforefayde & so from tyme to tyme as often as any such default shall happen to be fonde & warninge or knowledge therof gyven as is aforefayde duringe the sayde terme of one & twentye yeares to be repayred att the *proper costes* & charges of the sayde Jeames Burbage his executors and assignes and if ytt shall happen the sayde yerelie rent of fourteene poundes to be behinde vpayde in parte or in all ouer or after any feaft daye of paymente therof aforefayde at w^{ch} the same rent ought to be payde by the space of xxvijth dayes beinge lawfully asked & noe sufficiente distresse or distresses in & vpon the sayde *premisses* or any parte therof for the sayde rent & arrearages therof can or may be fonde or if the some of CC^l mencioned & expressed in the forefayde former Indenture of lease shall not be employed or bestowed wthin the tyme therin limited & appoynted for the employinge & bestowinge therof accordinge to the true intent & meaninge of the forefayde

Indenture of lease or of the needfull reparacions of the *premiss*s shall not be made from tyme to tyme wthin the space of one yeere after that lawfull warninge shalbe therof gyven vnto the sayde James Burbage his executors or assignes for the doinge therof as is aforefayde that then or att any tyme after yt shalbe lawfull to & for the sayde Gyles Allen & Sara his wyfe and the heirs and assignes of the same Gyles or any of them into the sayd howses or tenements barne & all other the *premiss*s before graunted to reenter And the same to haue agayne retyne & repoffeede as in his or ther former estate And the sayde James Burbage his executors & assignes & all other thence & therfrom vtterly to expell putt out & amove this *present* lease or graunte or any thinge therin conteyned to the contrary therof in anywyfe not wthstandinge And moreover the sayde Gyles Allen & Sara hys wyfe for them ther heirs executors & adminiftrators doe covenant graunt & euery of them seuerally Cvenaunteth to & wth the sayde James Burbage his executors adminiftrators & assignes by thes *presentes* that the sayde James Burbage his executors adminiftrators & assignes for the foresaid yerlye rent of fourteene poundes to be payde in forme aforefayde And vnder & accordinge to the *Covenantes* grauntes Chardges & condicions articles & agreaments before declared & hereafter expressed one the behalfe of the sayde James Burbage his executors adminiftrators or assignes to be performed & kepte as is aforefayde shall & may peaceably & quietlye have houlde occupie & enioye all the forefayde howses or tenementes barne gardens groundes & all other the *premiss*s before by these *presentes* demised & graunted wth thappurtenaunces (except before excepted) wthout anie lett trouble expulcion eviccion recouery or interrupcion of the sayde Gyles Allen & Sara his wyfe or either of them or of the heirs executors adminiftrators or assignes of them or of any of them or of any other person or persons in ther behalfe right or title or by the meanes or procurment of them or any of them during all the sayd terme of xxjth yeares And further the sayde Gyles Allen & Sara his wyfe for them there heres executors & adminiftrators doe covenante & graunte & euery of them seuerally cove-

nantethe & graunteth to & with the sayde Jeames Burbage his executors & assignes by thes *presentes* that yt shall or may be lawfull for the sayde Jeames Burbage his executors or assignes in confideracion for the employinge & bestoweinge of the forefayde some of CCⁱⁱ mencioned in the sayde former Indenture at any tyme or tymes before the end of the sayd terme of xxj^{tie} yeares by thes *presentes* granted to have take downe & Carrye away to his & their owne proper vse for euer all such buildinges & other thinges as are alredye builded erected or set vpp & w^{ch} hereafter shalbe builded erected or sett vp in or vpon the gardings & voyde grounde by thes *presentes* graunted or any parte therof by the sayde Jeames his executors or assignes eyther for a Theater or playenge place or for any other lawfull vse for his or their Comodityes (except such buildinges as are or shalbe made by vertue of the sayde former Indenture by reason of the ymployinge & bestoweinge of the sayde some of CCⁱⁱ wthout any stopp Clayme lett trouble or interrupcion of the sayde Giles Allen & Sara his wyfe or either of them or of the heires *executors* *adminiftrators* or assignes of them or any of them or of any other *perfon* or *persons* in the behalfe right or tytle or by the meanes or *procurment* of them & further the sayde Jeames Burbage for hym hys executors *adminiftrators* & assignes dothe covaunte to & with the sayde Gyles & Sara their heirs & assignes by thes *presentes* that he the sayde Jeames his executors or assignes shall not at any tyme or tymes duringe the said Terme of xxj^{tie} yeares make or cause to be made out of the forefayd *tenementes* w^{ch} were att the makeinge of the sayde former leafe in the occupacion of the sayde John Harrifon & John Dragon into the forefayde great garden then or late in thoccupacion of the sayde Gyles any windowe or windowes but only such as shalbe made wthout any *eafementes* to open without the especiall licence consent & agreement of the forefayde reuerende ffather & Elizabeth his wyfe or of the foresaide Gyles & Sara or one of them or ther assignes first had & obteyned & further that yt shall or may lawfull for the sayde Gyles & for hys wyfe & familie vpon lawfull request therfore made to the sayde Jeames Burbage his *executors* or assignes

to enter or come into the *premisses* & their in some one of the upper romes to have such convenient place to sett or stande to see such playes as shalbe ther played freely wthout any thinge therefore payeinge soe that the sayde Gyles hys wyfe and familie doe come & take ther places before they shalbe taken vpp by any others Jn wytnes wherof both partyes to thes *presente* Jndentures enterchangeablye have putt their handes & seales the daye & yeare first above written./ Et vltorius idem Petrus Strete in *facto dicit quod predictus* Jacobus Burbage postea scilicet *predicto* primo die Novembris Anno vicifimo septimo *predicto* apud Hollowell *predictam* in Comitatu *Middlesexia* *predicto* novem dimissionem *predictam* sic *factam* adtunc & *ibidem* in pergamena scribi causavit & sic *scriptam* cum *labellis* & cera eidem *dimissioni* affixis adtunc & *ibidem* *prefato* Egidio ostendebat Et *ipsum* Egidium adtunc & *ibidem* requisiuit ad *illam* sigillandum & *prefato* Jacobo vt *factum* suum *deliberandum secundum* formam & *effectum* convencionis *predicte* in *predicta* prima Jndentura mencionate Et *quod predictus* Egidius Alleyn ad hoc *faciendum* adtunc & *ibidem* penitus recusavit Et vltorius idem Petrus Streete dicit *quod predictus* Jacobus Burbage sic vt *prefetur* de tenementis *predictis* cum *pertinentiis* possessionatus ante *predictum* tempus quo supponitur *transgressio* *predicta* fieri apud Hollowell *predictam* in *predicto* Comitatu *Middlesexia* conceffit & assignavit tenementa meluagia structuram & cetera *premissa* *predicta* ac totum ius statum & *terminum* annorum sua de & in *premissis* cuidam Johanni Hyde Civi grocero londonie habenda & tenenda *predicta* Meluagia ac tenementa edificia gardina terras vocatas groundes & omnia & singula cetera *premissa* cum *pertinentiis* vnacum *predicta* Jndentura *dimissionis* *prefato* Johanni Hyde executoribus & Assignatis suis *pro* & durante residuo *predicti* Termini viginti & vnus annorum adtunc venturi & minime expirati & plenarie complendi & finiendi virtute cuius *predictus* Johannes Hyde in tenementa *predicta* cum *pertinentiis* intrauit & fuit inde possessionatus Et idem Johannes Hyde sic inde possessionatus existens ante tempus *transgressionis* *predicte* superius fieri *supposite* scilicet septimo die Junij Anno regni dicte domine Regine nunc tricesimo primo apud

Hallowell *predictam* in *predicto* comitatu *Middlesexia* conceffit & assignavit tenementa mesuagia et cetera *premissa predicta* ac totum statum ius titulum interesse & terminum annorum Clameum & demandam que *predictus* Johannes Hyde tunc habuit de & ad *predicta* *premissa* *prefato* Cutberto Burbage habenda & tenenda tenementa & cetera *premissa predicta* *prefato* Cutberto executoribus administratoribus & assignatis suis *pro* & durante toto residuo termini viginti & vnus annorum ad tunc venturi & minime expirati plenarie complendi & finiendi virtute cuius *predictus* Cutbertus in tenementa *predicta* cum pertinentiis intrauit & fuit inde possessionatus *per* quod idem Petrus vt seruicus eiusdem Cutberti ac *per* eius mandatum *predicto* tempore quo & *predictam* structuram vocatam the Theater *ibidem* fabricatam & erectam diruit diuisit cepit & abcarauit prout ei bene licuit Cum hoc quod idem Petrus verificare vult quod *predicta* *Jndentura* vltimo recitata *per* *prefatum* Willelmum Daniell sic vt *prefertur* diuisata facta fuit similis *predicte* *Jndenture* primo mencionate in omnibus *preter dictam* *conuencionem* *pro* confectione novo dimissionis infra decem annos & *predictam* *conuencionem* *pro* expensione anglice the bestowinge *predicte* summe ducentarum librarum Et hoc paratus est verificare vnde petit *Judicium* si *predictus* Egidius Alleyn accionem suam inde *versus* eum habere seu manutenere debeat &

Et *predictus* Egidius Alleyn dicit quod ipse *per* aliqua *per* *predictum* Petrum Streete superius placitando allegata ab accione sua *predicta* *versus* ipsum Petrum habenda precludi non debet quia dicit quod placitum *predictum* *per* ipsum Petrum modo & forma *predictis* superius placitatum materiaque in eodem contenta minus sufficientia in lege existentia ad *predictum* Egidium ab accione sua *predicta* *versus* ipsum Petrum habenda precludendum/ Ad quod idem Egidius necesse non habet nec *per* legem terre tenetur aliquo modo respondere vnde *pro* defectu sufficientis responcionis in hac parte idem Egidius petit *iudicium* & dampna sua *predicta* occasione *predicta* sibi adiudicari &

Et *predictus* Petrus Streete dicit quod placitum *predictum* *per* ipsum Petrum modo & forma *predictis* superius placitatum ma-

teriatque in eodem contenta bona & sufficientia in lege existentia ad predictum Edigium Alleyn ab accione sua *predicta* versus ipsum Petrum habenda *precludendum* quod quidem placitum materiamque in eodem contentam idem Petrus paratus est verificare & probare prout Curia &c

Et quia *predictus* Edigius ad placitum illud non respondit nec illud hucusque aliquo modo dedit idem Petrus ut prius petit iudicium & quod *predictus* Edigius ab accione sua *predicta* versus ipsum Petrum habenda *precludatur* &c Et quia Curia domine Regine hic de iudicio suo de & super *premissis* reddendo nondum advifata dies inde datus est partibus *predictis* coram domina Regina apud Westmonasterium vsque Jovis diem proximum post Octabas sancti Michaelis de iudicio suo de & super *premissis* audiendo &c eo quod Curia domine Regine hic inde nondum &c Et quoad triandum exitum *predictum* inter partes *predictas* superius iunctum veniat inde Jurata coram domina Regina apud Westmonasterium die proximo post Et qui nec &c ad recogn &c Quia tam &c Idem dies datus est partibus *predictis* ibidem &c./

Ex

BURBAGE v. ALLEN

Court of Requests Proceedings, 42 Elizabeth, (1600) 87/74. Bill, Answer, and Replication.

[The pleadings in this suit, consisting of Bill, Answer, and Replication, and the two country depositions of Robert Vigerous and Thomas Neville attached to them, were found by Halliwell-Phillipps, who used brief extracts from them in his *Outlines*, I, 346, 358, 359, 361-62, 371-72. The four great sets of paper depositions, forming the principal documents in this great suit, however, have not hitherto been known, and were found by the present writer in carrying out a complete search of the uncalendared records of the Court of Requests begun a few years ago. The complete pleadings and all depositions and other records in the case are here for the first time presented in full, and are arranged in their chronological order rather than in the order of filing. The suit was brought by Cuthbert Burbage for relief from the preceding suit in the Queen's Bench begun by Giles Allen, nominally against Peter Street, the carpenter,

but in effect against Burbage, as pointed out in the Bill. Part of the orders and the final decree are lost. But the Court's judgment in favor of Burbage, pronounced Oct. 18, 1600, is substantially given in the Answer of the Burbages to Allen's Star Chamber suit of 1602.]

BILL

[In dorso]

· xxvj^o die Januarij

Anno R Rne Eliz-

abethe &ct xliij^o]

Defendens vocetur per

Nuncium Camere/

To the Queenes moſte excellent Ma^{tie}

In all humblenes Complayninge ſheweth vnto yo^r moſte excellent Ma^{tie} yo^r highnes faythfull and obediēte ſubiecte Cuthbert Burbage of the Cyttye of London gentleman That wheras one Gyles Alleyne of Halley in the Countie of Effex gentleman was lawfullie feiſed in his demeafne as of fee of and in Certayne gardein growndes fette lyinge and beinge neare Hallewell in the pariſhe of St Leonardeſ in Shorditche in the Countie of Middlefex And beinge ſoe feiſed together wth Sara hys wief did by their Indenture of leaſe bearinge date the Thirteenth daye of Aprill in the Eighteenth year of yo^r Ma^{ties} Reigne for good Conſideracions therein expreſſed Amongeſt other thinges demife and to fearme lette the ſaid gardein groundes and all proffittes and Comodities therto belonginge vnto one James Burbage father of yo^r faide ſubiecte To haue and to houlde to him the ſaid James Burbage his executors and Affignees from the feaſte of the Annunciacion of our Ladie then laſte paſte before the date of the faide Indenture for the Tearme of one and Twentie yeares from thence nexte followinge yealdinge and payinge therefore yearelie duringe the faide tearme vnto the faide Gyles Alleyne and Sara his wyfe fourteene powndes of lawfull money of Englande In and by w^{ch} faide Indenture (amongeſt other Covenantes and agreem^{tes} therein containd) the faide James Burbage for him his heires executors and Adminiftrators and for euerie of them did Cove-

naunte and graunte to and wth the faide Gyles Alleyne and Sara his wyfe their heires and affignees and euerie of them That he the faide James Burbage his executors or Affignees in Confideracion of the faide leafe and Tearme of yeares and of certayne bricke tyle lead and other ftuffe Cominge of other Tenem^{tes} mencioned in the faide Indenture) should and would at his or their owne Coftes and chardges wthin Tenne yeares nexte ensuinge the date of the faide Indenture ymploye and bestowe in and vpon the buildinge alteringe and amendinge of certayne houfes and buildinges in and vpon the *premisses* by the faide Indenture demifed/ the some of Two hundred poundes of lawfull money of Englande the value of foe muche of the faide oulde ftuffe and tymber as shoulde be ymployed and bestowed theraboutes to be accompted parcell of the faide Two hundred poundes And the faide Gyles Alleyne and Sara his wyfe did therby Covenauante and graunte to and wth the faide James Burbage his executors and Affignees that they the fame Gyles Alleyne and Sara his wyfe or one of them or their heires or the heires of one of them shoulde and woulde at anie tyme or tymes wthin Tenne yeares next ensuinge the date of the faide Indenture at or vpon the lawfull requeste or demaunde of the faide James Burbage his executors adminiftrators or Affignes at his and their Coftes and chardges in the lawe make or cause to be made to the faide James Burbage his executors or Affignees a newe leafe or graunte like to the fame *presentes* of all the forefaide gardein growndes and foile and of all other thinges graunted by the faide Indenture for the tearme of one and Twentie yeares more to begynne and to take Comencem^t from the daye of the makinge of the fame leafe yealdinge therfore the rente reserved in the faide former Indenture And vnder suche like Covenauantes and agreem^{tes} as are in the faide Indenture mencioned and expreffed (excepte this faide Covenauante for makinge a newe leafe wthin Tenne yeares and the forefaide Covenauante for ymployinge the forefaide *somme* of Two hundred poundes And farther the faide Gyles Alleyne and Sara his wyfe their heires executors and Adminiftrators did therby Covenauante and graunte to and wth the faide James Burbage his

executors and Affignees that it shoulde and mighte be lawfull to the faide James Burbage his executors or affignees (In confid-eration of the ymployinge and bestowinge of the foresaide Two hundred poundes in forme aforefaide) at anie tyme or tymes before the ende of the faide tearme of one and Twentie yeares by the faide Indenture graunted or before the ende of the fore- faide one and Twentie yeares after by vertue of the faide recited Covenante to be graunted to haue take downe and Carie awaye to his and their owne proper vse for euer all fuche buildinges and other things as should be builded erected or fette vppe in or vpon the Gardeins and voyde growndes by the faide Indenture graunted or anie parte therof by the faide James his executors or Affignees either for a Theator or playinge place or for anie other lawfull vse for his or their comodities wthout anie stoppe clayme lette trouble or interrupcion of the faide Gyles Alleyne and Sara his wyfe or either of them or of the heires executors Administrators or Affignees of them or anie of them or of anie other person or personnes in the behalfe righte or title or by meanes or procurem^t of them or anie of them By vertue of w^{ch} Lease the said James Burbage did enter into the premiffes & was therof possessed accordingle and did performe all the Covenantes Articles & agreem^{tes} on his parte to be performed & did also to his great charges erect and builde a playinge howse called the Theater in & vpon the premiffes & afterwarde the faide firste tearme of Tenne yeares drawinge to an end the faide James Bur- bage did often tymes in gentle maner sollicit & require the said Giles Allen for makinge a new lease of the said premiffes accord- inge to the purporte & effect of the said Covenante & tendred vnto the said Allen A new Lease devised by his Cownsell readie written & engrossed wth labells & wax therunto affixed agreeable to the Covenante before recyted w^{ch} he the said Allen made shew that he would deliuer yet by subtill devises & practises did from tyme to tyme shifte of the fynishinge therof After w^{ch} & before the said terme of one & twentie yeares were expired the intrest of the said terme & all benefitt & profitt that might growe by the said Indenture of Lease came by good conveyance in the Lawe

to yo^r faid Subiect by vertue wherof yo^r faid Subiect was therof poffessed & being fo poffessed yo^r faid Subiect did often require the faid Allen and Sara his wife to make vnto him the faid new Leafe of the premiſſs accordinge to the agreem^t in the faide Indenture w^{ch} the faide Gyles Alleyne woulde not denie but for ſomme cauſes w^{ch} he feigned did differre the ſame from tyme to tyme but yet gaue hope to yo^r ſubiecte and affirmed that he woulde make him ſuche a leafe By reaſon wherof yo^r ſubiecte did forbearre to pull downe and carie awaye the tymber and ſtuffe ymployed for the faid Theater and playinge houſe at the ende of the faide firſte tearme of one and Twentie yeares as by the directe Covenante and agreem^{te} expreſſed in the faide Indenture he mighte haue done But after the faide firſte tearme of one and Twentie yeares ended the faide Alleyne hathe ſuffred yo^r ſubiecte to contynue in poſſeſſion of the *premiſſes* for diuerſe yeares and hathe accepted the rente reſerued by the faide Indenture from yo^r ſubiecte Whervpon of late yo^r faide ſubiecte havinge occaſion to vſe certayne tymber and other ſtuffe w^{ch} weare ymployed in makinge and erectinge the faide Theator vpon the *premiſſes* (beinge the cheefeſte proffitte that yo^r ſubiecte hoped for in the bargayne therof) did to that purpoſe by the Conſente and appointm^{te} of Ellen Burbadge Adminiftratrix of the goodes and Chattells of the faide James Burbadge take downe and Carie awaye parte of the faid newe buildinge as by the true meaninge of the faide Indenture and Covenantes lawfull was for him to doe and the ſame did ymploye to other vſes. But nowe foe it is maye it pleaſe yo^r moſte excellent Ma^{tie} that the faide Gyles Alleyne myndinge to take advantage of his owne wrongfull and vnconſcionable dealinge in not makinge the faide newe leafe fyndinge the wordes of the faide Covenante to be that the faide James Burbage his executors Adminiftrators or Affignees mighte before the end of the faide Tearme of one and Twentie yeares graunted by the faide Indenture or before the ende of the faide one and Twentie yeares after by vertue of the faide agreem^t to be graunted take downe and carie awaye the faide tymber and ſtuffe vſed for makinge of the faide Theator that therefore (in regarde yo^r ſub-

iecte trustinge to his promifes to haue a newe lease did not take the same awaye at the ende of the faide tearme of one and Twentie yeares graunted by the faide Indenture and that noe newe tearme beinge graunted by the faide Alleyne to the faide James Burbage or his Assignees by the wordes of the faide Covenante he hathe not libertie to take the same awaye afterwarde in stricthenes of lawe Therevpon he the faide Gyles Alleyne hathe broughte an Accion of Trespas in yo^r Ma^{ties} Courte at westminster Called the Queenes Benche againte Peter Streete yo^r subiectes seruaunte who by yo^r subiectes direction and Comaundem^t did enter vpon the *premisses* and take downe the faide buildinge myndinge moſte vnconſcionable to recouer the value of the faide buildinge in damages, w^{ch} muſte in [the] ende lighte vpon yo^r faide ſubiecte yf he ſhould therein *preuayle*) And there dothe *proſecute* the same wth all rigor and extremitie w^{ch} will tende to yo^r ſubiectes greate loſſe and hinderance excepte yo^r Ma^{ties} fauour and ayde in ſuche caſes vſed be to him herein extended In tender regarde wherof for as muche as it is agaynſte all equitie and Conſcience that the ſaid Gyles Alleyne ſhoulde (Contrarie to his Covenante and agreem^{to} aforeſaide throughe his owne wronge and breache of Covenante hinder yo^r ſubiecte to take the benefitte of the faide agreem^{to} in the foreſaide Indenture expreſſed to take awaye the faide tymber and buildinges before the ende of the faide one and Thirtie yeares And for that yo^r faide ſubiecte or his ſeruaunte can Myniſter noe *perfecte* plea at the Common lawe in barre of the faide accion And yet in all equitie and Conſcience oughte to be releued accordinge to the true meaninge And the faide Gyles Alleyne oughte to be ſtayed of his faide ſuite Maye it therefore pleaſe yo^r moſte excellent Ma^{tie} the *premisses* Conſidered/ to graunte vnto yo^r faide ſubiecte yo^r highenes writte of Privie Seale to be directed to the faide Gyles Alleyne Comaunding him therby at a Certayne daye and vnder a certayne payne therein to be lymited to be and *perſonallie* to appeare before yo^r Ma^{tie} in yo^r highenes Courte of white Halle at Weſtmiſter then and there to aunſwere to the *premisses* and to abide ſuche further order and direction therein As to the Maſters of the faide Courte ſhalbe

thoughte meete and Convenient And also to graunte yo^r Ma^{ties} moſte gracious writte of Iniunction to be directed to all the Counfellors Attorneys Sollicitors and factors of the faide Alleyne, Comaunding them to Ceafe all proceedinges in the faide Accion vntill the matter in equitie (wherein yo^r poore ſubiecte humble prayeth to be releued) be firſte hard before the Maſters of yo^r highnes faide Courte And yo^r poore ſubiecte will accordinge to his bounden duetie daylie praye to god for the preſervacion of yo^r royall Ma^{tie} in all healthe and happineſſe longe to reigne ouer vs.

[Signed] Jo: Walter [Attorney]

ANSWER

Quarto die february
Anno Regni Regine
Elizabethæ &c xliij^o/

The anſwere of Giles Allen Gentleman Defend^t to
the Bill of Compl^t of Cuthbert Burbage Compl^t././

The ſaid Defend^t ſaieth that the ſaid Bill of Compl^t againſt him exhibited into this Honourable Courte is in the materiall partes therof verie vntrue, and is likewiſe (as the Defend^t by his Counfell is informed) verie vncertaine and inſufficient in the lawe to be anſwered vnto [by] the ſaid Defend^t for diuers and fundrie apparaunt faultes and imperfections therein Conteyned And deviſed and exhibited into this Honourable Courte of malice and evell will wthout any iuſt Cauſe conceyved againſte the ſaid Defend^t to the intent thereby vniuſtly to vexe and moleſte him wth tedious trauell beinge an aged man and to putt him to great trouble and chardges and that without any iuſt Cauſe or good matter as the Defend^t hopeth it ſhall appeare vnto this Honourable Courte: Nevertheleſſe yf by the order of this Honourable Court the ſaid Defend^t ſhalbe Compelled to make any further or other anſwere vnto the ſaid vntrue incertaine and inſufficient Bill of Compl^t then and not otherwiſe (the advantage of exception therof to this Defend^t nowe and all times hereafter ſaued) for further anſwere therevnto, and for a full and plaine Declaracion of the

trueth The said Defend^t saieth that true it is that he the said Defend^t together wth Sara his wife did by their Indenture of lease bearinge Date the thirteenth daie of Aprill in the eighteenth yeare of her ma^{ties} Raigne that nowe is for and in Consideracion of the somme of twentye powndes of lawfull money of England recited by the said Indentures to be to them in hande at thenfealinge therof by the said Jeames Burbage in the Bill of Comp^{lt} named truelye paid for and in the name of a fine or income amongfte other thinges did Demise vnto the saide Jeames Burbage all those twoe howfes or tenementes with the appurtenances then beinge in the feuerall tenures or occupacions of Johane Harryson widdowe and John Draggon: And alsoe all that howfe or tenemente with the appurtenances together with the gardeine grounde lyinge behinde parte of the same then beinge in thoccupacion of william Garnett gardiner. And alsoe all that houle or tenemente with the appurtenances Called or knowne by the name of the mill houle together with the gardeine grounde lyinge behinde parte of the same then beinge in the tenure or occupacion of Ewin Colefoxe weauer or of his assignes: And alsoe all those three vpper Roomes with the appurtenances nexte adioyninge to the foresaid Mill-houle then beinge in the occupacion of Thomas Dancafter shoemaker or of his assignes: And alsoe all the nether Roomes with their appurtenances lyinge vnder the same th[r]ee vpper Roomes and nexte adioyninge alsoe to the foresaid houle or tenement Called the Myll howfe then beinge in the feuerall tenures or occupacions of Alice Dotridge widdowe and Richard Brackenburye or of their assignes together alsoe with the gardeine grounde lyinge behinde the same: And alsoe one great Barne with the appurtenances then beinge in the occupacions of Hughe Richardes inhoulder and Robert Stoughton Butcher (Excepte and reserved to the said Defend^t and Sara his wife and to their heires and assignes and to such other persone or persones as then did or should inhabite or make abode in the Capitall messuage or tenement there or any parte thereof then or late in the occupacion of the said Defend^t, and to and for the tenants of the said Defend^t which did and should dwell in Hollowell aforesaid free libertie

to fetche and Drawe water at the well there from time to time Duringe the faid terme: To haue and to houlde all the faid howfes or tenementes, Barne gardeines groundes and all other thinges by the faid Indentures Demised (Excepte before excepted) vnto the faid Jeames Burbage his executors and assignes from the feaft of Thannuncyacion of our Ladie laite paste before the Date of the faid Indentures vnto the full end and terme of twentie and one yeares from thence nexte and immedatelye followinge and fullie to be Compleate and ended Yealdinge and payinge therefore yearely Duringe the faid terme vnto the faid Defend^t and Sara his wife or to one of them and to the heires and assignes of the faid Defend^t and Sara fourteene powndes of lawefull money of England at foure feastes or tearmes in the yeare that is to saie at the feastes of the Natiuitye of S^t John Baptiste, S^t Michaell Tharchangell the Birth of our Lord God and Thannuncyacion of our Ladie or within the space of eight and twentye Daies nexte after euerye of the same feaste Dayes by even porcions: And the faid Jeames Burbage for him his executo^{rs} adminiftrato^{rs} and assignes did by the faid Indentures Covenante with the faid Defend^t and Sara his wife their heires and assignes that he the faid Jeames Burbage his executo^{rs} adminiftrato^{rs} or assignes at his or their owne proper Coftes and Chardges the faide howfes or tenementes Barne gardeines and all other thinges by the faid Indentures Demised in all manner of needefull reparacions well and sufficientlye should repaire vphould susteyne maintaine and amende from time to time when and soe often as need should require and the same soe well and sufficientlie repaired and amended in the end of the faid terme of one and twentye yeares should leaue and yeald vppe. And the faid Defend^t and Sara his wife Did Covenante by the faid Indentures that it should be lawefull for the faid Jeames Burbage his executo^{rs} adminiftrato^{rs} and assignes or anie of them at anie time Duringe the firste tenn yeares of the faid terme of one and twentye yeares to alter Chaunge remoue or take Downe anie of the howfes walles Barne or buildinges then standinge and beinge in and vppon the *premisses* or anie *parte* therof and the same to make frame and sett vpp into what forme or

fashion for Dwellinge howse or howses it should seeme good to the said James Burbage his executo^{rs} or assignes for the betteringe therof soe that the *premisses* Demised and the newe buildinges afterwardes to be made should or might be reasonable from time to time sett at a more value and greater rente then by the said Indentures they were lett for Towardes the Doinge and finishinge wherof in forme aforesaid the said Defend^t and Sara his wife did Covenante with the said James Burbage his executo^{rs} administrato^{rs} and assignes by the said Indentures that it should be lawefull for the said James Burbage his executo^{rs} and assignes to haue and take to his and their owne *proper* vse and behoofe for euer all the timber tile bricke yron lead and all other stuffe whatfoeuer of the said ould howses or buildinges which should come by reason therof. And further the said James Burbage for him his executo^{rs} administrato^{rs} and assignes did by the said Indentures Covenante with the said Defend^t and Sara that he the said James Burbage his executo^{rs} or assignes aswell in Consideracion of the said lease and terme of yeares before by the said Indentures graunted as alsoe for and in Consideracion of all the timber bricke tile lead and all other stuffe comminge of the said tenementes barne and all other the *premisses* to be had and enjoyed in forme aforesaid should and would at his and their owne Costes and Chardges wthin tenn yeares nexte ensuinge the Date of the said Indentures impleie and bestowe in and vpon the buildinge alteringe and mendinge of the said howses and buildinges for the betteringe therof as is aforesaid to be made by the said James his executo^{rs} or assignes of in or vpon the *premisses* the somme of two hundred powndes of lawefull money of England at the lease: (The value of soe muche of the said ould timber and stuffe as should be imployed and bestowed therabouts to be accompted *parcell* of the said somme of twoe hundred powndes) and the same buildinges soe to be made should at all times after the makinge therof at the Costes and Chardges of the said James his executo^{rs} and assignes repaire keepe make and maintaine from time to time as ofte as neede should be Duringe the said terme And all the said messuages buildinges gardeines tenementes and

other the premisses and euerye parte therof sufficientlie repaired made and amended in the ende of the faid terme should leaue and yealde vppe. And it was further Conditioned by the faid Indentures that yf it should happen the faid yearlie rent of fourteene powndes to be behinde vnpaid in parte or in all after or over anie feaste Daie of paiment thereof at which the same rente ought to be paid by the space of eight and twentie Daies beinge lawefullie asked and noe sufficient Distresse or Distresses in or vppon the faid premisses or anie parte therof for the faide Rente and the arrerages therof Could or might be founde; or yf the foresaid somme of twoe hundred powndes should not be imployed and bestowed wthin the time and space aforefaid accordinge to the true meaninge of the faid Indentures that then it should be lawefull for the Defend^t and Sara his wife and to the heires and assignes of the Defend^t into the faid howses or tenementes Barne and all other things by the faide Indentures graunted to reenter: And furthermore the Defend^t and Sara his wife did Covenante with the faid Jeames Burbage his executo^{rs} and assignes by the faid Indentures That they the faid Defend^t and Sara his wife or one of them should and would at anie time wthin tenn yeares next ensuinge the Date of the faid Indentures at and vppon the lawefull request or Demaund of the faid Jeames Burbage his executo^{rs} adminiftrato^{rs} or assignes at his and their Costes and Chardges in the lawe make or Cause to be made to the faid Jeames Burbage his executo^{rs} or assignes a newe lease or graunte like to the former of all the foresaid howses or tenementes Barne gardeines growndes or foile and of all other things by the faid Indentures graunted for the terme of one and twentie yeares to beginne and take Commencement from the daie of the makinge of the same lease soe to be made yealdinge therefore yearelie the foresaid yearelie rente of fourteene powndes at the feastes before mencioned and vnder suche like Covenantes grauntes Condicions articles and agreementes as were in the faid Indentures mencioned and expressed and none other (Excepte the Covenante for makinge a newe lease within tenn Yeares and the Covenante for imployinge the foresaid somme of twoe hun-

dred powndes: And further the Defend^t and Sara his wife did Covenante with the said Jeames Burbage his executo^{rs} and assignes by the said Indentures that it should be lawefull to the said Jeames Burbage his executo^{rs} or assignes in Consideracion of the imployinge and bestowinge of the foresaid twoe hundred powndes in forme aforefaid at anie time before the end of the said terme of one and twentie yeares by the said Indentures graunted or before the end of the foresaid one and twentye yeares thereafter by vertue of the said Indentures to be graunted to take downe and Carrie awaie to his and their owne proper vse all such buildinges and other thinges as should be builded erected or sett vpp in or vppon the gardeines and voide grounde by the said Indentures graunted or anie parte therof by the said Jeames his executo^{rs} or assignes either for a Theatre or playinge place or for anie other lawefull vse for his or their Comodities (Excepte suche buildinges as should be after made by vertue of the said Indentures by reason of the imployinge and bestowinge of the said somme of twoe hundred powndes as the Comp^{lt} in his Bill of Comp^{lt} in parte hath alledged and as in and by the said Indentures (wherevnto the Defend^t referreth himselfe more fullie maie and doth appeare. And further the Defend^t faieith that true it is that the said Jeames Burbage in the Bill of Comp^{lt} named did require the said Defend^t to make him a newe lease and did tender vnto the Defend^t a Draught of a newe lease written and ingrossed as the Comp^{lt} hath alledged which lease foe tendered the Defend^t did not make shewe that he would deliuer it and yet did by subtile Devises shifte of the finishinge therof as the Comp^{lt} mo^{ste} vntruelye hath alledged: but Contrarielie the Defend^t did vppon manie and verye iust and reasonable Causes and Consideracions (as he hopeth it shall appeare vnto this Honourable Courte) vtterlie refuse to seale and Deliuer the same for the plaine and true Declaracion whereof firste the Defend^t faith (that as he taketh it and as he is by his Counfell informed) the Draught of the said lease foe tendered vnto the Defend^t was in manye materiall pointes varyinge and Differinge from the lease which the Defend^t and his Wife had formerlie made to the said Jeames

Burbage and therefore in respect that the second lease should be made like vnto the former and vnder the like *Covenantes* articles and agreements and noe other as before is shewed the Defend^t was in noe wife (as he taketh it) either in lawe or Conscience bounde to feale the same: ffor the further manifestacion of which variances the Defend^t referreth himfelse to the said Indentures of lease and to the said Draught of the newe lease which the Defend^t shalbe alwaies readie to shewe forth to this Honorable Courte But yf foe it were that the Defend^t had Contrarie to his *Covenante* refused to make the said lease yet hath the said Comp^{lt} noe Cause (as the Defend^t taketh it) to seeke releife in this Honourable Court for that the Comp^{lt} hath diuers times said vnto the Defend^t that he hath in his handes a bonde wherin the said Defend^t is bounde vnto the said Jeames Burbage in the somme of twoe hundred powndes for the performance of the *Covenantes* in the said Indentures vppon which the Comp^{lt} hath threatened to sue the said Defend^t at the Common lawe And further the Defend^t saith that such was the bad Dealinge of the said Jeames Burbage towardses the Defend^t from time to time before the time of the said newe lease tendered and the said Jeames Burbage had bene such a troublesome tenant vnto the Defend^t that there was noe Cause in Conscience to make the Defend^t to yealde to anye thinge in fauour of the said Jeames Burbage further then by the lawe he might be Compelled to doe: for firste wheras the said Jeames Burbage was bounde to paie vnto the Defend^t the somme of twentie powndes for a fine for the lease formerlie made vnto him, the said Jeames Burbage neglected the paiement therof at the time appointed and longe time after And hardelie coulde the Defend^t after mucche Delaie and trouble by suite in lawe obteyne the same: And further the said Jeames Burbage Continuallie failed in the paiement of his rent and never Duellie paid the same wherby the Defend^t was often driven to his great trouble to goe aboute to Distreine for the same and yet could not the Defend^t that waie helpe himfelse for either the Dores and gates were kepte shutt that he could not enter to take anye Distresse or otherwise the matter foe

handled that the Defend^t could not finde anie sufficient Distresse to satisfie him for the arrerages therof and at the time of the said newe lease tendered by the said Jeames Burbage he the said Jeames did then owe vnto the Defend^t thirtie powndes for the rent of the said howses and growndes Demised vnto him which as yet remayneth vnpaid notwithstanding that the said Jeames Burbage in his life time and likewise the Comp^{lt} since his Death haue before Diuers Credible *personnes* as the Defend^t hopeth he shalbe able to proue often times Confessed the same to be due vnto the Defend^t. And further touchinge the repayinge of the howses and buildinges which the said Jeames Burbage ought to haue repaired and maintained that was likewise by the said Jeames Burbage much neglected; for whereas amongste the howses and buildinges Demised to the said Jeames Burbage there was one great tiled Timber barne of foure scoare foote of assise in length and foure and twentie foote of assise in breadth or verie neare therabouts verie substantiallye builte for the which the Defend^t had formerlie receiued a rent of good value the said Jeames Burbage did deuide the same into eleven feuerall tenementes (as the Defend^t nowe remembereth and did lett out the same feuerallie to poore *personnes* for the feuerall rentes of twentie shillings by the yeare to be paid by euerye tenant whoe were and are vnable to doe anye Reparacions vpon them; for such was and nowe is their pouertie that as the Def^t is informed they vsuallie begge in the feildes and strectes to gett mony for the paiment of their rentes by reason wherof the Defend^t hath beene muche blamed and by the *parishioners* there verie hardelie Censured that he should be an occasion to bringe soe many beggers amongst them to their great trouble and annoyance which proceeded not from any faulte of the Defend^t but from the Covetous humor of the said Jeames Burbage whoe respected more his owne Commoditie then the good reporte and Creditte either of the Defend^t or himselfe and the like evell Disposicion appeareth to be in the Comp^{lt} whoe since the Death of his ffather hath Continued these poore people there and still doth and yet Doth in noe wise repaire the said tenementes wherby they are growen in great Decaye and

are almost vtterlie Ruynated and are nowe by the Comp^{lt} vnderpropped with flores to keepe them from fallinge Downe in stead of Repairinge and amendinge the same as by the Covenante of the said Jeames Burbage ought to be done infoemuche that the said poore people haue Complayned vnto the Defend^t that they were soe Decayed both without and within that they were in feare that they would fall vppon their heades wherbye it appeareth that the Comp^{lt} hath fmale regard either of the Credit or the Commoditie of the Defend^t but seeketh onely to enriche himselfe by the rentes and other proffittes which he vnconscionable receyueth for the same And the said Jeames Burbage & the Comp^{lt} or one of them haue likewise heretofore placed other poore people in other tenementes there which still Continue in the same which tenements are by reason therof soe Decayed that the Defend^t seeth not howe he shall well be answered the ould rent of fourteene powndes of fuche tenants as be of abilitie to paie the same soe that howsoever the Comp^{lt} hath furnished that by the said twoe hundred powndes supposed to be bestowed by the said Jeames Burbage his father that the howses and buildinges were greatlye amended and betterred (as in trueth they ought to haue been) yet the Defend^t taketh it that he shall be able to make it appeare vnto this Honourable Court that they are rather impaired and in worfe plight for the benefitt and profit of the Defend^t all things Considered then they were at the time when the said Jeames Burbage first tooke them, neither yet in trueth had the said Jeames Burbage at the time of the said second lease tendered or anie time after (as the Defend^t hopeth he shall be able to proue to this Honourable Court) bestowed the said somme of twoe hundred powndes or neare thereaboutes for the betterringe of the howses and buildinges demised neither was there anie likelihood that the said Jeames Burbage should performe the same within the time limitted by the said Indentures the said second lease beinge tendered but a verie short time before the expiration of the said terme of tenn yeares wthin which time the said somme of twoe hundred powndes should haue been bestowed as before is shewed for all which Causes the Defend^t did refuse to seale the

faid lease (as he thinketh he had iuste Cause both in lawe and Conscience foe to Doe:) and afterwardes a little before the Death of the faid James Burbage thoroughe great labour and entreatie of the faid James Burbage and the Comp^{lt} and other their ffreindes whoe often moued the Defend^t in their behalfe and the faid James Burbage pretendinge and makinge shewe vnto the Defend^t with manie faire speeches and protestacions that he woulde therafter Duely paie his rent and reparaire the howses and buildinges and performe all his Covenantes as a good and an honest tenant ought to doe and that he would likewise paie the faid arrerages of thirtye powndes: the Defend^t and the faid James Burbage grewe to a newe agreement that the faid James Burbage should haue a newe lease of the *premisses* Conteyned in the former lease for the terme of one and twenty yeares to beginne after the ende and expiracion of the former lease for the yearelie rent of foure and twentie powndes, for the faid James Burbage in respect of the great proffitt and Commoditie which he had made and in time then to come was further likelie to make of the Theatre and the other buildinges and growndes to him Demised was verie willinge to paie tenn powndes yearelye rent more then formerlie he paid: And it was likewise further agreed betweene them (as the Defend^t hopeth he shall sufficientlie proue) that the faid Theatre should Continue for a playinge place for the space of five yeares onelie (after the expiracion of the first terme) and not longer by reason that the Defend^t sawe that many inconveniencences and abuses did growe therby and that after the faid five yeares ended it should be Converted by the faid James Burbage and the Comp^{lt} or one of them to some other vse and be employed vppon the groundes Demised wherbye the benefitt and profit therof after the terme of the faied James Burbage ended should remaine and be vnto the Defend^t: but before that agreement was *perfitted* (by reason that the faid James Burbage had not *procured* such securitytie for the performance of his Covenantes as the Defend^t did require) the faid James Burbage Dyed: after whose Death the Comp^{lt} did againe often moue and intreat the Defend^t that he might haue a newe lease of the

premisses accordinge to the former agreement made betweene the said Jeames Burbage the father of the Comp^lt and the Defend^t, the said Comp^lt promifinge the Defend^t the paiment of the said thirtie powndes rente which was behinde in the time of the Comp^lt's father and that he would put in good securitie to the Defend^t for the paiment of the Rente Duringe the terme and the repayringe of the howfes and the performance of all other Covenantes on his parte to be performed touchinge which matter there was often times Communicacion had betweene the Comp^lt and the Defend^t whoe for his parte was Contented to haue made the said lease vnto the Comp^lt whoe likewise seemed veerye willinge to haue it in such manner and vnder such Covenantes as were formerlie agreed vpon betweene the Defend^t and the said Jeames Burbage and foe the matter was at the laste Concluded betweene the Comp^lt and the Defend^t and (as the Defend^t remembereth) a lease was Drawen accordingle by the Comp^lt which the Defend^t thinketh he can shewe forthe vnto this Honourable Courte and yet notwthstandinge the Comp^lt founde meanes by Colourable shiftes and Delaies to Deferre the accomplifhinge and execution therof from time to time Howebeit the Defend^t hopinge that the Comp^lt had meant honestlie and faithfullie and to haue taken the lease accordinge to their agreement wherby the Defend^t should haue receiued the said arrerages of thirtie powndes and likewise that his howfes and buildinges should haue been repaired and that he should haue been secured for the performance of the Covenantes foe that he should not haue had such trouble and Disquietnesse as formerlie he had founde Herevpon the Defend^t was Contented to suffer the Comp^lt to enioye the premisses after the first lease expired for the space of a yeare or two payinge onelie the ould rent of fourteene powndes which the Defend^t did the rather by reason that the said Jeames Burbage and the Comp^lt betweene them had placed foe manie pore people there whoe were not able to paie their rentes that yf the Defend^t should haue taken the same into his handes he should haue bene Constreynd in pittye and Compassion to haue forborne their rentes to his great losse and hinderance; And further should haue bene enforced within

a shorte time to haue turned them out of the possession of the said tenements by reason that they were soe greatlye Decayed that the Defend^t must haue beene enforced to pull them Downe and to erecte them a newe for otherwise they Could not nor can not be Convenientlie repaired for good and able tenants But nowe by the Dealinge of the Comp^{lt} it appeareth that he never in trueth meant to take the lease as he pretended but onelie fought to take occasion when he might priuelie and for his best advantage pull downe the said Theatre w^{ch} aboute the feast of the Natiuitie of our Lord God in the fourtith yeare of her ma^{ties} Raigne he hath Caused to be done without the priuie or Consent of the Defend^t he beinge then in the Countrie for the which the said Defend^t hath brought an action of Trespas in her ma^{ties} Benche against him whoe by the Commandement of the Comp^{lt} was the Doer therof which action the Defend^t thinketh he had verie good and iuste cause both in lawe and Conscience to profecute: for first it appeareth that the libertie which the said Jeames Burbage had by the said lease to pull downe the said Theatre at anie time Duringe the terme was graunted vnto him in Consideracion onelie of the said somme of twoe hundred powndes to be imployed and bestowed by the said Jeames Burbage vpon the howses and buildinges that were demised vnto him: which somme not beinge by him bestowed accordinglie and other Covenantes broken there was noe Colour (as the Defend^t taketh it) either in lawe or Conscience for the Comp^{lt} to take awaie the same: And further the Defend^t could not see by what meanes he should receiue anie satisfaction for the said thirtie powndes of rent due vnto him and for the losse w^{ch} the Defend^t hath susteyned by the not repayinge of his howses w^{ch} amounteth to a verie great value but onelie by the said Theatre w^{ch} the Defend^t intended to Convert to his vse and therby to be recompensed for the same seeinge himselfe otherwise lefte wthout remedie by reason that the wife of the said Jeames Burbage whome the Comp^{lt} supposeth to be his administratrix is neither willinge nor able for ought the Defend^t can perceiue to yeald him any satisfaction at all; for the said Comp^{lt} hauinge (as the Defend^t is informed) gotten all or the

greatest parte of the goodes and substance of the said Jeames Burbage into his handes and the said Ellen Burbage the late wife of the said Jeames Burbage beinge a poore woman the Defend^t [sic] verie subtillye Caused her to take the administracion of the goodes of the said Jeames Burbage to the intent that therbie and by Colour of the said administracion they might trouble and molest the Defend^t and others and yet themselves avoid the payment of the Debtes of the said Jeames Burbage and the performance of such Covenantes and other Dueties as the said Jeames Burbage and his executors or administrato^{rs} ought both in lawe and Conscience to paie and performe vnto the Defend^t and others: And further wheras the Comp^{lt} supposeth that the said Jeames Burbage his father did to his great Chardges erecte the said Theatre and therby pretendeth that there should be the greater Cause in equitie to releiue him the Comp^{lt} for the same: Herevnto the Defend^t saieth that Consideringe the great proffitt and beniffitt which the said Jeames Burbage and the Comp^{lt} in their feuerall times haue made therof w^{ch} (as the Defend^t hath Credible hard) doth amounte to the somme of twoe thousand powndes at the least: the Defend^t taketh it they haue been verie sufficientlye recompensed for their Chardges which they haue bestowed vpon the said Theatre or vpon anie other buildinges there had they been much greater then they were And further the Defend^t saieth that he hath Credible heard that the said Theatre was not built at the alone Chardges of the said Jeames Burbage but that one John Braines did defraie the greatest parte of the Chardges therof vpon agreement made (as the Defend^t hath heard) betweene the said Jeames Burbage and the said John Braines that the said John Braines should haue the moyetie of the lease and of the profittes therof w^{ch} because he the said John Braines did not enioye accordingle but was therein Defrauded by the said Jeames Burbage (as the Defend^t hath heard) one Robert Miles as executo^r to the executo^r of the said John Braines did exhibite a Bill into her ma^{ties} highe Courte of Chauncerie against the Comp^{lt} and the said Jeames Burbage (as the Defend^t taketh it) w^{ch} suite Dependinge the said Comp^{lt} subtillie intendinge to Defraude both

the said Robert Miles and the Defend^t pulled downe the said Theatre in great Contempt of the said Honourable Court and to the great wronge and iniurye of the Defend^t, the said Comp^{l^t} (as the Defend^t taketh it) neither yet the said Ellen Burbage hauinge noe Colour either in lawe or Conscience foe to doe. wthout that y^t the said Jeames Burbage did *performe* all the articles *Covenantes* and *agreementes* on his *parte* to be *performed* or that he the said Jeames Burbage onely did to his great Chardges erecte the said Theatre in manner and forme as in the Bill of Comp^{l^t} is alledged: and wthout that y^t the interest of the said terme & all benefitt and proffitt that might growe by the said Indentures of lease did by good Conveyance Come vnto the Comp^{l^t}, or that he was lawefullie possessed therof by force of any such Conveyance made vnto him: and without that y^t the Comp^{l^t} did often require the Defend^t and Sara his wife to make him the said newe lease in any other manner and fort then the Defend^t hath in his answere formerlie shewed: and wthout that y^t the Defend^t for any fayned Cause did Deferre the makinge of the said lease from time to time as the Comp^{l^t} most vntruelye hath alledged: And wthout that y^t the said Ellen Burbage is the lawefull administratrix of the goodes and Chattells of the said Jeames Burbage, or that the said Ellen Burbage did Consent and appointe that the Comp^{l^t} should pull downe the said Theatre or that by vertue therof (yf foe it were) the Comp^{l^t} might lawefullie pull downe the same: And wthout that y^t the Defend^t mindeth to take anie advantage of his owne wrongefull and vnconscionable Dealings as the Comp^{l^t} most vntruelye hath surmised for the Defend^t hopeth that it shall well appeare vnto this Honourable Court that the Dealings of the Defend^t herein haue been verie iuste and honest and accordinge to good Conscience. And wthout y^t that anie other matter or thinge in the said Bill of Comp^{l^t} Conteyned materiall or effectuall in the lawe to be answered vnto by this Defend^t and not herein sufficientlie answered vnto Confessed and avoyded, trauerfed, or denied is true, all which matters this Defend^t is readie to averre and proue as this Honourable Courte shall award And therefore prayeth to be Dismissed therof with

his reasonable Coſtes and Chardges in this behalfe allreadie wrongefullie had and fuſteyned./

[Signed] Chiborne [Attorney].

REPLICATION

xxvij^o die Aprilis
Anno *Regni Regine*
Elizabethe xlij^o

The Replicacion of Cuthbert Burbadge Compl^{te}
to the aunſwer of Gyles Allen gentleman Defend^t

The faide Compl^{te} favinge to himſelf nowe and at all times hereafter all advantages of excepcion to thincertayntie & infufficiencie of the faide anſweare for replicacon fayeth as he before in his faide bill of Compl^{te} hath the faide and dothe and will averre maynteyne & proue & euerye matter and thinge in his fayd bill conteyned to be good iuſt and true in ſuch forte manner and forme as therein they are moſt truely fett fourth and Declared wthout that that the draught of the fayde leas tendred by the fayde James Burbage to the fayde Defend^t in the fayde bill and anſwer mencyoned was in any materiall pointe varyinge or differinge from the leas w^{ch} the fayd Defend^t & his wyfe formerlye made to the fayde James Burbage as in the fayde aunſweare is furniſed, wthout that that the fayd James Burbage did deale badlye wth the Defend^t before the tendringe of the fayd newe leas or that he the fayd James was ſuch a troubleſome tenant to the faid Def^t that there was noe cauſe in conſcience to move the fayde Defend^t to yeild to any thinge in favour of the fayd James further then by lawe he might be compelled to doe as in the fayd Aunſweare is moſt vntruely alleaged wthout that that the fayd James Burbage contynuallye fayled in the payment of his rent, and never duely paid the ſame or y^t he the fayd Defend^t was often Driven to goe about to diſtreine for the ſame, or that the doores & gates of the houſe of the fayd James Burbage were kept ſhutte that the Defend^t could not enter to take any diſtres or that the fayde Def^t could not finde ſufficiente diſtreſſe to ſatiſſie him for the arrerages

of the rent (if any were) as in the said Answer ys suggested and as towching^e the said thirtie poundes in the said answere mencioned alledged to be dew to the said defend^t for the rent of the howses and groundes demised to the said James Burbage in the said Answere specified this comp^{lt} therevnto saieth That longe before the tenderinge of the said newe lease in the answere specified there was muche variaunce and Controuertie betwene the said defend^t and one Edmond Peckham towching^e the title of the premiffes in the said answere mencioned, by reason whereof the said James Burbadge^e this Comp^{ltes} father was verie muche troubled and often Chardged to finde men to keepe the possession of the said premiffes from the said Edmond Peckham neyther could this Comp^{ltes} said father enjoye the said premiffes according^e to the lease to him made by the said defend^t; for w^{ch} Causes (if any parte of the rent were vnpaide yt may be this Comp^{ltes} said father deteyned some parte of the rent in his owne handes and dyd not pay the same at the daies lymitted for paym^t thereof, the Certentye of w^{ch} said rent foe deteyned he this comp^{lt} knoweth not Without that that the said James Burbadge^e at the tyme of the said new lease tendered dyd owe vnto the said defend^t thirtie poundes for rent of the said howses and groundes Or that this Comp^{lt} dyd often tymes confesse since the deathe of the said James Burbadge^e the same to be dewe to the said defend^t as in the said answere ys vntruly alledged. Howbeit this Comp^{lt} saieth that he this comp^{lt} hath told the said defend^t that if the said Defend^t would vse him kindly and deale frendly wth him that then he this Comp^{lt} for quietnes & frindshippe to be had would satisfie the saide defend^{te} all suche rent as the saide defend^{te} coulde reasonablie demaunde And wheras the saide defend^t alleadgeth in his saide aunfwer that the saide James Burbadge neglected to doe Reparacions vppon the saide houses and buildinges and that the saide James did deuide the saide barne in the aunfwer specified into eleven feuerall tenem^{tes} and did lette the same feuerallie to poore perfonnes for the feuerall rentes of Twentie shillinges by yeare who weare vnable to doe reparacions vppon the same This Comp^{ltes} thervnto replieth and sayth that true it is that the saide James Burbadge

being possessed amongst other things of the faide barne by vertue of the leas to him made as aforefaid w^{ch} barne ftood & laye emptie alonge time in the handes of the [sic] him the faide James wthout yeldinge him anie profite or commoditie And the faide James being desirous to conuerte the fame for his benefitte did therefore to his greate charges deuide the fame barne into feuerall tenem^{tes} as in the bill is expreffed as lawfull was for him the faide James foe to doe as he this Compl^{te} taketh it And foe muche the rather for that he the faide James was not refrayned by his faide leas to builde or to conuerte anie parte of the *premisses* to him demised therbie And this Compl^{te} further faieth that he this Compl^{te} verie well knoweth and can well and fufficientlie *prove* and make manifeft to this honorable Courte, that the faide James Burbadge hath for diuerfe yeares duringe the faide tearme bestowed & disbursed in & aboutes the reparacions of the fame tenem^{tes} a greate some of money Wthout that that the faide tenants are foe poore that theire vsuallie begge in the fieldes and ftreates to gette money for the paym^{te} of theire rentes, Or that that there weare anie cause the faide defend^{te} shoulde be muche blamed or hardlie censure by the parishoners Or that the faide James respected more his owne comoditie then the good reporte and creditte of the defend^{te} or himfelfe as in the faide aunfwer moſte flanderouſlie is alleadged wthout that alſo that he this Compl^{te} hathe not ſince the deathe of his faide father repayed the faide tenem^{ts} or that the faide tenem^{tes} are growen in greate decaie or almoſte vtterlie ruinated or that there is anie cause that the faide poore people shoulde complayne to the faide defend^t that the faide tenem^{tes} would fall vppon theire heades as in the faide aunfwer is vntrulie furniſhed ffor this Compl^{te} faieth and can vearie well proue that he this Compl^{te} hathe bestowed and disbursed in repayinge of the fame tenem^{tes} this vearie laſte yeare the ſome of twentie Markes and better Wthout that that the faide James Burbadge had not at the time of the faide ſeconde leas tendered or anie time after bestowed the ſomme of two hundred powndes or neare theraboutes for the betteringe of the houſes and buildinges demised Or that there was not anie likelihood that the faide

James Burbadge shoulde performe the same wthin the time lymitted by the faide Indentures as in the faide aunfweare is also furnished ffor this Complaynante faieth and can well and sufficientlie *prove* and make manifeste aswell by diuers good workemen and other *personnes* that the faide James Burbadge before the tenderinge of the faide seconde leas to the faide defend^t did bestowe and disburse for the betteringe of the faide houses and buildinges aboute the somme of Two hundred poun^des And therefore he the faide defend^{te} had noe iuste cause to refuse to feale the faide leas as by his faide aunfwer he pretendeth And touchinge the newe agreem^{te} betweene the defend^{te} and the faide James Burbadge in the faide aunfweare specified he this Complaynante therevnto fayeth That true it is that the faid James Burbadge was verie willinge to haue a newe leas for one & twentie yeares of the *premisses* from the faid Def^t vnder such rent, & accordinge to such reasonable *Covenantes* as in the former leas were conteyned, And that therevppon speeches & commvnica^{cion} were often had & passed betweene the Def^t. and the sayd James towchinge the same, but this Compl^t fayeth that the sayde Def^t accordinge to his owne will and direction did cause a draughte of a leas to be drawn wherein were inserted many vnreasonable *Covenantes* and agreem^{tes} on the parte of the faide James to be performed, And likewise the faid Defend^t required suche securitie of the faide James Burbadge for the performaunce thereof, as that the faid James vtterlie refused to proceade any further wth the faid Defend^t in the faid bargaine And the faid James Burbadge wthin shorte tyme after died. Without that that the faid James Burbadge was willinge to paie the faid defend^t Tenne poundes yerelie rent more then formerlie he paid Or that it was agreed betweene the defend^t and the faid James that the faid Theater shoulde Contynue for A playinge place for the space of ffyve yeres onelie after the firste terme and no longer, Or that the same after the faid ffyve yeres ended should be Converted by the faid James and this *Complainant* or one of them to some other vse and be ymployed vpon the groundes demised wherebie the benefitt and proffitt thereof after that terme ended should remayne and be vnto

the faide defend^t as in the faid Anfwere is also *furmifed* and alleadged. Without that that this *Complainant* did often moue or intreate the faide defend^t that he mighte haue a newe leas of the *premisses* accordinge to the former supposed agreem^t made betwene the faid James Burbadge and the def^t Or that this *Complainant* did *promife* to paie vnto the faide Def^t the faid *fomme* of xxx^{li} in the faid Anfwere mencioned Or that this *Complainant* feemed verie willinge to haue the faid leas in fuche manner and vnder fuche *Couenautes* as were formerlie supposed to be agreed vppon betwene the defend^t and the faid James Burbadge, or that the matter was so Concluded betwene this *Complainant* and the faide defend^t Or that that there was A lease drawn accordinglie by this *Complainant* Or that the faid def^t was Contented to suffer this *Complainant* to enioye the *premisses* after the firste leas expired for the fpace of A yere or twoo payinge onelie the olde rente of xiiij^{li} for fuche reasons & in fuch manner as in the faid Anfwere moſte vntrulie is fuggested and supposed/. Withoute that also that this *Complainant* neuer meante to take the leas of the *premisses* but onelie foughte to take occaſion when he mighte privilee and for his beſte aduantage pull downe the faid Theatre ffor this *Complainant* ſaieth that he was verie willinge to haue had a newe leas of the faid *premisses* from the Defend^t ſo as the ſame leas mighte haue been made in fuche reaſonable manner and accordinge to the former leas made by the Defend^t and his wief to this Comp^{tes} father as aforeſaid. And this *Complainant* doth not denie but that he hath pulled downe the faid Theatre w^{ch} this *Complainant* taketh it was lawfull for him ſo to do beinge A thinge Couenaunted and permitted in the faid former leas to this Comp^{tes} faid father made as aforeſaid Withoute that that this *Complainant* hath gotten moſte parte of the ſubſtaunce and goodes of the faid James Burbadge into his owne handes, or hath ſubtillie cauſed the faid Ellen Burbadge to take the *adminiſtracion* of the goodes of the faid James Burbadge therebie to trouble and moleſte the faid Defend^t and others and themſelues to auidoie the paym^t of the debtes of the faide James Burbadge and the performance of fuche *Couenautes* and other

dueties as the said James Burbadge his execut^{rs} or administrato^{rs} ought both in lawe and Conscience to paie and performe vnto the defend^t and others, Or that the said James Burbadge or this Complayn^t hath made two thousand poundes proffitt and benefitt by the said theatre As in the said Answere is also alleadged And wthout that that any other matter Clause Article or thinge in the said Answere Conteyned materiall or effectuell in the lawe to be replied vnto by this Complainant, and not herein or hereby sufficiently replied vnto Confessed and avoided trauesed or denied is trewe, All w^{ch} matters he this Complainant is and will be readie to averr and proue as this honorable Courte fhall award And praieth as before in and by his said bill of Compl^t he hath praied/

COURT ORDER, 10 APRIL 1600

Requests Misc. Books, vol. 49. (Draft Order Book, Easter 41 to Trinity 42 Elizabeth)

Termino Pasche Anno Regni R^{nae}
Elizabeth &c xlij^{do}

Decimo die Aprilis [1600]

Cuthbert Burbage gentleman compl^t againste Giles Allen gentleman defendaunt yt is Ordered vpon the mocion of m^r Walter of counsaill wth the said compl^t that an Iniunccion (wthout further mocion in that behalf to be made) fhallbe Awarded furthe of this corte againste the said def^t for the stay of his proceedinges at the common lawe in the Accion of trespass theare dependinge, vntill this corte fhall take further Order to the contrary, yf he the said defendaunt (havige notice of this Order in convenient tyme) fhall not vpon thursday next commynge shewe good matter in this corte in stay thereof/

COURT ORDER, 22 APRIL, 1600

Idem, ap. loc.

xxij^{do} die Aprilis

Whereas in the caufe at the sute of Cuthbert Burbage gentleman

comp^lt againste Giles Allen gentleman defend^t Order was pronounced vpon the xvijth of this instant that bothe parties wth their counfaill should Attend vpon this present day to be heard whether An Iniunccion should be in the same cause Awarded or not, At w^{ch} day m^r Walter and one Chiborne beinge feuerallye of counfaill learned wth bothe the said parties Attended Accordingly, And therevpon (the matter in question beinge opened vnto her ma^{tes} counfaill in this corte) yt is by the same counfaill ordered that the plaintiff shal furthwth reply, And that bothe the said parties shal examyn all suche witnessees as they entende to vse in this cause by or before the seconde day of the next terme, And then publicacion shalbe therein graunted, And the same matter shalbe heard in this corte vpon the xjth day of the same next terme peremptorie, And further yt ys Ordered that the said compl^t (Accordinge to thoffer of his counfaill this day made) shal by or before monday next comynge put in A perfect and yffuable plea to the def^{tes} accion dependenge at the *commen* lawe, or els in default therof shal take no benefit by his sute in this corte, w^{ch} plea (yf yt shalbe put in Accordingly), then the def^{tes} counfaill dothe consent, and yt is so ordered that he the said def^t shal stay his further *proceedinges* at the *commen* lawe, vntill the matter be heard Accordinge to this Order/

BURBAGE v. ALLEN

Court of Requests Proceedings, Uncalendared, Bdl. 242. Depositions ex parte Allen, 26 April, 1600.

INTERROGATORIES

[In dorso]
 Termino Pasche
 xliij Regni Regine
 Elizabethæ

Interrogatoryes to be ministred to the Witnessees to be produced on the parte and behalfe of Giles Allen gentleman Defend^t againste Cuthbert Burbage Complainante./

- 1./ *Imprimis* whether did Jeames Burbage father of the Complain-
ante in his life time tender and Deliuer vnto the Defend^t a
Draught of a newe lease of Certaine howfes and groundes which
were formerlye Demised by the Defend^t to the said Jeames Bur-
bage requiringe the Defend^t to seale the same: and whether is the
Draught nowe shewed forth vnto you, the same which the said
Jeames Burbage Deliuered vnto the Defend^t: And whether did
not the Defend^t refuse to seale the same; and for what Cause to
yo^r remembrance did he see refuse the sealinge therof?/ De-
liuer what youe knowe or haue heard herin.
- 2./ *Item* whether was not the Defend^t bound vnto the said Jeames
Burbage in the somme of twoe hundred powndes for the per-
formance of Covenantes Conteyned in the said lease made by the
Def^t to the said Jeames Burbage: and whether hath not the
Comp^{l^{te}} said that he hath the said bond in his Custodye: and
whether hath not the Comp^{l^{te}} of late threatened to sue the Defend^t
or to Cause him to be sued vpon that bonde; Deliuer what you
knowe or haue heard herein./
- 3./ *Item* whether did not the said Jeames Burbage at the time of his
Death owe vnto the Defend^t the somme of thirtye powndes for
rent of the said howfes and groundes Demised vnto him by the
Defend^t: and whether doth not the said somme of thirtye powndes
Remaine yet vnpaid: and whether hath not the Comp^{l^{te}} of late
Confessed the said somme of thirtye powndes to be Due vnto the
Defend^t: Deliuer what you knowe, or haue Credible heard
herein./
- 4./ *Item* whether doe you knowe or thinke in yo^r Conscience that the
said Jeames Burbage did within the firste tenn yeares after the
said lease made vnto him by the Defend^t bestowe the somme of
twoe hundred powndes aboute the alteringe and amendinge of the
said howfes and buildinges Demised vnto him by the Defend^t: or
what somme of money did the said Jeames Burbage bestowe to
that purpose wthin that time: Deliuer the trueth what you knowe
or haue Credible heard herein?/

- 5./ *Item* whether Did the said Jeames Burbage Duringe his life keepe the said howfes and buildinges in good reparacions: and whether are not the said howfes and buildinges or some of them nowe growen in great Decaie: and whether hath not the Comp^{lte} vnderropped them with fhores: and whether doe they not foe remaine: and what somme of money will it Cofte to fett the said howfes and buildinges in good and fufficient Reparacions Deliuier what you knowe or thinke in yo^r Conscience heerein: and by what meanes as you thinke it is come to paffe that the said howfes and buildinges are growen foe ruinous./
- 6./ *Item* whether was there not an agreement had betweene the Comp^{lte} and the Defend^t to this effecte: that the Defend^t fhould make a newe lease of the said howfes and groundes vnto the Comp^{lte} for one and twentye yeares from and after the expiration of the former lease made to the said Jeames Burbage: and that the Comp^{lte} fhould paie yearelye for the fame the somme of foure and twentye powndes: And whether was it not likewise agreed betweene them that the Theatre w^{ch} was erected vppon parte of y^e sayd grownd fhould Continue for a playinge place by the fpace of fiue yeares onelye, and that then it fhould be Converted to some other vie for the benefitt of the Comp^{lte} Duringe his terme, and after for the benefitt of the Defend^t: And whether did not the Comp^{lte} vpon that agream^t promife the Defend^t to paie him the said somme of thirtye powndes, and to put the howfes and buildinges in good reparacions, and howe longe is it fithence fuche agreement was made, and how longe before the said Theatre was pulled Downe: Deliuier the trueth what you knowe or haue heard heerein./
- 7./ *Item* whether hath Ellen Burbage the late wife of the said Jeames Burbage any goodes or Chattells in her handes that were the goodes or Chattells of the said Jeames Burbage wherbye the Defend^t maye haue recompence at her handes for the said somme of thirtye powndes, and the breache of other Covenantes: And whether is not the said Ellen accompted a verye pore woman, and

not able to satisfie the Creditors of the said Jeames Burbage: and whether did not the *Complainante* and his brother, or one of them procure the said Ellen to take administration of the goods of the said Jeames Burbage, (the said Comp^{to} and his brother or one of them hauinge before secretlye gotten the goods of the said Jeames Burbage into their handes) that therbye they might Deceiue the Creditors of the said Jeames Burbage: Deliuer what you know or haue Credible heard herein./

- 8./ *Item* whether was the sayd Theatre (which was erected vpon parte of the grounde aforesaid/ built at the alone Chardges of the said Jeames Burbage: or whether Did not one John Braynes Defraye the one halfe of the Chardges therof vpon agreement betweene the said Jeames Burbage, and the said John Braynes, that the said John Braynes should be partner with the said Jeames Burbage in the profittes therof: Deliuer what you knowe or haue heard herein./
- 9./ *Item* what sommes of money haue the said Jeames Burbage and the *Complainant* in their feuerall times gayned by the meanes of the said Theatre: Deliuer the trueth what you knowe or haue Credible heard herein?/
- 10./ *Item* whether were you present at the pullinge Downe of the said Theatre: and whether did you helpe to pull Downe the same, and by whose Commandem^t or appointem^t did you see helpe to take it Downe and whome did you see present at the takeing Downe thereof: and whoe Did helpe & giue any assistance therein, and by whose Commandem^t or appointment were they present or Did helpe to take it downe as you knowe or haue heard?/
- 11./ *Item* whether hath not the Defend^t alwaies Dealt verie fauourable & Conscionable wth his *tenantes*: Deliuer what you knowe, or haue Crediblye heard herein: and whether are you a tenant vnto the Defend^t and howe longe haue you see benee?/

- 12./ *Item* whether did not the said Jeames Burbage often times faile in the paiment of his rent, and in the performance of other *Covenantes*: and whether had not the defend^t muche trouble and *Difquietneffe* by occasion therof: and whether did not the said Jeames Burbage place *Diuers* verye poore people in some parte of the howses & buildinges aforesaid: and whether did not *Diuers* of the inhabitantes much millike therof & speake ill of the Defend^t for the same and whether did not the Comp^{lte} still Continue those poore people there for his owne profite Deliuier what you knowe or haue Credible heard herein?/.

DEPOSITIONS

Depositiones captae apud westmonasterium xxvj^{to} die Aprilis A^o Regni Domine Regine Elizabethae nunc &c Quadragesimo Secundo ex parte Egidij Allen generosi defend^{tis} versus Cuthbertum Burbage q^{rem}./

Phillippe Baker of Clyfton in the Countye of Bedff: gentleman of the Age of ffyfte Eight yeares or there aboutes fworne and examyned the daye and yeare aboue said deposite and faythe./

- 1/ *Ti* the ffirste *Interrogatory* this deponent faythe he hath hard the defendt (and others) saye that the *Complainantes* father did in his lyffe tyme Tender and deliuier vnto the defendt the Drawght of A newe lease of Certayne houses and groundes w^{ch} the said defendant had before that tyme formerlye demised vnto him the *Complainantes* father. And that the *Complainantes* father did vpon the deliuerye thereof requyre the defendt to Seale and deliuier the same accordinge to fforme of Law in those Cafes provided:/ And the defendt said in his this deponentes presentes that he refused the same for that the Lease w^{ch} the *Complainantes* father foe tendered vnto him was not verbatim agreeable wth the ould Lease before demised as there agreem^t was together./ And for that there was some rent behynde and vn-

payde for the *premisses* vpon the ould lease. And otherwise then vpon heare faye he saythe he cannot reporte for that he did not see the same lease tendered, nor the drawght thereof at any tyme./ And more touchinge the said *Interrogatory* this deponent Cannot depose./

2./ To the second *Interrogatory* this deponent saythe he hath hard the defendt faye that the *Complainantes* ffather would sue him vpon A bonde of twoe hundred poundes for non performance of Couenantes But he hath not hard that the same bonde of twoe hund^red poundes is come to the nowe *Complainantes* Custodye, nor that the *Complainant* hath of late threatned the defendt to sue him vpon the same bonde: And more he Cannot depose./

3./ To the thirde *Interrogatory* this deponent saythe he hath hard the defendt faye that the *Complainantes* ffather did at the tyme of his deathe owe vnto him the some of thirtye poundes for rent of the Houses and groundes w^{ch} he the defendt had demised vnto him the *plaintiffes* father, And the defendt said that the same thirtye poundes for Rent is yett remayninge vnpayd: but he hath not hard any other faye foe, nor that Complt hath yett Confessed foe muche or any other some to be due for rent owinge in his fathers tyme./ And more he Cannot depose./

4./ To the ffourthe *Interrogatory* this deponent saythe he knowethe not what Costes and Charges the *plaintiffes* ffather was at in his lyffe tyme about the Alteringe and Amendinge of the *premisses* demised vnto him by the defendt, nor what some or somes of money James Burbage bestowed to that purpose vpon the *premisses*./ And more he Cannot depose./

5./ To the vth *Interrogatory* this deponent saythe he hath hard the defendt faye that the *Complainantes* father did not keepe the said demised *premisses* in good reparacion when he lyved./ And hath hard that some of them be nowe in greate decaye vnderpropped wth Shores: but howe longe they haue bene foe he knowethe not,

nor what yt will Cofte to fett the houfes that be decayed in good reparacions, nor knowethe by what meanes the *premissis* are foe growne ruynated and decayed. And more he Cannot depofe for that he hath not bene there of purpofe to vewe the decayes therof./

- 6./ To the vjth Jnterrogatory this deponent faythe that he was not *prefentes* wth the *plaintiff* and defendt when there was any Agreem^t made and Concluded vppon betwene them onlye faythe that about Michaellmas lafte pafte was twelue monethe the defendt and he this deponent lyinge in An Jnne in Shordyche Called the George at w^{ch} tyme the *Complainant* repayed often to talke wth the defendt, And the defendt tould him this deponent that yt was about A leafe of the *premissis* that the *Complainant* fued to him for:/ And that he fould haue one to Commence after the expiration of the owld leafe w^{ch} he the defendt had made of the *premissis* vnto the *plaintiffes* father: And the defendt tould him this deponent that the *Complainant* was Contented and did *promife* him that in Confideracion of A newe Leafe in Reuercion he would increafe the defendtes Rent ten poundes *per Annum* more then yt was, and would repayre the houfes and buyldinges decayed vppon the *premissis* and would Suffer the Theater w^{ch} was ther-vppon erected for A playe houfe foe to Contynewe for A playe houfe the fpace of ffyve yeares onlye, and that then yt fould be Converted to fome other vfe for the *Complainantes* benefytt duringe his terme: And after the expiration of his terme for the defendtes benefytt. And that therevppon the *Complainant* did *promife* him the defendt paym^t of the thirtye poundes w^{ch} his ffather owght him the defendt for rent before he dyed And this he hard by the reporte of the def^t and not otherwife:/ And that yt is about A yeare or better as he remembrythe fythence the faid Theater was pulled downe./ And more he Cannot depofe toucheinge the faid Jnterrogatory for that he knowethe not that the *Complainant* Agreed wth the defendt as the defendt tould him this deponent that he did./

- 7/ To the vijth Jnterr this deponent faythe he knowethe not in what ftate the *Complainantes* ffather lefte his wyffe Ellen Burbage mencioned in the *Jnterrogatory* And therefore knowethe not whether fhee have in her handes goodes and Chattles of her late hufbondes wherby the defendt maye have recompence at her handes for the thirtye poundes he claymeth and the breach of other *Couenantes*: But he fayeth that fhee is accompted A very poore woeman. And more he cannot depofe touchinge the faid *Jnterrogatory* onlye fayethe he hath hard the defendt affirme afmuch as is in the *Jnterrogatory* alledged againfte the *plaintiff* and his brother
- 8./ To the viijth *Jnterrogatory* this deponent Can faye nothinge of his owne knowledge: but he hath hard diuerfe of the defendtes tenantes faye that the faid Theater was not buylded at the onlye Charge of the *Complainantes* father but that one John Braynes mencioned in the *Jnterrogatory* did defraye the one halfe of the Charges thereof vppon Agreeem^t betweene them that Braynes fhould be partner wth the *plaintiffes* father in the *profyttes* thereof./ And more he Cannot depofe./
- 9./10./ To the ixth and xth *Jnterrogatory* this deponent Can faye nothinge
- 11/ To the xjth *Jnterrogatory* this Deponent faythe that the defendant hath alwayes dealte well and Confcionablye wth his tenantes: w^{ch} he knowethe to be true for that he is one of his tenantes and hath founde him A very good Landlorde./ And more he Cannot depofe./
- 12./ To the xijth *Jnterrogatory* this deponent faythe he thinkethe that the *Complainant* doethe Contynewe fuche tenantes in the *premissis* as his father placed there and are now lyvinge./ And he hath hard the defendt faye that the *plaintiffes* father fomtymes fayled paym^t of his rent and performance of other *Couenantes* And more he Cannot depofe touchinge the faid *Jnterrogatory* to his

nowe remembrance only he hath hard many reportes of the defendt touchinge thofe matters mencioned in the *Interrogatories*./

(Signed) Phillip Baker

John Goborne of the parifhe of S^t: Leonardes in Shordytche in the Countye of *middlesex* marchaunttaylor of the Age of ffortye ffoure yeares or there aboutes fworne and examyned the daye and yeare abouefaid depofithe and faythe./

1/ To the firfte *Interrogatory* this deponent faythe that James Burbage the *Complainantes* ffather did in his lyffe tyme (as this deponent hath hard) tender vnto the defendt the drawght of A leafe of Certayne Houfes and groundes w^{ch} he the *defendant* had formerlye demiffed vnto him the faid James Burbage, and required the defendt to Seale the fame newe leafe./ And as the defendt hath reported in his this deponentes *prefentes* he did refufe to Seale the fame for that the Newe leafe w^{ch} James Burbage did tender vnto him was not fett downe wth the fame woordes the ould Leafe was w^{ch} the faid James Burbage was bound by Couenant to doe and no otherwife and the defendt refused to Seale the faid Newe leafe for other Causes viz for that the faid James Burbage was as he faid but A bad tenant and behind wth his rent and had not repayred the demifed *premissis* accordinge to Couenant betweene them: And more he Cannot depofe touchinge the faid *Interrogatory* for that the drawght of the Newe leafe is not nowe fhewed ffoorth vnto him at the tyme of this his *examinacion*

2./ To the feconde *Interrogatory* this deponent faythe he hath hard the defendt Confefse and faye that he was bound vnto the deceased James Burbage in the fomme of twoe hundred poundes for performance of Couenantes Conteyned in the leafe made by him the defendt vnto the faid James Burbage: But he never hard the *Complainant* faye that he had that bond of twoe hundred poundes in his Cufodye, nor hath hard the *Complainant* threaten to put

the fame or any fuch bonde in fuyte againste the defendant: And more he Cannot depofe./

- 3./ To the thirde *Interrogatory* this deponent faythe he verelye beleveth that the faid deceaffed James Burbage did at the tyme of his deathe owe vnto the defendant for rent and tharrerages of Rent Dwe vnto the defendant for the houfes and groundes w^{ch} he held by demife the fome of thirtye poundes: for this deponent fayth he hath hard the *Complainant* Confent to paye the defendt thirtye poundes w^{ch} his father James Burbage did owe vnto the defendt./ And he knowethe that the faid thirtye poundes is yett vnpayde and more he Cannot depofe./
- 4./ To the ffourthe *Interrogatory* this deponent faythe that in his Conscience he thinkethe the faid deceaffed James Burbage did not (wthin the fpace of the firfte tenne yeares after the faid *premiss*s weare demifed vnto him by the defendt) beftowe the fome of twoe hundred poundes about the Alteringe and Amendinge of the houfes and buyldinges firft demifed vnto him by the defendant: But faythe he knowethe that the deceaffed James Burbage did beftowe wthin the tyme of the firfte ten yeares good ftore of money about the Alteringe and Amendinge of the houfes Demifed vnto him: yett not the full fome of twoe hundred poundes as he takethe yt: And faythe he knowethe not howe muche money was foe beftowed vppon the demifed *premiss*s by the faid James Burbage: And more he Cannot depofe./
- 5./ To the vth *Interrogatory* this deponent faythe that for the fpace of the firfte ten yeares the *Complainantes* father kepte the *premiss*s demifed vnto him by the defendt in good and Suffytient reparacions but afterwardes in his lyffe tyme they fell to decaye and fome parte thereof was vnderpropped wth Shores: And fynce his deceafe that the *premiss*s haue bene in the *plaintiffes* poffeffion they have fallen into greater decaye and are vnderpropped wth more Shores: and foe remaynes yett vnrepayred: And will Cofte muche money to be putt in reparacions: but howe

much he knoweth not for that he is not Carpenter nor workman belonging to that trade: And that he thinketh the said houses are so fallen to decay for want of reparacions done in tyme./ And more he Cannot depose./

- 6./ To the vjth Interrogatory this Deponent sayth that about Michaelmas laste was twelue moneth he this deponent was in Companye wth the Complainant and defendant at w^{ch} tyme yt appeared vnto him this deponent that the Complainant had bene an earneste tutor vnto the defendt for A newe lease of the houses and groundes w^{ch} his late father James Burbage had by lease from him the defendant. And then the defendt was Contented to graunte the Complainant A newe lease for one and twenty yeares of the said houses and groundes w^{ch} his father James Burbage had yf soe be he the Complainant would paye vnto him the defendant the thirtye poundes arrerages of Rent w^{ch} his father James Burbage owght him at the tyme of his death put the houses in reparacions, and paye him the defendant for the same premisses twentye ffoure poundes Rent per Annum, And Suffer the Theater then standinge vpon parte of the ground demised vnto his father to stand for A playinge house but onlye one ffyve yeares of his terme of one and twentye viz ffyve of the ffirte yeares and after to conuerte the same to tenem^{tes} or vpon reparacions of the other houses there and soe leave yt bestowed after his terme ended for the defendtes benefytt. And he bounde wth Suffytient fuertye for paym^t of his Rent: w^{ch} the Complainant did Consent vnto, And then proffered his brother Richard Burbage for his fuertye to be bound for the paym^t of his rent w^{ch} the defendant mislyked And therevpon they broke of Agayne And soe parted. And sayth that yt was at the fygne of the George in Shordiche that they had the said Communycacion of Agreem^t touchinge the lease of the premisses and Couenantes and that yt was about Michaelmas laste was twelue moneth that they mett about the same. And the Christmas nexte after the said Theater was pulled downe and Carried Awaye. And more he Cannot depose touchinge any other Agreem^t betweene them./

7./ To the vijth *Interrogatory* this deponent saythe that Ellen Burbage the late wyffe of James Burbage hathe not the goodes and Chattles w^{ch} weare her said husbondes ffor he doethe knowe that the said James Burbage her husbonde in his lyffe tyme made A deed of guyfte of all his goodes and Chattles vnto the *Complainant*: w^{ch} deed he hathe feene And there ffore he thinkethe shee hath not in her handes of her said husbondes goodes and Chattles Sufytient to paye the defendant the said some of thirtye poundes w^{ch} her husbonde owght vnto the defendant for Rent and Arerages of Rent at the tyme of his decease: And shee is accompted A poore woeman not hable to Satiffie her husbondes Credyto^{rs}./ But he knowethe not that shee the said Ellen was by the *plaintiff* and his brother *procured* to take *lettres* of adminiftracion of her husbondes goodes, the goodes beinge before secreatlye gayned by the *Complainant* into his and his brothers owne handes as is alledged in the said *Interrogatory*./ to deceave the said James Burbage his Credito^{rs}. And more he Cannot depofe./

To the viijth *Interrogatory* this Deponent saythe that the Theater w^{ch} was erected vppon parte of the demised *premisses* was buylte by the *Complainantes* ffather and one John Braynes and not by the said James Burbage alone: for he hath feene the *Accomptes* betweene them whereby yt appeared that the said Braynes bore halfe the Charge therof and was a *partner* wth James Burbage in the profyttes thereof: And more he Cannot depofe.

9./ To the ixth *Interrogatory* this Deponent saythe he knowethe not what fomes the *Complainant* and his father haue gayned in there feuerall tymes by meanes of the Theater: but they haue gayned muche: And more he Cannot depofe./

10/ To the tenth *Interrogatory* this deponent saythe that he hard that the Theater was in pullinge downe. And having A *lettre* of Attorney from the defendt to forbid them: did repayre thither And did fynd there at the pullinge downe of the fame and that Comaunded and Countenauced the fame:/ one Thomas Smythe,

the Complainant and Peeter Streete the Cheefe carpenter And thother that weare there weare laborers and fuche as wrought for wages whose names he perfectlie remembrithe not. And more he Cannot depose./

- 11/ To the xjth Interrogatory this deponent saythe he is the defendtes tenant. And he hath alwayes found the defendt A very ffavorable and Confyconable Landlord, And foe he is to all his tenants beinge well delte wthall. And more he Cannot depose
- 12./ To the xijth Interrogatory this deponent saythe that he knowethe the Complainantes ffather did in his lyffe tyme fayle the payment of his rent vnto the defendt for he knewe when at one tyme there was ffyfty poundes Rent owinge by the Complainantes father, And the defendant had muche troble wth the said James Burbage about the same: And the said James Burbage placed fuche tenants in some parte of the houses and buyldinges foe leased vnto him by the defendt as the officers of that parishe ffound muche falte wth the defendt for Sufferinge the same, And the Complainant did and doethe Contynewe some of those and fuche lyke tenants there still: And more he Cannot depose./

[Signed] John Goborne

Henry Johnson of the parishe of S^{ct}: Leonardes in Shordytche in the Countye of middlesex Sylkeweaver of the Age of ffyfty yeares or there aboutes fworne and examyned the daye and yeare abouefaid deposithe and saythe/

- 1/ To the firrte Interrogatory this deponent saythe that the Complainantes father did in his lyffe tyme tender and deliuer vnto the nowe defendant the Draught of A newe lease of Certayne houses and groundes w^{ch} he held of the defendt by A former lease and the Complainantes father required the defendt to Seale the same lease w^{ch} he tendered vnto him. but the defendt refused to Seale the lease tendered for that he said yt was not accordinge to the same Couenantes Conteyned in the ould lease. And for

that the said *Complainantes* father (as the defendt then affirmed) was behinde wth the paym^t of parte of his rent reserved vpon the ould Lease./ And that he knowethe the same to be true for that he was present when the same lease was tendered by James Burbage to the defendt to Seale att w^{ch} tyme the said James Burbage answered the defendt that whatfoeuer was Amisse in the newe lease was not longe of him but the scryveno^r whoe drewe the same. And more he Cannot depose touchinge the same *Interrogatory* for that he is not nowe at the tyme of this his examination shewed the newe lease./

- 2./ To the seconde *Interrogatory* this deponent saythe he hathe hard the said James Burbage saye that the defendt was bound vnto him in the some of twoe hundred poundes for the performance of *Couenantes* Conteyned in the ffirste lease made by the defendt to the said James Burbage and he hath hard the defendant acknowledge the same to be true./ And hath hard the nowe *Complainant* saye that he had that bonde in his Custodye and that he would put the same in fuyte againste the defendt./ And more he Cannot depose./
- 3./ To the thirde *Interrogatory* this deponent saythe he hath hard the defendt saye that the *Complainantes* father did at the tyme of his decease owe vnto him the defendt for Arerages of Rent the some of thirte poundes: w^{ch} some of thirte poundes ys yett owinge and vnpayd: And saythe that synce James Burbage decease the *Complainant* hath confessed the same in this deponentes presentes. And hath promised to paye the same vnto the defendt Conditionally he the defendt would make him A newe lease of the houses and groundes his said father James Burbage had of him by lease. And more he Cannot depose./
- 4./ To the ffourthe *Interrogatory* this deponent saythe he thinkethe the said James Burbage did not within the firste tenn yeares (w^{ch} he held the demised premises of the defendt) bestowe the some of twoe hundred poundes vpon and about the Alteringe and

Amendinge of the houfes and buyldinges demifed vnto him by the Defendt for that wthin the faid firfte tenn yeares he this deponent hath hard the *defendant* fynd falte wth the faid James Burbage for that he had not performed his Couenant in that poynt./ yett the fayd James Burbage ftill did faye that he had to the vttermofte. And more he Cannot depofe./

- 5./ To the vth Interrogatory this deponent faythe he knowethe that the faid James Burbage in his lyffe tyme did not keepe the houfes and buyldinges demifed vnto him (by the defendt) in good reparacions for in his tyme one end of the Barne did fale to fuche ruyne as that they weare Conftrayned to vnderproppe yt wth Shores. And foe yt was remayninge at the tyme of James Burbage his deathe. And yet remayneth foe: but vnderpropped wth more Shores then before: but he faythe he knowethe not what yt will cofte to fett the fame wth the reſte of the *premiſſis* in good reparacions for that he hath but lytle Judgment in thoſe woorkes: And faythe further that the faid Barne and thother houfes are foe ruined for want of reparacions in dwe tyme./ And more he Cannot depofe./
- 6./ To the vjth Interrogatory this deponent faythe that about Michaellmas Terme Laſte paſte was tweluemonethe the Complainant one John Golborne and he this deponent mett at the defendtes Lodginge (wth the defendt) at the ſygne of the George in Shordytche aforeſaid at w^{ch} tyme there paſſed betweene the Complainant and defendt diuerſe ſpeeches touchinge A newe leaſe of the *premiſſis* to be made by the defendt to the Complainant for one and twentye yeares: w^{ch} ſpeeche and Communycacion was to this or the lyke effecte viz the Complainant demaunded of the defendt A leaſe of the houfes and groundes for one and twentye yeares to commence after the expiration of the leaſe w^{ch} had bene before made vnto his ffather James Burbage: and that the Theater w^{ch} then was vpon parte of the faid groundes might for this terme of one and twentye yeares remayne for A place to playe in as yt was woonte: And in Conſideracion thereof he the Complainant

then promised to geue the defendt twentye ffoure poundes *per Annum* for A yearlye rent for the *premiss*s and would take vppon him to paye the defendt the some of thirtye poundes w^{ch} the defendt Claymed for Arerages of Rent dwe in James Burbage his lyffe tyme and would vndertake to putt the mansion houfes vppon the *premiss*s in reparacion./ And the defendt was Contented and did accepte of the *Complainantes* proffer in all, excepte his demaund for the Theatre to stand as a playe house w^{ch} he mislyked wth wherevppon the *Complainant* requested the defendt that he would Suffer yt to stand for A playe house but the ffyve ffirte yeares of the one and twentye yeares and afterwardes he would Converte the same to some other better vse. viz into tenem^{tes} or repayinge thother *premiss*s demised vnto him and afterwardes leaue the same vppon the *premiss*s for the defendtes benefytt. w^{ch} the defendt then Agreed vnto And then demaunded of the *Complainant* Suffytient securitytie for the paym^t of his the *Complainantes* Rent duringe his terme of one and twentye yeares: wherevppon he made proffer vnto the defendt of his brother Richard Burbage wth whome the defendt mislyked and foe therevppon they lefte of and parted. And more he Cannot depose faue onlye that there said *Communycacion* was the Michaelmas terme was tweluemonethe and the pullinge downe of the Theatre was the Christmas ffollowinge./

- 7./ To the vijth *Interrogatory* this deponnt saythe he thinkethe that the said Ellen Burbage mencioned in the *Interrogatory* is A very poore woeman and hath not in her handes suffytient to Satisfie her late hufbond James Burbage his debtes: nor for his breache of other Couenantes. And more touchinge the said *Interrogatory* this deponent cannott depose faue onelye that he hath hard that the *Complainant* and his brother did take that Course mencioned in the *Interrogatory* to defraud there fathers Credyto^{rs}./
- 8./ To the viijth *Jnterr* this deponent saythe he thinkethe that the deceafed James Burbage did not of his owne *proper* Cofte and Charge buyld and erecte the playe house called the Theater: ffor

he hath hard one John Braynes saye that he did defraye the better halfe of the Charges thereof vppon Agreem^t betweene them: And saythe he was A gatherer of the *proffyttes* therof vnder James Burbage and John Braynes and knew they parted the *proffyttes* betweene them: And more he cannot depofe./

- 9./ To the ixth *Interrogatory* this deponent faythe that the *Complainantes* father and the *Complainant* haue gayned greate fomes of money by the Theater: But howe muche he knowethe not: And more he Cannot depofe./
- 10/ To the xth *Interrogatory* this deponent faythe he went to the Theater when yt was in pullinge downe to charge the woorkemen and the *Complainant* not to pull the fame downe for that yt was not accordinge to anye Agreem^t or *Communycacion* of agreem^t in his *prefentes* And beinge there he this deponent did perceave that the fame Theater was appoynted to be foe pulled downe by the *Complainant* by his Brother Richard Burbage and one Thomas Smythe: and one [Peter] Streete who was heade Carpenter that gaue affiſtance therein: And when he had foe Charged them not to pull the fame Theatre Downe they the ſaid *Complainant* and Thomas Smythe and [Peter] Streete the Carpenter tould him this deponent that they tooke yt downe but to fett yt vpp vppon the *premiſſs* in an other forme and that they had Couenanted wth the Carpenter to that effecte and Shewed this deponnt the decayes about the fame as yt ſtoode there thereby Colloringe there decepte. And more he Cannot depofe faue onlye that notwthſtandynge all there ſpeeches they pulled yt downe and Carried yt Awaye And more he Cannot depofe./
- 11/ To the xjth *Interrogatory* this deponent faythe that he is the *defendants* tenant and faythe that his landlord Allen is A very honeſte and Conſcyonable man very favorable to all his tenants not vſinge any of them in extremetye. And that he this deponent hath bene his tenant theſe thirteene yeares. And more he Cannot depofe./

12./ To the xijth Jnterrogatory this deponent faythe he knowethe that James Burbage did in his lyffe tyme fayle in the paym^t of his Rent and in performance of couenantes wth the defendt./ and the defendt hath Suffered muche Difquetnes by occasion thereof: for the said James Burbage placed such tenantes in the Barnes and tenem^{tos} w^{ch} he held by lease from the defendt as the officers of the parishe there haue ffound muche falte therwth and haue geuen the defendt ill speeches for Sufferinge the fame. And the Complainant still Contynewethe fuche lyke tenantes there for his proffytt: And he knowethe the fame to be true for that he hath hard the defendt demaund his rent of James Burbage and Could not then haue yt, And he hath bene officer there and hath had some of the parishners fynd much falte wth some of those tenantes./ And more he Cannot depose to his nowe remembrance./

[Signed] Henry Johnfon

Idem. Depositions ex parte Burbage 15 May, 1600.

INTERROGATORIES

[In dorso]

Termino Trinitatis

xlij^{do} Regni Regine

Elizabethæ

Jnterrogatories mynistred for thexamynacion of witnesfes produced on the parte and behalfe of Cuthberte Burbadge Compl^t againste Giles Allen defend^t

1. Jnprimis doe yo^w knowe the parties *plaintiff* and defend^t and howe longe haue yo^w knowen them or either of them, And did yo^w not likewise knowe one James Burbadge father of the said Complainant nowe deceased.
2. Doe yo^w knowe that the said Defend^t Giles Allen and Sara his wief aboute the thirteenth daye of Aprill in the eighteenth yere of her ma^{ttes} reigne did demise vnto the said James Burbage certeine garden groundes lyinge and beinge in Hollywell in the

parishe of S^{te} Leonardes in Shorditch in the Countie of Middlesex for what terme, rente, and vnder what Couenauntes was the same leas so made Declare yo^r knowledge herein, and how yo^w knowe y^e fame.

- 3 Doe yo^w knowe that the said James Burbadge before thende of the firste terme of Tenne yeres mencioned in the said leas did require the said Defend^t to make vnto him the said James a newe leas of the *premisses* accordinge to the purporte and effecte of the Couenaunte mencioned in the foresaid leas, Did not the said James Burbadge tender vnto the said Defend^t a newe leas readie written and ingrofed wth labelles and waxe thereunto fixed, and was not the same agreable to the Couen^t in the said firste leas mencioned And did not the said Defend^t then make shewe that he wolde deliuer the same to the said James Burbadge but shifted of the fynishinge thereof, Declare yo^r knowledge herein and howe yo^w knowe the fame/
4. Doe yo^w knowe that the said Complainant did aboute twoo yeres nowe last paste & diuers tymes since require the said defend^t [*and his wief* (stricken out)] to make vnto him A newe leas of the *premisses* accordinge to the agreem^t mencioned in the said firste leas, Did not the said Defend^t. denye to make vnto him the said leas, and what was the Cause he the said defend^t Did not make the said leas to yo^r knowledge or as yo^w Credible haue hard Expresse the truth hereof at large, and what yo^w knowe touchinge the fame.
- 5 Did not Ellen Burbadge mother of the Complainant giue her Consente that the said Complainant should take downe, and Carry awaie the tymber and stuff ymployed for the theater or playhouse in the bill mencioned Declare the truth herein.
- 6 Doe yo^w knowe that there was variaunce and Controuersie aboute eighteene yeres paste betwene the Defend^t and one Edmond Peckham touchinge the title of the said *premisses*, was not the said

James Burbadge by reason of the same Controuerfie often charged to finde men to keepe the possession of the said *premisses* from the said Edmond Peckham and his *seruautes*, and was not the said James Burbadge often arrested and much troubled by reason of the saide Controuerfie that he Coulede not peaceablie enioye the *premisses* accordinge to his said leas, Declare yo^r knowledge herein and howe yo^w knowe the same.

7 Did not the said James Burbadge in his lief tyme for dyuers yeres duringe his terme, disburse and bestowe muche money aboute the reparacions of the said Tenem^{tes} to yo^r knowledge or as you Credible haue hard, and to what value did the same money growe Declare yo^r knowledge herein/

8 Hath not the said *Complainant* sithence the death of the said James Burbadge euerie yere bestowed muche money in repayringe of the said Tenem^{tes}, and did not the said *Complainant* this laste yere likewise bestowe a greate some of moneye in reparacions of the same to yo^r knowledge Expreffe the truth herein and howe much he bestowed aboute the same

9 Did yo^w knowe the said Tenem^{tes} before and at the tyme theie weare taken by the said James Burbadg of the Defend^t, in what manner and ftate of reparacions were the same then in Concerninge the sufficiencye of the buildinge of them, And are not the same Tenem^{tes} nowe much bettred and lett for more rente then theie then did Declare yo^r knowledge herein at large.

10 Was there not a decayed longe barne *parcell* of the said *premisses* demised to the said James Burbadge sometymes in the tenure of one Richardes, and Stoughton, and was not the saide barne at the tyme of the leas made to the said James Burbadge ruynous and decayed, so as the same was fayne to be shored vpp vnto the playhouse called the Theater, when it was builte, and hath not the said James Burbadg and the nowe *Complainant* from tyme to tyme repayred the same Declare yo^r knowledg herein

11. Whether were not yo^w *prefente* at A viewe and eftymate made of fuche Dwellinge houfes or tenementes as were erected and builte, and other Coftes beftowed vpon the fame by the faid James Burbadge taken the eighteenth daie of Julye 1586 by Bryan Ellam, John Grigges, William Bothan, William Clarke, Richard Hudfon and Thomas Osborne, howe longe before the faid viewe or eftymate fo taken was the fame Coftes in buildinge fo beftowed by the faid Burbadge, and how much was there then beftowed by the faid James Burbadge vpon the fame buildinges to yo^r owne knowledge and were yo^w not *prefente* at the fettinge downe of the faid viewe or eftymate written in A booke and Confirmed vnder the faid parties handes, and was not the fame A true *furveye* Declare the truth herein at large.
12. Did not the faid Brian Elham William Bothan and William Clark the fame tyme affirme that theie had formerlie made A viewe of the faid buildinges taken by them the twentieth daye of November 1585, and had likewise Confirmed the fame vnder theire handes beinge written in A booke of Accompte, what did theye faye the eftymate came then vnto, and what doe yowe thincke or beleieue concerninge the truthe of the fame Declare vpon yo^r oathe.

DEPOSITIONS

Depositiones Captae apud Westmonasterium xv^{to} die maij A^o Regni Domine Regine Elizabethæ hunc &c Quadragesimo Secundo ex parte Cuthberti Burbage generosi q^{rtis} versus Egidium Allen generosum Defendentem.

Richard Hudfon of the parishe of S^{ct}: Albones London Carpenter of the Age of thirtye eight yeares or there aboutes sworne and examyned the daye and yeare abouesaid depofithe and faythe/

- 1./ To the ffirfte Jnterrogatory this deponent faythe he knowethe the Complainant and did very well knowe his ffather James Burbage

when he lyved./ And hath seene the defendt: And saythe he hath knowne the *Complainant* of A Child and more he Cannott depofe

2. 3. 4. 5. 6. 7.

8./ To the second, thirde, ffourthe ffyfthe, Syxte, Seaventhe and Eighte *Interrogatories* this deponent is not examyned at the requeste of the *plaintiff*

9./ To the nynthe *Interrogatory* this Deponent saythe he knowethe the tenem^{tes} nowe in the *Complainantes* poffeffion, And did knowe them for twentye yeares pafte in the *Complainantes* ffathers poffeffion vfe and occupacion and that then the fame tenementes weare ould decayed and ruynated for want of reparacions and the beste of them was but of twoe ftories hie./ And the fame tenem^{tes} are nowe muche better, And as he thinkethe they goe for more Rent then they then went for:/ And that he knowethe the fame to be true for that he this deponent did ferve his ffather in lawe Bryan Ellam when he Wroughte vppon the fame tenem^{tes} in the *Compltes* fathers tyme./ And knoweth that then there was muche money bestowed vppon repayringe the fame./ And more he Cannot depofe touchinge the fame *Interrogatory* for that he doethe not remember that he did knowe the said tenem^{tes} before and at the very firfte tyme that the *Complainantes* ffather James Burbage tooke the tenem^{tes} of the defendant by lease./

10/ To the tenth *Interrogatory* this Deponent saythe he remembrythe that when he firfte wayted vppon his father in lawe Bryan Ellam w^{ch} is aboue twentye yeares fince there was An ould longe decayed Barne vppon parte of the *premissis* demised as he takethe yt to James Burbage. w^{ch} barne was very ruynous and decayed foe as then the fame was fayne to be fhored vpp vnto the Playhouse Called the Theater: w^{ch} Barne the said James Burbage and the *Complainant* haue bene fayne from tyme to tyme to repayre and Amend: w^{ch} he knowethe to be true for that he knewe his said ffather in lawe Brian Ellam fhore vpp the fame vnto the

Playhouse called the Theater, And he this deponent him selfe hath fynce then wrought Carpenters woorke in and about the same:/ But he doethe not well remember there names that then dwelled in the fame Barne: yett hath Credible harde that yt was one Richardes and Stoughton. And one Baker And more he Cannot depose./

- II/ To the xjth Interrogatory this deponent saythe he was present at A view and estimate made of the Coftes bestowed by James Burbage in his lyffe tyme vppon the houses and tenem^{tes} demised vnto him by Gyles Allen the nowe defendant. w^{ch} viewe was taken the Eighteenth daye of Julye in the yeare of ou^r lord god one thousand ffyve hundred Eightie Syxe by this deponentes faid ffather in lawe Brian Ellam, John Grigges, William Botham, William Clarke, Thomas Osborne and him this deponent, at w^{ch} viewe yt did appeare vnto them the faid viewors that before that tyme of there viewe there had bene bestowed vppon the premisses demised to the faid James Burbage by him the faid James Burbage the some of twoe hundred and fortye poundes as maye more playnlye appeare by A remembrance thereof sett downe in one of the faid James Burbage his Bookes of Accomptes wherevnto is subscribed the faid viewors names and markes: vnto w^{ch} booke for more certaynty of the truethe herein this deponent referrithe him selfe./ And this Deponent saythe that he verelye thinkethe that the faid Cofte w^{ch} then was by the viewors found to haue bene bestowed vppon the houses and buyldinges by the faid James Burbage was bestowed some three or ffoure yeares before the viewe soe taken by the faid Bryan Ellame, John Grigges, William Botham, William Clarke, Thomas Osborne and him this Deponent: And saythe he was emongeste the reste present at the settinge downe of the faid viewe & estimate wrytten in the faid James Burbage his booke and confirmed there vnder all there handes. w^{ch} he knowethe was Justlie trulye and indifferentlye surveyed by the parties Aforefaid aswell for the faid James Burbage as his Landlord Gyles Allen./ And more he Cannot depose./

12./ To the xijth *Jnterrogatory* this Deponent faythe that when they mett together to take the viewe the Eighteenth daye of Julye in the yeare of ou^r lord god one thousand ffyve hundred Eightie Syxe he hard his faid ffather in lawe Bryan Ellame, William Botham, and William Clarke affirme that they had fformerlye made A viewe of the faid Buyldinges, about nouember in the yeare of ou^r Lord god one thousand ffyve hundred Eightie ffyve w^{ch} viewe they faid they had Confirmed vnder there handes in A booke of Accompte of the faid James Burbage And that as he remembrithe they affirmed that the estimate firfte by them made came to twoe hundred and twentye poundes And more he Can not depofe touchinge the fame *Jnterrogatories* to his nowe remembrance./

[Signed] Rychard Hudfons

Thomas Bromfield of the parishe of S^{ct}: Leonardes in Shordytche in the Countye of *Middlesex* Bricklayer of the Age of thirtye yeares or thereaboutes fworne and examyned the daye and yeare abouefaid depofithe and faythe./

1/ To the firfte *Jnterrogatory* this deponent faythe he knowethe the *Complainant* and defendt and hathe knowne the *Complainant* about Seaven yeares and the defendt about ffyve yeares, And faythe he did very well knowe James Burbage mencioned in the *Jnterrogatory* father of the faid *Complainant*./

2. 3. 4. 5. To the second, thirde, ffourthe ffyfte, Syxe *Jnterrogatories*
6/ this deponent is not examyned at the requeste of the *plaintiff*./

7./ To the vijth *Jnterrogatory* this deponent faythe he knowethe of his owne knowledge that the faid James Burbage did in his lyffe tyme and for diuerse yeares duringe his terme in his lease of his tenem^{tes} from the defendt Allen disburse and bestowe mucche money about the reparacions of the faid houses and tenem^{tes} demised vnto him by the faid defendt Allen for this deponent faythe that for eight yeares he this deponent wth others haue yearlye done

reparacions vppon and About the fame tenem^{tes} at the Coftes of the faid James Burbage for he ftill payde the other woorkmen and him this deponent for his woorke donne there. But the valewe of his Charge beftowed vppon and about the fame houfes and tenem^{tes} he knowethe not Certaynlye./ And more he Cannot depofe./

8./ To the Eight Jnterrogatory this deponent faythe he knowethe that fythence the deceafe of James Burbage the Complainant hath euerye yeare beftowed fome money in repayringe of the faid tenem^{tes} demifed vnto his father James Burbage. And this lafte yeare he the Complainant lykewife beftowed A greate fome of money in reparacions of the fame houfes and tenementes for he beftowed the buyldinge of twoe Chimneys in one of the faid tenem^{tes}, and repayred the houfes in diuerfe places foe that they be nowe in as good reparacions as euer they weare to this deponentes knowledge and he hath knowne them thefe tenn or eleven yeares./ And this deponent faythe that the lafte yeare he this deponent for his parte earned of the Complainant for woorke done vppon and about the faid tenem^{tes} ffyfte Shillinges wth his laborers wages and the Stufe w^{ch} the plaintiff founde./ And faythe that there was one other bricklayer that lykewife wrought about the faid houfes and vppon the tenem^{tes} the lafte yeare but howe muche his workmanfhipp and the plaintiffes Stufe came vnto or was woorth he knowethe not nor can eftimate for that he did not viewe the fame. And more he Cannot depofe./

9./ To the ixth Jnterrogatory this deponent faythe he did not knowe the houfes and tenem^{tes} before and at the tyme that the faid James Burbage tooke them by leafe of the defendant Allen, nor in what ftate of reparacions they weare then concerninge the Suffytiencie of the Buyldinges: But faythe he hath knowne the houfes and tenem^{tes} thefe tenne or eleven yeares and faythe that they are now in as good and Suffytient reparacions as they weare at the firte tyme of his this deponentes knowledg and haue bene continewallie fynce then kepte in reparacions by the faid

James Burbage in his lyffe tyme and fynce his deceafe by the *Complainant*, for he this deponent hath earned of James burbage before he Died for reparacions done in and about those tenem^{tes} twentye markes or there aboutes: And this deponent faythe he hath hard diuerse ould men and woemen faye that when the faid James Burbage tooke the faid houfes and tenem^{tes} of the defendt Allen they weare houfes of Offyce as A Slaughter houfe and Brewe house and lowe paulterye buyldinges. And that the fame are nowe muche better then they weare and lett for more Rent then they weare woorth. w^{ch} happenethe by reason of the reparacions and alteracions Donne vnto them by the faid James Burbage and the nowe *Complainant*./ And more he Cannot depofe/

10/ To the xth *Jnterrogatory* this Deponent faythe that he knowethe the ould Barne mencioned in the *Jnterrogatory*, But that Richardes and Staughton mencioned in the *Jnterrogatory* did dwell in the fame he knowethe not, nor that the fame Barne was ruynous and decayed when James Burbage had his lease of the *premiss*s from the defendant Allen for yt was demised vnto James Burbage before this deponent was acquainted wth the *premiss*s: But when he this deponent firste knewe yt he rememberethe the fame Barne was fhored vppe wth twoe or three Shores from the Playhoufe Called the Theater: And faythe that wthin this ten or Eleven yeares the faid James Burbage and the nowe *Complainant* hath from tyme to tyme repayred and kepte the fame Barne to there beste endeavor and the fame is nowe in reasonable good repayre./ And more he cannot depofe to his nowe remembrance touchinge the faid *Jnterrogatory*

11. 12/ To the xjth and xijth *Jnterrogatories* this deponent is not examyned at the *plaintiffes* requeste./

[His mark] [

Thomas Osborne of the parisse of ffanchurche London Carpenter of the Age of ffortye twoe yeares or there aboutes fworne and examyned the Daye and yeare abouefaid Depofithe and faythe./

1/ To the ffirfte Jnterrogatory this deponent faythe he knowethe the Complainant and defendant and hath knowne the Complainant thefe eighteene yeares or thereaboutes and the defendant but A whyle./ And faythe that he did very well knowe James Burbadge deceaffed mencioned in the Jnterrogatory father of the Complainant And that he did many tymes woorke for the faid James Burbadge about his houfinge and buyldinges at Holliwell./ And more he Cannot depofe./

2/3/4/ To the fecond, third, ffourthe, ffyfte, Syxte, Seaventhe and 5/6/7/8/. Eight Jnterrogatories this deponent is not examyned at the requeste of the plaintiff./

9./ To the nynthe Jnterrogatory this deponent faythe he did not knowe the tenem^{tes} (nowe in the Complainantes poffeffion) before and at the tyme they weare takne by the faid deceaffed James Burbadge of the nowe defendant: but faythe that he knewe them for Eightene yeares pafte at w^{ch} tyme the faid James Burbadge had them in poffeffion./ and that then the tenem^{tes} weare in greate ruyne and wanted reparacions and ould buyldinges And the faid James Burbadge did about the tyme aforefaid viz feaventeene or eighteene yeares agoe buyld his owne dwellinge houfe Almoſte all newe from the grounde and altered and Amended diuerſe other tenem^{tes} w^{ch} he hadd there in his poffeffion but what eſtate he hadd in the fame he knowethe not Certaynlye, but hath hard that he had A leafe therof from the defendt And that he the faid James Burbadge was to beſtowe A certayne ſome of money vpon ſuche tenem^{tes} as he had takne: And this deponent faythe that the faid James Burbadge in his lyffe tyme did buyld repayre and Amend diuerſe of the tenem^{tes} w^{ch} he held, and beſtowed muche Coſte vpon them and made them muche better then they weare before and ſoe they are nowe./ but howe the rent is improued thereby he knowethe not./ And faythe he knoweth the fame to be true for that he did woorke manye tymes wth the faid James Burbadge and dwelled neare vnto him and did ſee that he beſtowed muche coſte vpon and about the tenem^{tes} And more he Cannot

depose touchinge the said *Jnterrogatory* to his nowe remembrance./

10/ To the xth *Jnterrogatory* this deponent saythe that he well remembreth the decayed longe Barne parcell of the *premisses* in the tenure and possession of the said James Burbadge w^{ch} Barne he remembreth was eightene yeares paste redde to haue fallen downe. And the said James Burbadge did then cause the same Barne to be shored vpp, grouncelled, Croffe beamed, dogged together And soe strengthened and repayred yt from tyme to tyme duringe his lyffe tyme w^{ch} he knoweth to be true for that he this deponent did healepe to doe the same and did often worke vppon that Barne and other the tenem^{tes} of the said James Burbadges by the said James Burbadge his appoyntment and at his Coste./ But that Richardes and Staughton mencioned in the *Jnterrogatory* did dwell there this deponent remembreth not, nor knoweth what reparacions the nowe *Complainant* hath done vppon the *premisses* synce the deathe of his father James Burbadge./ And more he cannot depose.

11/ To the xjth *Jnterrogatory* this deponent saythe that he was present at A viewe and estimate made of suche dwellinge houses or tenem^{tes} as weare erected and buylte, (and other Costes bestowed vppon the same dwellinge houses and tenem^{tes}) by the said James Burbadge in his lyffe tyme: w^{ch} viewe was takne as he nowe remembreth the Eightenthe daye of Julye one thousand ffye hundred Eightie Syxe by one Brian Ellam, John Griggess, William Bothan, William Clarke Richard Hudson and him this deponent: mencioned in the *Jnterrogatory*/ vppon w^{ch} viewe yt did appeare vnto him this deponent and the parties aforesaid that the said James Burbadge had wthin ffoure or ffye yeares before that viewe bestowed vppon the houses and tenementes (w^{ch} weare (by reporte) demised vnto him by the defendant) the some of twoe hundred and ffortye poundes./ And saythe that he this deponent wth the reste of the viewors did in one of the said James Burbadge his bookes of accomptes see A remembrance of that viewe

and estimate sett downe in wrightinge vnto w^{ch} they the said viewors Subscribed and sett to there markes for better confirmation thereof And saythe that the same was A true and Indyfferent surveye takne by the parties aforefaid, And more he Cannot depose touchinge the said Jnterrogatory to his nowe remembrance but referrithe him selfe to the booke of Accompte where the same will more playnlie Appeare./

- 12./ To the xijth Jnterrogatory this Deponent saythe that at the viewe takne the eightenthe of Julye one thousand ffyve hundred Eightie Syxe he remembrythe he did heare the faide Brian Ellam, William Bothan and William Clarke affirme and saye that they had takne A former viewe of m^r James Burbadge his buyldinges and Coftes bestowed vppon the premiffis, w^{ch} viewe they said they made about the twentythe daye of Nouember in the yeare of ou^r lord god one thousand ffyve hundred Eightie ffyve and that they had Confirmed the same vnder their handes in A booke of Accompte of the said m^r James Burbadge And that then the same Came but to twoe hundred and twentye poundes, And that he thinkethe yt could be no lesse for that yt seemed there had bene greate cofte bestowed vppon and about the same by the said m^r James Burbadge And for that they whoe weare viewors thereof weare woorkemen of good Judgment in buyldinge and had wrought vppon the same for the said James Burbadge at his Charge. And more he Cannot depose to his nowe remembrance./

[Signed] Thomas Osborne.

William furnis of the parishe of S^{ct}: Leonardes in Shorditche in the Countye of Middlesex laborer of the Age of ffyftie Eight yeares or there aboutes sworne and examyned the daye and yeare abouefaid deposite and saythe./

- 1/ To the ffirfte Jnterrogatory this Deponent saythe he knowethe the Complainant and defendant and hath knowne the Complainant about Eighteene yeares and the defendant but A whyle, And

faythe he did knowe James Burbadge (the *Complainantes* father) now deceaffed./

2/.3/4./

5/6./ To the fecond, third, ffourthe, fyfte and Syxte *Interrogatories* this deponent is not examyned at the requefte of the *plaintiff*./

7./ To the vijth *Interrogatory* this deponent faythe that the deceaffed James Burbadge did in his lyffe tyme for diuerfe years duringe his terme difburfe and beftowe muche money about the reparacions of the tenem^{tes} w^{ch} he held of the *defendant* and he thinkethe to the valwe of twentye poundes and better. And that he knowethe the fame to be true for that he this deponent hath bene his tenant thefe feaventeene or eighteene yeares and hath seene the faid James Burbadge and the nowe *complainant* fynce his deceafe euerye yeare beftowe some Cofte in repayringe and mayntayninge in reparacions the faid tenem^{tes}./ Demised vnto him by the defendt wth his mansion houle w^{ch} he lykewife beftowed greate cofte on, in newe buyldinge: and adioyninge another newe buylte houle vnto yt. And more he Cannot depofe faue onely that he hath bene laborer there and ferved the woorkmen when the faid ould tenem^{tes} haue bene repayringe././

8./ To the viijth *Interrogatory* this deponent faythe that the nowe *Complainant* Cuthbert Burbadge hath yearlye fynce the death of his ffather James Burbadge beftowed muche money in repayringe of the faid ould tenementes, And this lafte yeare kepte one man at woorke in repayringe the faid ould tenem^{tes} ffyve dayes, and after him an other Syxe weekes, and one other after hime ffyve dayes more w^{ch} this deponent thinkethe Cofte the faid *Complainant* about nyne poundes woorkmanshipp and Stuffe./ all w^{ch} he this deponent beinge tenant there and dwellinge in thofe rentes did fee and therefore knowethe the fame to be true And more he Cannot depofe./

9./ To the nynthe *Interrogatory* this deponent faythe he did not knowe the faid tenem^{tes} when the faid James Burbadge tooke the

fame of the defendt nor before./ but fayth that eighteene yeares pafte or there about he this deponent came thither to dwell: fynce w^{ch} tyme he hath knowne the fame, and faythe that when he this deponent firfte knewe the fame the faid tenem^{tes} weare very ould and houfes of office, and his owne dwellinge houfe was but ruynous and ould buyldinge and the faid James Burbadge did buyld his owne houfe newe and an other nexte vnto yt and repayred and Amended the other buyldinges w^{ch} weare houfes of office before, and converted them to tenem^{tes} and made them tenantable whereby the fame are bettered and are lett for more rent then they then went: for mofte of w^{ch} alteracion and cofte bestowed there, was donne fynce he this deponent came thither to dwell as tenant to the faid James Burbadge. And therefore knowethe the *premissis* to be true/ And more he Cannot depofe touchinge the faid *Interrogatory* to his nowe remembrance./

10/ To the xth *Interrogatory* this deponent faythe that when he this deponent came to dwell in the faid James Burbadge his *rentes* the decayed longe Barne mencioned in the *Interrogatory* was in as greate decaye as yt is nowe, for yt ftoode then Shored vpp againfte the playhoufe called the Theater and nowe yt is but flored vpp from the ground, and the deceaffed James Burbadge did in his lyffe tyme from tyme to tyme repayre the fame and foe hathe the *Complainant* fynce his deceafe./ but he remembrythe not that *Richardes* and *Staughton* mencioned in the *Interrogatory* had the tenure thereof. And more he Cannot depofe touchinge the faid *Interrogatory* to his nowe remembrance./

11/12/ To the Eleventhe and tweluethe *Interrogatories* this deponent is not examyned at the requeste of the *Complainant*./

[His mark] X

William Smythe of Waltham Crofe in the Countye of Hartforde gentleman of the Age of ffortye yeares or thereaboutes fworne and examyned the daye and yeare abouefaid Depofithe and faythe

- 1/ To the ffirfte *Interrogatory* this deponent faythe he knowethe the *Complainant* and *Defendant*, and hath knowne the *Complainant* theſe ffyfteene yeare or there aboutes and the *defendant* but about three yeares And faythe that he did knowe James Burbadge mencioned in the *Interrogatory* nowe deceaffed./
- 2/ To the feconde *Interrogatory* this deponent faythe he hathe feene An *Jndenture* of *Leafe* whereby yt appeared that the defendt and Sara his wyffe did about the thirteenth daye of Aprill in the eightenthe yeare of her ma:^{tes} raigne that nowe is demife vnto him the faid James Burbadge Certayne garden groundes lyinge and beinge in Hollywell in the *pariſhe* of S^t: Leonardes in Shorditche in the Countye of *Middleſex* for the terme of one and twentye yeares yealdinge and payinge therefore yearlye duringe the faid terme ffoureteene poundes *per Annum* wth *prouiſoe* in the ſame leafe that the defendt wthin or at thend and terme of the firſte ten yeares in the faid Leafe he the faid defendt ſhould make him the faid James Burbadge or his *Aſſignes* A newe leafe for one and twentye yeares then to *Commence* at thend of the faid firſte tenn yeare graunted him in his faid Leafe of the date of the Thirteenth of Aprill in the Eightenthe yeare of her ma:^{tes} Raygne aforeſaid: And faythe that he remembrythe not the *feuerall Couenantes* comprifed in the faid Leafe made vnto the faid James Burbadge. but for Certentye thereof referrithe him ſelfe vnto the faid leafe now expired and remayninge in the *Complainantes* *Cuſtodye* And more he Cannot depofe to his nowe remembrance./
- 3/ To the thirde *Jnterr* this deponent faythe he hathe harde the defendt diuerſe and manye tymes *Confefſe* that the faid James Burbadge did in his lyffe tyme and before thende of the firſte Terme of Tenn yeares (mencioned in the faid firſte leafe) require him the faid *defendant* to make vnto him the faid James Burbadge A newe leafe of the faid *premiſſis* accordinge to the purporte and effecte of the *Couenant* mencioned in the faid former leafe, And that he hard the defendt *confefſe* that James Burbadge aforeſaid

did tender vnto him the defendt A newe lease reddye wrytten and ingroffed reddye to Seale accordinge [to] the couenantes and *pro- uifoes* conteyned in the firfte lease And he the defendt vppon the fame tender alked the faid James Burbadge and the scrivenor (whoe brought the fame lease wth them reddye to be Sealed) yf they would geue him leaue to aduife of yt. whervppon they Answered no, then faid the faid defendt yf you will not geue me leaue I will take leaue and took the faid lease and fynce then kepte yt in his owne poffeffion, and never Sealed the fame. And that he knowethe the fame to be true but from the faid *defendants* owne reporte. And more he Cannot depofe.

- 4./ To the ffourthe *Interrogatory* this Deponent faythe that he knowethe the *Complainant* did about twoe yeares nowe lafte pafte or there aboutes and diuerfe tymes fynce then, require the faid defendt to make him A new Lease of the *premissis* accordinge to the *Agreem^t* mencioned in the ffirfte lease, but the Defendt denied to make him any fuche lease, alledginge that the *premissis* weare not bettered by James Burbadge accordinge to his Couenant, and that there weare Arerages of Rent behinde and vnpayde w^{ch} the faid James Burbadge did owe in his lyffe tyme./ But the defendt did tender the *Complainant* A newe lease of the *premissis* wth *Im- prouem^t* of the rent and very ftrict and vnreasonable Couenantes Contrarye to the *Agreem^t* and the *Couenantes* in the firfte lease made to James Burbadge, for w^{ch} Causes the *plaintiff* refused the fame./ And more he Cannot depofe touchinge the fame *Interrogatory* But for more Certentye thereof referrathe him felfe to the fame draught remayninge wth the defendt./
- 5./ To the ffyfte *Interrogatory* this deponent faythe that he knowethe the faid *Complainantes* mother did geue her Consent that the *plaintiff* fhould take downe, and Carrie Awaye the Tymber and ftuffe *Imployed* for the Theater or playhoufe in the Bill mencioned for thee was there and did fee the doinge thereof and lyked well of yt and did alowe thereof. And more he Cannot depofe./

- 6./ To the Syxte Jnterrogatory this deponent saythe he hath hard the defendt and the said deceaffed James Burbadge faye that longe fynce there was *Controuerfie* betweene the said defendt and one Edmonde Peckham mencioned in the *Jnterrogatory* for and touchinge the tyle of the *premissis* by reason whereof the said James Burbadge reported that he was muche hindered and could not haue the vse of the *premissis* quietlye but was fayne to fynde men at his owne Charge to keepe the possession thereof from the said Peckham and his *fervantes*:/ And more he Cannot depose touchinge the said *Jnterrogatory*:/
- 7./ To the vijth Jnterrogatory this deponent saythe he hath feene some of the deceaffed James Burbadge his bookes of accomptes in w^{ch} he hath feene twoe feuerall furveies made by feuerall woorkemen whose names are fett downe to the said furveies in the said bookes whereby yt appeareth that the said James Burbadge did in his lyffe tyme bestowe vppon the *premissis* the some of twoe hundred and odd poundes accordinge to his Couenant besides his yearlye expence in generall repayre of the *premissis*: vnto w^{ch} bookes for further and more certentye of the truthe therein, he referreth him selfe./ w^{ch} bookes are in the *plaintiffes* possession./ And more he Cannot depose./
- 8./ To the viijth Jnterrogatory this deponent saythe that fythence the deceafe of the *Complainantes* ffather he the *Complainant* hath yearlye bestowed some *Coftes* about the repayringe of the *premissis*, and this laste yeare to this Deponentes owne knowledge & fynce the removeinge of the Theater he the *Complainant* hath bestowed in repayringe the *premissis* the some of ten poundes or neere there aboutes. And more he Cannot depose./
- 9./10/ To the nynthe tenthe, Eleventhe and twelue the *Jnterrogatories*
 11./12./ this deponent Can faye nothinge more then he hathe all redde deposed to his nowe remembrance./

[Signed] William Smythe

Randulphe Maye of the parifhe of S^{ct}: Leonardes in Shorditche in the Countye of Middlefex Paynter of the Age of threecore yeares or there aboutes fworne and examyned the daye and yeare abouefaid Depofithe and faythe./

- 1/ To the firfte *Jnterrogatory* this deponent faythe he knowethe the *Complainant* and defendt and did knowe James Burbadge the *Complainantes* ffather./
- 2/.3./4./5/ To the feconde, third, ffourthe and ffyfte *Jnterrogatories* this deponent is not examyned at the requete of the *plaintiffes*
- 6./ To the vijth *Jnterrogatory* this Deponent faythe he well remembreth that about eighteene yeares nowe pafte there weare fuytes betweene the defendt Allen and one EdmondePeckham touchinge the tyttle of the Theater and landes in the deceaffed James Burbadge his poffeffion and by reafon thereof the faid James Burbadge was muche hindered and trobled and was often Charged to ffynde men to keepe the poffeffion of the *premissis* in *Controuerfie* betweene Allen and Peckham and was once in danger of his owne lyffe by keepinge poffeffion thereof from Peckham and his fervantes./ And could not enioye the *premissis* peacable and Quyettlye according to his leafe. And that he knoweth the fame to be true for that he was then there. A fervant in the houfe Called the Theater And knoweth that the faid James Burbadge lofte muche money by that *controuerfie* and troble for yt drove manye of the players thence becaufe of the difturbance of the poffeffion And more he Cannot depofe touchinge the faid *Jnterrogatory* to his nowe remembrance./
- 7./8./ To the vijth and viijth *Jnterrogatories* this deponent is not examyned at the requete of the *plaintiff*./
- 9./ To the nynthe *Jnterrogatory* this deponent faythe he did knowe the tenem^{tes} w^{ch} weare vppon the groundes demifed vnto the faid James Burbadge when he firfte had them demifed vnto him by the

defendant, And saythe that then they weare very symple buyldinges but of twoe storyes hye of the ould fashion and rotten, foe that after the said James Burbadge had them in lease he was fayne to pull downe some of them and newe buyld them for his owne dwellinge and to repayre the reſte to his greate Charge to keepe them vpp: And they are nowe better then they weare when he tooke them by lease and worthe more rent then they weare then for the said James Burbadge was fayne to deuide them and Contrive them fytt for dwellinges where they before weare ould houſes of office and some of them open that Roges and beggers harbored in them./ And more he cannot depofe to his remembrance./

10/ To the xth Jnterrogatory this deponent saythe that when the said James Burbadge tooke the *premissis* by lease from the deffendant there was A decayed longe Barne parcell of the *premisses* demiffed vnto him somtymes in the tenure of Richardes and Stoughton mencioned in the Jnterrogatory w^{ch} Barne was then very ruynous and decayed foe as the same was fayne to be shored vpp vnto the Playhouſe Called the Theater when yt was buylt, And the said James Burbadge and the nowe complainant hath fynce the firſte takinge of yt beſtowed greate coſtes vppon yt and deuided yt and kepte yt vpp wthe reparacions, els he thinkethe yt had fallen downe ffyfteene yeares Agoe./ And that he thinkethe yt is rather better then worfe then yt was when the *plaintiffes* father tooke yt wth the reſte of the *premissis* in Lease./ And more he Cannot depofe to his remembrance./

11/12/ To the xjth and xijth Jnterrogatories this deponent is not examyned at the requeſte of the *plaintiff*./

[Signed] Randolp[h] May

Oliver Tylte of the pariſhe of S^t: Buttolphes London yoeman of the Age of ffortye Eight yeares or there aboutes ſworne and examyned the daye and yeare abouefaid deſoſithe and saythe./

- 1/ To the ffirfte *Interrogatory* this Deponent faythe he knowethe the *Complainant* and *Defendant* and did knowe James Burbadge the *Complainantes* father nowe deceassed./
- 2/3/4/5/ To the fecond, third, ffourthe, and ffyfte *Interrogatories* this Deponent is not examyned at the requeste of the *plaintiff*
- 6./ To the vjth *Interrogatory* this Deponent faythe that he remem-
brith that about Eighteene yeares fynce there was great variencie
and *Controuersie* betweene the defendt Gyles Allen and one m^r
Peckham touchinge the tytle of the Playehoufe called the Theater :
and faythe that when the faid *Contrauerfie* was betweene m^r Allen
and m^r Peckham James Burbadge the *Complainantes* father did
paye him this deponent and others wages for keepinge the pos-
fession of the Theater from the faid m^r Peckham and his *servantes*
whereby he faythe he verelye thinketh that the faid James Bur-
badge was at great Charge:/ for he payde men wages for keep-
inge possession foe longe as the *contrauerfie* was betweene m^r
Allen and m^r Peckham and m^r James Burbadge was muche dis-
turbed and trobled in his possession of the Theater and Could
not Quietlye and peaceabley enioye the fame./ And therefore the
players for fooke the faid Theater to his great losse./ And more
he Cannot depose./
- 7./ To the vijth *Interrogatory* this deponent faythe that before the
faid Theater was buylded he this deponent did dwell in A tenem^t
of the faid James Burbadge. And knowethe that the faid James
Burbadge duringe his tyme did repayre the tenem^{tes} he held of
m^r Allen often and many tymes and bestowed muche Cofte vpon
them: but the valewe he knowethe not./ And more he Cannot
depose/
- 8./ To the viijth *Interrogatory* this deponent is not examyned at the
requeste of the *plaintiff*
- 9./ To the ixth *Interrogatory* this deponent faythe that he did knowe
the tenem^{tes} before and at the tyme they weare taken by James

Burbadge of m^r Allen, And sayth that when he tooke them of m^r Allen they weare all very ould buyldinges and of meane buyldinge and the said James Burbadge after he tooke the *premiss*s did redefie some of the houfes and bestowed greate co^{sts} vppon the same, And saythe that nowe the sayde houfes and tenementes are A great deale better then they weare when James Burbadge tooke them of M^r Allen, And are nowe lett for more Rent then they weare then rented for. And knowethe the same to be true for that he dwelled there when m^r James Burbadge tooke them, And more he cannot depose./

10/ To the xth *Interrogatory* this deponent saythe that there was vppon the *premiss*s when m^r James Burbadge tooke the *premiss*s of m^r Allen one longe decayed Barne parcell of w^{ch} was somtymes houlden for A barne Roome by one Richardson dwellinge in Coleman strect London, and other parte thereof houlden for A Slaughter house by one Stoughton, w^{ch} Barne when the said Burbadge tooke yt wth the *premiss*s was very Ruynous and decayed and foe weake that the said Burbadge was fayne to Shore yt vpp vnto the playhouse Called the Theater when it was buylte, And saythe that James Burbadge did in his lyffe tyme from tyme to tyme repayre and Amende the same to keepe yt vpp, for when he tooke yt yt was lyke to haue ffallen downe and was foe weake as when A greate wynd had Come the tenants for feare haue bene fayne to goe out of yte./ w^{ch} he knowethe to be true for that then he was A tenant in the same And more he Cannot depose./

11/12/ To the xjth and xijth *Interrogatories* this deponent is not examyned at the *plaintiffes* requeste

[His mark] **T**

Idem. Depositions ex parte Burbage, 23 May, 1600.

INTERROGATORIES

[In dorso]
 Termino Trinitatis
 xlij^{do} Regni Regine
 Elizabethæ./

[Note on upper left corner:]
 the defend^{tes} wyttneses to
 be examyned on these./

Interrogatories mynistrd to the witneses produced by the defend^t to be examyned on the parte of the Comp^l against the said defend^t

- 1 Item haue yo^w heard the said Defend^t at any tyme demaunde of the said *Complainant* the somme of Thirtye poundes pretended to be due for arrerages of rente by James Burbadge the Compl^{tes} father, and whether did the *Complainant* Confesse the same to be due, and promised to make paym^t thereof, vppon what Consideracion did the *plaintiff* make suche promise to paye the same, where when and vppon what occasion was that promise made and whoe were present thereat besides yo^r self
- 2 Item whether haue yo^w at any tyme heard the *Complainant* entreate the said Giles Allen to make him a newe lease of the *premisses* nowe in question & when wher, at what tyme and how longe since were any such speeches vsed & who were then present ther wth you What Answere did the saide Defend^t giue to the said *Complainant*, Did not the Defend^t deferr the makinge of the said leas from tyme to tyme, what was the meaninge or intente of him the said defend^t therein, And did not the said Defend^t by his owne appointm^t Cause A paper booke of A lease to be drawne vpp, and did the said *Complainant* agree or accepte of the same Draughte, if not what was the occasion that there was no agreem^t betwene them Declare the truth of yo^r knowledge herein at large and how yo^w knowe the same.
- 3 Item Doe yo^w knowe or haue yo^w Credible hard that there weare speeches of A newe agreem^t had betwene the Defend^t and the said James Burbage a little before the deathe of the said James that hee the said James should haue A newe leas of the *premisses* Conteyned in the former leas for the tearme of one and twentye yeares to begynne after thende and expiration of the former

leas, for the yerelie rente of xxiiij^{li} was the faid agreem^t Concluded on betwene the Defend^t and the faid James Burbadge, and whoe was *presente* at the same agreement (if any fuche were) what reason had the faid James Burbadge to agree to giue Tenne poundes a yere more rent for the faid *premisses* then he did in the former leas, Declare yo^r knowledge herein and the reason that moued the faid James to make fuche agreem^t (if any weare) vppon yo^r oathe.

- 4 Doe yo^w knowe that at or aboutes the tyme aforefaid there were speeches of agreem^t had betwene the Defend^t and the faid James Burbadge that the Theater should Contynue for A playinge house for the space of ffyve yeres onelie after the expiration of the firste terme and not longer, and that after the faid ffyve Yeres ended, yt should be Converted by the faid James and the nowe *Complainant* or one of them to some other vie and be ymployed vppon the groundes demised wherebie the benefitt and proffitt therefor after that terme ended should remayne to the defend^t weare the same speeches agreed and Concluded vppon betwene the defend^t and the faid James Burbadg, what persons were *presente* at that tyme, What reason had the faid James Burbadge to allowe of any such agreem^t (if any weare) and did not the faid parties breake of theirre Agreem^t againe becaufe theie could not agree of fuerties, or what was then done touchinge the same agreem^t betwene them Declare yo^r knowledg to euerie pointe of this Interrogatory at large.

DEPOSITIONS

*Depositiones Captae apud westmonasterium
xxiiij^{to} die Maij A^o Regni Domine Regine Eliza-
bethe nunc &c Quadragesimo Secundo ex parte
Cuthberti Burbadge generosi q^{ttis} versus Egidium
Allen generosum defendentem./*

Henry Johnson of the *parishe* of S^{ct}: Leonardes in Shorditche in the Countye of *Middlesex* Sylkweaver of the Age of ffyftye

yeares or there aboutes fworne and examyned the Daye and yeare abouefaid Deposithe and saythe

- 1/ To the firfte Interrogatory this Deponent sayth he hath hard the Defend^t aske and demaunde of the Complainant the some of thirtye poundes pretended to be due for Arerages of Rent by the deceassed James Burbadge And hath hard the Complainant confesse the same to be due and promised to make paym^t thereof vnto the Defendant in Consideracion he the Defendant would make him the *plaintiff* A lease for one and twentye yeares of the houses and groundes w^{ch} his late father held of him before in lease, And in Consideracion he the Defend^t would permitt the house Called the Theater to stand for A playinge house for the firfte ffyve yeares of the newe lease w^{ch} the Defend^t was contented to doe. And the same promise was made vnto the Defend^t at the Sygne of the George in Shordytche about Michaellmas laste was tweluemonethe in this Deponentes presentes and the presentes of one John Golborne:/ And more he Cannot depose touchinge the said Interrogatory to his nowe remembrance./
- 2/ To the seconde Interrogatory this Deponent saythe he knoweth that the Complainant hath many tymes labored and intreated the Defend^t to make him a newe lease of the *premissis* in Question for this Deponnt saythe that many tymes when the defendt hath Come vpp to London to receave his Rentes he this deponent hath bene wth him payinge him certayne Rent and then he hath seene the *plaintiff* wth his Landlord payinge his Rent lykewise and then fyndinge oportunitie the *plaintiff* would be intreatinge the Defend^t to make him A newe lease of the *premissis* in Question and saythe yt is at lease three yeares synce he this deponent first hard the *plaintiff* labor and intreate the defendt for A newe lease and that yt was at the sygne of the George in Shordytche that the Defend^t laye when he came to london to receave his rentes and there the *plaintiff* Solicited him for A newe lease./ and the said Goulborne hath bene there present and hard the same aswell as he this deponent: And the defendant from tyme to tyme deferred

the makinge of any newe lease sayinge vnto the *plaintiff* paye me tharrerages of rent w^{ch} yo^r father owght me when he died and performe the Couenantes that yo^r father performed not in his lyffe tyme And then wee will talke of A newe lease: And that he thinkethe the Defendt deferred the makinge of A newe lease vnto the *plaintiff* of purpose to drive him to Augment his rent *per Annum* And to drive the *plaintiff* to paye the thirtye poundes he claymed for Arerages and performance of other couenantes And this Deponent faythe he hath hard that the Defendt did appoynte and cause A paper Booke of A lease to be drawne vpp But the *Complainant* did not agree and accepte of that drawght because as the *plaintiff* reported yt was vnreasonable penned and drawne and for that the defendt would thereby haue Compelled the *plaintiff* to haue assured the improued rent to Contynewe after the expiration of his lease then to Commence and contynewe for one and twentye yeares. And more he cannot depose touchinge the said *Interrogatory* for that he never Sawe the said Draught mencioned in the *Interrogatory*

3. To the third *Interrogatory* this Deponent faythe he knowethe that the Deceased James Burbadge was in his lyffe tyme A lyttle before his Deathe an earnest futor vnto the defendt for the obtayninge of A newe lease of the *premiss*: And faythe that there weare diuerse speeches betweene the defendt and the said James Burbadge touchinge A newe lease of the *premiss* (conteyned in his former lease) for the terme of one and twentye yeares to commence after the expiration of the former lease for the yearlye rent of twentye ffoure poundes: but he knowethe not that the said speeches weare agreed and Concluded vppon betweene the defendt and James Burbadge: And more he Cannot depose touchinge the said *Jnterr* to his nowe remembrance faue onlye that the Defendt ftill desired the said James Burbadge yf he would haue A newe lease to encrease his rent./ otherwise he would graunte non

4./ To the ffourthe *Jnterr* this Deponent faythe that he never hard of any speeches of Agreem^t betweene the defendt and the de-

ceaſſed James Burbadge touchinge the Contynewance of the Theater for A playinge houſe for the ſpace of ffyve yeares onlye after the expiration of the firſte Terme and not longer, nor that after that tyme of ffyve yeares ended yt ſhould be converted by the ſaid James Burbadge and the nowe complainant or one of them to ſome other uſe and be employed vpon the groundes demifed whereby the benefytt and profytt thereof after that terme ended ſhould remayne to the Defendt./ And more he Cannot depoſe touchinge the ſaid Interrogatory for that he never hard of any ſuche conference as is ſpecified in the Interrogatory betweene the ſaid defendt, James Burbadge Deceaſſed and Cuthberte Burbadge in his fathers lyffe tyme but ſuche ſpeeches paſte betweene the nowe plaintiff and Defendt ſynce the deceaſe of James Burbadge the father but not Agreed vpon for that they brake of becauſe they Could not Agree vpon fuerties./

[Signed] Henry Johnſon

John Golborne of the pariſhe of S^t: Leonardes in Shordytche in the Countye of Middleſex Marchaunt taylor of the Age of ffortye twoe yeares or there aboutes ſworne and examyned the daye and yeare abouefaid depoſithe and faythe./

- 1/ To the firſte Interrogatory this Deponent ſaythe he hathe hard the Defendt demaunde of the plaintiff the ſome of thirtye poundes pretended to be due for Arrerages of Rent by James Burbadge the Complaineres father. And vpon the Defendantes demaund thereof the Complainant hath confeſſed the ſame and yealded to paye the ſame in Conſideracion the Defendt would make him A newe leaſe of the houſes, tenem^{tes} and groundes his father James Burbadge held of the Defendt by A former leaſe in his lyffe tyme. And that the plaintiff vpon occacion of conference wth the defendt of A newe leaſe and in Conſideracion of the defendtes promiſe of A newe leaſe of the premiſſes the Complainant at the ſygne of the George in Shoreditch about michaellmaſte laſte was Tweluemonethe promiſſed paym^t of the ſaid thirtye poundes vnto the Defendt, and that then there weare preſent beſides him this

Deponent one Henry Johnfon and one m^r Thomas Nevile./ And more he Cannot depofe./

2./ To the feconde Jnterrogatory this Deponent faythe that he hath diuerfe and fundrie tymes hard the Complainant entreate the Defendt to make him A newe leafe of the *premissis* in Question, And that the lafte entreatye that the *plaintiff* made for the obtayninge of a leafe of the *premissis* in this deponntes hearinge was at Michaellmas lafte pafte was tweluemonethe and there was then *prefent* the faid Henry Johnfon and m^r Thomas Nevile, But the Defendt made the *plaintiff* this Anfwere vz that he would haue his arerages that he Claymed firfte payde him and then he would conferr wth him about A leafe and foe deferred yt from tyme to tyme And as he takethe yt he deferred the *plaintiff* becaufe he ment to be payde the Arerages aforefaid and Converte the Theater from A playinge houfe to fome other better vfe vppon the grounde./ And faythe that he hard that the defendt by his owne appoyntm^t caufed A paper booke of A leafe to be drawne vpp betwene him and the Complainant, but the Complainant did not accepte thereof for that (as the *plaintiff* fayd) there weare very vnreasonable couenants therein conteyned And more he Cannot depofe./

3./ To the third Jnterr this deponent faythe that there weare fpeeches of An Agreem^t betwene the Defendt and the Complainantes father in his lyffe tyme and a lyttle before his Deathe w^{ch} fpeeches tended to this or the lyke effecte vz that he the faid James Burbadge fhould haue of the defendt A newe leafe of the *premissis* Conteyned in his former leafe for the terme of one and twenty yeares to Commence after thende and expiracion of his former leafe for the yearlye rent of twenty ffoure poundes *per Annum* w^{ch} was ten poundes A yeare more then he payde before: but that Agreem^t was not Concluded vppon for that the Defendt then Aledged that the faid James Burbadge had not beftowed foe mucche money vppon buyldinge and repayringe the *premissis* demifed vnto him as he was bound to bestowe by Couenant: but the *plaintiffes*

father alledged that the full s^{ome} was bestowed accordinge to his Couenant wthin the firste ten yeares of his firste lease./ And saythe that he hard the *Complainantes* father saye that he did proffer to geue the defendt the said ten poundes A yeare more rent then was reserved in the ould lease for that he would haue the Theater to stand for A playinge house for one and twentye yeares more whereby he might reape greate proffytt And for that reason he proffered to rayse his rent ten poundes *per Annum*./ And more he Cannot depose./

- 4./ To the ffourthe *Interrogatory* this deponent saythe that he never hard that the said James Burbadge and the defendt had at any tyme any speeches together touchinge the Contynewance of the Theater for a playinge house for the space of but ffyve yeares onlye after the expiration of his old lease: But the defendt would fayne haue had the said James Burbadge to haue Converted the said Theater to some other vse vpon the *premisses* demised vnto him: w^{ch} the said James Burbadge would not Agree vnto but tould the defendt that he would encrease his rent ten poundes *per Annum* yf he might haue his lease renewed for one and twentye yeares more after the expiration of the ould lease and the Theater to Contynewe duringe that tyme for a playinge house:/ otherwise he would remoue the said Theater from of the *premisses* And take aduantage of the defendtes bonde w^{ch} he had made him:/ And that after the newe lease w^{ch} he then entreated for weare expired he or the nowe *Complainant* would Converte the said Theater vpon the *premisses* to some other vse for the benefytt aswell of the defendt as for the lessee then in possession: but vpon all that Conference nothinge was absolutlie Agreed vpon because the Defendt would not Consent to suffer the same Theater to contynewe soe longe for A playe house And saythe that when these speeches paste betweene the defendt and James Burbadge he this deponent the said m^r Thomas Nevile and the nowe *Complainant* weare present: And more he Cannot depose touchinge the said *Interrogatory* to his nowe remembrance.

[Signed] John Gobvrne

AFFIDAVIT OF GYLES ALLEYN

Court of Requests, Miscellaneous Books, volume 122, 42 Elizabeth (1600).

[This book was found by me in the uncalendared Requests Proceedings, and later handed over to M. S. Giuseppi, Superintendent, on Dec. 7, 1909, to be filed among the Miscellaneous Books. It is a small book of original, signed affidavits, which were later copied into the register of affidavits by some clerk, who thereupon drew a line down through each of the originals. Unpaged.]

2° Junij [A° 42° Eliz., 1600.]

Towching the caufe at the fute of Cuthbert Burbage gent pl againft Gyles Aleyn gent def^t, the fayde Gyles Allen maketh othe, that neither he this deponent nor any other for him (to this deponentes knowledge) haue had any coppies of or are previe to or acquainted wth the depoficions of fuch witneffes as haue heretofore been examined in the faide caufe/. And he further depofeth, that there are others to be examined on this deponentes behalfe who (as this deponent verily thincketh) are materyall witneffes to be vfed on his parte viz Richard Parramore eq^r whose dwelling place this deponent doeth not certainly knowe Robt Vigorus of y^e middle Temple London eq^r, Thomas Nevill of Bricklefey in the county of Essex gent, Robt myles of ye parifh of white chappel wthin the fubvrbes of London Innholder & Rafe myles (his fonne) John Hyde who as this deponent is informed is of the parifh of S^t Dunftons in the Eaft in London grocer & W^m Gall who as this deponent is informed is of the parifh of Alhalowes neere gracious ftreete in London fcryvener

[Signed] by me Gyles Aleyn

[Entered also, without signature, in Affidavit Register, Requests, Misc. Bks., vol. 121, under above date.]

AFFIDAVIT OF CUTHBERT BURBAGE

Liber idem (a few pages later, unnumbered).

11^o Junij [A^o 42^o Eliz., 1600]

Whereas in the cause at the sute of Cuthbert Burbage gent pl against Gyles Allen gent def^t, it was ordered the last day of May last past that the saide def^t his Counsaillor, Attorney & follicitor should surcease & stay & no further *proceede* in an accion of trespas at & by thorder of her ma^{tes} common lawes, & not cause the demurrer there tendred vppon the def^{tes} plea in that sute to be ioyned vp or entred vntill the hearing of the saide cause, & other order taken & made to the contrary: The saide Cuthbert Burbage maketh othe that hee the saide def^t hath since the saide order contrary to theeffect thereof caused the saide demurrer to be ioyned vpp and entered a rule thervppon for this deponent to stand to his plea at and by thorder of the Common Lawe

[Signed] Cuth Burbadge

[Entered also, without signature, in Affidavit Register, Requests, Misc. Bks., vol. 121, under above date.

See also suit referred to, *Allen v. Street*, Trinity, 1600, also the next document, the Court's order for arrest of Allen, and Allen's statement on the affair in his Star Chamber suit, *Allen v. Burbage*, 1602, and the examination of Lane, 1602.]

ARREST OF ALLEYN FOR CONTEMPT

Requests Proceedings, Uncalendared, 372.

Vndecimo die Junij Anno Regni R^{ne} Elizabethæ xliij^o/

Quia Egidius Allen contempnit ordinem per Consilium factam in causa inter Cutbertum Burbage generosum querentem et predictum Egidium Allen Def^t Gerentem Datum xxxj die Maij vltimo *per ordinem* preterito. Ideo decretum est nunc Breve de Attachiamto fieri directum vicecomiti Comitatus Effexie necnon Hugoni Barbon generoso ad Attachandum corpus dicti Egidii retornabile Jmediater &c

[Signed] Jul: Cæsar:
[Master in Court of Requests]

[On lower part of leaf:]

vicecomiti Effexie et

Hugoni Barbon

[For Allen's account of the execution of this order against him, see his suit of *Allen v Burbage*, Star Chamber, 1602, *infra*.]

Court of Requests Proceedings, 87/74. Depositions ex parte Allen, 14 August, 1600.

[These two depositions were taken in the country by commission. The parchments of interrogatories, commission to examiners, and depositions by Robert Vigerous and Thomas Nevill are attached to the three large skins of pleadings in the suit of *Burbage v. Allen*, as already noticed. Halliwell-Phillipps found this set of records, as above mentioned. See his *Outlines*, I, 359.]

INTERROGATORIES

Interrogatoryes to be ministered to the witnesfes to be produced on the parte and behalf of Giles Allen gentleman Defend^t againste Cuthbert Burbage Complainante./

1./ Inprimis whether doe you knowe the parties Comp^{lte} and Defend^t and howe longe haue you knowen them./

2./ *Item* whether was there not an agreement made betweene the Comp^{lte} and the Defend^t to this effecte: that the Defend^t should make a newe lease vnto the Comp^{lte} of the howses and groundes which were formerlye Demised vnto James Burbage ffather of the Comp^{lte} for one and twentye yeares from and after the expiration of that former lease and that the Comp^{lte} should paie yearelye for the same the somme of foure and twentye poundes: And whether was it not likewise agreed betweene them that the Theatre there erected should Continue for a playinge place by the space of fiue yeares onelye, and that then it should be Converted to somme other vse for the benefitt of the Comp^{lte} Duringe his terme, and after for the benefitt of the Defend^t: And whether did not the Comp^{lte} vppon that agreement promise the Defend^t to

paie him the somme of thirtye powndes which was due to the Defend^t for rent, and to putt the howfes and buildinges in good reparacions; and howe longe is it fithence fuche agreeament was made: Deliuer the trueth what you knowe or haue heard herein././

- 3./ Item whether was it agreed betweene the Defend^t and the Comp^{l^{te}} that the Comp^{l^{te}} should take a newe lease of the said howfes and groundes for the terme of tenn yeares and that the Comp^{l^{te}} should giue a hundred powndes for the said lease: and foure and twenty powndes rente yearelye: or whether was there any fuche agreeament made betweene the Defend^t and the said Jeames Burbage Deliuer what you knowe touchinge this Interrogatorye: and at what time any fuche agreeament was made, And by what meanes you had knowledge therof././

[In dorso:]

Quinto die Junij Anno Regni
Regine Elizabethæ &c xliij^o/

fiant *litere dicte Domine Regine directe Roberto Sandford Arthuro Breather et Johanni Sammes generosis vel duobus eorum ad examinandum omnes testes ex parte Virtute Ordinis Defendentis in forma iuris iurandi tam de articulis infra scriptis quam per predictum defendentem miniftrandis et ad certificandum eadem in octabis Michaelis proximis./*

[Signed] Jul. Caesar.

[Addressed to:]

Thomas Alif ar
Arthur Breathes gen

COMMISSION TO EXAMINERS

By the Quene//

Truftie and welbeloued we grete yo^u well. And fende vnto yo^u hereinclofed certen Articles Interrogatories to be miniftred to the witnesfes on the parte and behalf of Giles Allen gentleman defendaunt againft Cuthbert Burbage complaynant wherevpon we

truftinge in yo^r approued wifdomes, learninges and Indifferences will and defire yo^u that by Aucthoritie hereof callinge afore yo^u in or name all fuche witneffes and *proves* as by the faid defendant fhallbe *nominated* vnto yo^u, ye then do duely fubftancyallie examyn them the faid witneffes (by their othes in due forme of lawe fworne) Not only vppon the contentes of the faid Articles hereinclofed. But alfo vppon all fuche other Articles w^{ch} by the faid defend^t fhallbe exhibited vnto yo^u, Endeavoringe yerfelves by all meanes poffible to fearche and try out the veritie of the *premisses* by yo^r faid *examinacions*. And therevppon duely to certifie vs and or Counfaill by yo^r wrytinges vnder yo^r feales in or Corte of Whitehall at *weftminfter* in the vtas of S^t Michael the Arch-aungell next *commynge*, Of the verie true depoficions of the faid witneffes likeas yo^u fhall fynde by yo^r faid *examinacions* To thintent that we by thadvife of o^r faid counfaill may further do therein as the cafe rightfully fhall requier. Not failinge hereof as ye tender or pleasure and thadvancement of Justice, Given vnder o^r Privie Seale at o^r Mannor of Grenewiche the fyveth day of Junie in the xliijth yere of o^r Reigne//

[Signed] Tho: Kerry.

[In dorso]

The execution of this Commiffion appeareth by a Certaine Schedule herevnto annexed.

DEPOSITIONS

Ex parte Def^t

Depositions taken at Kelvedon in the Countye of Effex (before vs Arthur Breather and John Sammes *Gentlemen* by vertue of a Commiffion to vs and others Directed out of her ma^{ties} Honourable Courte of Requeftes on the *parte* and behalf of Giles Allen *gentleman* Defend^t againfte Cuthbert Burbage *gentleman* Comp^{lte}) the fourteenth daie of Augufte in the twoe and fourth yeare of the Raigne of our Soueraigne Ladye Elizabeth by the grace of God of England ffrence and Ireland Queene Defend^{rs} of the faith &c

Robert Vigerous of Langham in the Countye of Effex Esq^r aged fourtye feauen yeares or thereabouts sworne and examined saith as followeth. vidz^t./

- 1./ To the firfte Interrogatory this Depon^t saith that he knoweth Giles Allen gentleman Defend^t, And Cuthbert Burbage gentleman Comp^{l^{te}} and that he hath knowne the said Defend^t by the space of fixe yeares: and the said Comp^{l^{te}} by the space of foure yeares./
- 2./ To the second Interrogatory this Depon^t Cannot Depose./
- 3./ To the third he saith that aboute foure yeares pafte the said Comp^{l^{te}} together with Jeames Burbage his father and the said Defend^t were in Communicacion aboute the makinge and takinge of a newe lease of the houses and groundes and Theatre mentioned in this Interrogatory and at the laste it was concluded and agreed betweene all the said parties that the Defend^t should make a newe lease of the same to the said Comp^{l^{te}} for the terme of tenn yeares for and vnder the yearelye rente of foure and twentye powndes which (as this Depon^t remembereth) was an increase of tenn powndes rente more then was reserved in a former lease heretofore made to the said Jeames & then expired or neare to be then expired. And that at the enfealinge of the said newe lease foe to be had the said Jeames and Cuthberte the Comp^{l^{te}} or one of them should paie vnto the Defend^t certaine arrerages of rente reserved vpon the said former lease amountinge to the somme (as this Depon^t verelye thinketh) of thirtye powndes: All which this Depon^t knoweth to be true for that he was of Counsell with the said parties in the said Agreement; and by all their mutuall Consentes was appointed and especiallye named to drawe penne and wrighte the said newe lease accordinge to their said agream^t. And this Examina^{te} saith that he did wrighte a Draughte purportinge a lease to be made of the premiffes accordinglye, which beinge donne he deliuered the same into the handes of the said Comp^{l^{te}} when he came to this Depon^{tes} Chamber to

Demaunde and see the same and paid him his fees wth promisses of further reward for his paynes aboute the effectinge of the same newe lease to be made w^{ch} should be a Satten Dublett howbeit he never had it. But whether the Comp^{l^{te}} should giue a hundred powndes for the same lease or whether the said lease tooke effecte or what other agreem^t passed betweene the said Comp^{l^{te}} and Defend^t this Depon^t by reason of his Discontinuance from the Temple knoweth not But he saith that he hath seene a Draughte purportinge a lease to be made of the same premisses wherein it is incerted that a hundred powndes should be paid by the Comp^{l^{te}} to the Defend^t, w^{ch} Draught (as the Defend^t informeth this Depon^{te}) was made or caused to be made by the Comp^{l^{te}} and by him brought and Deliuered to the Defend^t at his house in the Countrey. And this depon^{te}: beinge asked by the said Commissioners yf he knewe vpon what Consideracion the said hundred powndes was incerted said that he remembereth not the Consideracion mencioned in the said Draughte: But he saith vpon the firste Communicacion had betweene the said Comp^{l^{te}} and Defend^{te} and the said Jeames before this Depon^{te} as is afore said, the Defend^t did demaunde recompence at the handes of the said Jeames for that the Defend^t said the said Jeames had not bestowed twoe hundred powndes in the buildinge or repairinge of the said howses accordinge to a Covenante mencioned in the said former lease nor half soe muche or wordes to the like effecte: but whether the said hundred powndes was incerted vpon that Consideracion or noe this Depon^{te} knoweth not: and more to this Interrogatorye he cannot Depose./

Thomas Nevill of Bricklesea in the Countye of Effex gentleman aged thirtye five yeares or therabouts sworne and examined saith as followeth. vidz^t./

1./ To the firste Interrogatorye he saith that he hath knowne Giles Allen gentleman Defend^{te} and Cuthbert Burbage gentleman Comp^{l^{te}} by the space of five yeares nowe paste or neare therabouts./

2./ To the second Interrogatory he saith that there was an agreement had betweene them the said Comp^{l^{te}} and the said Defend^{te} for the howses and growndes wth the Theatre which were formerlye Demised vnto Jeames Burbage the father of the said Comp^{l^{te}} with an increasng of the rente from fourteene powndes by the yeare vnto foure and twentye poundes by the yeare w^{ch} lease should beginn at the expiracion of the ould lease made vnto the said Comp^{l^{tes}} father and should continue for the space of one and twentye yeares: And this Depon^{te} further saith that the said Defend^t was at the firste verie vnwillinge that the said Theatre should Continue one Daie longer for a playng place yet neverthelesse at the laste he yealded that it should Continue for a playng place for certaine yeares; and that the said Defend^{te} did agree that the said Comp^{l^{te}} should after those yeares expired Converte the said Theatre to his beste benefitt for the residue of the said terme then to come; and that afterward it should remaine to the onelye vse of the Defendte: And further this Depon^{te} saith that the said Jeames Burbage the father did acknowledge the somme of thirtye powndes mencioned in this Interrogatorye to be Due vnto the said Defend^t for rente then behinde and vnpaid; And that the Comp^{l^{te}} Cuthberte Burbage did often times fithence promise paiment of the said somme of thirtye powndes at the enfealinge of the newe lease: And he further saith that the said Agreemente was made betweene the said Comp^{l^{te}} and the Defend^{te} nowe twoe yeares fithence or therabouts at michaelmas terme nowe nexte Comminge. And further to this Interrogatory this Depon^{te} cannot Depose./

3./ To the third Interrogatory this Depon^{te} cannott Depose./

[In dorso:]

x^o die Octobris Anno Regni Regine Elizabethæ &c xliij^o

Juramenta Retourned by Thomas Domiell

[The depositions were sealed, and signed by two commissioners across the sealing strips of parchment, now gone, leaving only parts of their names, thus:]

Art[hur Brea]ther [John] Sañes

Idem. Bdl. 242. Depositions ex parte Allen, 1 October, 1600, on Interrogatories drawn up June 5.

INTERROGATORIES

Interrogatories to be ministred to the wittneses to be produced on the parte and behalfe of Giles Allen gentleman Defend^t againste Cuthberte Burbage Complainante./

- 1./ Inprimis whether did Jeames Burbage father of the Comp^{lte} in his life time tender and Deliuer vnto the Defend^t a Draught of a newe lease of certaine howses and groundes which were formerlye Demised by the Defend^t to the said Jeames Burbage requiringe the Defend^t to seale the same: And whether is the Draught nowe shewed forthe vnto you the same which the said Jeames Burbage Deliuered vnto the Defend^t: And whether Did not the Defend^t refuse to seale the same and for what Cause to yo^r remembrance Did he soe refuse the sealinge therof?./
- 2./ Item whether Doe you knowe or thinke in yo^r Conscience that the said Jeames Burbage did within the firste tenn yeares after the lease made vnto him by the Defend^t bestowe the somme of twoe hundred powndes aboute the alteringe and amendinge of the said howses and buildinges Demised vnto him by the Defend^t: or what somme of money did the said Jeames Burbage bestowe to that purpose within that time Deliuer the trueth what you knowe or haue Crediblye heard herein?/
- 3./ Item whether Did the said Jeames Burbage keepe the said howses and buildinges in good reparacions: And whether are not the said howses and buildinges or some of them nowe grown in great Decaye: And whether hath not the Comp^{lte} vnderpropped them wth shores: And whether doe they not soe remaine: And what somme of money will it coste to sett the said howses and buildinges in good and sufficient reparacions Deliuer what you knowe or thinke in yo^r Consciences herein: And by what meanes as you

thinke is it come to passe that the said howses and buildinges are growen foe ruinous?/

- 4./ *Item* whether hath Ellen Burbage the late wife of the said James Burbage any goodes or Chattles in her handes that were the goodes or Chattells of the said James Burbage wherby the Defend^t maie haue recompence at her handes for the said somme of thirtie powndes and the breache of other Covenantes: And whether is not the said Ellen accounted a verye poore woman, and not able to satisfie the Credito^{rs} of the said James Burbage: And whether did not the Comp^{lte} and his brother or one of them procure the said Ellen to take adminiftracion of the goodes of the said James Burbage; the said Comp^{lte} and his brother or one of them hauinge before secretly gotten the goodes of the said James Burbage into their handes that therbye they might Deceiue the Credito^{rs} of the said James Burbage Deliuer what you knowe or haue Crediblye heard herein?/
- 5./ *Item* whether was the Theatre (which was erected vpon parte of the grounde aforefaid built at the alone Chardges of the said James Burbage: or whether did not one John Braynes Defraie the one half of the Chardges therof vpon agreement betweene the said James Burbage and the said John Braines that the said John Braines should be partner wth the said James Burbage in the proffittes thereof: Deliuer what you knowe or haue heard herein?./
- 6./ *Item* what sommes of money haue the said James Burbage and the Comp^{lte} in their feuerall times gayned by the meanes of the said Theatre Deliuer the trueth what you knowe or haue Crediblye heard herein?./
- 7./ *Item* whether did you heare the Defend^t at any time Complaine of the bad Dealinge of the said James Burbage towards the Defend^t for the not payment of his rente, or not repairing of his howses: And whether did you heare him foe Complaine before

fuche time as the said Jeames Burbage did tender a Draught of a newe lease vnto the Defend^t or at the time of the tender therof: And whether haue you not oftentimes heard the Defend^t finde faulte wth the said Jeames Burbage that he was a bad and troublesome tenante Deliuier what you knowe touchinge this Interrogatorye?/

8./ Item whether doe you knowe that the said Jeames Burbage did assigne his intereste and terme (in those growndes and buildinges he held of the lease of the Defend^t) vnto one John Hide: And howe longe agoe to yo^r remembrance was the said Assignement made: And howe manye yeares of the said lease were then to come and vnexpired at the time of the said Assignement./

[*In dorso:*]

Quinto die Junij Anno Regni Regine Elizabethæ &c xliij^o./

fiant littere dicte Domine Regine directe Willelmo Aylif
vel duobus

eorum ad examinandum omnes testes ex parte defend^t
tam de articulis infra scriptis quam per partem ministrandis
in forma iuris iurandi et ad certificandum eadem in
octabis Michaelis proximis

Virtute Ordinis

Rog^r Wilbraham

DEPOSITIONS

Depositiones Captæ apud Westmonasterium primo die Octobris A^o: Regni D^{ne} Regine Elizabethæ nunc & Quadragesimo Secundo ex parte Egidij Allen generosi def^{tis} versus Cuthbertum Burbadge generosum q^{rtem}./

Robert Myles of the parishes of Whitechappell in the Countye of Middlesex gentleman of the Age of threescore and ffoure yeares or there Aboutes sworne and examyned the daye and yeere abovesaid deposithe and saythe./

1./ To the firste Interrogatory this deponent saythe he hath hard the defendant saye that the Complainantes father did in his lyffe tyme

tender vnto him A draught of A newe lease of Certayne houfes and groundes formerlye demised by him the said defendt vnto James Burbadge deceassed, And that the said James Burbadge when he tendered the same drafte did require the defendt to Seale the same, And that he the defendt did refuse to Seale vnto the same for that yt was not tendered vnto him at the tyme Agreed vppon, and for that the Countenances weare not therin sett downe accordinge to there Agreem^t./ And more he cannott depose touchinge the said *Interrogatory* for that there is no drafte of a lease nowe lefte to be shewed vnto him at the tyme of his examynacion./

- 2./ To the second *Interrogatory* this deponent saythe he hath hard yt reported that wthin the firste ten yeares after the lease made vnto James Burbadge by him the said defendant, he the said James Burbadge and his *partiner* or one of them did bestowe vppon the houfes and buyldinges foe demised by the defendt vnto the *plaintiffes* father the some of twoe hundred poundes or ther aboute viz about the Alteringe and Amendinge of the same *premissis* foe demised And more he Cannott depose touchinge the said *Interrogatory*
- 3./ To the third *Interrogatory* this deponent saythe that for any thinge he knowethe to the Contrarye the said James Burbadge and one Braynes his *partner* did duringe James Burbadge his lyffe tyme keepe the said houfes and buyldinges in good reparacions But saythe he knowethe not howe the same houfes and buyldinges are nowe repayred, or haue bene repayred synce the deceafe of James Burbadge, nor how they are decayed for that he hathe not bene in them aboute twice synce the deceafe of James Burbadge./ And this deponent saythe that Syxe or Seaven yeares synce there was A greate longe Barne (*parcell* of the demised *premissis*) vnderpropped and Shored: but he knoweth not that yt is foe still for that he hath not seene yt of longe tyme, nor knowethe what some of money yt will Cofte to sett the same in good and Suffytient reparacions. And more he Cannott depose touchinge the said *Interrogatory*./

- 4./ To the ffourthe *Interrogatory* this Deponent faythe he thinkethe that Ellen Burbadge the wyffe of James Burbadge hath not in her handes Suffytient of her faid hufbond James Burbadge his goodes and Chattles whereby the defendant maye haue recompence at her handes for the some of thirtye poundes and breache of other Couenantes. for shee is accompted but A poore woeman not hable to paye her hufbondes Credito^{rs}./ And faythe that the Complainant and his brother or one of them did procure the faid Ellen to take adminiftracion of her faid hufbondes goodes they or one of them havinge before that fecretlie gotten James Burbadge his goodes into there handes And foe therby the Credito^{rs} are not Satisfied otherwife he thinkethe Amongefte them there was left Suffytiente to Satisfie all James Burbage his Credito^{rs}./ And more he cannott depofe
- 5./ To the vth *Interrogatory* this deponent faythe he knowethe that the Theater mencioned in the *Interrogatory* was not only buylte at the Alone Charges of James Burbadge. but one John Braynes mencioned in the *Interrogatory* did defraye the one halfe of the Charges therof (or more) vppon Agreem^t betweene James Burbadge and him the faid Braynes that he the faid Braynes should haue had from Burbadge A leafe of the Theater vnder the lyke Couenantes he the faid Burbadge had his houfes and groundes from the defendant And that he knowethe the fame to be true for that he was partlie acquaynted wth there Agreem^t. And hath the bondes wherin Burbadge was bound to Braynes to performe the Agreem^t./ And more he cannott depofe./
- 6./ To the vjth *Interrogatory* this deponent faythe he verelye thinkethe that James Burbadge and Cuthberte Burbadge in ther feuerall lyfes tymes haue gayned by the Theater aboue A thoufand markes./ And more he Cannott depofe./
- 7./ To the vijth *Interrogatory* this deponent faythe he hath often hard the defendant Complayne of James Burbadge his bad dealinge wth him in not paym^t of his rent./ And that the faid Defendt

did not Complayne but fynce the tender of the faid drafte of the newe leafe./ And hath hard the defendt faye that James Burbadge was A troblefome tenant./ but he hard him not fynd falte wth him nor Complayne of him for non repayringe of his houfes./ And more he Cannot depofe./

- 8./ To the viijth Jnterrogatory this deponent faythe he knowethe that the faid James Burbadge did affigne his Jntereſte and terme in the premisss demifed vnto him vnto one John Hide for a ſome of money./ And as he remembrith the yt is about ffyfteene yeres paſte fythence the ſame affignem^t made./ And there weare about fyfteene yeres to Come and vnexpired in the faid leafe at the tyme of the faid affignem^t And more he Cannot depofe./

[Signed] By me Robart Miles

Raphe Myles of the pariſhe of Whyte Chapple in the Countye of Middleſex gentleman of the Age of thirtye fyve yeres or there aboutes ſworne and examyned the daye and yeaere abouefaid depofithe and faythe

- 1./ To the firſte Jnterrogatory this deponent faythe he hath hard that James Burbadge the Complainantes father did in his lyffe tyme tender vnto the defendant the drafte of A newe leafe of Certayne houſes and groundes formerlye demifed by the defendant vnto James Burbadge and that James Burbadge required the defendt to Seale the ſame newe leafe./ but what anſwere the defendt made the plaintiffes father when he demaunded to feale the ſame he knoweth not nor hath hard./ And more he Cannot depofe touchinge the faid Jnterrogatory for that the drafte of the newe leafe mencioned in the Jnterrogatory is not leſte to be ſhewed him neyther hath he ſeene yt at any tyme./
- 2./ To the ſecond Jnterrogatory this deponent faythe that James Burbadge beſtowed muche money in alteringe mendinge and repayringe the premisss demifed vnto him by the defendt, but howe muche he knowethe not, nor whether he beſtowed that Coſte wthin

the tyme mencioned in the *Jnterrogatory*. And more he Cannott depofe./

3./ To the third *Jnterrogatory* this deponent faythe that James Burbadge in his lyffe tyme kepte the *premissis* demifed vnto him in reasonable good *reparacions*: but he knowethe not in what decaye they nowe are for that he fawe them not of A longe tyme./ nor whether the *plaintiff* hath vnderpropped them wth Shores, nor whether they be nowe remayninge vnderpropped./ nor what yt will cofte to fett the howfes in *reparacions* for that he knowethe not nor hath feene howe they are decayed./ And more he Cannott depofe touching the faid *Jnterrogatory*./

4./ To the ffourthe *Jnterrogatory* this deponent faythe he knowethe not that Ellen Burbadge hath any goodes or Chattles in her handes that weare her late hufbond James Burbadge his goodes wherby the defendt maye haue recompence at her handes for the fome of thirye poundes and the breache of other Couenantes./ And faythe that Ellen Burbadge is accompted A poore woeman not hable to Satisfie her hufbondes Credyto^{rs}./ And faythe he knoweth not whether the *Complainant* and his brother or one of them *procured* the faid Ellen Burbadge to take adminiftracion of the goodes of James Burbadge they or one of them havinge firfte gotten the faid James Burbadge his goodes into there handes thereby to deceave the Credito^{rs} of the faid James./ And more he cannot depofe./

5./ To the vth *Jnterrogatory* this deponent faythe he hath Credible hard that the Theater mencioned in the *Jnterrogatory* was not buylte at the Alone charge of James Burbage./ but that one John Braynes defrayed the halfe of the Charge vppon Agreem^t betweene them that Braynes fhould be *partner* wth Burbage in the *profyttes* therof. And that he hath feene A bonde of Burbages to Braynes whereby yt playnelie appeareth that Braynes had the moyetye of the *profyttes* therof in his lyffe tyme and burbage was bound that he fhould enioye the fame./ And more he Cannott depofe./

- 6./ To the vijth Interrogatory this deponent faythe he thinkethe that James Burbadge and the Complainant in there feuerall tymes haue gayned by meanes of the faid Theater A thousand markes and better./ And more he Cannot depofe./
- 7./ To the vijth Interrogatory this deponent faythe he hath hard the defendt Complayne of James Burbage his badd dealinge towardes him in not paym^t of his rent./ but not for the repayringe of his houfes./ But he rememberithe not whether he Complayned of his badd dealinge before or after the tender of the newe lease, but thinkethe yt was before the tender and at the fygne of the George in Shoreditche And that then the defendt found falte wth James Burbage and faid he was A bad and troblefome fellowe./ And fynce or before he hard not the defendt vfe the lyke fpeeches of James Burbadge./ And more he Cannott depofe./
- 8./ To the viijth Interrogatory this deponent faythe he knowethe that James Burbadge did in his lyffe tyme affigne his interefte and terme in the premisss vnto one John Hyde mencioned in the Interrogatory./ But he rememberythe not howe longe yt is fythence the fayd assignem^t was made to Hyde nor howe many yeares of the faid lease weare then to come and vnexpired at the tyme of the faid Assignemen^t./ And more he Cannott depofe to his remembrance./

[Signed] per me: Raphe: Miles

APPEARANCE OF ALLEN

Requests, Misc. Books, vol. 109, fo. 8 (Appearance Book, 42 Eliz. to 7 Jas. I).

Nono die Octobris A° xlij^{do} [1600]

Egidius Allen *generosus personaliter comparet coram concilio Regine virtute brevis de Attachiamto ad fectam Cuthberti Burbage*

ALLEN v. BURBAGE

Queen's Bench, Easter, 44 Elizabeth (1602) membrane 257.

[The following pleadings incorporate the lease of Gyles Allen to James Burbage, April 13, 1576, here rendered into Latin. This document has not hitherto been printed or quoted from. Its existence was known to Halliwell-Phillipps who, in his *Outlines*, I, 349, refers to it as containing the same description of the leased premises as is found in the proposed but unexecuted deed of 1585. The latter is incorporated in Street's Answer in the suit of Allen v. Street, Court of King's Bench, 1600, printed in preceding pages.]

Adhuc De Termino Pafche Teste J. Popham

Midd ff Memorandum quod alias scilicet Termino sancti Hillarij Anno regni domine Elizabethæ nunc Regine Angliæ quadragesimo tercio coram eadem domina Regina apud Westmonasterium venerunt Egidius Aleyn armiger & Sara vxor eius per Johannem Tanner attornatum suum Et protulerunt hic in Curia dicte domine Regine tunc ibidem quandam billam suam versus Cutbertum Burbage in Custodia Marrescalci &c de placito Convencionis fracte Et sunt Plegii de *prosequendo* scilicet Johannes Doo & Ricardus Roo Que quidem billa sequitur in hec verba ff Midd ff Egidius Aleyn armiger & Sara vxor eius queruntur de Cutberto Burbage in Custodia Marrescalci Marefcalcie domine Regine coram ipsa Regina existente de placito Convencionis fracte *pro eo videlicet* quod Cum predicti Egidius & Sara decimo tercio die Aprilis Anno regni domine Elizabethæ nunc Regine Angliæ decimo octavo per quandam Jndenturam suam factam apud Hallowell in Comitatu predicto predicto decimo tercio die Aprilis Anno decimo octavo supradicto inter prefatos Egidium & Saram per nomen Egidij Aleyn de Hallowell in Comitatu Middlesexia generosi & Sare vxoris eius ex vna parte & quendam Jacobum Burbage patrem predicti Cutberti per nomen Jacobi Burbage de londonia Joyner ex altera parte/ Cuius quidem Jndenture alteram partem Sigillo ipsius Jacobi Segillatam gerentem datum predicto decimo tercio die Aprilis Anno decimo octavo supradicto predicti Egidius &

Sara hic in Curia proferunt ex eorum unanimis consensu & assensu pro & in Consideratione sume viginti librarum legalis monete Anglie sibi in manibus ad sigillationem Indenture illius per predictum Jacobum Burbage veraciter solute pro & nomine finis vel prefolucionis Anglice income locaverunt & ad firmam tradiderunt prefato Jacobo Burbage omnes illas duas domos vel tenementa cum pertinentiis adtunc existentes in separabilibus tenuris vel occupationibus Johanne Harryson vidue & Johannis Draggon Acetiam totam illam domum vel tenementum cum pertinentiis simulcum solo gardini Anglice garden grounde iacente a tergo partis eiusdem adtunc existentis in occupatione Willelmi Garnett Gardiner quod quidem Gardinum adtunc extendebat in latitudine A magno muro lapidoso ibidem qui adtunc includebat partem gardini adtunc vel nuper in occupatione prefati Egidij ad gardinum ibidem adtunc existens in occupatione Evini Colefoxe weaver & in longitudine ab eodem domo vel tenemento ad murum Anglice A brickwall ibidem proximum ad agros Communiter vocatos ffynneburye fyldes/ Acetiam totam illam domum vel tenementum cum pertinentiis vocatam siue cognitam per nomen domus molendinarie simulcum solo gardini iacentis A tergo partis eiusdem adtunc existentis in tenura vel occupatione predicti Evini Colefoxe vel Assignatorum suorum quod quidem solum gardini adtunc extendebat in longitudine ab eodem domo siue tenemento ad predictum murum tegularium Anglice brickwall proximum ad predictos agros Acetiam omnes illos tres superiores locos cum pertinentiis proxime adiungentes ad predictam domum molendinariam adtunc existentes in occupatione Thome Dancafter Showmaker vel assignatorum suorum Acetiam omnes illos inferiores locos cum pertinentiis adtunc iacentes subter illos tres superiores locos acetiam proxime adiungentes ad predictam domum siue tenementum vocatam the Millhowse adtunc existentes in separabilibus tenuris vel occupationibus Alicie Daridge vidue & Ricardi Brackenbury vel Assignatorum suorum simulcum solo gardini iacentis a tergo eiusdem adtunc extendentis in longitudine ab eisdem inferioribus locis vsque predictum tegularium murum proximum ad predictos agros & adtunc etiam existentis

in tenura sive occupacione *predicte* Alicie Daridge Acetiam tantum terre & soli Anglice soyle iacentis & existentis ante omnia tenementa siue domos *preconceffa* quantum adtunc extendebat in longitudine a exteriori parte *predictorum* tenementorum adtunc in occupacione *predictorum* Johanne Harryfon & Johannis Dragon ad stagnum *ibidem* existens *proximum* horreo siue Stabulo Adtunc in occupacione *prenobilis* viri Comit^{is} Rutland & in latitudine de *predicto* tenemento vel domo molendinaria ad medium fontis existentis ante eadem tenementa/ Acetiam totum illum magnum horreum cum *pertinentiis* adtunc existens in separabilibus occupacionibus Hugonis Richardes Jnhoulder & Roberti Stoughton Butcher Acetiam parvam peciam soli adtunc inclusam cum palo & *proxime* adiungentem ad *predictum* horreum & adtunc in occupacione dicti Roberti Stoughton *similiter* simulcum & omnibus terris & solo iacentibus inter *predictos* interiores locos postremo ante expressos *predictum* magnum horreum & *predictum* Stagnum viz extendentem in longitudine a *predicto* Stagno ad fossatum ultra murum tegularium *proximum* agris *predictis*/ Acetiam *predictus* Egidius Aleyn & Sara vxor eius per Jndenturam *predictam* dimiserunt concefferunt & ad firmam tradiderunt *predicto* Jacobo Burbage tota rectum titulum & interesse sua que ipsi *prefati* Egidius & Sara adtunc habebant vel habere deberent de in vel ad terram & solum iacentia inter *predictum* magnum horreum & horreum adtunc in occupacione dicti Comit^{is} Rutland vel assignatorum suorum extendentia in longitudine A stagno *predicto* & A *predicto* Stabulo vel horreo in occupacione *predicti* Comit^{is} vel assignatorum suorum vsque ad *predictum* murum tegularium *proximum* *predictis* agris/ Acetiam *predicti* Egidius & Sara per Jndenturam *predictam* dimiserunt concefferunt & ad firmam tradiderunt *predicto* Jacobo omnes suas vacuas terras iacentes & existentes inter *predictum* fossatum et *predictum* murum tegularium extendentes in longitudine A *predicto* muro qui adtunc inclusit partem *predicti* Gardini Adtunc vel nuper in occupacione dicti Egidij Aleyn ad *predictum* horreum adtunc in occupacione dicti Comit^{is} vel Assignatorum suorum Acetiam liberum introitum egressum & regressum ad & A *predictis*

dimissis premissis & qualibet parte eorundem tam bene ad & pro predicto Jacobo Burbage executoribus administratoribus & Assignatis suis quam ad & pro omnibus & quibuscumque aliis persona & personis venientibus siue reparientibus ad premissa antea demissa sive aliquam partem eorundem per tales vias quales adtunc fuerunt vsq; & occupate eisdem premissis in iure predicti Egidij quam etiam per tales pontes & vias quales adtunc fuerunt vel postea forent facti per predictum murum tegularium in predictis agris omnibus & quibuscumque tempore & temporibus Convenientibus adtunc impofterum durante toto termino Annorum adtunc in Indentura predicta concessio absque aliquo legitimo obstaculo impedimento perturbacione vel interrupcione dicti Egidij heredum vel Assignatorum suorum siue aliquorum eorum siue alicuius alterius persone vel personarum in eius vel eorum iure recto sive titulo sive per eius vel eorum medium siue procuramentum/ omnia que quidem premissa antea preconcessa adtunc fuerunt sciuta iacentia & existentia in & prope Hallowell predictam (exceptis & reservatis dictis Egidio Aleyn & Sare vxori eius & heredibus & Assignatis suis & talibus aliis persone & personis que adtunc inhabitabant inhabitarent vel remanerent in Capitali Mesuagio siue Tenemento ibidem vel in aliqua parte eiusdem adtunc vel nuper in occupacione predicti Egidij & ad & pro tenentibus dicti Egidij qui adtunc habitabant vel impofterum inhabitarent in Hallowell predicta liberam libertatem portandi & hauriendi aquam ad predictum pontem de tempore in tempus durante predicto termino Ita quod illi reciperent comoditatem dicti fontis de tempore in tempus inter eos equaliter super legitimam requisionem portare & soluere dicto Jacobo Burbage executoribus vel Assignatis suis medietatem omnium talium onerum qualia expenderentur Anglice layd out in & circa necessariam reparacionem & emendacionem dicti fontis de tempore in tempus quoties opus requireret durante Termino predicto Acetiam libera ingressum & regressum ad & pro dictis Egidio & Sara vxore eius & heredibus Assignatis executoribus & servientibus suis & ad & pro reuerendo in Xristo patre Johanni Scorye adtunc Episcopo herefordie Elizabetha vxore eius & servientibus & assignatis suis de

& a *predicto* magno giardino adtunc vel nuper *pertinente* dicto Egidio in *predictos* agros per pontem & viam adtunc *ibidem* vsitata et occupata omnibus *legittimis* tempore & temporibus durante *Termino* Annorum in *Jndentura* *predicta* posterius *concesso* habenda & tenenda omnia *predicta* domos sive *tenementa* horreum *gardinum* terram & omnia alia *premissa* *preconcessa* (*exceptis* *preexceptis*) dicto Jacobo Burbage executoribus & *Affignatis* suis A festo *Annunciacionis* beate Marie adtunc ultimo *preterito* ante datum *Jndenture* *predicte* vsque plenum finem & *terminum* viginti & vnus Annorum extunc *proxime* & *immediate* *sequentem* & plenarie *complendum* & *finiendum* reddendo & soluendo *proinde* annuatim durante *termino* *predicto* *dictis* Egidio Aleyn & Sare vxori eius vel vni eorum & *heredibus* & *Affignatis* *predictorum* Egidij & Sare quatuor decim libras legalis monete Anglie ad quatuor festa siue *Terminos* in Anno viz ad festa *Natiuitatis* *sancti* *Johannis* *Baptiste* *sancti* *Michaelis* *Archangeli* *Natiuitatis* *domini* & *Anunciacionis* *beate* *Marie* vel infra *spacium* viginti & octo *dierum* *proximum* post quodlibet eorundem *festorum* per *equales* *porciones*/ Et *predictus* *Jacobus* *Burbage* *pro* seipso executoribus *adminiftratoribus* & *Affignatis* suis *conuenit* & *concessit* ad & *Cum* *predictis* Egidio Aleyn & Sara *heredibus* & *Affignatis* suis & eorum quolibet per *Jndenturam* *predictam* inter alia quod ipse *predictus* *Jacobus* *Burbage* *executores* *adminiftratores* vel *Affignati* sui ad eius vel eorum *propria* *Custagia* & *onera* *predicta* domos siue *tenementa* horreum *gardina* & omnia alia *premissa* *preconcessa* & omnes domos Anglice the *privyes* *predictis* *premissis* siue alicui *parti* eorundem *pertinentes* adtunc *factos* vel *imposterum* *faciendos* in omnibus *necessarijs* *reparacionibus* bene & *sufficienter* *repararent* *manutenerent* *suf-tinerent* *facerent* *efcurarent* *mundarent* & *emendarent* de tempore in tempus quando & *quoties* *neceffe* *requirerent* Et eadem tam bene & *sufficienter* *reparata* *mundata* *efcurata* & *emendata* in fine eiusdem *terminj* viginti & vnus Annorum *relinquerent* & *sursum* *reddirent* eidem Egidio & Sare & *heredibus* & *Affignatis* eiusdem Egidij *prout* per *Jndenturam* *predictam* inter alia *plenius* *liquet* & *apparet*/ *virtute* *Cuiusquidem* *dimiffionis* *predictus*

Jacobus in tenementa predicta sibi vt *preferitur dimiffa* intravit Et fuit inde *posseffionatus predictoque* Jacobo sic inde *posseffionato existente* idem Jacobus postea *scilicet* decimo septimo die Septembris Anno regni dicte domine Regine nunc vicefimo primo Apud Hallowell *predictam* Assignavit tota interesse & *terminum* Annorum sua que ipse adtunc habuit ventura de & in tenementis *predictis* sibi vt *preferitur dimiffa cum pertinentiis* cuidam Johanni Hide Civi & grocero londonie/ virtute Cuius *predictus* Johannes Hyde in *predicta tenementa* prefato Jacobo vt *preferitur dimiffa cum pertinentiis* intravit & fuit inde *posseffionatus predictoque* Johanne Hide sic inde *posseffionato existente* idem Johannes Hyde postea *scilicet* septimo die Junij Anno regni dicte domine Regine nunc Tricesimo primo Apud Hallowell *predictam* assignavit tota interesse & *terminum* Annorum sua que ipse adtunc habuit ventura de & in tenementis *predictis* prefato Jacobo vt *preferitur dimiffis cum pertinentiis* prefato Cutberto Burbage virtute Cuius *predictus* Cutbertus in *predicta tenementa* illa cum *pertinentiis* intravit & fuit inde *posseffionatus* Et *predicti* Egidius & Sara vltcrius dicunt quod licet ipsi iidem Egidius & Sara omnes & singulas Convenciones Concessiones Articula & agreamenta in Jndentura *predicta* mencionatas ex partibus ipsorum Egidij & Sare & eorum vteriusque in & per Jndenturam *predictam* performandas observandas custodiendas & perimplendas A tempore confectionis Jndenture *predicte* vsque finem & *terminum predictorum* viginti & vnus Annorum in Jndentura *predicta* superius mencionatos bene & veraciter performaverunt observaverunt custodiverunt & perimpleverunt *secundum* formam & effectum Jndenture illius/ *protestando* quod *predictus* Jacobus Burbage durante tempore quo idem Jacobus tenementa *predicta* sibi vt *preferitur dimiffa* virtute dimiffionis *predicte* sibi vt *preferitur* facte habuit & tenuit & quod *predictus* Johannes Hide durante toto termino quo idem Johannes Hyde fuit *posseffionatus* de & in tenementis *predictis* cum *pertinentiis* virtute Assignacionis *predicte* sibi per eundem Jacobum vt *preferitur* facte non tenuerunt custodiverunt & performaverunt aliquas Convenciones concessiones Articula & agreamenta in Jndentura *predicta* superius men-

cionatas & ex parte ipsius Jacobi dum ipse possessionatus fuit de & in tenementis predictis virtute dimissionis predictae & ex parte ipsius Johannis Hyde post assignacionem predictam sibi per predictum Jacobum vt prefertur factam & in & per Indenturam predictam per ipsos in forma predicta observandas performandas & Custodiendas secundum formam & effectum Indenture illius/ Et protestando quod predictus Cutbertus post assignacionem predictam sibi per predictum Johannem Hyde vt prefertur factam durante toto termino quo idem Cutbertus possessionatus fuit de & in tenementis predictis sibi vt prefertur assignatis non tenuit & Custodivit aliquas Convenciones concessiones et agreamenta in predicta Indentura inter eisdem Egidium & Saram & predictum Jacobum vt prefertur facta mencionatas & ex parte ipsius Cutberti dum ipse possessionatus fuit de & in tenementis predictis post assignacionem predictam sibi per predictum Johannem Hyde vt prefertur factam & per ipsum Cutbertum in & per Indenturam predictam in forma predicta obseruandas performandas & Custodiendas secundum formam & effectum Indenture illius ijdem Egidius & Sara in facto dicunt quod eodem Cutberto de tenementis predictis prefato Jacobo vt prefertur dimissis possessionato existente post assignacionem predictam prefato Cutberto per predictum Johannem Hyde vt prefertur factam & ante expirationem predictorum viginti & vnus Annorum scilicet primo die Octobris Anno regni dicte domine Regine tricesimo sexto predictum magnum horreum & omnia predicta domus & edificia in Indentura predicta superius mencionata & prefato Jacobo per predictum Egidium & Saram vt prefertur dimissa fuerunt magnopere ruinosa & in decafu tam in defectu sufficientis coaperture & tegulacionis Anglice tyling quam plaustracionis Anglice dawbing Et predictum horreum & omnia predicta domus & edificia sic ruinosa & in decafu in defectu sufficientis reparacionis & emendacionis eorundem ita remanserunt & Continuauerunt ruinosa & in decafu A predicto primo die Octobris Anno Tricesimo sexto supradicto vsque finem & terminum predictorum viginti & vnus Annorum per quod grossum Maherremium horrei domorum & edificiorum predictorum racione pluvie & tempestatum super eadem deca-

dentium totaliter putridum & vastatum devenit Et sic ijdem Egidius & Sara dicunt quod *predictus* Cutbertus Convencionem *predictam* inter ipfos Egidium & Saram & *predictum* Jacobum pro se & Assignatis suis per Jndenturam *predictam* vt *prefertur* factam post assignacionem *predictam* *prefato* Cutberto per *prefatum* Johannem Hyde vt *prefertur* in eo quod *predictus* Jacobus Burbage executores administratores vel Assignati sui ad eius vel eorum propria Custagia & onera dicta domos vel tenementa horreum Gardiva ac omnia alia *premissa preconceffa* Ac omnes domos Anglice Privyes eisdem *premissis* siue eorundem aliquo parti spectantes adtunc factos vel imposterum faciendos in omnibus necessarijs reparacionibus bene & sufficienter reparent manutenerent facerent escurarent mundarent & emendarent de tempore in tempus quando & quoties necesse requireret Et eadem tam bene & sufficienter reparata escurata mundata & emendata in fine eiusdem terminij viginti & vnus Annorum relinquerent & surfurreddirent eisdem Egidio & Sare & heredibus & Assignatis ipsius Egidij *secundum* formam & effectum Jndenture *predicte* licet sepius requisitus non tenuit sed penitus infregit Et illam ei tenere *secundum* formam & effectum Jndenture *predicte* penitus recusavit Et adhuc recusat ad dampnum ipsorum Egidij & Sare ducendarum librarum Et inde producunt sectam &c./

Et modo ad hunc diem scilicet diem Mercurij proximum post xvij Pasche isto eodem Terminio vsque quem diem *predictus* Cutbertus Burbage habuit licenciam ad billam *predictam* interloquendum Et tunc ad respondendum &c Coram domina Regina apud Westmonasterium venerunt tam *predicti* Egidius & Sara per Attornatum suum *predictum* quam *predictus* Cutbertus per Thomam Petre Attornatum suum Et idem Cutbertus defendit vim & iniuriam quando &c Et dicit quod *predictus* Egidius Aleyn & Sara accionem suam *predictam* inde *versus* eum habere seu manuteneri non debent Quia dicit quod horreum domus & edificia *predicta* in Jndentura *predicta* superius specificata *prefato* Jacobo Burbage per *predictum* Egidium & Saram (vt *prefertur* dimissa a tempore Confeccionis dimissionis illius vsque expiracionem pre-

dicti Terminj viginti & vnius Annorum fuerunt bene & sufficienter reparata & manutenta in omnibus necessarijs reparacionibus de tempore in tempus durante Termino illo quando & quoties neceffe fuit Ac sic bene & sufficienter reparata & manutenta in fine eiufdem Terminj viginti & vnius Annorum relicta & surfurreddita fuerunt eisdem Egidio & Sara iuxta formam & effectum Jndenture illius/ Abfque hoc quod horreum domus & edificia predicta in Jndentura predicta superius mencionata fuerunt ruinofa & in decafu modo & forma provt predicti Egidius & Sara superius narrando allegaverunt Et hoc paratus est verificare vnde petit Judicium si predicti Egidius & Sara accionem suam predictam inde verfus eum habere seu manutenere debeant &c./

Et predicti Egidius Aleyn & Sara dicunt quod ipfi per aliqua per predictum Cutbertum Burbage superius placitando allegata ab accione sua predicta verfus ipsum Cutbertum habenda precludi non debent Quia vt prius dicunt quod horreum domos & edificia predicta in Jndentura predicta superius mencionata fuerunt ruinofa & in decafu modo & forma provt predicti Egidius & Sara superius narrando allegaverunt Et hoc petunt quod inquiratur per patriam Et predictus Cutbertus Burbage similiter &c Jdeo veniat inde Jurata coram domina Regina Apud Westmonasterium die proximo post Et qui nec &c ad recogn &c Quia tam &c Jdem dies datus est partibus predictis ibidem &c

[No judgment entered. This suit was begun in Hilary (Jan.-Feb.) 1601, and was here entered for trial in Easter, 1602. It was probably stopped before coming to trial. Meanwhile, in November, 1601, Allen had brought suit, on the same general matter of the Theatre, in Star Chamber, and prosecuted it at the same time, until the summer of 1602, when that case as well as this apparently failed. The Star Chamber proceedings here follow.]

ALLEN v. BURBAGE

Star Chamber Proceedings, 44 Elizabeth (1601-2), A. 12/35.

[Allen's suit in King's Bench against Street, 1599-1600, had been stopped by order of the Court of Requests, first by injunction, 10 April 1600, and finally by decree of Oct. 18, 1600, and thus failed. Then he lost the suit

brought in Requests by Burbage for relief against him in 1600, and the Court forbade Allen ever again to bring suit in any Court for the tearing down of the Theatre. This decree fell on Oct. 18, 1600, as recited in the Answer of the Burbages in the present suit. Then almost immediately, in the next term, Hilary, 1601, Allen sued Burbage in the King's Bench on the same matter under the subterfuge of breach of contract. This, too, could not but fail. Still determined on his course of annoyance and possible ruin to the new Globe theatre and the Burbage-Shakespeare company there, Allen next brought the following suit in Star Chamber, in November, 1601, still on the same matter, but under the shifted charges of riot, perjury, &c. This continued nearly to the close of 1602. That it likewise failed, finally ending Allen's litigation, is sufficiently indicated by Sir Francis Bacon's opinion upon it, quoted in the Demurrer of Hudson and Osborne, 12 June, 1602. The final decree is lost.

This suit was found by Halliwell-Phillipps, who quoted extracts from it in his *Outlines*, I, 360-61, 372. In a long uninformed article in the *Athenaeum*, Oct. 16, 1909, Mrs. Stopes, after using Halliwell-Phillipps, declared that he had not seen the pleadings in this suit, and claimed them as her "discovery"—only one of several claims by her to discoveries known to scholars.]

BILL

[Date, *in dorso*:]
 Lune vicifino Tercio
 Novembris Anno xliiiij^{to}
 Elizabethe Regine
 William Mill

To the Queenes moft excellent Ma^{tie}: ./

In moft humble wyfe complayninge fheweth vnto your moft Excellent Ma^{tie}: your highnes obedient and faythfull Subiect Gyles Allein of Hafeleigh in your highnes Countye of Effex gentleman That wheras your fayd fubiect together wth Sara his wyfe did heretofore by their Indenture bearinge date the thirteenth daye of Aprill in the eighteenth yeere of your highnes Raigne demife vnto one James Burbage late of London Joyner certen howfeing and voyde Groundes lyeing and being in Hollywell in the Countye of Middlesex for the Terme of one and twentye yeeres then next following for the yeerelye Rente of foureteene powndes, wherin

it was covenanted on the parte of your fayd fubiect and the fayd Sara to make a newe Leafe of the premiffes to the fayde James Burbage or his affignes att any tyme wthin the firfte Tenne yeeres vppon his or their Request for the terme of one and twenty yeeres from the making hereof. And it was by the fame Indenture covenanted on the parte of the fayd James Burbage That he or his affignes fhould wthin the fayd firft Tenne yeeres beftowe the fomme of two hundred powndes in alteringe and amendinge of the buyldings there (The value of the olde ftuffe therof to be accounted parcell) In Consideracion of w^{ch} fomme of two hundred powndes foe to be beftowed It was covenanted on the parte of your Subject that it fhould be lawfull for the fayd James Burbage and his Affignes att anie tyme wthin the firft one and twentye yeeres graunted, or wthin the one and twentye yeeres by vertue of the Covenante aforefayd to be graunted to take downe fuch Buylding as fhould wthin the fayd Tenne yeeres be erected on the fayd voyde growndes for a Theater or playenge place, And afterwarde the fayd James Burbage did wthin the fayde Tenne yeeres (A Theater being then there erected att the Coftes and Charges of one Braynes and not of the fayd James Burbage to the value of one Thowfand Markes) tender vnto yo^r fubiect a Draught of a newe leafe of the premiffes requiring yo^r Subiecte to feale the fame w^{ch} yo^r fubiect refused to doe, by reafon that the fayd Draught foe tendred varied much from the Covenantes in the former leafe, And alfo for that the fayd James Burbage had before that tyme affigned all his Intereft and terme in the fayd premiffes vnto one John Hide and had alfo bene a verye badd and troblesome tenante vnto your fayd Subject. So that yo^r Subject was in noe wyfe bounde either in lawe or confciencie to feale the fame, And afterwarde the fayd Hide conveyed all his Intereft and terme in the premiffes vnto one Cuthbert Burbage the fonne of the fayd James Burbage, whoe being defirous ftill to make gayne of the fayd Theater fuffered the fame there to contynue till the expiration of the fayd Terme, Wherby the right and Intereft of the fayd Theater was both in lawe and Confciencie abfolutely vefted in your fayd Subject, Whervppon your Subject feeling the greate and greevous

abufes that grewe by the fayd Theater intended to pull downe the fame, and to convert the wood and timber therof to fome better vfe for the benefitt of your Subiect w^{ch} your Subiect had iuft Caufe to doe, the rather for that yo^r Subiect had noe other meanes to be relived for thirtye powndes Arrerages of Rentes w^{ch} the fayd James Burbage in his lyefe tyme did owe vnto your Subiect for the *premisses*, and for the breach of divers Covenantes in not repayring the howfes and otherwife for that the fayd James Burbage had in his lyefe tyme made A deede of guift of all his goodes to the fayd Cuthbert Burbage and Richard Burbage his fonnes, whoe after the death of the fayd James Burbage procured Ellen Burbage his widdowe being a verye poore woman to take the Adminiftracion vppon her w^{ch} was done to defraude your Subiect and other Creditors of the fayd James Burbage. But fo it is yf it maye pleafe your excellent Ma^{tie}: that the fayd Cuthbert Burbage having intelligence of your Subiectes purpose herein, and vnlawfullye combyninge and confederating himfelfe wth the fayd Richard Burbage and one Peeter Streat, William Smyth and diuers other *perſons* to the number of twelve to your Subiect vnknowne did aboute the eight and twentyth daye of December in the one and fortyth yeere of your highnes Raygne, and fythence your highnes laft and generall pardon by the Confederacye aforefayd ryotouſlye affemble themſelves together and then and there armed themſelves wth diuers and manye vnlawfull and offensive weapons, as namelye, fwordes daggers billes axes and fuch like And foe armed did then repayre vnto the fayd Theater And then and there armed as aforefayd in verye ryotous outrageous and forcyble manner and contrarye to the lawes of your highnes Realme attempted to pull downe the fayd Theater whervppon diuers of your Subiectes ſervautes and farmers then goinge aboute in peacable manner to procure them to deſiſt from that their vnlawfull enterpryſe, They the fayd ryotous *perſons* aforefayd notwthſtanding procured then therein wth greate vyolence not onlye then and there forcyblye and ryotouſlye reſiſting your ſubiectes ſervautes and farmers but alſo then and there pulling breaking and throwing downe the fayd Theater in verye out-

ragious violent and riotous fort to the great disturbance and terrefyeing not onelye of yo^r fubiectes fayd fervauntes and farmers but of divers others of your ma^{ties} loving fubiectes there neere inhabitinge. And having fo done did then also in moſt forcible and ryotous manner take and carrye away from thence all the wood and timber therof vnto the Banckſide in the pariſhe of S^t Marye Overyes and there erected a newe playe howſe wth the fayd Timber and wood, Whervppon your Subiecte in Hillarye Terme following did commence an Accion of Treſpas agaynſt the fayd Peeter Streate in your highnes Courte at Weſtminſter commonlye called the kinges Benche for the fayde wrongfull entringe into your fubiectes groundes and pullinge downe and taking awaye of the fayd Theater, Howbeit the fayd Cuthbert Burbage maliciouslye intending to vexe and moleſt yo^r fubiecte in Eaſter Terme followinge exhibited a Bill vnto yo^r highnes agaynſt yo^r fubiect in yo^r highnes Courte of Requeſtes pretending matter of Equytye for the ſtaye of yo^r fubiectes fayd ſute att the Common lawe whervnto your fubiecte appeared and made Aunſwere, And afterwards in Trinytye terme in the xliijth yeare of yo^r highnes raigne an order was conceived and then publiſhed and pronounced by yo^r highnes Councill of the fayd Courte by the Conſent of yo^r fubiecte that yo^r fubiectes fayd ſute att the Common Lawe ſhould ſtaye till the cauſe in Equytye were heard in the fayd Courte of Requeſtes which was appoynted to be in Michellmas Terme followinge yett ſoe that the Demurrer w^{ch} was formerlye ioyned in the fayd ſute betweene yo^r fubiecte and the fayd Peeter Streate might be made vpp w^{ch} was expreſſlye graunted and allowed by the fayd order vppon the ſpeciall mocion and deſire of yo^r fubiectes Councill, whervppon yo^r fubiecte gave order to his Attorney to cauſe the Demurrer to be made vppe accordinglye./ But maye it pleaſe your excellent Ma^{tie} the fayd Cuthbert Burbage myndinge further to intrappe yo^r fubiecte and to circumvent him to his great Daunger as the ſequell ſheweth did verye malycouſlye and fraudulentlye after the fayd Order pronounced as aforeſayd combyne and practiſe wth one John Maddoxe then his Attorney in that ſute wth one Richard Lane the Regiſter of the fayd Courte and by con-

federacye as aforefayd procured the fayd John Maddox to drawe an order (w^{ch} appertayned not to him to doe but vnto the Regyfter of the fayd Courte of Requestes and likewyse procured the same to be entred and fett downe directly contrarye to that w^{ch} was delivered and pronounced as aforefayd by yo^r highnes Counsell of the fayd Courte, namelye that yo^r subiect should not proceed to the making vpp of the Demurrer aforefayd. Therein verye highlye abusing your highnes fayd honorable Courte and greatlye iniuringe yo^r subiecte, Howbeit yo^r subiect having formerlye given Order to his Attorney for the making vpp of the Demurrer nothing doubtinge but that safelye he might so doe being altogether ignorant of the fraudulent and finifter practife and confederacye aforefayd, And yo^r subiectes Attorney havinge made vpp the fayd Demurrer yo^r subiect made repayre home into the Countrey thinking all matters should rest in peace till the tyme appoynted for the hearing of the fayd Cause. But the fayd Cuthbert Burbage purfuing his former wicked and vngodlye purpose and seeking to plunge yo^r subiecte in very greivous and inevitable mischeifs did the last daye of the fayd Trynitye Terme by the practife and confederacye of the fayd John Maddoxe make oath in your highnes fayd Courte of Requestes that yo^r subiecte had broken the order of that Courte by making vpp of the Demurrer aforefayd, Whervppon your subiect for that supposed Contempt was in the vacacion tyme then next followinge by the procurem^t of the fayd Cuthbert Burbage and by the confederacye aforefayd fetched vpp to London by a Purfevant to his great vexacion and troble (beinge a man verye aged and vnfitt to travell) and to his excessive charges in his Journey and otherwife to his great discredit and disgrace in the Countrey, And yo^r subiect then by the fayd Purfevant brought before one of the m^{rs} of your highnes fayd Courte did (by the fayd masters order then made) become bounde vnto the fayd Cuthbert Burbage in a bonde of two hundred powndes to appeare in the fayd Court of Requestes in the begining of the Terme of S^t Michell then next following to aunfwere the fayd supposed contempt and to stand to the Order of the fayd Courte vppon the hearinge of the Cause. And afterwarde yo^r fayd subiect at

the sayd Terme appeared in the sayd Court accordingly, And the matter aforefayd being opened to yo^r highnes Counsell there your fubiect was thervppon by order of that Courte discharged of the fupposed Contempt And afterwardes in the sayd Terme of S^t Michaell at the day appoynted for the hearing of the sayd Cause yo^r fubiect appearing in yo^r highnes sayd Courte and having divers witnesfes there *prefente* to testifie viva voce on the behaulfe of yo^r fubiecte, The sayd Cuthbert Burbage and the sayd Richard Burbage ftill *perfifting* in their vnlawfull and malicious Courfes agaynst yo^r fubiect did by the Confederacye aforefayd then and there very fhamefully and vnlawfullye revile wth manye reproachfull termes yo^r fubiectes sayd witnesfes and affirmed that they had formerly testified in the sayd Cause divers vntruthes, and threatned to ftabb fome of your fubiectes sayd witnesfes becaufe they had testified of the fraudulent deede of Guift made by James Burbage to the sayd Cuthbert Burbage and Richard Burbage as aforefayd, By w^{ch} their furyous and vnlawfull threates your fubiectes witnesfes were then foe terrefyed that they durft not testifie the truth on the behalfe of your fubiecte in the sayd Cause. And further fo it is yf it maye please yo^r excellent Ma^{ty}o That the sayd Cuthbert Burbage did verye maliciouslye and corruptlye and contrarye to the Lawes and ftatutes of your highnes Realme fuborne and procure one Richard Hudfon of the parishe of S^t Albons in London Carpenter and Thomas Osborne of the parishe of ffanchurche in London Carpenter to commit verye greivous and wilfull *periurye* in the sayd sute in yo^r highnes Court of Requestes in diuers materyall poyntes concerninge the sayd sute The sayd Richard Hudfon testifieing and deposing in the sayd sute on the behalfe of the sayd Cuthbert Burbage That he was *present* at a veiwe and estimate made of the Coftes bestowed by the aforefayd James Burbage in his lyefe tyme vppon the howfes and Tenem^{tes} demised vnto him by your fubiect w^{ch} veiwe was taken the eighteenth daye of Julye in the yeere of our Lord god one thowfand five hundred eightye fixe by himfelfe and others And that then it did appeare vnto them That before that tyme The sayd James Burbage had bestowed vppon the sayd Howfes and

Tenem^{tes} the somme of two hundred and fortye poundes. And the sayd Thomas Osborne in like manner testyfieng and depofing in the sayd sute on the behalfe of the sayd Cuthbert Burbage That he likewise was *present* at the same veive and that it did then appeare that w^{thin} foure or five yeeres before that veive taken there had bene bestowed vpon the sayd howfes and Tenementes by the sayd James Burbage the somme of two hundred and fortye powndes. Whereas in truth the sayd Richard Hudfon was not *present* at any veive taken in the yeere aforesayd, but onlye at veive taken in the three and thirtyth yeere of yo^r highnes Raighe as by the Depoficion of the sayd Richard Hudfon himfelfe heretofore made in your highnes Court of Chauncery and there remaying of record it doth evidently appeare neither had the sayd James Burbage at the tyme of the sayd veive supposed to be made the eighteenth daye of Julye in the sayd yeere of our Lord God 1586 bestowed anye thinge neere the somme of two hundred and fortye powndes wherof your Subiect hopeth he shall be able to make verry sufficient prooffe. By which vnlawfull practises of the sayd Cuthbert Burbage your Subiect did then lose his sayd Cause. And further so it is maye it please your excellent maiestye, That aswell the sayd sute betweene your Subiect and the sayd Streate As also the sayd sute betweene your subiect and the sayd Cuthbert Burbage were prosecuted agaynst your subiecte by the malicious procurement and the vnlawfull mayntenance of the aforesayd William Smyth (he t[he sayd] William vnlawfullye [bringing]e the sayd sutes for th[e sayd] Cuthbert Burbage a[nd th]en vnlawfullye expen[din]g and layeing out divers sommes of money in the same for and in the behalfe of the sayde Cuthbert Burbage [contrarye] to the Lawes and [statutes] of this yo^r highnes R[ealme an]d to the greate [preiud]ice of your subiecte In Consideracion wherof and for that the Ryott routes forcible Entries confederacies abuse of Justice maynten[ance and] other the misdeme[anors a]foresayd are contrar[ye to y]our highnes lawes [statutes] and ordinances [made] and established for [the] quiet and happye governement of this your highnes Realme and are not onlye ve[rye grei]vous vnto your fay[d

fubiec]t but also veye de[leter]ious in example to [others] yf fuch and fo fow[le m]ifdemeanors fhould [efc]ape their due and condigne punifhment Maye it therefore pleafe your excellen[t Mat^{tie}] the premiffes confide[red to g]raunt vnto your fu[biecte] your highnes moft [graci]ous writtes of Su[bpoen]a to be directed v[nto] the fayd Cuthbert Burbage, Richard Burbage, Peeter Streate William Smyth, [Richar]d Lane Richard H[udfon] and Thomas Osbo[rne c]ommaunding them and [everye] of them therbye [on a] certen daye and v[nder] a certen payne therein to be lymitted perfonallye to be and appeare before yo[ur highnes] moft honorable p[riue] Counfell in your high[nes moft] honorable Court [of Sta]rr-chamber to an[fwer]e the mifdemean[ors a]forefayd. And yo[ur] fayd fubiect fhall according to his bounden dutye daylye praye t[o Almig]htye god for your ro[yall] maiefties long lyfe [and pro]fperous Raigne./

J. Jeffreys [attorney]

[During the years when the parchment of the above bill was rolled up, mice or rats gnawed through one side of the roll, making several holes an inch or more in diameter, when it is flattened out. Words and letters supplied in brackets, from the context, show where these defects occur.]

ANSWER OF THE BURBAGES AND OTHERS

Mercurii 28 Aprilis
Anno 44^o Elizabethæ Regine
William Mill

The ioynt and feuerall Demurrers, and Pleas of
Cuthbert Burbage, Richard Burbage Peeter
Streete and William Smyth fyve [sic] of the
Defend^{tes} to y^e bill of compl of Giles Allen gent
Compl^t

The faid Defend^{tes} by proteftacion not acknowledginge nor confeffinge any of the matters in the faid Bill conteyned to be true fayen. That the faid Bill of Compl^t exhibited againft them and others into this moft honorable Courte is verie vncerteine and infufficient in the Lawe to be aunfweared vnto for diuers and

fundrie faultes, and manifest ymperfections therein appearinge such as by the Lawes of this Realme and orders of this honorable Courte they theis Defend^{tes} are not tied to make any aunfweare vnto. And namelie whereas the said Complayn^t doth charge theis Defend^{tes} in his said Bill for a Riott by them committed in pullinge downe of the faide Playe house called the Theater, and for takinge and carryinge away thence the woodde and Tymber thereon which Playe house was builded and erected vppon certeine groundes thentofore Demyfed vnto him the faide James Burbage in the faide bill of Complaint named by the Compl^t and his wife by their Indenture of Lease vnder their hands and seales for the terme of diuers yeares then to come) The said Compl^t havinge for that cause in Hillarie terme next followinge the said supposed Riott commenced an Accion of trespasse against Peeter Streete, and the said Cuthbert Burbage beinge two of the nowe Defend^{tes} in her Ma^{ties}. Courte called the Kinges Benche at westminster. And the said Defend^t Cuthbert Burbage beinge Assignee of the *premisses*, and beinge well able in good conscience and equitie to iustifie the pullinge downe, vninge and Disposinge of the woodde and tymber of the faide Playe house, although in ftrictnes of lawe, by reason of the Compl^{tes} owne wronge and breache of Covenante, he had noe sufficient matter to alleadge in barre of the said accion, this Defend^t Cuthbert Burbage did for his releife and ftaye of the vniust proceedinges of the said Complayn^t in the said accion exhibite his Bill of Compl^t vnto yo^r Ma^{tie} before yo^r Highnes Councell in your honorable Courte of whitehall against the faide Compl^t. Vnto which bill the nowe Compl^t appeared and aunfweared and this Defend^t Cuthbert replied, and diuers witneses were examined on both sides, publicacion graunted, and feuerall daies appointed for the hearinge thereof And vppon the open hearinge and full and deliberate debatinge of the said cause, it plainlie appeared vnto yo^r Ma^{ties} said Councell that the said James Burbage had well and truelie for his parte *perfourmed* and kepte all and singlar the Covenantes conteyned in the said Indenture, and that the nowe Complayn^t in refusinge to seale A newe Lease of the *premisses* tendred vnto

him by the said James Burbage accordinge to A covenant in the said Indenture of Lease on his the nowe Compl^{tes} parte to be performed contrarie to his owne agreement through his owne wronge and breach of covenaut in not sealinge the said newe Lease vnto the said James Burbage) fought to hinder him this Defend^t Cuthbert havinge the interest of the premiffes) to take the benefitte of the said agreement in the said Indenture expressed in takinge awaye the said playehouse beinge made and erected by the said James Burbage at his chardge accordinge to the said covenante. Therefore it seemed vnto yo^r. Ma.^{ties} said Councill that there was good cause in equitie to staie the nowe Compl^{tes} proceedings in the said Accion at the Common Lawe. And therevpon it appearinge to your Highnes said Councill the said Defend^t Cuthbert for diuers reasons had iust cause to be releiued in the premiffes. It was by yo^r Highnes said Councill the 18th daye of October in the two and fortithe yeare of yo^r ma^{ties} raigne ordered, adiudged and decreed that the nowe Compl^t his Counfello^{rs}, Attourneyes, and Sollicitors should from thence fourth furcase and ftaye and noe further profecute or proceede at the Common lawe in the said accion of trespasse foe commenced against the said Peeter Streete for that cause. And that the said nowe Compl^t nor any for him, or by his consent, or procurem^t shoulde at any tyme then after commence, or cause to be commenced any other accion or suyte against him this Defend^t Cuthbert or any his fervauntes, or Assignees for or concerninge the pullinge downe of the said Playehouse, or for carryinge awaye the tymber thereof. And that this Defend^t Cuthbert shoulde be at libertie to take his remedie at and by the course of your Highnes Common lawes against the nowe Compl^t for not agreeing to seale the said newe Lease accordinge to A covenante on the nowe Compl^{tes} parte to be performed in the said Indentures expressed as (amongst other things) in the said Judiciall Decree, and sentence of that Courte more at large it doth and maye appeare. ffor which cause, and for that the nowe Compl^t (if he had suspected or had shewed any cause of greife for any fraude, or indirecte practife, or dealinge (by him supposed to be vsed, or com-

mitted by any of the Officers of your Highnes said Courte) in drawinge, or entringe of orders contrarie to those your Highnes said Counsell had before pronounced or Deliuered in that cause) or for any practife in any of them theise Defend^{tes} for procuringe the same as he the said Compl^t by his said Bill of Compl^t doth falsely and vntruelie surmise) might at any time whilest the same sulte was dependinge in the said honorable courte by Compl^t thereof made vnto your Highnes said Counsell haue such faultes and misdemeano^{rs} there redressed and punished, and Justice mynistred in that behalf And for that the Complayn^t doth offerre great scandall, and abuse to your Highnes said Counsell by callinge the same matter againe into questjō, and in labouringe to haue the said cause, after such iudiciall sentence and decree past against the said Complayn^t in the said honorable Courte to be againe reexamined before your Ma^{tie} in this Courte. Therefore and for diuers other defectes, faultes, and ymperfections in the said bill of Compl^t appearinge they theis Defend^{tes} doe demurre in lawe vpon the said Bill, and Demaunde the iudgem^t of this honorable Courte, if they theis Defend^{tes} or any of them ought to make any other Aunfweare therevnto, and humble praye to be Dismissed wth their reasonable costes therein wrongfullie susteyned

[Signed] Jo. Walter [Attorney]

ANSWER OF RICHARD LANE

Jurata 28 Aprilis
Anno 44^o Elizabethę
Regine

William Mill

The Aunfwere of Richard Lane one of the defendantes to the vntrue and sclaunderous bill of complaint of Gyles Allen compl./

The said def^t saviog to himself now and at all tymes hereafter all advantages and excepcions to thincertenties and insufficiencie of the said bill of complaint for Aunfwere and plaine declaracion of

the trueth of so much therof as concerneth him this def^t fayeth that true it is that there was A sute commended in her Ma^{tes} hono^rable Court of Whitehall at westminster by one Cutlbert Burbage complainant against the said Gyles Allen def^t concerning the stay of A sute w^{ch} the said Allen had then dependinge in her Ma^{tes} Court of Kinges benche against the said Burbage or his seruant touching the Playhouse called the Theater in the bill mencioned In which Court this def^t then and yet serving as deputie Register did to the best of his vnderstanding, and wth as much knowledge and diligence as hee could attende, and tooke suche briefe notes of Orders as from tyme to tyme her ma^{tes} Counsaill in the said Court pronounced in the said cause without anie affection to either of the sayd parties Amongest w^{ch} vpon the xxxjth of May in the xlijth yeare of her ma^{tes} most happie reigne, the same matter being moved and opened in presence of m^r sergeant Harris and m^r Walter being severally of counsaill learned wth both the said parties, yt was therevpon (to the best of this defendantes remembrance) Ordered by consent of the said parties or their Counsaill, that the same matter should be sett over to be heard in the said Court vpon the fyveth day of the ther next terme, And in the meane time the def^t should stay his sute at the common lawe and no further proceede therein, And it was also then further Ordered that the said Allen (makinge othe that he was not privie to the depofitions published and setting downe the names of the deponentes w^{ch} hee intended to examine) should be at libertie texamine the same deponentes so to be named vntill the second day of the sayd next terme And then the same to be published As by A note remayning in A booke of remembraunces then taken and kept by this def^t appeareth. Vpon the coppie of w^{ch} note so conceaved, and deliuered by this def^t, The said John Madox named in the bill (being Attourney for the said Burbage) or some of his clerkes or some other on the behalf of the said Burbage, did drawe vp an Order at lardge touching the same cause, and brought the same subscribed and confirmed by one of her ma^{tes} said Counsaill of the said Court (As by the same ready to be shewed vnto this hono^rable Court may appeare) into the

Registers Office to be entred, which accordingly was done. And this defendant further sayeth that if the said John Madox or any other who had the drawing of the said Order, did adde or diminish any thinge materiall to or from the said Order more or lesse then was pronounced yt concerneth him or them in their othes and credittes and not this def^t who did nothing therein more then he had good warrant to doe as afore sayd. And this def^t further sayeth that the Attorneys of the said Court of Whitehall (being sworn in their places to observe thorders and due proceedings of the said Court) have for the space of thirtie yeares last past to the knowledge of this def^t (for so longe hee hath served as A Clerke in the same Court) and longe before as hee hath hearde and doeth verelie beleve to be true, vsed to drawe their Clientes Orders (being sworn to deale indifferentlie therein) And not the Register, As the said Allen in his said bill hath vntruelly alledged especiallie such as doe concerne Decrees, or orders made for the graunting of Iniunccions for stay of anie proceedings at the common lawe dismissions of causes, deliury out of money or deliury of writings or for the establishing of any possession, and such lyke as are and be vsually confirmed before thentring thereof by and vnder the handes or hande of some of her ma^{ties} said Counsaill of the said Court, before they be entred into the Register And for thother ordinary rules and short orders, they are nowe vsually entred by the Register or his deputie wthout any further circumstance or contradicc^{ion}. And wheareas the said complainant in his bill of complaint hath sclanderously and vntruelly sett downe, that the said Burbage did very malitiously and fraudulently after the said Order pronounced as afore sayd, combyne and practife wth the said John Madox (his Attourney) and wth this def^t (the Register) and by confederacie procured the said John Madox to drawe an Order, w^{ch} apperteyned not to him to doe; but vnto the Register of the said Court, and likewise procured the same to be entred, and sett downe directly contrary to that which was done and pronounced as afore sayd by her highenes Counsaill of the said Court, namely that the said Allen should not procede to the making vp of the demurrer in

the bill mencioned therein, very highelie abusing her highenes faid ho: Courte, and greatly Iniuring the sayde Allen now plaintif This defendand for plee and aunfwere therevnto, & every other matter of misdemeano^r, confederacie and combynacion layde to this def^{tes} chardge in the faid bill fayeth that hee is thereof and of every parte thereof not giltie. Without that that this def^t did at any time directly or indirectlie practife, combyne or confederate wth the faid Cuthbert Burbage and John Madockes or either of them, or wth any other person or persons whatfoeuer about the drawing or procuring of the faid Order to be entred But did faythfully and sincerely take the note of the fayd order as the same was pronounced to his best vnderstanding in such forme as is before recited, And the same subscribed as aforefaid was truely entred into the Register accordinglie. And wthout that that anie other matter or thinge in the faid bill of complaint contained towching or concerning this def^t, materyall to be aunfwered vnto, and not herein sufficiently aunfwered, confessed and avoyded, trauerfed or denyed is true. All which matters this defendand is readie to averre and proove as this hono^rable Court shall awarde And humblie prayeth to be dismissed out of the same wth his costes and chardges in this behalf most wrongfully had and sufteyned./

[Signed] Smyth [Attorney]

DEMURRER OF HUDSON AND OSBORNE

Sabati 12 Junij Anno
44 Elizabethe Regine

Jouis 17 Junij Anno
predicto demuratur
per Tho Osborne

The ioynte and feuerall Demurrers of Richard Hudson, and Thomas Osborne two of the defend^{tes} to the Bill of Complaynte of Gyles Allen gentleman Complaynante./

The faide defend.^{tes} by proteftacion not acknowledginge nor confeffinge anie of the matters in the faide Bill conteyned to be true fayen That the faide Bill of Complainte exhibited agaynft them and others in this honorable Courte is very vntrue and flaunderous vncerteine and infufficient in the lawe to be aunfwered vnto for diuers and fondrie faultes and manifft ymperfeccions therein appearinge and fuche as by the lawes of this Realme and orders of this honorable Courte they theis defend.^{tes} are not tyed to make anie aunfweare therevnto And namelye for that the matters and fupposed periurie in the faide Bill conteyned wherewth they theis defend.^{tes} are or doe ftande charged are therein foe vncerteinlie and infufficiently layed as they theis defend.^{tes} vnder the favo^r of this honorable Courte cannot and are not tyed to make anie further aunfweare thervnto And theis defend.^{tes} further faye That other of the defend.^{tes} in the faide Bill of Complainte named havinge bene heretofore ferved wth proceffe haue appeared and demurred vppon the fame Bill whiche demurrer beinge referred by the orders of this honorable Courte to the right worfhipfull ffrancis Bacon Esquier, he vppon pervfal and confideracion had of the faide Bill of Complaynte, hathe already reported That the faide Bill is veary vncerteine and infufficient and that noe further aunfweare needeth to be made therto for whiche caufes and diuers other matters and defectes in the faide Bill appearinge They theis defend.^{tes} doe Demurre in lawe vpon the faide Bill of Complaynte And prayen to be difmiffed oute of this honorable Courte wth their reasonable coftes and chardges by them in this behalf moft wrongfullie borne and fusteyned./.

[Signed] Jo: Walter [Attorney]

EXAMINATION OF RICHARD LANE

Star Chamber, Elizabeth, A 33/32.

primo Maij post
meridiem: Anno
Regni Regine Elizabethæ 44^{to}./

Rec vjs
T H

Interrogatories to be ministred to Richard Lane
on of the Defendants at the fuite of Gyles Allen
Complaynante.

- 1 **Inprimis** whither doe yo^u knowe that a bill was heretofore exhibited in her Ma^{ties} Court of Requestes by Cutbert Burbage against the faide Complaynante for the staying of a fuite w^{ch} the faide Complaynante had commenced in her Ma^{ties} bench at Westminster against one Peter Street for the pulling downe of the playing place called the Theater./
- 2 **Item** whither doe yo^u knowe that it was ordered by the faide Court of Requestes, by an order made the last daie of May in the Two and fortieth yeare of her Ma^{ties} Raigne, that the said fuite between the faide Complaynante, and the faide Peter Street should be stayed, and whither did the faide Court then geue libertie, by the faide order, vnto the faide Complaynant to ioyne vp the demurrer that was depending between the faide Complaynante, and the faide Peter Street in the faide fuite, or whither did the faide Court restrayne the Complaynant from foe doing./
- 3 **Item** whither did yo^u enter the faide order trulie in such manner as it was deliuered by the Court, and whither did yo^u deliuer a true copie thereof vnto the Complaynant not altering or omitting anie thing that was then deliuered and pronounced by the faide Court./
- 4 **Item** whither did yo^u vpon the faide last daie of May deliuer vnto the Complaynante a Copie of an order dated the faide last daie of May, and whither did yo^u therein sett downe that it was ordered by consent that the Complaynant should stay his further proceedinges at the Common Lawe in the fuite there depending against Cutbert Burbage the Plif^t. in the faide Court of Requestes and whither did yo^u in the faide Copie make anie mention that

the Court had geuen libertie to the Complaynante to ioyne vp the aforefaide demurrer, or that the Court had ordered that he shoulde not ioyne it vp, or did yo^u not altogether, *ommitt* the fame./

- 5 **Item** whither did not the Complaynante come vnto yo^u the fame laft day of May in the afternone, and fhewe yo^u a note from his Councell, teftifying that the Court had by their fayd order geuen him libertie to ioyne vp the faide demurrer, and whither did not the faide Complaynante then defire yo^u that the order might be foe entred, according as in trueth it was deliuered by the Court the fame daie and whither had yo^u receyued anie order of the faide laft day of May between the nowe Complaynant and the faide Cutbert Burbage vnder the hand of anie of the Mafters of the faide Court of Requestes, before fuch time as the Complaynant came vnto yo^u and required yo^u to reforme the Copie w^{ch} yo^u had deliuered him as aforefaide./
6. **Item** whither did yo^u enter an order beareing date the faide laft daye of May, and therein amongeft other thinges fett downe that the nowe Complaynant fhould furceafe and itay and no further profecute or *proceede* in the faide accion depending at the Common Lawe, and fhould not caufe the demurrer aforefaid to be ioyned vp, or entred vntill the heareinge of the caufe in the faide Court of Requestes, and whither were yo^u *procured* or moued by John Maddox the Attorney of the faide Cutbert Burbage, and Cutbert Burbage, or either of them to enter the fame in fuch manner, and what *fomme* of money or other recompence did the faide Cutbert Burbage or anie for him, geue vnto yo^u, or anie other to yo^r vfe, for makeinge the faide entre, and for the Copie thereof./
- 7 **Item** did yo^u deliuer vnto the Complaynante a Copie of anie fuch order as is mencioned in the next precedent Interrogatorie, and when was anie fuch Copie firft deliuered by yo^u vnto the Complaynant and whither did yo^u geue anie knowledge vnto the Complaynante that the faide Court had ordered that he fhould not ioyne vp the demurrer aforefaide./

- 8 **Item** whither doe yo^u knowe that vppon the eleuenth day of Iune in the Two and ffortieth yeare of her Ma^{ties} Raigne the faide Cutbert Burbage made oath in the faide Court of Requeſtes, that the nowe Complaynant had cauſed the demurrer aforeſaide to be ioyned vp, contrary to the order of the faide Court, and whither did not the faide Cutbert Burbage therevpon in the vacation then following, procure a Purſiuant to be ſent downe into the Cuntry for the Complaynante, and whither was not the Complaynante brought vp to London by the faide Purſiuant, and carryed before one of the Maſters of the faide Court of Requeſtes, and then enforced to enter into a bond of Two hundred poundes, to appeare in that Court the ffirst day of Michaellmas terme following, to anſwere the Contempt, and allſo to ſtand to the order of that Court vpon the heareing of the faide Cauſe, or otherwiſe to haue been committed to priſon./
- 9 **Item** whither did not the Complaynante appeare in the faide Court according to his faide bond, and whither was it not then opened vnto the Court, and teſtified by the Complaynantes Councell, that by the true order aforeſaide made the faide laſt daye of May the Complaynant had libertie geuen him by the faide Court to ioyne vp the demurrer aforeſaide, and that the Court was much abuſed, and the Complaynante much wronged by the practiſe of the faide Cutbert Burbage and the faide Maddox, and the Register, in that behalffe, and whither was not the Complaynante therevpon diſcharged of the faide ſuppoſed contempt./
- 10 **Item** whither did not the Councell of the Complaynante make a mocion in the faide Court of Requeſtes, after the heareing of the faide cauſe betwen the faide Complaynant and the faide Cutbert Burbage to this effect, That the faide Cutbert Burbage was no affigne in Lawe or equitie vnto James Burbage deceaſed, (late ffather to the faide Cutbertt) of the ſaid Theater, and therefore not able to maynteyne anie bill in his owne name towching the ſame, and whither did not the Councell of the Complaynante

drawe a cafe accordingly and put the fame into the faide Court. by lycence of the faide Court./

- 11 **Item** whither was it not ordered by the faide Court, by an order dated the ffirft day of November in the Two and ffortieth yeare of her Ma^{ties} Raigne vpon the motion of the Complaynantes Councell, that the decree pronounced in the faide cafe between the Complaynante And the faide Cutbertt Burbage should be ftayed from figning, vntill the cafe aforefaide put in by the Complaynantes Councell towching the faide cafe should be further confidered of, by her Ma^{ties} Councell of the faide Court./

LANE'S ANSWERS

*Examinatio Capta xj^o die Maij A^o Regni Regine
Elizabete xliij^{to} Super Interrogationes expar^{to}
Egidij Allen querentis miniftratas*

Richard Lane of Courtenhall wthin the Countie of Northampton gentleman fworne and examined./

To the ffirft *Interrogatory* he faithe he thinckethe that there was hearetofore a bill exhibited in her Ma^{ties} Courte of Requestes by Cuthberte Burbage p^{lt} againft the nowe p^{lt} then defend^t for the ftayinge of a fuite w^{ch} the nowe Comp^{lt} had comenced in her Ma^{ties} benche att weftminster concerninge the Theater And for the more plainlie thereof this defend^t referrethe himfelfe to the recordes of that Courte./

To the 2 *Interrogatory* he faithe that to his remembrance ytt was ordered by the Courte of Requestes the laft of May in the xlijth yeare of her Ma^{ties} Raigne amongeft other thinges in prefence of M^r Sergeant Harris and M^r Walter beinge feuerallie of councell on both parties and by their confentes that the fute att the Common lawe betweene Cuthberte Burbage, and Gyles Allen fhoulde bee ftayed, And that he this defend^t beinge deputie Regyfter of that Courte received an order fubcribed by one of her Ma^{ties}

Councill in that Courte to that effecte to w^{ch} order he referrethe himfelfe And more faithe nott to this Jnterrogatory./

To the 3 Jnterrogatory he faithe that to this defend^{tes} best remembrance he this defend^t tooke a note of the faid order as yt was pronounced and thereof deliuered a true Coppie to the Comp^{lt} or some other on the Comp^{ltes} behalfe wthout addinge or deminishinge anie thinge to or from the fame./

To the iiijth Jnterrogatory he faithe that he this defend^t deliuered vnto the Comp^{lt} or to some on his behalfe a note of an order dated the last of May 42 *Elizabethhe Regine* but whether the fame was deliuered the day of the date thereof or not this defend^t doth nott knowe. Butt this defend^t faithe that yt was sett downe in the fame order as he remembrethe that the fd Comp^l shoulde ftay his further proceedinges att the Common lawe in the suite there dependinge against Cuthberte Burbage the Comp^{lt} in the faid Courte of Requestes. And as touchinge the ioyninge vpp of the demurrer in this Jnterrogatory mencioned this defend^t doth nott knowe that he made anie mencion in his note touchinge the fame./

To the vth Jnterrogatory this defend^t faithe he doth nott remember that vppon the last day of May in the xlijth yeare of her Ma^{ties} Raigne in the afternoone of the fame day or att anie other tyme that the faide Allen did shewe this defend^t anie note from his councill testifyinge that the Courte had by their faid order gyven him libertie to ioyne vpp the faide demurrer Neither doth this defend^t remember that the Comp^{lt} so desired that the Order might be so entered [*But this defend^t faith that the Comp^{lt} came often tymes vnto him* (stricken out)] (w^{ch} yf the faid Comp^{lt} had), yett neuertheles this defend^t was to take noe notice thereof from his Councill, but to enter the fame as yt was pronounced by the Courte./ and as ytt was confirmed vnder the hande of one of her Ma^{ties} Councill of the fame Courte./

To the vjth Jnterrogatory he faithe that there was an order deliuered into the office to be entered by John Maddox or some other

on the behalfe of the *faid* Burbage dated the laſt of May ſubſcribed by one of her Ma^{ties} Councell of the Courte of Requeſt purportinge the ſtaye of the ſute as in this *Jnterrogatory* is mencioned. wth he this defend^t afterwardes cauſed to bee entered into the Regeſter accordinge to his warrant, And as touchinge the receyvinge of anie money or other recompence or promiſe of anie from the *faid* Burbage or Maddox or anie in their behalſes other then the ordinarie fees due to the Regeſter for the ſame this defend^t denieth the receipte of anie money or other conſideracion whatſoever.

To the vijth *Jnterrogatory* he faithe that after the receipte of the *faid* order fo ſubſcribed as aforeſaid ytt was lawfull for this defend^t to deliuer coppies to anie perſon that woulde require the ſame but howe manie Coppies or to whome the ſame were deliured or when this defend^t doth nott remember; Neither doth this defend^t remember that he this defend^t gave anie notice to the p^{lt} otherwiſe then the order doth *purporte*./

To the viijth *Jnterrogatory* he faithe that as touchinge the affid^t in this *Jnterrogatory* mencioned he referreth him ſelfe to the booke of entreyes, And as to the reſt of the *Jnterrogatory* he cannot certainlie depole/

To the ixth *Jnterrogatory* he faithe that as touchinge the apparance of the *faid* Allen he this def^t referreth himſelfe to the booke of apparances kepte in that behalfe. And as touchinge the diſcharge of the *faid* Allen his contemptes or anie other mocion made or order taken in the *faid* Cauſe this defend^t referreth himſelfe to the bookes of orders kepte in that behalfe./

To the xth *Jnterrogatory* he faithe that he thinketh that there was mocion made to theſſe ffollowinge viz that the *faid* Cuthberte Burbage was noe aſſignee in lawe or equitie vnto James Burbage deceased late father to the *faid* Cuthberte Burbage of the Theater and therefore nott able to manteyne anie bill in his owne name

touchinge the fame. And faithe that by the direccion of her ma^{ties} Councill of the Courte of Requestes there was a Cafe *deliuered* into the *faid* Courte vnder the hande of M^r S^rgeant Harris beinge of Councill wth the *faid* Allen w^{ch} this defend^t hath readye to shewe to this ho. Courte.

To the xjth Jnterrogatory he faithe that vppon the 5th of Nouember 42 *Elizabethhe* Regine yt was ordered by mocion of the p^{ltes} Councill that the decree *pronounced* in the *faid* Cause betweene the *faid* Comp^l and the *faid* Cuthberte Burbage shoulde be stayed from signinge till the Cafe *aforefaid* were further confidered of./

[Signed] *per me Ricardum Lane.*

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I.—THE THEORY OF GREEK TRAGEDY

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It is not infrequently objected to the practice of generalizing on literary topics that it tends to transform what is properly a creature of flesh and blood into a lifeless, if symmetrical, figure of abstraction. In some respects the charge is just. To suppose that Sophocles wrote the *Antigone* in conscious illustration of a dramatic formula, would be totally to mistake the process of literary creation. He wrote it because he liked the subject and found it suggestive: as we say nowadays, he saw something in it. But even in this case it is perfectly legitimate to analyze and define the kind of thing that appealed to him and the kind of thing that he succeeded in making out of it as far as his impressions and methods are uniform. In other words, it is possible to determine the character of his work as a whole even at the risk of neglecting the specific play of feature and circumstance which lends every individual performance its own peculiar vivacity. And the same sort of treatment is equally feasible with the body of Greek tragedy—or for that matter, with tragedy considered as a universal *genre*.

And further, even though the Greeks, like other tragedians, worked freely, according to their own genius, in the stuff that pleased them, without reference to rule or prescription, even so it is none the less certain that they proceeded in accordance with certain general ideas and habits of thought. And in any case in order to understand what they have done, we should naturally have to take it up in some general expression, which at most would

represent, not necessarily their manner of creating it or our manner of enjoying it, but merely our manner of disposing of it. No one pretends, I suppose, that the physical or mechanical principles which help us to make sense of the rainbow, offer any adequate equivalent for our joy in it, or even that it was ever made in deliberate demonstration of such principles. And while I should hardly care to institute a comparison between scientific and critical generalization, there is sufficient analogy between the two cases to illustrate the fact that as the sole condition of dealing intelligently with a number of details, we are obliged to gather them into our minds in a broad and systematic way. And while again I would not be so rash as to say that any dramatist ever harboured any such views as I am about to utter concerning Greek drama; yet I do believe that some such conception—if not mine, then that of another more happy—is involved in that drama and is a fair expression of the manner in which it arranges itself, when it does arrange itself, in our heads. For after all it is necessary to remember that the creation of a play and its comprehension are two very different things.

On the other hand I am as far from pretending to say anything novel as I am from expressing the visions and raptures of genius. Not only has Aristotle occupied this ground before me; but he has in some sense told the whole story once for all. Not that every just remark which has since been made on the subject, derives directly from Aristotle. But while it would be ridiculous to father all subsequent ideas upon him, yet it is true that whatever is justly said in this matter does array itself naturally under his authority, almost as an explanation or extension of his teaching. If I can only classify the facts, therefore, from a single point of view so that they will all hang together and take on that air of intellectual consistency which results from the possibility of considering a number of particulars in one light and under one angle, I shall think my purpose satisfactorily accomplished. The aim of criticism must always consist, in the first instance, in making its subject intelligible by reducing it to a single set of relationships.

I

Like every other work of literature a tragedy is the product of two factors. There is, first, the crude stuff or substance, fact or invention—the “myth” or “fable,” as it used to be called, the “story,” as it is called nowadays—which serves as the foundation of the action; and second, the handling or treatment, the “art,” which gives this raw material its literary value. It is only by a kind of license that we can speak of an event, whether real or imaginary, as a tragedy. In such a case we are merely availing ourselves of a handy theatrical figure. Literally we are justified in saying at most that such an occurrence might possibly yield a tragedy if properly worked up and presented. Even in the common manner of speaking the force of the figure depends on a recognition of the necessity for dramatic elaboration for genuinely tragic effect. In other words, a tragedy is not a work of nature but of art.

Like the treatment, however, the myth or story itself, upon which the tragedy is founded, should have a special character of its own. It is probably a vague recognition of the circumstance that every transaction indifferently is not proper material for tragic handling, which confines the popular application of the term to certain occurrences in real life, however capricious and inexact this application of the word is likely to be. In short, tragedy is not wholly an affair of manner any more than it is wholly an affair of matter. The substance must be suitable; and it can be so only when it is of a sort to violate our feeling of moral congruity or fitness. That is to say, the tragic story or fable should involve a discrepancy between our sense of fact, as illustrated in the incidents of the action, on the one hand, and on the other, our conception of justice and right reason. And it is just this disheartening consciousness of inconsistency, implicit in the perception of the dramatic data, as between our knowledge of things as they are or seem to be and our vision of them as they should be, which it is one of the duties of the tragic dramatist to reinforce and deepen by his treatment.

At first sight it may seem something of a paradox to rest trag-

edy upon the same general basis, the appreciation of incongruity, as that upon which it has become usual to rest comedy. And yet it has been observed again and again that as far as the mere dramatic substratum is concerned, there is no essential difference between tragedy and comedy: the same premises may serve for either according to circumstances. As Vinet, for one, has pointed out, the subject of *Mithridate* is identical with that of *l'Avare*—the fifth scene of the third act in the former play utilizing exactly the same situation as the third scene of the fourth act in the latter; while between *Mahomet* and *Tartufe*, and *Andromache* and *Ricochets*, to mention only obvious instances, there is an unmistakable likeness of the same kind. And yet how different the effect! The truth is, incongruity may stir very different emotions under different circumstances.

In the case of comedy it is the sense of decorum and convention, rather than any graver feeling, which is offended. A violation of the proprieties, an inconsistency of character, a contrariety of circumstances—of such is the fabric of comedy. In spite of its tragic possibilities the *Misanthrope* arouses, as a matter of fact, no profound distrust, it stirs no serious misgivings. That a prig of Alceste's stamp should so far belie his professions as to fall in love with a trifling flirt like Célemène, arouses much the same feeling, under Molière's management, as that a man in irreproachable evening clothes, to borrow an example from Professor Sully, should slip and fall into the mud. To the intelligent observer the one experience is, of course, much more interesting than the other. The latter is wholly superficial and fortuitous. The former is rooted in human nature and furnishes a better pasturage for that sort of intellectual curiosity and amusement which it is the business of the comic poet to elicit from his themes as it is the business of the tragic poet to elicit from his the motifs proper to his own *genre*.

In the case of tragedy, on the contrary, the incongruity is such as to shock profoundly the moral prepossessions of the race—to shake, if not to unsettle, confidence in the moral order, in the moral reality of the universe. The sacrifice of a girl so innocent and ingenuous as Iphigenia to the indirections of her father's am-

bitious policy or that of a woman so elevated and disinterested as Antigone to state's reason and municipal convenience, is in itself a direct attack upon the observer's faith in a supreme equity, in a just apportionment of human lots. Nor is it otherwise with *Mithridate* as compared with *l'Avare*. The spectacle of a ravenously avaricious character like Harpagon in the throes of a passion so extravagant as love, presents an extremely curious and amusing case of ethical casuistry—nothing more; while the exposure of Monime in her maiden decency to the jealous inquisition of her tigerish master is enough to confound belief in the equitable regulation of mortal affairs.

It is this sort of thing that I should like to call the tragic qualm—this feeling of insecurity and confusion, as it were a sort of moral dizziness and nausea, due to the vivid realization, in the dramatic fable, of a suspicion which is always lurking uncomfortably near the threshold of consciousness, that the world is somehow out of plumb. Herein lies the genuine "clash" of tragedy, as it has been called—not in a mere collision of persons or interests or even of ideas within the confines of the play itself, but rather in the contradiction life is perpetually opposing to our human values and standards.

To be sure, our sensibility for this sort of thing is rather blunt at present. This is not a tragic age. Nor is it essentially a moral one. But for all that there are times when the tragic qualm, inherent as it is in the nature of things rather than of art, obtrudes itself irresistibly. The wanton assassination of the most inoffensive of our presidents is a case in point—as is the senseless obliteration of an entire population by earthquake, volcanic upheaval, or other cataclysm. I grant that even these tremendous catastrophes are beginning to lose their terrors for the popular imagination in the rapid extension of a civilization preponderantly material. But at the same time, though such matters are not of themselves proper for tragedy for a reason that I shall assign in a few minutes, yet they do still stir in thoughtful natures the kind of feeling peculiar to the tragic fact as such; they raise again the horrifying old distrust of nature and her dealings with her creature. Like every lapse of reason, like every intrusion or irruption of the irrational

or the unintelligible into the sphere of human interests, they threaten again the security of man's dearest illusions, they trouble his spirit and fill him with nameless apprehensions for the sanity and good faith of that order in which humanity with its quivering and importunate conscience is helplessly and irrevocably involved. For after all the tragic qualm is perhaps nothing more or less than a sudden and appalling recognition of our desperate plight in a universe apparently indiscriminate of good and evil as of happiness and misery.

Without the tragic qualm, then, in the dramatic data there is no tragedy. But this is not enough; it is but preliminary—in Plato's words, τὰ πρὸ τραγῳδίας. It is necessary that the qualm should be allayed, that the quarrel between the certainties of experience and the exactions of conscience should be composed, and that confidence should be restored. In addition to making sure of the emotions proper to his stuff in itself, the poet must also manage in such a way as to answer the question mutely propounded by his fable: if such things can be, what becomes of the law of eternal righteousness as given in the heart of man? Such is the question which the drama, as "the imitation of an action," forces relentlessly upon the attention of the audience. And the whole function of tragedy, as a literary *genre*, is to resolve this doubt, in one way or another, through the medium of the action too, but of the action as a dramatic, not as an actual, performance. Otherwise there is no art—nothing but a dull dead stereotype of reality with all its contradictions, incoherences, and inconsequences—and with all its resultant incredibility. Senseless assassination or aimless annihilation may indeed present a problem, but the problem is insoluble. And where there is no solution, either by fault of the circumstances or by fault of the poet, there is no genuine tragedy.

If I may venture for a little while into the thicket of critical exegesis, this or something very like it seems to me to be what Aristotle had in mind in speaking of the "purgation of the passions" as the end of tragic poetry. The eventual relaxation of the emotions of pity and horror, which were characteristic of the tragic qualm as it affected the sensibilities of the Greek by reason of certain conditions which I shall have the temerity to discuss be-

fore long—the eventual relaxation and alleviation of these emotions by some adjustment or other, after their violent excitation by the representation of the action, appears to satisfy the Aristotelian definition of tragedy, as δι' ἐλέου καὶ φόβου περαίνουσα τὴν τῶν τοιούτων παθημάτων κάθαρσιν as accomplishing through pity and horror the purgation of these selfsame passions. But in any case—and this is the point after all—what is indisputable is the sharp distinction drawn by the *Poetics* between the myth and its handling, between the action as an imitation and an initiation—or in other words, between life and literature. And in the light of the distinction it can hardly be denied that Aristotle regarded as indispensable some such final accommodation as I have tried to indicate. Without some such reconciliation of experience with conscience, without some adjustment of the course of events to the principles of human nature he could not have conceived of a tragedy in the proper sense.

It is through this solution, as I have called it in customary fashion, that tragedy acquires its significance, as it acquires its poignant sense of reality through its presentation of the tragic problem implicit in its imitation of an action. While it is by the latter avenue that life enters tragedy, ideas enter it through the former. In this manner verisimilitude on the one part and moral consistency on the other become necessary attributes of the tragic poem. But even in the first case, in the case of the fable itself, it is as much the dramatist's vision, his *Weltanschauung*, which is involved as his observation. The success of his action, even as imitation, depends mainly upon his eye for the problem. What affects the audience is his fidelity, not so much to a certain order of phenomena, as to a certain order of emotions. In a word, the verisimilitude of his drama, and hence its reality, is measured, in the last resort, not by the exactitude with which he is seen to reproduce the spectators' own sensations, but by the justice with which he is felt to have voiced the tragic qualm.

II

Of the technical elements of tragedy in general I have said nothing. I am concerned with what may be called its intellectual

bases alone. I have assumed the dramatic *genre* with all its appurtenances and properties. And I have taken for granted as sufficiently obvious of itself that the rational premises of tragedy are expressed and to a certain extent conceived in terms of sensation and emotion. The kind of story in which the problem is sensibly embodied and through which the tragic qualm is emotionally communicated, together with the manner of treatment whereby the solution is intimated, will depend upon the character of the drama and its inspiration. Naturally too the specific feelings to which the tragic qualm is determined, will vary with the dramatist's sense of the tragic problem—as will the pacification with his convictions religious or otherwise—as these may be affected by his natural disposition and the civilization in which he finds himself. If the tragic problem of Shakespeare and the Elizabethans is compared with that of Sophocles and the Athenians, it will be found to arise from quite another notion of the fatal incongruities of life and to be differently constituted with respect to its emotional notes, while the solutions tacitly proposed by the two dramas will naturally diverge to an equal extent.

With Shakespeare the tragic dissonance or "clash" would seem to engage as between man's possibilities or pretensions and his fate. The incompatibility of his desires and aspirations, which are illimitable, with the conditions which actually dispose of him—mean, trivial, absurd, belittling as they may be, but always at odds with his higher nature and impulses and frequently ruinous of his life and happiness—something like this would appear to be what moved Shakespeare most in his graver moods. The contrast between what humanity might or should be and what as a matter of fact it may become by the accidents of existence—herein lies the discord at the root of his tragedy. A being of inexhaustible capacity, noble in reason, infinite in faculty, godlike in apprehension, reduced to a mere quintessence of dust—a Hamlet whose world is out of joint or an Othello "fall'n in the practice of a damned slave," such is the Shakespearean protagonist.

This man so great that all that is, is his,
Oh, what a trifle and poor thing he is!

In short, Shakespeare's tragedy, like romantic tragedy in general, is a tragedy of circumstances; hence the "low" and "comic" elements with which pseudo-classicism used to reproach it. To regard a business like the graveyard scene in *Hamlet* as a side issue or a sop to the groundlings, as apologetic criticism was once fond of doing, is to miss the point. There may be some excuse for disliking it when done, but Shakespeare knew what he was about when he did it. In its violent affront to the ideal dignity of Hamlet's situation at the moment when he is tottering precariously on the edge of his own grave as of Ophelia's, in its fantastic contradiction of the Hamlet of abstraction by the Hamlet of fatuity it is of the very essence of Shakespearean tragedy. The objection that such a scene is out of keeping with the seriousness of the emergency is true enough; but it is equally pointless, for the tragedy consists in just this affront to human dignity, this outrage to the sacredness of the individual. That such an objection should ever have been made, argues a gross misunderstanding, not only of the manner in which he conceived the tragic problem but also of the nature of his tragic irony, so different from Sophocles'. "That is the glory of Shakespeare," Tennyson is reported to have said, "that he can give you the incongruity of things." Even about his comic characters in their more sober aspects hangs the atmosphere of fortuitous calamity. It is what gives Falstaff his grip upon our sympathies; he ought, it seems, to be so much nobler than he is. For Shakespeare's mixture of comic and tragic is not confined to a mere intermingling of scenes of one sort with those of another; it resides in a kind of duplicity of conception, which is, perhaps, humorous rather than comic. Just as the lighter characters like Falstaff may catch a reflection of pathos from being in some manner the victims of untoward circumstances, so his tragic characters too may be slightly ridiculous for the same reason, like Othello gulping Iago's inuendoes or Macbeth gaping at the witches. At all events, from the nature of the case his tragic heroes, for all their wilfulness and violence, are always a little pitiable as well as pathetic, like poor old Lear. About them all is a little something of Coleridge—one reason, perhaps, that he is able to speak of them with so much intelligence and sympathy.

Such is, no doubt, the unavoidable weakness of a drama in which fatality has been displaced by necessity. If there is a principle presiding over the course of Shakespeare's action it is the law of causation, in accordance with which the quarry is finally run down by a pack of consequences, more or less incidental, with whose inception his own character has little or nothing to do, however it may appear, as the only constant and predicable element, to determine the outcome, very much as the duration of the hunt might be said, regardless of the hounds, to depend upon the endurance and cunning of the fox. After all, the problem set by Shakespeare is simply how a man of such and such possibilities could go to the ground. The answer consists in tracing the circumstantial conspiracy, the causal succession by which he has been brought to such a pass, together with its effect upon his character. Transfer Hamlet and Othello, and the tragedy becomes unthinkable. How long would it have taken the former to unmask Iago or the latter to settle with Claudius?

Hence the curious result, as compared with the Greek, that whatever their fortunes, Shakespeare's protagonists are morally accountable only for their intentions. It is impossible, of course, to deny that Hamlet pays the penalty of his acts, such as they are, in the sense that he endures the event; but he is in no wise answerable to the audience for the predicament in which he finds himself, as is, for example, the Hippolytus of Euripides. On the contrary, not only does Macbeth suffer the consequences of his conduct, he participates in their odium as well, on the strength of the malevolence of his motives. The latter is adjudged criminal, the former is not. At the same time there is a striking want of concurrence between verdict and sentence. Inoffensive as he is, Hamlet comes off no better than Macbeth. The tragedy is the same in both cases—the ruin of a promising career. In the one instance justice is felt to have been done; in the other, not. Why, then, the identical issue? In short, for the tragic problem implicit in his representation of life Shakespeare has no moral solution. He seems to say: such is the way of the world; to be sure, it offends your sense of fitness that humanity should be liable to these

wretched contingencies, but what would you have? Life

is a tale

Told by an idiot, full of sound and fury,
Signifying nothing.

In default of a final impression of moral consistency as between the hero's deserts and his apportionment, the consternation of the spectators is composed by a feeling which is left with them of the sympathetic superiority of the victim over the forces to which he succumbs. In spite of his insufficiency it is impossible not to rate Hamlet or Lear above the whole conspiracy to which he falls a victim. In this way the tragic qualm, as I have called it, is allayed after a fashion; the audience is reconciled to the catastrophe—otherwise there would be no tragic effect at all. Such a conclusion, however, is purely sentimental and lenitive; there is no reassertion of the moral order, no catharsis of the passions to which the qualm is due. It is not by his solution, to speak exactly, that Shakespeare is great. Perhaps the kind of incongruity on which he based his drama is incapable of moral reconciliation. At all events, it is, as a matter of fact, to the terrific vividness with which he pictures the plight of humanity in a world of unscrupulous eventualities and draws its consequences for the character of the individual that his greatness is due. Hence the individuality of his drama and its title to the common designation, tragedy of character.

Such, as I conceive the matter, are the fundamental ideas of Shakespearean tragedy, which is in most respects a fair type of romantic tragedy in general. By comparison, the problem of Greek tragedy has to do with the effect of an action, as such, in promoting human happiness or misery; while the solution seeks to justify the issue by attaching to the action concerned a corresponding moral quality of good or evil. It is not a concern for happiness in itself which differentiates the Greek tragedy from the Shakespearean; on the whole, it is rather a concern for the correlation of happiness and righteousness. But as far as the representation itself goes, all tragedy, as a matter of fact, is alike eudaemonistic in referring immediately to the instinct of happiness

as sole umpire of the *dénouement* or *metabasis*. If life were suddenly to be conceived as a discipline of suffering, a school of character alone, without reference to the welfare of the individual, our tragedy would have to be recast. I do not see how Lear or Oedipus could be regarded, on such a supposition, as a tragic figure. Indeed, in the *Oedipus Coloneus*, where Sophocles has taken this view to some extent and has modified the postulates of tragedy in some measure to suit it, the impression produced is not wholly a tragic one. The shock to the sensibilities upon which depends the effect of the action in tragedy, as distinguished from that of its resolution, consists capitally in seeing humanity fail, by some outrageous *contretemps* or other, of the well being to which it instinctively thinks itself entitled. And the peculiar feeling or quality of feeling which makes the qualm of one tragedy differ from that of another is due, not to a care or a neglect of such a natural expectation, but to the particular manner in which it is raised to be disappointed—that is, finally to the character of the two parties to the collision, that which serves to raise the hope or expectation and that which serves to disappoint it.

Now in Shakespeare this collision or clash was seen to grow out of an inconsistency between the fairness of human promise or appearance and the dubiousness of mortal performance—or in terms of feeling, between the expectations raised by the hero's personality and the disappointment caused by his subsequent career. In Greek tragedy, on the other hand, preoccupied as it is with the ends of action and its relation to prosperity, the collision originates in a discrepancy between the hero's conduct and its consequences—between the favourable expectations raised by his action and the deplorable results that actually ensue from it, as when an act calculated to ensure success is in reality productive of calamity. But of the probable outcome of an act there is morally only one prognostic—the intention or purpose of its author. Acts of which happiness may consistently be predicted, whose termination ought to be prosperous, are those whose intentions are good—or at least innocent. When such an act, deserving in itself of approval, turns out disastrously, like Antigone's celebration of her brother's funeral rites, there is bound to follow a strong feeling

of amazement and dismay. The conscience is deeply shocked; and there arises that peculiar sense of vertiginous insecurity which I have called for convenience the tragic qualm.

In this connection it is worthy of remark that in Greek you are always pretty sure what the protagonist is going to do. He seldom or never disappoints you; whereas in Shakespeare the protagonist's behaviour is always more or less doubtful until it is settled forever by the inertia of the action. That Orestes will kill his mother, is certain from the first; he has come to do so and do so he will—he acts consistently in the spirit of his intention: what is uncertain is the consequence of his doing so. Whether Hamlet will kill the king or not, is always pretty much a matter of conjecture before he has done so. In fact that is just the question. In the one case it is Hamlet's character which is on trial; in the other case it is Orestes' act.

From this shift of dramatic emphasis has resulted a difference in the treatment of character which is no less significant of the romantic tragedy as compared with the Greek. While the Greek protagonist is calculated solely with reference to the action, whose moral character is reflected upon him; the Shakespearean has developed a character of his own which is partly implicated in the action but is also partly independent of it and uncommitted to it. The former is an agency, not an end in himself. It is not he to whom the action is indebted for its main interest and its peculiar effects, but contrariwise. In consequence he exists only in and for the play; or what amounts to the same thing, there is no more of him than is necessary to motive the drama, with which he is virtually coterminous. On this account he has a simplicity, breadth, and integrity—he possesses a general, abstract, and typical value—to which his modern rival can make no pretension. He represents the fates and liabilities of human life rather than the varieties and variations of human character.

The Shakespearean character, on the other hand, as a personality more or less inviolable and sentimentally superior to the mere circumstances of his lot, appears to live with a larger life than that of the action, with which his character is only partially identified. Who ever dreams of measuring Hamlet or Othello or

Lear—or even Macbeth for that matter—solely by what he does? Such is the variety, richness, and complexity—such is the ethical interest of his character that it is impossible to confound him with his fate, even while one bewails the pity of it. In retaining his apartness and distinction he preserves a kind of saving grace or eminence in his downfall which makes it dramatically endurable. He remains uncompromised because he seems so much more important than the catastrophe, or indeed, than the whole play itself. He stretches away, as it were, indefinitely beyond the boundaries of the drama in which he figures—often meanly enough in comparison with the impression of his psychological significance. There is hardly one of all the company who does not occasionally let slip some evidence to a trait of character which is not involved in the piece or required by it—some hint or reminiscence as though of a previous state of existence. Indeed, so complex is their consciousness that it occasionally splits up or divides against itself to the detriment of the dramatic action. It is as much Hamlet's dissension with himself as anything else which embarrasses the tragedy. For these reasons it is possible to talk—yes, and dispute so much about any of Shakespeare's main personages: there appears to be so much more of them than the action is adequate to account for that the remainder, the extra-mural portion, is an inexhaustible subject of speculation and conjecture. Hence the fascination of what may be called the private character of his *dramatis personae*, which manifests itself in innumerable odd ways—in biographies of his heroines' girlhood, in discussions of Hamlet's whereabouts and occupations before the curtain went up, even in references to Lear's and Cordelia's compensations in another world.

That the stage has gained in a way by this treatment of character is undeniable. But what it has gained in one way it has lost in another. Though it has gained in curiousness, in variety, or what we like to call human interest; it has as surely lost in dramatic and literary consistency. That the characters should outgrow the action and cease to be solely the creatures and servants of the drama, is impossible without impairing the accurate adjustment of parts and functions, the nice application of means

to ends upon which depends the perfection of art in general and of dramatic art in particular—without introducing an element of excess or superfluity, a principle of disorder which tends to warp and sprain the play. The fact is that the Shakespearean *dramatis personae* are too big for the mimic world which they feign to inhabit; they are themselves realities masquerading in a world of fiction; they belong, not to the stage, but to existence. Dare I say so—they are too natural, particularly the women? I confess that to me at least it seems at times a little incongruous, even a little grotesque to watch these intensely animated characters, complex with all the complexity of life, gesticulating, grimacing, frowning, smiling, running the gamut of a thousand expressions and inflections, bustling about with all the irresponsible vivacity of nature, “in a fiction, in a dream of passion,” amid a factitious and highly artificial scene clapped together transparently enough out of a few bits of painted canvas, a rickety slide or two, and a set of flimsy hangings, the whole bounded by an arc of garish footlights and a row of staring spectators. On the contrary the Greek actor in his buskins, his mask, his robe and trappings, with his restrained gestures and intonations, may seem a singular figure when deprived of his appropriate accompaniments. But put him in his place, in the midst of a scene and an action carefully insulated, to say the least, from actuality; and he ceases to be grotesque or incongruous: he and his surroundings are of a sort.

In one particular, however—in the nature of the actions imitated and in the fidelity of the imitation it must be acknowledged that Greek tragedy bears no little likeness to the Elizabethan—quite enough, indeed, to justify the numerous parallels that have been drawn between them and even to support the contention that Shakespeare’s is the likeliest of all tragedy to the Athenian. Nor is the similarity so very extraordinary after all. There is naturally a kind of family resemblance among all the members of a *genre*. From this particular point of view life is bound to present pretty much the same aspect whoever views it. The frightful rivalry and competition, the monstrous waste of life, the atrocious expense of suffering, which are the very conditions

of existence on the planet—from such sources all tragedy indifferently must draw its materials, which are much more elemental and simple than the comparatively artificial and complex interests of comedy. But it is true that the Greeks and Shakespeare are alike in looking at these things far more piercingly and nakedly than the poets of any other nation. They see the facts more nearly and distinctly, through fewer veils and conventions. And there is, in consequence, a kind of unflinching realism about their representation of the tragic data which carries them a long way in company. Parricide, matricide, suicide, infanticide, rape, incest, insanity, sacrilege—these formed the stock in trade of the one as of the other. But such a likeness is more or less superficial, touching the matter rather the spirit. It is the resolution, the accommodation between experience and conscience, which is vital. And here, it must be acknowledged, the Athenian takes leave of the Elizabethan. While the latter was content to exhibit “the weary weight of all this unintelligible world” with hardly more than a sentimental palliative for its atrocities, the former boldly attacked the problem involved in the frustration of human happiness, and by reconciling the discrepancy at its root, succeeded in allaying the spectators’ apprehensions for the miscarriage of justice, at the same time relieving and relaxing the passions excited by such a spectacle in a manner to suggest the Aristotelian metaphor of a moral catharsis.

Specifically, his problem, as he saw the riddle of the universe reflected in the legendary and heroic mischances with which he worked, was this: why should an act which is performed with virtuous or blameless intent and which is to all appearance good and meritorious in itself, work irreparable mischief for its author? In order to answer this question he undertook to show, or rather to convey the impression, that such an act, whatever its motives, was in reality committed in violation of moral law and that so far from being innocent or even indifferent, it was, as a matter of fact, subversive of order and discipline. In other words, it was not merely inexpedient but wicked and on that account properly liable to disaster; while its perpetrator himself was not merely un-

lucky or unhandy, but criminal as well and therefore obnoxious to correction and punishment.

To take Sophocles, the maturest and clearest expression of Greek tragedy, as an example—his whole theatre seems to presuppose some universal and abstract principle of law and order, ὥστ' ἄγραπτα κάφαλῇ θεῶν νόμιμα, presiding over existence—a kind of moral police, to put it crudely—which provided automatically and of itself for the regulation of human affairs and for the execution and removal of disturbers, who, if suffered with impunity, would unsettle the equilibrium of earthly things. Any deed, done in contravention of this principle or law, however innocent might be its motives, was essentially criminal, as involving in fact a breach of the moral peace. Ignorance itself, like rectitude of intention, constituted no defense, though dramatically they both served to recommend the offender to the sympathies of the beholders—in short, to qualify him a tragic character; for otherwise his fate would have no particular interest—it would be a clear case of retribution, raising no doubt and occasioning no qualm. As for the remoter mystery between the law and the culprit's conscience—with this Sophocles has little or nothing to do; he is content to leave such matters, as too high for him, between the knees of the gods. Only once, in *Oedipus Coloneus*, he attempts something like a vindication of their purposes. But as a general thing, what he is concerned for—and in this particular his preoccupation is sufficiently unlike ours to make its appreciation difficult—is to demonstrate the moral consistency of life as against a purely casual or mechanical coincidence and to assign to men's actions specifically human and intelligible values of good and evil in place of the neutral and noncommittal attributions of right and wrong to their good or ill success—

ὧν νόμοι πρόκεινται
 ὑψίποδες, οὐρανίαν
 δι' αἰθέρα τεκνωθέντες ὧν Ὀλυμπος
 πατήρ μόνος, οὐδέ νιν
 θνατὰ φύσις ἀνέρων
 ἔτικτεν, οὐδὲ μὴ ποτε λάθῃ κατακοιμάσῃ·
 μέγας ἐν τούτοις θεός, οὐδὲ γηράσκει.

Nor was this interpretation due to a confusion of nomenclature, as has often been assumed. Sophocles was no dupe of a vocabulary. Rather, if there were such a confusion of vocabulary at all, it was a concomitant result, with this interpretation, of the spirit of those who used the language. The conviction of the correlation of misery with wickedness, of prosperity with righteousness, together with what we should call the indifference to motives, which inspired the solution of Greek tragedy, was not confined to Sophocles and his fellow playwrights. It suffused the consciousness of the Greeks. The happy man was the good man—we have Plato's word for it in contradiction of the Sophists, who in their efforts to disintegrate traditional morality were beginning to question it—or as we say, for the idea is not without modern echoes, he was the man who had done well. In fact, so thoroughly was the identification ingrained in the popular mind that there was a general prejudice against misfortune as in itself an impairment of character. But while the Greek temper was consistently moral, it was consistently intellectual too. Not only were the unhappy obviously in the wrong; but since no one acted ill knowingly, all wrong doing was finally a form of ignorance or misjudgment—that is, an error of some sort. Ignorance too was criminal. And while this conception of conduct was not pushed relentlessly to its logical conclusion—for Aristotle seems to discriminate in debarring from tragedy what can be only the man of evil impulses—yet it did tend to turn the Greeks' attention from the motive-grubbing with which we are familiar and fix it upon the act and its consequences, which as a matter of fact furnish the only practical means of estimating the moral significance of character.

III

With these general considerations in mind it is possible to dispose more or less systematically and intelligibly of several details which are usually handled in a rather empirical and disconnected fashion as notations of fact rather than as consequences of a principle.

In the first place it ought to be clear from this point of view why Greek tragedy should manifest itself so frequently under a

sort of typic form which has been described as a conflict of duties. In the light of the recent discussion it is obvious that through some such opposition as this the particular problem with which this tragedy has to do, is at once set out in the strongest possible light and receives the most satisfactory and convincing solution. A protagonist, acting, as in the *Antigone*, with complete faith in the sacredness of his undertaking only to discover in the end that so far from acquitting himself of his obligations he has actually incurred the penalty of an offense as serious to all intents and purposes as the debt which he has endeavored to meet—such a character affords in his own person the most striking contrast between anticipation and fulfilment and at the same time suggests the most reasonable explanation of his disgrace. As his motives are the highest conceivable on the one part, so is the tragic anomaly of his fate the most shocking and bewildering; and as his transgression is patent and undeniable on the other part, so is the rehabilitation of the moral order equally certain and reassuring. In such wise the double requirement of Greek tragedy with respect to qualm and catharsis finds complete and ready satisfaction.

At the same time, simple as the matter seems when viewed in its proper connection, it is to this very source that much of the misunderstanding of Greek tragedy must be referred. Not infrequently has it happened that one of these obligations or the other has lost its authority for the modern conscience with a resultant falsification of feeling for the situation. In a humanitarian age it is not surprising that Prometheus' offense against the celestial ordinance should appear a trifle as compared with his services to mankind and that he himself should have come to be a purely sympathetic and romantic character, such as Shelley has done his best to familiarize us with. With a weakening of the ancient civic sense, too, something of the same sort has happened to Antigone. But nevertheless it was originally this strict antinomy of approximately equal duties which afforded Greek tragedy one of the fairest opportunities for the production of its own peculiar effects, not the least notable of which was the characteristic duplicity of feeling it aroused for the protagonist.

This impression, composed of the two emotions, pity and horror, by which Aristotle defines tragedy—just these two and no others—is to be accounted for in the same way and by the same order of considerations as before. Not that Greek tragedy might not produce other emotions too—as a matter of fact Aristotle himself has arranged for others; but such others are adscititious and incidental. Pity and horror alone are inherent in the idea of the species and essential to its formula. Since the action of the protagonist itself bears a double face or interpretation, in *qualm* and *catharsis*, the emotions of the audience are twofold also. In as far as it is well intended and directed to an end commendable enough in itself, it arouses pity for its devoted author upon whose head it recoils with such fatal effect; while in as far as it is mischievous in fact, as it violates the celestial canon and jeopardizes the established order, it must needs arouse an equal horror for the rash and impious agitator who has ventured to trouble the tranquillity of men and gods. For the blind and passive sufferer of a fate so dismaying as that required to produce the tragic *qualm*, pity is the only possible emotion; as is horror for the malefactor convicted of a felony sufficiently monstrous to justify the judgment which overtakes him and so to work the revulsion of feeling necessary to the *catharsis*.

I do not wish to insist upon the moral import of tragedy unduly: I know how reproachful such remarks must seem to my own generation. At the same time I can not leave this topic without a protest. While I do not think that tragedy ought to preach a sermon or read a lesson, it does seem to me that nothing can be more preposterous than the contention that Aristotle, in defining the *genre* by the emotions of pity and horror, meant to imply that its being is exclusively æsthetic, in the modern acceptance of the term, and devoid entirely of moral purpose or concern. As though pity and horror were necessarily immoral or amoral emotions! As though it were not a kind of misnomer to speak of them as æsthetic emotions at all! That there are emotions which are exclusively æsthetic even in the straightened significance now given to the word, I have no doubt. But no one whose judgment has not been warped by the perversions of a latter day

criticism would dream of classing pity and horror among them. For what is there so likely to move the latter as the spectacle of blind and infatuate iniquity; so likely to move the former as the spectacle of sudden and staggering adversity? The conflict of good and evil, I believe, is still, for all our sophistication, the surest and deepest of all emotional appeals. And in view of the facts I can conceive nothing more impudent than the pretension to range Aristotle among the partisans of such a doctrine as *l'art pour l'art*, because he has formulated tragedy in terms of the very emotions which are most closely identified with our moral perceptions.

At the same time, pertinent as is his notation of that drama with which he was acquainted, it is a mistake to assume that his definition is true for tragedy in general or romantic tragedy in particular. Since neither problem nor solution is identical, as I have tried to show, it follows that the characteristic sentiment of the latter will be differently constituted with respect to its emotional notes. I do not mean to deny that pity and horror are in some sense elicited by every tragedy. They are both present to some extent and in some manner from the very nature of the *genre*. The apparent moral obliquity of the catastrophe, which is the motive of the qualm—itself, as I have tried to show, a constant factor—is bound to raise a kind of horror, as also a kind of pity for the luckless actor. But these feelings are quite different in timbre from the passions to which the Greek play is conditioned by its peculiar interpretation of tragic actuality. They have not the same purity or the same consistency; they are not in a fixed and definite ratio decisive of the character of the drama; they are variable and indeterminate. As a rule the modern protagonist is either a pathetic character, like Othello, or an antipathetic one, like Macbeth. Otherwise, in default of a solution authoritatively moral, we should be unable to bear his fate, to which we are reconciled, as I have already suggested, in the one case by an impression of his sentimental superiority to his situation, in the other case by a conviction of the poetical justice of his downfall. The active principle in the first case is sympathy; in the second, disapprobation. But sympathy is not identical with pity, or dis-

approbation with horror. And even when our feelings for the modern hero are mixed, these are, on the whole, the sentiments between which we are divided. What pity and horror we feel are caught up and engaged with these more or less loosely.

For an exhaustive discussion of the subject, however, this is hardly the place. All I wish to do here, is to point out that these two passions, pity and horror, are critical of Greek tragedy alone; and though they may enter into the general description of any tragedy, yet it is misleading to use them as a universal definition of the whole *genre* without reference to specific versions of the tragic paradox and specific expedients for its accommodation. For as opinion changes with regard to the tragical contingencies of life—what they are and how humanity is to be reconciled to their existence; so must the feelings and sentiments voiced by the drama change also, and along with them the attitude toward the tragic character, whose qualifications will obviously be controlled by these very conditions. So it is with the modern protagonist. And it is by the same reasoning that Aristotle's discrimination against certain types as compared with certain others, is to be explained and justified.

The main difficulty with Aristotle's doctrine of characters seems due to the fact that it makes no provision for the prevailing pathetic or prevailing antipathetic protagonist of later tragedy—in particular, and the saying has been thought a hard one, it disqualifies Macbeth and Richard III. But the fact is that such a type is not Greek; it does not conform to the double *rôle* for which the Greek protagonist was cast. While it is possible, of course, to rationalize the ruin of a thorough-paced villain by the law which he has violated, yet his downfall causes no dismay and inflicts no pang; it is just what ought to happen. Hence it offers no moral problem; in the eyes of the Greek there was nothing tragic about it. On the other hand, the virtuous or pathetic character is unfitted to the part for a contrary reason. While the sight of such a person suffering an untoward fate, may indeed appear sufficiently enigmatical to trouble the spectator and awaken his suspicions, yet the very nature of the case precludes the possibility of a moral settlement. In the adversity of the just there

is neither reason nor consistency. As Aristotle says, it is simply shocking. While it does in reality express what is felt to be the tragedy of fact, while it has *Naturwahrheit*; it is from the Greek point of view utterly lacking in *Kunstwahrheit*. And the difference of our own feeling in this respect serves to measure the interval between the two tragedies. On this account the only possible protagonist for the Athenian was the sort that we have had in mind all along—the fallible character, neither wholly good nor wholly bad, but liable to error. As such he is subject to pity by his infirmity and to horror by his iniquity—he is amenable equally to the requirements of problem and solution.

In addition to these features of Greek tragedy, which may be regarded as primary inasmuch as they derive immediately from its postulates and are necessary corollaries of its definition, there are others mentioned by Aristotle as incidental and ancillary. Their presence is the test of a complex, as distinguished from a simple action, which hinges solely upon a *metabasis* or reverse of fortune, while the former may also include a *peripeteia*, an agnition, and a sensation (*πάθος*).¹ As a matter of fact, then, these secondary characters are merely special devices for reinforcing the emotional impression of qualm and catharsis, which, as he observes, is more impressive when the incidents of the drama occur contrary to expectation, and still more so when they occur by reason of one another.² So a *peripeteia* is defined as an effect

¹ Though Aristotle fails to mention *πάθος* with *περιπέτεια* and *αναγνώρισις* as one of the differentiae of complex tragedy, he discusses it immediately in connection with these other two as a third part of the *μύθος*. At the same time the *Prometheus Bound* is opened by a *πάθος*, if indeed the whole play is not one prolonged *πάθος*. Since the whole distinction is of no great importance in this connection, there is no particular use in discussing it here.

² *δι' ἀλλήλα*. Hardly by cause and effect in the modern connotation, as the case of Mitys' statue at Argos proves. The connection in Aristotle's mind, I venture to think, was moral, not physical. Of course I do not mean to imply that Aristotle was without the notion of causal sequence and that he may not have had it in the corner of his eye in this case. But I conceive that his idea of cause in this instance would have included that of reason also; it would have involved an answer to the question why as well as to the question how.

by which an antecedent produces, not the consequence expected, but one entirely unlooked for and yet necessary and intelligible. In much the same way an agnition is the recognition by a character of some person or object of whose identity he was at first unaware. As such an effect is likely to cause a revulsion of feeling and a change of intention on the part of the character concerned, it frequently though not invariably involves a peripeteia. A sensation, as I have ventured to translate the term *πάθος*, is a particularly harrowing incident, which instead of being reported by messenger or otherwise, is enacted under the eyes of the spectators. As conducive of surprise and suspense, intensity and immediacy, these effects may be looked upon as elements of plot in the present connotation of the word. To be sure, they want the elaboration of the modern intrigue, where the dramatic action has come to be developed chiefly in the sense of the "interesting" as the *dramatis personae* chiefly in the sense of the "characteristic." But though they have remained subject to the primary uses of tragedy in the enforcement of problem and solution, yet their very presence should be a warning against a not uncommon manner of speaking as though Greek tragedy were deficient somehow in dramatic action and were largely an affair of declamation and recitation.

Such an insinuation is founded only in a serious confusion. It is not unusual nowadays to talk as though a lively and bustling stage or a picturesque and striking tableau were all sufficient evidences of dramatic quality. But if movement and stir, spectacle and panorama were indeed dramatic, then would vaudeville be justified of its triumph. Under the circumstances it is hardly otiose to remark that for genuine drama it is hardly enough to set the characters' legs in motion; their passions must be aroused as well. It is not so much motion as emotion that makes drama. Mrs. Siddons is said to have had a way of pronouncing Lear's curse, while holding her arms rigidly at her sides, with an effect that was terrible beyond gesticulation. Only as the outward act gives rise to feeling or expresses it, does the act itself become dramatic. It is not mere action but significant action that counts. Nothing could be busier than a scene of Victor Hugo's. It is full of sound and

fury, commotion and vociferation; and yet when you come to look inside for the internal drama which all this outward show and circumstance should body forth, what hollowness and vacuity you find! While as for the vaunted violences of the romantic stage they too miss the mark as often as not. Critics have wasted their ingenuity in trying to defend the sanguinary ending of *King Lear*. In spite of the spiritual interest and importance of the murder which closes *Othello*, it is a fair question whether Shakespeare has not overreached himself in strangling Desdemona in public. In all such cases the mind is so shaken or distracted by the physical act as to be incapable of attending to its ethical import. The impression, so far from being enhanced, is blunted by the theatrical exaggeration.

On the other hand, such a poem as Goethe's *Iphigenie* goes to the opposite extreme. Admirable as it is in its own way, it is lacking both in dramatic action and in theatrical activity. It has nobility; but it is the nobility of reflection, not of passion. No wonder that Goethe himself could never see it performed with patience. And yet tragedy, while representing passion, does not represent it for its own sake. Tragedy implies an aim, an end or purpose to be accomplished—a labour, *πόνον*, an exertion. There is a fatal necessity constraining the *dramatis personae* to act and causing an interplay of motives, a fluctuation of emotion. To use the phraseology of the day, a play is not static but dynamic. It involves will, volition; it is not a mere state of feeling or even a succession of such states—but rather an agitation of spirit. Hence the necessity of a *metabasis*, as Aristotle calls it, or reverse of fortune. And it is just the point of drama that this revulsion of feeling should be capable of visible translation. Of all modern dramatists it is Shakespeare who combines most effectively this dramatic movement with theatrical activity. It is another and not the least of his many superiorities that he should so often succeed at once in setting up a genuine dramatic action in the souls of his people and in expressing so perfectly that inner revolution by an outward and physical animation. In Racine's tragedy, perfect in its kind as it is, there is always, it must be acknowledged, a disposition to repress the latter element in accordance with the proprie-

ties of society and to rely too exclusively upon recitation alone to carry the dramatic action. As a matter of fact Corneille's most admired effects are usually an affair of eloquence, even oratory.

In this respect too much altogether has been made of the so called statuesqueness and plasticity of Greek tragedy. As long as the performance was supposed to be confined to an impossibly high and shallow stage, along which the actors were silhouetted like the figures in a bas-relief, such a conception was perhaps unavoidable. But with the orchestra as the site of the action it is no longer necessary or plausible. That Greek acting had little of the minute realism which characterizes ours, is undoubtedly true. But that it was prevailingy declamation and recitation, that it wanted stage-effect, the text of *Electra* should be sufficient to disprove, to say nothing of Aristotle's commentary. Indeed, on the strength of the devices that I have been speaking of—peripeteia, agnition, and pathos—M. Lemaitre goes so far as to rebuke Aristotle for his sensationalism. Very well. But what does M. Lemaitre expect? What is tragedy if it is not sensational? And while Greek acting lacked realism, there must have been a breadth, a massiveness, a gravity about it more suitable to the desperate purposes of tragedy, for that dark and sinister background, than our painstaking pastiche of common reality, of the speaking voice and the daily face.

IV

From this sort of criticism there is danger of carrying away a false and one-sided idea of the subject. In the end Greek tragedy does leave an impression of dignity, repose, and serenity, more or less suggestive, perhaps, of the epithet statuesque. But the satisfaction resides, as I have already indicated, in its treatment, not in its subject matter. In the latter aspect it is, if anything, more terrible, monstrous, and revolting than our Elizabethan tragedy of blood. In the German *Sturm und Drang* itself there is nothing to exceed the story of the Atreides, upon which the *Oresteia* and the two *Electras* are based. The reproaches that Voltaire addressed to *Hamlet* might just as well have been addressed to the *Oedipus*. The mere repetition of

such names is enough to show how elemental is the substance of Greek tragedy and how helplessly its composure depends, not upon this crude and saguinary material, but upon the spirit with which it was animated and the ideas with which it was informed. As mere stuff its superiority over the *Nibelungen Lied* and *Beowulf* is not great. As drama its superiority consists in the profound moral significance with which the Greek had imbued it. And in this case the merit belongs to the race as well as the dramatist, for whose hand it was partly prepared before he touched it. It was the genius of the people which had fitted these sinister old legends for tragic treatment by deepening their content and suggestion. In themselves they are like windows opening upon a remote and savage antiquity, through which it is still possible to catch a glimpse of wild irrational powers moving obscurely in the gloom, of the fitful workings of casualty and chance—perfidies of nature and miscarriages of reason. Consider only the labyrinth of *Oedipus* or the ambages of *Ion*.

These were the subjects that gave the Greek his opportunity. He was grappling with tremendous problems, he was struggling for a foothold on the brink of unreason, he was confronting the irresponsible demonic forces of creation, he was wrestling for the secrets of destiny; and the groundwork of his tragedy was vast, portentous, and preternatural.

And yet out of all this confusion and anarchy there seemed to be something slowly shaping—an event, an issue, a fate—directing itself more or less vaguely, in the midst of uncertainty and dread, to some far off and indistinguishable end. Careless of guilt and innocence, heedlessness and premeditation, it spared one and spoiled another indifferently; it required the child of its parents and the mother of her son; it snared alike the crafty and the unawary, the pious and the scoffer. Unprognosticable, it did not want for records: whatever came to pass, bore witness to its passage; in particular, its trail lay over certain great houses and illustrious families. Capricious as its dealings with the individual might seem, it was impossible in the long run to deny them a kind of coherence or rough and ready logic. Was it possible to go still farther: in spite of misleading appearances and

occasional inconsistencies could they be reconciled on the whole with the ideal of an absolute and impartial justice?

Such was the problem which the dramatists inherited. In the case of Aeschylus, however, it is evident that this attempt at the moralization of fate has by no means met with perfect success. In what remains of the Promethean trilogy, which is with the *Oresteia* the most significant in this respect of all his extant work, the result looks very much like a compromise. The atmosphere of *Prometheus Bound* is, it must be confessed, a pretty uncertain medium for the conveyance of clear ideas. It is the day after the deluge, and the air is still thick and troubled. Even Aeschylus himself is shaken. It would be hard to say how much of the modern feeling of security is due to a belief in the uniformity of nature, how much to a faith in the beneficence of an overruling providence. The latter serves to guarantee the moral order in as far as it has not become a matter of total indifference to us, for we seem to have given up any very serious thought of the establishment of such an order in the world at large; while the former acts as warranty for the physical order, with whose ascendancy we seem to have made up our minds to rest content. But however this may be and whatever their relative proportions, take away these two convictions and our world would fall to pieces. And yet Aeschylus had neither of them. He had no sense of the mechanical concatenation of nature and he had no surety for his gods. Divinity, as his religion and traditions represented it, might be poetic; it was anything but moral. In a word, it was a divinity quite in the present aesthetic taste—an artistic being without moral irrelevances, which would heartily have applauded the programme, *l'art pour l'art*, but would hardly have made a reliable guardian of manners. In default, then, of a deity to whom the regulation of such matters might safely be entrusted, Aeschylus could only fall back upon fate itself as above and beyond the gods—or else let the moral order go by the board, and with it the only law and security for existence of which he had any conception. But if Zeus' treatment of Prometheus was shocking, was it not equally shocking of fate to permit, to say nothing of ordaining, such an atrocity? What possible justice

was there in condemning Prometheus to torture for his benefits to humanity in defiance of a tyrant, usurper, and parricide, whose highest title to consideration would seem to consist in the fact that he was able to command the services of Kratos and Bia?

That this question, which is obviously the question raised by the drama, is answered in a thoroughly decisive and satisfactory manner, it would be idle to maintain in the face of all the conflicting interpretations of which the play has been the subject. At the same time I believe that even as far as it goes, the drama does answer the question partially, and answers it in accordance with the general principles of Attic tragedy. That Aeschylus sympathized with Prometheus, is pretty clear. No doubt the audience sympathized with him too. But notwithstanding the representations of modern criticism I venture to think that he was not to the Greek the purely sympathetic character which he has become for the modern. As far as bare intention goes, he was properly an object of pity in his distress, after the usual fashion of the tragedy in which he figured. At the same time his sacrilege, which has lost its sting for us, must have made him for the Greeks an object of horror equally. Either so; or the feelings by which Aristotle defines the impression of his tragedy, must be so indefinite and diffused as to make his statement altogether pointless—an *aperçu* rather than a definition. That Aeschylus makes no attempt to gloze his protagonist's fault, ought to be decisive. Unmistakably as he sympathizes with Prometheus, it is significant that he carefully refrains from justifying him. On the contrary he appears on one occasion at least to have put an admission of guilt into his mouth—*ἥμαρτον, οὐκ ἀρνήσομαι*. Nor does it matter particularly how *ἥμαρτον* be translated in this connection; to err or even mistake in these matters was for the Greek, as I have pointed out, none the less a sin. In so far, then, Aeschylus keeps the idea unobscured. Prometheus suffers; but then Prometheus has violated the law for Titan as for man, and to that extent his punishment is just.

And yet while this is true, it must be conceded in excuse of another range of interpretation that Aeschylus shows a little reluctance to *trancher* the question. It is as though the matter

were not quite clear in his own mind. While he refrains from justifying Prometheus, it is equally significant that he does not exert himself to justify Zeus either. Rather he represents him as himself obnoxious to justice—wherein, to be sure, he seems to have followed his traditions. For his own part, however, he is by no means sure that the law of Zeus is a moral law; while as for his act itself he evidently regards it as abhorrent in its extremity and depicts it as an act of violence—a *παθος* in the technically Aristotelian sense. Hence his reserves. He will not gainsay the offense, but his heart is divided. If both are liable—for does not fate impend upon Zeus also?—then he seems to feel as though the fault of the god excused or minimized that of the Titan. There is something wrong somewhere—with the institution of Zeus, perhaps. Of one thing alone he is perfectly certain—that order is better than chaos. The rule of Zeus may be arbitrary, it may rest on force; and yet it is a rule. It may not be thoroughly equitable as yet, as an institution it may need rectification; but it is better than confusion, it is the one means to security and stability. He who resists and defies it, is guilty of an attempt to subvert the provisional moral government in the interests of anarchy. There is no help for it: he is an agitator, a disturber of the peace; he must be quelled.

Prometheus, then, is the revolutionary. He is the first of mutineers, and to this fact he owes his fortune as the great romantic and humanitarian symbol. He belongs to the race of dissidents, nonconformists, insurgents, or whatever name they may be called, who revolt against a necessary discipline, traditional or established, in the name of a lawless and indeterminate ideal. No wonder that he received an apotheosis in the age which promoted revolution to the rank of a political institution. He is one of that dangerous class of reformers who refuse to proceed by due process of law, who are impatient of its restraints and delays and would suddenly take the execution of justice into their own hasty hands. Like them he obeys no higher principle than his own sympathies; he will justify the means by the end and shelter in the day of judgment under the fairness of his intentions. He is the classical embodiment of individual justice;

he does what seems good in his own eyes. That he would do right, is sentimentally a mitigating circumstance; his crime is that he would do right wilfully and after his own mind. That he happens to right a wrong, to anticipate a reform—that he is the noblest of rebels, makes the demoralization of his example no less—rather the greater. Nor does it affect the issue particularly that his rebellion is directed against a tentative and imperfect administration. What administration is otherwise?

The illustration may seem far fetched; but I never read the *Prometheus* that I am not reminded of a *pensée* of Pascal's.

It is proper to observe right; it is necessary to observe might. Right without might is powerless; might without right is tyrannical. Right without might is disputed, because there are always the wicked; might without right is reviled. It is necessary, therefore, to unite right and might, and for that purpose to make right mighty or might right.

But right is subject to dispute; might is easily recognizable and is indisputable. Hence it is impossible to annex might to right, because might has contradicted and asserted that she alone is right. And so, since it is impossible to make right mighty, we have made might right.

Not that this conception answers exactly to Aeschylus' whole thought. What Pascal regards as a permanent state of affairs, Aeschylus contemplates as a transient condition, a mere *Durchgangspunkt*. But Pascal's notion is true enough for the moment marked by the *Prometheus Bound*. In order that justice may be ultimately ensured, it is necessary first to found a power capable of maintaining some sort of order and discipline, from which by a process of gradual correction and improvement may be developed a more and more perfect justice, in which the rights of humanity itself shall receive their proper recognition. Such is apparently the condition on which Zeus is suffered to reign; he too must adjust himself to a higher principle than his own expediency. For the correction and perfection, as for the maintenance, of that moral order to which the obedience of inferior beings is due, Zeus himself is answerable to the fate which palpably overhangs him throughout the tragedy. He must reconcile himself with Prometheus, he must find a *modus vivendi* with the champion of mankind, which has its rightful place also in the universal polity—before his sovereignty is confirmed. If the

conclusion of the trilogy were in evidence, it is probably with this accommodation that it would deal. The first necessity, however, is to create the idea of justice and to establish it. And if Zeus is justly on probation for his management, Prometheus is no less justly in duress for rebelling, in the hot-headed old Titanic fashion, against the sole authority by which this result may be accomplished and its fruits secured. Before the advent of justice the world must be broken of Titanism.

Such, it seems to me, is the sense of the drama; and the *Oresteia* tends, I think, to confirm this conclusion. The theme is the same in both instances. In the latter case, however, where we have the whole story, there is less danger of mistaking its purport. The only difficulty is that just as the modern reader's impression of the *Prometheus* is falsified by a failure to feel the horror of Prometheus' sacrilege, so here his judgment of the *Oresteia* is liable to be warped inversely by an inability to feel the pity of Orestes' murderous legacy. What requires emotional correction with respect to the tragic passions at present, is not the odium but the pathos of the action. There is nothing equivocal about Orestes' guilt: matricide is as abhorrent to-day as it ever was. But private vengeance is no longer recognized as a duty; there is nothing that is sacred, little that is sympathetic, about it. In the mind of the Greeks, however, who appreciated the obligation of the latter as fully as the abomination of the former, the situation inspired the usual tragic duplicity of feeling. They were of a temper to be touched by the dutifulness of Agamemnon's avenger and to be horrified at the impiety of Clytemnestra's executioner. Otherwise I am at a loss to account for my sentiments in reading the trilogy; for I must confess that my wishes are for the success of Orestes and his sister, much as I may reprobate the deed by which it is assured. Nor is this the sentiment of the situation as such; it is not in the *Electra* of Euripides. The Aeschylean Orestes, though a criminal in act, is no epileptic monster like the Euripidean: albeit he does not lend himself so readily to humanitarian attitudinizing, there is as much to be said for him as for Prometheus. And curiously enough it is Euripides who finally says it, though not much to his

advantage, in vilifying Apollo as the instigator of his crime. As for Aeschylus, however, he accuses Apollo no more than he does Zeus—for one thing which romantic criticism has overlooked is the fact that if Zeus is to blame for Prometheus' plight, Apollo is equally to blame for Orestes' and with less excuse because without provocation. At best the circumstances are different, the responsibility is the same. It is fair, therefore, to argue that Aeschylus' idea must have been alike in both cases. But if anything is clear, it is that the author of the *Oresticia* is no romanticist; he is not disintegrating the moral edifice but cementing it; he is not relaxing discipline but tightening it. It is not at Apollo's expense that he claims the audience's pity for Orestes, whose saving virtue, as compared with Prometheus, is his submission to authority. What is impossible and intolerable in his situation is the fault of an imperfect and makeshift institution, the *lex talionis*, whose whole enormity is finally demonstrated in the fatal dilemma of this last sad inheritor of a bloody old tradition. The impulsive movements of private retaliation must give way to the deliberate decisions of an impartial and dispassionate court. And though it would be an insult to justice, were the perpetrator of what is after all a monstrous crime, allowed to go scot free, yet it is only equity that he whose sufferings have been the occasion of reform, should benefit by the amendment to whose adoption he has at least contributed.

In these pieces at which I have glanced as those most critically interested in the method and conception of Attic tragedy, Aeschylus is concerned mainly for the reconciliation of might and right through the medium of divine legislation—what we should call nowadays in secular terms the evolution of justice. The subject corresponds with his place in the history of tragic ideas and responds to the conscious craving for a definite moral constitution. His problem is one of institutional morality—if such a phrase is permissible in such a connection; its solution is an affair of moral statesmanship and administration. Personally I do not believe that a more tremendous tragedy than *Agamemnon* has ever been written; I do not know of any tragic impression more awe-inspiring than that produced by Cassandra arrested by the

spirit of prophecy at the door of the Atreides' palace. For this reason I hesitate to call the problems of private morality deeper and necessarily more tragic, after the current manner of speaking. But at all events they are different; and it is these problems, raised by spontaneous impulses and by promptings of conscience hopelessly at odds with the determinations of life and society, which are Sophocles' peculiarly.

In *Prometheus* and the *Orestia* the tragic schism is wholly external; it is due to a maladjustment which may be corrected without permanent harm to the persons involved. But every anomaly felt as tragic is not to be explained or reconciled so happily. There are instances in which it is inherent and fatal; in which it involves an organic lesion. It is so with Oedipus; not only is his crime his own but the responsibility is his also. Unlike the Aeschylean Orestes he acts by and for himself and at his own peril. To be sure, it may be said that like Prometheus he acts in behalf of others and in the interests of the general whether or not by prescription. But there is a difference. It is not without intention that Sophocles has centered the drama, not upon that portion of his protagonist's career which has been mazed and darkened by celestial counsels, but rather upon that portion in which he, the child of fate—*παῖς τύχης*, as he calls himself with cruelly unconscious irony—has the temerity to act by his own lights with infatuate confidence in the clarity of his own vision—he, the puppet of destiny, blindfold from birth, who has never taken a step with a full sense of the conditions and consequences of his action. It is this pretender to clairvoyance, this dabbler in enigmas, the reader of the riddling Sphinx, whom Sophocles represents as pretending lightheartedly to unravel the mystery of his own being. He is a great criminal, to be sure; but he has become so inadvertently and as a result of such a skein of fatality that it is doubtful whether his lot would not be wholly pitiful (as, indeed, many have found it, *le grand Corneille* among them, who have failed to attend strictly to the action) if it were not for the pertinacity with which he is seen to pursue destruction in insensate conceit of his own sufficiency. And to the same effect the length of time which is supposed to have elapsed since

his crimes—so long have they lain concealed that they would seem entitled to a measure of immunity, as by a kind of unwritten statute of limitations, were it not for the fact that he himself is the one who finally unearths them. Had he been brought to account by another, it would have appeared little better than a divine inequity. I do not believe that any one can read the tragedy intelligently without being sensible of presumption, of gross moral impropriety in the bias whereby Oedipus is impelled to seek for himself the solution of his own problematic existence. It is no correction of institutions that will mend his case—nothing but a reformation of the entire character.

With all this I am puzzled to understand why the *Oedipus* has never received the same sort of philosophical rating as the *Prometheus*. Its significance is, if anything, more profound and is certainly much more general. It is the very type of life universal. While lending itself with equal readiness to "symbolic" interpretation, it has never been surpassed as a figure of human responsibility in particular. We are all of us without exception in Oedipus' case—rounded like him with ignorance and mystery, and yet obliged to act incessantly and at our own hazard, so that our every step seems a presumption deserving of disaster and our every judgment an arrogance inviting rebuke and humiliation. Of all Greek tragedy the *Oedipus Tyrannus* seems to me not only the most characteristic of the genius which produced it but also most applicable to our hapless human lot.

At the same time I must confess to a particular affection for the *Electra*. Perhaps it is the situations that especially please me—Orestes at the gate of the palace overhearing his sister's lamentation; Electra herself with the funeral urn in her hands; the recognition with its sudden revulsion of feeling. In the face of the impending abomination there is something singularly affecting in the attachment of these two ill-starred children of a murdered father—the dependence of the one, the assurance of the other. But however this may be, the important matter for the inherence of Sophoclean tragedy is the shift of the traditional center of interest from Orestes himself to his sister. However it may be with him, she at least is under no divine com-

pulsion. Her only abettor is her conscience. She acts of her own accord and by the exigency of her own nature.

But after all the clearest illustration of Sophocles' conception of the tragic as something intimate and essential is to be found in neither of these pieces but in the *Antigone*. Ethic I was about to call it. And for that matter what is the source of tragedy in the *Antigone* but the collision of an ethic with a moral principle—of the fatal propensities of character with the prescriptions of social or civil expediency or necessity? It is the usual Sophoclean theme, the theme of *Oedipus* and *Electra*; but it comes out here more distinctly than elsewhere on account of what appears to us the superior sanctity of the former, the individual principle—or rather, probably, on account of the comparative insignificance of the latter. And yet in view of the Greek's devotion to his city—a devotion for which, narrow, shortsighted, and suicidal though we esteem it, he showed himself willing again and again to sacrifice every advantage and undergo every hardship, I can not make so light of Antigone's contempt of what to her countrymen was patriotism as do many critics for whose opinions I usually feel the greatest deference. What else was her conduct in Greek eyes than treasonable? And little as we are at a point of view to appreciate this sentiment (though this is by no means the only instance on record of sectional or parochial animosity or of the obliquy incurred by non-adherents of local or party politics) I still believe that Antigone's disloyalty to the polity—or what was bound to seem such in the heat of a great public excitement—must have been a scandal to a Greek audience, which was, on the other hand, in no less favourable disposition of spirit, in comparison with us, to sympathize with her religious scruples as distinct from the purely personal pathos of her condition and being. And so it is, I believe, that Sophocles intended her to appear—like other tragic protagonists, as an object of horror no less than of pity; otherwise there would be something gratuitous in the extraordinary severity which characterizes his chief magistrate, by her attitude to whom, as the representative of the government, Antigone's faithlessness to the commonwealth is dramatically measured. To be sure,

such asperity is natural enough to a person or a people in the reaction succeeding immediately upon a tremendous crisis. But if that were all, if the point were merely psychological, Sophocles would hardly have been so careful to restore the equilibrium by meting out a final judgment to Creon for exceeding the just measure. There is no doubt, it seems to me, about his intention; he will not countenance contempt of the supreme impersonal law on the part of an individual whatever his or her title on other grounds to admiration or respect; for "value dwells not in particular will."

But at the same time, while *Antigone* fits the framework of its *genre* and is no exception to the general definition of Greek tragedy, I am well aware that for us to-day, whose ideas of religious and civic duty are so different, such an interpretation must seem far fetched and forced. Indeed, there is no tragedy, I fancy, even of the Greeks, with respect to whose moral bases we are at such a disadvantage. The burial motive is as remote from our instinct as the cult of the city; we are as unfitted to respond to the one as to the other. It is the person of the heroine almost exclusively that appeals to us. Elementally she is not the representative of any special duty or set of duties—though if she were not sustained by a sense of duty, she would not be the noble and touching figure she is. For our emotions it is not the mere political and social crux which makes the play—this is but the vehicle; it is the case of conscience. What renders the tragedy peculiarly affecting among the tragedies of Sophocles, what gives it its specific favour is not merely the bare dilemma—the consciousness of rectitude which can neither surrender its convictions without shame nor persist in them without ruin, but the nature of the protagonist—her sex and youth, her ill-omened birth and her attachment to the son of her executioner. No wonder that she has become for the modern one of the great sympathetic characters of literature, like Cordelia, and her tragedy a sentimental one.

On the other hand, while Sophocles holds the scales even—while he gives the ethical and the moral elements alike their due—to the heroine's womanliness its meed of compassionate admi-

ration as to the tyrant's arrogance its fitting correction, at the same time that he asserts the existence of a higher authority than the judgment of particulars—yet for all this, which escapes us more or less but was clear enough to the Greeks, I would not assert that he himself had in mind any such fleshless formula as that which I have applied to his work. All I mean, is that he conceived in a certain way and to a certain effect, which I have tried to analyze—roughly and bunglingly enough, I dare say. No doubt he worked by touch, not by measure. He was not likely to stop to anatomize an effective subject if it yielded the proper emotions on inspection. But that in spite of the modern perplexity of its theme and the spontaneity of its creation the *Antigone* does take down regularly, I have tried to show. Generically and schematically it is, like the other works of its author, the tragedy of the individual will.

In general terms, it is from the same source, the conflict of the ethic with the moral, that Euripides derives his drama. But unlike his predecessors he fails to sustain the supremacy or even the importance of the latter principle, and failing to do so, misses the distinctive double note of Greek tragedy. His favourite procedure is to represent morality as a hollow convention or tradition with little or no title to reverence or credit. As a result his characters are either interesting sinners like Medea and Phaedra or superstitious bigots and credulous gulls like Orestes and Menelaus. They are seldom or never actuated by conscience or conviction, a sense of duty or obligation, but impulse or appetite, desire or caprice. Like Racine's heroes and heroines, they are creatures of passion, not of resolution—they suffer their destiny rather than incur it. Of the same order too are the motives of his divinities like the Aphrodite in *Hippolytus* or the Apollo in *Ion*. As his tragedy is destitute of a principle of any kind, it has no minatory or exemplary force to speak of. If it is moral at all, it is so, not in the Aeschylean or Sophoclean, but in the modern, the humanitarian, manner. In this one sense, since his drama—with the exception of a few artless and appealing but hardly tragic figures, like Iphigenia, who are usually the dupes or victims of the plausible and unscrupulous knaves about them—

since his drama is a marvellous illustration of the vices, frailties, and weaknesses, the "humanity" of mortals, its author is not undeserving of the epithet with which he has been graced by a late romantic admirer, "Euripides the human"—an attribution with whose sentiment a majority of Athenian critics would probably have concurred.

In these respects Euripides is not very unlike Ibsen. Like the latter he too is unmistakably decadent and obsessed by the nightmare of ugliness. It is not so much, perhaps, that he dotes upon the sordid, the base, and the malodorous—though at times he displays no little complacency in their depiction—as that they haunt and fascinate him; they block up his view till he can see little or nothing else. As far as he is concerned, the heroic has ceased to exist; Helen is a baggage, Agamemnon a politician, Menelaus a cuckold, Ulysses a trickster, Orestes an epileptic. For the tragic emotion of horror he substitutes disgust; for the moral qualm of his predecessors a shrinking of the flesh, a sense of physical repugnance and nausea. His most distinctive dramatic effect results from a certain uncanniness of character and motive. He is temperamentally ambiguous, equivocal, evasive, shifty. He is prone to blink the issue, to refuse to look the tragic fact square in the face. His instinct is to deny it, if possible, to juggle it away by some trick of theatrical legerdemain; at all events to deprive it of moral relevance and competency.

It is evident, for instance, that he can see no sense, no reason of any kind in the sacrifice of Iphigenia. It is merely odious to him as it was to Racine centuries later. And yet what becomes of the tragedy without it? There is no apparent violation of justice, nothing to raise a doubt or suggest a suspicion; there is no qualm, no agony of question, no mystery at once terrible and revelatory. It is all perfectly simple, open, and morally intelligible. The interest centers exclusively upon the *dramatis personae* and their conflicting emotions. It is distinctively a modern, a psychological play. As contrasted with the Aeschylean and Sophoclean tragedy of principle, it is concerned solely with character and its expression.

In the *Electra*, on the other hand, the absence of a clear

moral issue has resulted in what is mainly a drama of incident. Orestes is nothing more or less than a monster for his pains, Apollo a scoundrel for instigating him to an unnatural murder; that is all there is to it. Aside from the morbid psychology incidental to the situation attention has nothing to perch upon except the stratagem and imposture by which Aegisthus and Clytemnestra are disposed of. The tragic problem has vanished completely; there is nothing left but a particularly harrowing and truculent melodrama.

As a result of his inability to make anything out of his fables and his impatience with the interpretations of others Euripides is reduced, in the article of theme, to the secondary *rôle* of critic. This is his fundamental weakness as a playwright. It shows itself in the loose construction, the faulty economy, the feeble effect of his individual dramas taken each as a whole, to say nothing of his faultfinding digressions on the management of his predecessors. In particular, since he sees no sense in his action as such and has no inkling of its final cause or rationale, it is only with the greatest difficulty that he can bring a play to a close at all—only by some conventional or arbitrary expedient, a dramatic *cliché* or theatrical miracle. As a matter of fact, his pieces seldom conclude; they terminate. Hence his abuse of the *deus ex machina*, which in contradicting or interrupting the logic of events, is to all intents and purposes a nullity, as in *Iphigenia at Aulis*, or else is effective only in dispelling the illusion, as in *Orestes*.

The effect of all this activity was inevitably to discredit and invalidate the value of the symbols with which Euripides himself was obliged to work. In transforming in this way the old mythology into a new psychology his treatment of his matter resulted in dissolving its moral ideas and in emptying it of its moral content. But inasmuch as he had nothing else to build upon, he virtually knocked the ground from under his own feet and was obliged to search his materials for other means of defraying the expenses of a public performance. It is for this reason that in turning his attention from the sense of the transaction as a whole, he comes to make so much of its constituent moments.

Unable to comprehend the ebb and flow of the tides, he can only admire the ebullency and agitation of their surface. In this manner he becomes the dramatist of passion. This is his merit and distinction. For this kind of thing he was eminently fitted. Before he created them, such figures as Phaedra and Medea had never been dreamed of; and in some respects they have never been surpassed from that day to this. And yet this limitation—for limitation it is to see nothing but the passions to which an action gives rise and to miss its moral import as a whole—results in laying the principal dramatic stress upon sentiment; it makes the pathetic the sole effect of tragedy.

It is in this respect, then, that Euripides, the most imitated and the most consonant of classic dramatists with later tastes, serves as a kind of transition between the serious drama of ancient and modern times. In his case interest had already begun to shift from moral to psychological problems, from the quality of actions to the characters of men and the activities of nature. It is as though he had undertaken to forecast the terminals toward which the modern drama would move in its evolution, even to the amorphous and indiscriminate *drame* into which tragedy proper has finally degenerated, not to speak of the Shakespearean tragedy of character which he may have influenced in a measure through Seneca and the Racinean tragedy of passion of which he was obviously the direct and immediate inspiration.

II.—ON THE APPLICATION OF THE PRINCIPLES OF GREEK LYRIC TRAGEDY IN THE CLASSICAL DRAMAS OF SWINBURNE

BY OLIVIA POUND

The *Atalanta in Calydon* and the *Erechtheus* of Algernon Charles Swinburne represent signally successful attempts to reproduce Greek lyric tragedy.¹ The two plays follow the rigid type of the classical drama, and to many have seemed more like inspired translations than imitations; although it is in structure or form, rather than in their spirit or the view of the world which they present, that their antique inspiration reveals itself. Swinburne was so steeped in classical learning that he seemed to be able to place himself back in the time of the Greek dramatists and to express his ideas in their way. The ideas themselves are often modern; but in giving to his theme dramatic form he experienced again, as it were, the sensations of the classic poet. When all is said, he is much more than a mere imitator. Save for the romantic and lavish character of his expression and for his occasional sophisticated modernism of mood, he may well seem the reincarnation of some ancient Greek.

It has seemed of interest and value to try to apply to the two

¹ *Atalanta in Calydon* (1864). *Erechtheus* (1876). The citations in this paper are from the collected edition of 1904, Vol. IV.

For critical discussion of Swinburne's work, see especially T. Wratistaw, *Swinburne* (English Writers of Today series, 1900); G. E. Woodberry, *Swinburne* (1905); Edward Thomas, *A. C. Swinburne: A Critical Study* (1912); also W. R. Nicoll, "Algernon Charles Swinburne" in *The Contemporary Review*, May, 1909; J. R. Lowell, "Swinburne's Tragedies," in *My Study Windows*; W. Francke, *A. C. Swinburne als Dramatiker* (1900), and others. For the most part these discussions give incidental treatment of Swinburne's individual plays, and are written wholly from the aesthetic point of view.

The citations from the Greek dramas of Sophocles, Euripides, and Aeschylus are from the Teubner (Leipsic) texts of these dramas.

classical dramas of Swinburne the principles of Greek lyric tragedy, to discover how far he conformed to them. The topics to be dealt with in examining his plays are, in order, the chorus, the characters, the dramatic motives, the observance of the unities, and the handling of the plot. The aim is not to give literary appreciation of Swinburne's dramas, but to present a study of them from a specific point of view.

In both Swinburne's classical plays the chorus is an important factor. In *Erechtheus*, Swinburne achieved more nearly the perfect type of Greek tragedy than in the earlier play. The chorus of this play is composed of Athenian elders. They are the "ideal spectators" of Greek drama. These elders are in complete sympathy with the distracted king, and become his confidants. They approve what is well said, give advice when it seems needed, and, in general, reflect the feelings of the leading characters of the play. The Chorus in *Atalanta in Calydon* serves much the same purpose. It is composed of maidens who are on their way to make an offering to Artemis. They serve as the confidants of Queen Althaea. Though they cannot approve of many of her passionate outbursts, they pity her and seek to console her.

The first choral ode of *Erechtheus* is narrative.² It tells how the Thracian forces, urged on by Poseidon, have risen against Athens. The oracle at Delphi has been consulted, and the Athenians are fearful of its answer. Already two daughters of Erechtheus have been carried away by the gods. Enough sorrow has come upon the house and upon the city of Athens;

The fruitful immortal anointed adored
Dear city of men without master or lord
Fair fortress and fortress of sons born free.³

After the Queen Praxithea has told the chorus that she must sacrifice one of her remaining daughters to appease Poseidon, the chorus sings how the first sorrows⁴ of Erechtheus came from

² Cf. Sophocles, *Oedipus the King*, ll. 151-215.

³ *Erechtheus*, p. 345.

⁴ Cf. Aeschylus, *Agamemnon*, ll. 351-502.

the north, when the north wind stole away his daughter Oreithia. Now another child must be given to appease the sea.

The next ode is a lament for Erechtheus' daughter, Chthonia, whose sacrifice⁵ is imagined in this ode. Its burden is grief and death.

When Chthonia says farewell and goes forth to die, the chorus extols the maiden's great love for her country. This leads to a hymn to mother earth, for whose sake Chthonia is to die. The last choral ode of this play follows the report that Chthonia's sisters in remorse have slain themselves. This song is full of fear, foreboding, and horror of war.⁶ At last the chorus appeals to the sun. His light appearing through the clouds gives them hope.

In *Atalanta in Calydon*, the themes of the chorus are not related so closely to the plot of the play, but are suggested by the situations. The first song, a hymn to Artemis, is on "The Youth of the Year." This is one of the most beautiful passages in the drama and is a part most commonly quoted.⁷

When the hounds of spring are on winter's traces,
The mother of months in meadow or plain
Fills the shadows and windy places
With lisp of leaves and ripple of rain;
And the brown bright nightingale amorous
Is half assuaged for Itylus,
For the foreign ships and foreign faces,
The tongueless vigil, and all the pain.⁸

Another chorus⁹ is on "The Life of Man." This was a theme¹⁰ familiar to the Greek tragedians, as is also that of the next chorus,¹¹ "Love and Love's Mates."¹² "The Injustice of the

⁵ Cf. *ibid.*, ll. 40-263.

⁶ Cf. *ibid.*, *Seven against Thebes*, ll. 286-396.

⁷ *Atalanta in Calydon*, p. 249.

⁸ Cf. Euripides, *Medea*, ll. 824-842.

⁹ *Atalanta in Calydon*, p. 258.

¹⁰ Cf. Sophocles, *Antigone*, ll. 335-388.

¹¹ *Atalanta in Calydon*, p. 273.

¹² Cf. Sophocles, *Antigone*, ll. 781-788.

Gods,"¹³ the theme of another ode, is not unfamiliar to the classic poets. But the words that are put in the mouths of the maidens of the chorus are altogether too sophisticated. This is one of the few places where the thought of the play is out of harmony with Greek ideas. The theme of this chorus will be discussed farther on in connection with dramatic motives.

The chorus on "nature"¹⁴ is almost as beautiful as that on "The Youth of the Year" and might be compared with the chorus on nature in *Iphigenia among the Tauri* l. 1089. This chorus is like one of the joyous dance songs¹⁵ frequently used by Greek dramatists to emphasize a situation by way of contrast, when an unusually tragic scene is to follow. The hopes of the reader are raised by the exultant note of the chorus, only to be changed to despair when the messenger enters and announces that Meleager has slain Toxeus and Plexippus in a quarrel over the spoil. Much the same effect is produced by the contrast between the chorus, "The Youth of the Year," and the ominous words of the queen that follow.¹⁶ The last chorus "Fate"¹⁷ has somewhat the same theme as that on the "Injustice of the Gods"; but it contains no ideas that would have been unfamiliar to a Greek audience.¹⁸

The choral odes, though not so closely connected with the plot of the play, as are most of the choruses of Aeschylus and Sophocles, are not so irrelevant to the action as are some of the choral odes of Euripides. In some respects, however, the choruses bear a greater resemblance to those of Euripides than to those of the other Greek dramatists. Swinburne, like Euripides, is apt to subordinate thought to emotion. Each poet had the power of producing a wealth of radiant imagery. In the plays of both a certain feeling of excitement is stimulated, which in the case of Swinburne often seems abnormal. Both poets were likely to be carried away from their main theme by the opportunity for

¹³ *Atalanta in Calydon*, p. 284.

¹⁴ *Ibid.*, p. 296.

¹⁵ Cf. Sophocles, *Antigone*, ll. 100-162; *Oedipus the King*, ll. 151-215.

¹⁶ *Atalanta in Calydon*, pp. 249-251.

¹⁷ *Ibid.*, p. 312.

¹⁸ Cf. Sophocles, *Antigone*, ll. 901-908.

poetic flights afforded by the choral odes. Even the chorus on "The Injustice of the Gods" has, in a way, an Euripidean flavor. Some of Euripides' characters,¹⁹ if not his choruses, are made to criticize the gods. But in none of the passages of Euripides that brought on him the charge of disbelief in the gods did he go as far, in his hostility to deity, as Swinburne's chorus of Calydonian maidens when they sing:²⁰

None hath beheld him, none
 Seen above the other gods and shapes of things,
 Swift without feet and flying without wings,
 Intolerable, not clad with death or life,
 Insatiable, not known of night or day,
 The lord of love and loathing and of strife
 Who gives a star and takes a sun away.

Who shakes the heaven as ashes in his hand;
 Who seeing the light and shadow of the same
 Bids day waste night as fire devours a brand,
 Smites without sword, and scourges without rod;
 The supreme evil, God.

It is in these choral passages that Swinburne's genius is best revealed.²¹ He delighted in experimenting²² with various forms of verse, and the possibilities of the chorus gave him ample opportunity. It sometimes seems as if in these poetic flights he lost sight of the main object of his drama. On the whole, however, Swinburne's choruses fulfill the requirements stated by Horace:²³

The chorus, like the other personages, should take a vigorous part in the action and must never in the songs between the scenes introduce anything irrelevant and unsuitable to the purpose of the drama. They should support the better side with friendly advice, should direct indignation and be ready to console grief.

¹⁹ Cf. *Hercules*, 1316, 342, 1341.

²⁰ *Atalanta in Calydon*, p. 287.

²¹ Discussion of the metrical structure of the odes is omitted. The topic is too intricate to be included within the limits of this paper.

²² See the letter from Swinburne to Stedman, *The Dial*, 1909, vol. 47, pp. 5-7.

²³ *Epistles*, II, 3, 193.

The chorus is not used merely to heighten the tragedy by songs on some theme suggested by the situation. As in the classic dramas, the chorus takes an active part in the development of the plot. In *Erechtheus* it is to the chorus that the herald of Eumolpus gives the summons to the last struggle between the Athenians and the Thracians. With this messenger the chorus engages in stichomythic matching of wits. In transitional passages in both plays two-line speeches of the chorus are used.²⁴ In Greek tragedy two-line speeches were especially common in quarrel scenes. When Chthonia passes from the palace to the sacrifice the chorus shares with the queen, Praxithea, in her farewell. In *Atalanta in Calydon* the queen, Althaea, tells the chorus of her frightful dreams,²⁵ and of her foreboding. They sympathize²⁶ with her when she struggles against the curse of the gods. In the scene²⁷ of the Death of Meleager they have as important a part as any of the characters. Alternating with Atalanta, the king, Oeneus, and the dying Meleager, they raise the lyric lament,²⁸ while the hero wastes away, as the fatal brand burns on the pyre of Althaea's brothers.

Distinctive, like the use of the chorus, of Greek dramatic construction is the limitation of the number of characters who may appear on the stage at one time: this where our native dramatic principles allow utter freedom. In the *Erechtheus* the number of characters appearing on the stage at one time conforms strictly to the rule of the Greek drama. There are seven characters in this play, and in no instance are more than two present and taking part in the action with the chorus. In *Atalanta in Calydon*, the earlier of the two plays, Swinburne does not conform so closely to the rule that not more than three speaking personages should be on the stage together at any time. In the scene of the quarrel between Meleager and the brothers Toxeus and Plexippus, there

²⁴ *Atalanta in Calydon*, p. 268; *Erechtheus*, p. 353.

²⁵ *Atalanta in Calydon*, pp. 251-258.

²⁶ *Ibid.*, pp. 307-317.

²⁷ *Ibid.*, pp. 322-329.

²⁸ Cf. Greek *commos*. Sophocles, *Electra*, ll. 121-254, Aeschylus, *Seven Against Thebes*, ll. 677-711, Swinburne, *Erechtheus*, pp. 374-376.

are six speaking characters present. This, however, is one of the few instances where either play varies from Greek tragedy in principles of construction.

It might be expected that a nineteenth century dramatic poet would surely present characters that were individual rather than representative of some type. But Swinburne's characters seem to have no more individuality than most of those in Greek tragedies, and probably not so much as some characters in the plays of Euripides. Erechtheus is the type of the loyal, devoted king, ready to make any sacrifice for his kingdom. He is noble, proud of his people and of his city. His destiny seems the more tragic, because he has been as faithful to the gods as to his country. Though fate is manifestly unjust to him, he does not complain, but sturdily yields to his sense of duty. He embodies the Greek ideal of moderation in all things. He and his queen, Praxithea, are both

of mood
Equal, in good time reverent of time bad,
And glad in ill days of the good that were.²⁹

Nor is his submission weak-spirited. When he goes forth to die his words are as heroic as a king's should be:

And with such mortal hopes as knows not fear
I go this high last way to the end of all.³⁰

Chthonia, Erechtheus' daughter, is a character unusually lovable; but she, too, seems to represent a type rather than an individual. She is as courageous as her father, as proud of Athens, and as ready to die, if she may save her city. This heroism is softened by her tender love for her mother.³¹ She seems an engaging child like Iphigenia, rather than a self sacrificing heroine like Antigone.

In *Atalanta in Calydon* the characters stand out more clearly, but still represent types, with the possible exception of Althaea. Atalanta is a human Artemis, a strong character,

²⁹ *Erechtheus*, p. 349.

³⁰ *Ibid.*, p. 369.

³¹ *Ibid.*, p. 376.

Most fair and fearful, feminine, a god
Faultless.³²

Meleager typifies the headstrong warrior, brave, glorious in his youth, and impetuously rushing to his fate. Althaea's brothers, Toxeus and Plexippus, are arrogant, overbearing, and jealous. By their own rashness they bring the anger of Meleager upon them.

Althea is the strongest of the characters in these two dramas. Though she has many human traits, she seems to personify the fate that demands revenge for the slaying of kin. From her first words it is seen that she forebodes the outcome of the hunt that has been arranged to free Calydon of the wild boar sent by Artemis. She meets the chorus of maidens who are on their way to make an offering to the goddess of the hunt. They have just completed their hymn to Artemis, when Althaea throws gloom over their rising hopes.³³

Night, a black hound, follows the white faun day,
Swifter than dreams the white flown feet of sleep;
Will ye pray back night with any prayers?
And though the spring put back a little while
Winter, and snows that plague all men for sin,
And the iron time of cursing, yet I know
Spring shall be ruined with the rain, and storm
Eat up like fire the ashen autumn days.³⁴

In a long monologue she tells the chorus of the coming of the fates when her son Meleager was born, how they had told her that he should live no longer when the brand then in the fire should be burned. So she drew forth the brand and kept it. There are many human touches in this narrative. When she describes the strange dreams the gods have sent her she says:

seeing I see not, hear
And hearing am not holpen, but mine eyes
Stain many tender broideries in the bed

³² *Atalanta in Calydon*, p. 269.

³³ *Atalanta in Calydon*, p. 251.

³⁴ *Ibid.*, p. 255.

Drawn up about my face that I may weep
 And the king wake not; and my brows and lips
 Tremble and sob in sleeping like swift flames
 That tremble, or water when it sobs with heat
 Kindled from under.³⁵

Other human touches are given when she tells how she bent over the child when the Fates had told her how she might save him:

Wherefore I kissed and hid with my hands,
 And covered under arms and hair, and wept,
 And feared to touch him with my tears, and laughed;³⁶

So she had kept the brand for years, and Meleager had grown to manhood. But the gods have sent her new dreams, and she can not tell whither the fates draw her.³⁷

After an ode by the chorus, Meleager enters and stands by his mother viewing the forces that are gathering for the hunt. In perfect sympathy they watch the moving band, commenting on this hero and that. When Althaea's brothers appear Meleager says:³⁸

Next by the left unsandalled foot know thou
 The sail and oar of the Aetolian land,
 Thy brethren, Toxeus and the violent-souled
 Plexippus, over-swift with hand and tongue;
 For hands are fruitful, but the ignorant mouth
 Blows and corrupts their work with barren-breath.

This leads to controversy that is carried on in stichomythia. In genuine Greek fashion Swinburne makes use of the parallel dialogue, suggestive of debate, that so delighted the forensic-loving Athenians. Althaea warns Meleager that whoever follows the ways fixed by the gods prospers, but the fates pursue the

³⁵ Cf. Greek *rhesis*, set rhetorical speeches. There are seven of these in *Atalanta* and three in *Erechtheus*, averaging one hundred lines each. Compare Sophocles, *Ajax*, ll. 815-865, Euripides, *Daughters of Troy*, ll. 1156-1206.

³⁶ *Atalanta in Calydon*, p. 256.

³⁷ *Ibid.*, p. 257.

³⁸ *Ibid.*, p. 263.

one that is perverse. She has realized that Meleager is yielding to love for Atalanta, who has turned against custom and devoted her life to Artemis.

A woman armed makes war upon herself,
Unwomanlike, and treads down use and wont
And the sweet common honor that she hath,³⁹

Meleager though moved by his mother's words persists in his worship of Atalanta. Then Althaea gives a final warning. In this she manifests the spirit of the relentless vengeance that she later seems to personify.⁴⁰

Live if thou wilt, and if thou wilt not, look,
The gods have given thee life to lose or keep,
Thou shalt not die as men die, but thine end
Fallen upon thee shall break me unaware.

Later in the play, when the messenger brings the news that Meleager has slain Plexippus and Toxeus, Althaea utters a lament that shows wonderful love and sisterly gratitude.⁴¹ She is torn between love for her son and for her brothers.⁴² At last the spirit of her mother seems to drive her to blood atonement. She becomes, as it were, the avenging spirit of her house.⁴³

Fate's are we,
Yet fate is ours a breathing-space; yea, mine,
Fate is made mine forever; . . . you strong gods,
Give place unto me; I am as any of you,
To give life and to take life.

The stock character, the messenger, is used by Swinburne, as by the Greek tragedians, to describe some situation or action occurring outside the "unity" of place. None of his messengers have any individuality. They are "idealized" messengers, and

³⁹ *Ibid.*, p. 265.

⁴⁰ *Ibid.*, p. 272.

⁴¹ *Atalanta in Calydon*, p. 308.

⁴² *Ibid.*, p. 309.

⁴³ *Ibid.*, p. 314.

give utterance to some of the most brilliant descriptions in the two plays. The display of oratory in these vivid narrations of the messenger is strikingly Euripidean. The importance of the messengers in developing the plot will be considered later.

The main dramatic motive of *Atalanta in Calydon* is the inexorableness of destiny, a theme used so often by the Greek dramatists. When Meleager was born the fates had decreed that he should live no longer than the brand on the hearth should burn. This was the will of destiny. The end might be postponed but was inevitable. Meleager's mother becomes the unwilling agent of the fates. It is hinted that fate in his case is retribution, because Meleager persisted in his love for Atalanta, "a maid hallowed, and huntress holy, as whom she served."⁴⁴ The chorus says of her:⁴⁵

She is holier than all holy days or things,
The sprinkled water of fume of perfect fire;
Chaste, dedicated to pure prayers, and filled
With higher thoughts than heaven; and man
She loves not; what should one such do with love?

This justification of fate, however, is unconvincing. Fate seems rather an arbitrary power, working blindly and capriciously. Mankind seems to be in the grasp of a relentless force. Destiny appears as "Irony of Fate," in the words of Professor Moulton,⁴⁶ "a march of Destiny, relentless and mocking, through means and hindrances alike, never so sure as when it is opposed, using the very obstacles in its path as stepping-stones by which it travels forward." It is this "Irony of Fate" that makes Althaea, who has kept her son alive so long and whose love is unmistakable, in the end become the instrument of fate in causing Meleager's death. She feels the force of fate, but is powerless to resist. She says⁴⁷ "the gods are many about me; I am one." Though she cries out against fate, she finally yields and,

⁴⁴ Cf. Euripides, *Electra*, ll. 774-889.

⁴⁵ *Atalanta in Calydon*, p. 255.

⁴⁶ *Ancient Classical Drama*, p. 96.

⁴⁷ *Atalanta in Calydon*, p. 301.

as said before, seems to personify the powers that are working through her.

In *Erechtheus* fate seems even more unreasonable than in *Atalanta in Calydon*. Erechtheus in no way had been responsible for the choice that gave Athens to Athena, rather than to Poseidon; but he becomes the victim of the jealousy of the defeated god. In his case fate takes the form of the implacable anger of a god. Erechtheus is just, pious, humble before the gods. No overweening pride of his, or of his house, has brought this fate upon him. He accepts the will of the gods as inevitable, and yields unquestioningly. Submission with him is part of duty.⁴⁸

The gods have set his lips on fire withal
Who threatens now in all their names to bring
Ruin, but none of these, thou knowest, have I
Chid with my tongue or cursed at heart for grief,
Knowing how the soul runs reinless on sheer death
Whose grief or joy takes part against the Gods.
And what they will is more than our desire
For no man's will and no desire of man's
Shall stand as doth a God's will.

Swinburne's idea of destiny, it will be seen, is more nearly that of Euripides. Destiny is not the mysterious and awful law that it is represented to be in so many of the plays of Aeschylus. Nor is it represented as the working out of moral forces, as in the plays of Sophocles. It is that cruel, pitiless fate that makes man rebel against its senselessness. So Althaea shows her bitterness toward the goddess who is the means of working out Meleager's fate.⁴⁹

First Artemis for all this harried land
I praise not, and for wasting of the boar
That mars with tooth and tusk and fiery feet
Green pasturage and the grace of standing corn
And meadow and marsh with springs and unblown leaves,
Flocks and swift herds and all that bite sweet grass,
I praise her not; what things are these to praise?

⁴⁸ *Erechtheus*, p. 343.

⁴⁹ *Atalanta in Calydon*, p. 253.

Even the chorus, the usual representatives of convention and submission to the will of the gods, devote a whole ode to their injustice.⁵⁰

For the gods very subtly fashion
 Madness with sadness upon earth;
 Not knowing in any wise compassion,
 Nor holding pity any worth;
 And many things they have given and taken,
 And wrought and ruined many things;
 The firm land they have loosed and shaken,
 And sealed the sea with all her springs;
 They have wearied time with heavy burdens
 And vexed the lips of life with breath;

This feeling of hostility to deity found in many passages of *Atalanta* is prevalent in much of Swinburne's poetry. It was a note sounded often by Shelley, Byron and other early nineteenth century revolutionary spirits. Swinburne, however, seems to have derived this feeling also from his study of Greek. To him all gods seemed to be Olympian. As Mr. Woodberry says:⁵¹

The classical immersion of his mind had made clean work of all Christian symbolism; it had swept it away, and in its place came, for imaginative purposes, the Greek forms of old divinity and myth, but less as idols of hope than idols of memory.

So this feeling of hostility to deity seems not out of place in these classical dramas. As mentioned in discussing the chorus, "The Injustice of the Gods," there are passages in some of the plays of Euripides that show the same spirit. In both poets the main criticism of deity is that man is piteous, while deity is pitiless.

In *Erechtheus* the prominent dramatic motive is submission to deity. This is the motive of all the leading characters of the play. The king, submissive to the will of the gods, is ready at any sacrifice to do his duty to his city and his countrymen.⁵²

⁵⁰ *Ibid.*, p. 285.

⁵¹ *Swinburne*, p. 43.

⁵² *Erechtheus*, p. 343. Cf. Sophocles, *Antigone*, ll. 450-470.

Fare we so short-lived howso'er, and pay
 What price we may to ransom thee thy town,
 Not me my life; but thou that diest not, thou,
 Though all our house die for this people's sake
 Keep thou for ours thy crown our city, guard
 And give it life the lovelier that we died.

The same note is sounded by Praxithea. For her too the will of the gods is all powerful. Without hesitation she submits to the sacrifice of her child for the sake of her country.⁵³

In this motive of duty to the gods and to one's country is involved the idea of self-sacrifice. This is the leading motive in the part of Chthonia. She not only is devoted to the gods and to her country, but takes pride in becoming the victim that shall be the means of saving her people.⁵⁴

Countrymen

With more good will and height of happier heart
 I give me to you than my mother bare,
 And go more gladly this great way to death
 Than young men bound to battle.

Another dramatic motive that adds to the tragedy of the plot of *Erechtheus* is 'love of freedom.' This is, of course, one of the motives that inspires patriotism. It is as much love of freedom as love of country that moves Erechtheus. Hence it is perpetual liberty that is given by Athena as the greatest reward⁵⁵ for his sacrifice. Love of freedom is another theme common to post-French revolutionary writers. Many of Swinburne's poems were inspired by this sentiment. Tyranny in any form called forth from him as from Byron or Shelley or Landor the strongest invectives, and patriotism the highest praise. This note, however, is not out of place in Swinburne's dramas, for love of liberty is a note found in Greek plays.⁵⁶ Moreover it is from Athens that Swinburne received much of his inspiration on this subject.

⁵³ *Ibid.*, pp. 357-361.

⁵⁴ *Ibid.*, p. 389. Cf. Euripides, *Iphigenia at Aulis*, ll. 1374-1401.

⁵⁵ *Erechtheus*, p. 411.

⁵⁶ Euripides, *Iphigenia at Aulis*, ll. 1374-1401.

The worship of the brightness of youth was another well-known Greek characteristic. This is found to a remarkable degree in these plays of Swinburne, and deepens the tragedy. "The Youth of the Year" is the theme of one of the most beautiful choruses in *Atalanta*. The spirit of youth and brightness animates this chorus and also that on "nature." This spirit of youth and brightness is heightened by Swinburne's elemental appreciation. His writings abound with references to fire, light, wind, and water, giving an iridescent effect that is sometimes dazzling. A good example of this power of radiant description is seen in the prayer to the sun.⁵⁷

Rise up, shine, stretch thine hand out, with thy bow
 Touch the most dimmest height of trembling heaven,
 And burn and break the dark about thy ways,
 Shot through with arrows; let thine hair
 Lighten as flame above that flameless shell
 Which was the moon, and thine eyes fill the world
 And thy lips kindle with swift beams; let earth
 Laugh, and the long sea fiery from thy feet
 Through all the roar and ripple of streaming springs
 And foam in reddening flakes and flying flowers
 Shaken from hands and blown from lips of nymphs
 Whose hair or breast divides the wandering wave
 With close tresses cleaving lock to lock,
 All gold, or shuddering and unfurrowed snow;
 And all the winds about thee with their wings,
 And fountain-heads of all the watered world;

It is because of this radiance of youth that the sacrifice of Chthonia and the undeserved death of Meleager seem so pitiful.⁵⁸

Human bonds, love and its ties, form another dramatic motive. In *Erechtheus* the bond between Erechtheus, Praxithea and Chthonia is perfect. Each is faultless in the other's eyes. Hence the breaking of this bond seems the more pathetic. In *Atalanta* the situation is even more tragic. Althaea is torn between her love for her son and her duty toward her kin. This breaking of

⁵⁷ *Atalanta in Calydon*, p. 247.

⁵⁸ *Erechtheus*, p. 504, 376. *Atalanta in Calydon*, p. 271, 325-326.

family ties, and the revenge to be exacted for shedding blood were themes very familiar to Greek tragedy.⁵⁹

Throughout both plays by Swinburne appears the persistent problem of existence, how best to live to satisfy the gods. When Althaea is warning Meleager she describes to him a well-ordered life.⁶⁰

Child, if a man serve law through all his life
And with his whole heart worship, him all gods
Praise, . . .

Be man at one with equal-minded gods,
So shall he prosper; not through laws torn up,
Violated rule and a new face of things.

Life is represented as a bitter and uncertain chance which man is powerless to better. Althaea says:⁶¹

and what chance
The gods cast lot for and shake out on us,
That shall we take, and that much bear withal.

The chorus in *Atalanta* describes the life of man as made up of strange elements, combined by the gods in some inexplicable way.⁶²

Before the beginning of years
There came to the making of man
Time, with a gift of tears;
Grief, with a glass that ran;

Pleasure, with pain for leaven;
Summer, with flowers that fell;
Remembrance fallen from heaven,
And madness risen from hell;

Strength without hands to smite;
Love that endures for a breath;
Night, the shadow of light,
And life, the shadow of death.

⁵⁹ Cf. *Agamemnon*, *Orestes*, *Antigone*, etc.

⁶⁰ *Atalanta in Calydon*, p. 265.

⁶¹ *Ibid.*, p. 258.

⁶² *Atalanta in Calydon*, p. 258.

No solution is given for this problem of life. Man can only endure sturdily, steadfastly. He must accept what is and seek relief in great-heartedness, courage and freedom of spirit. He should have the *cupsychia* of Euripides,⁶³ "stout heartedness, pluck in the noblest sense of the word—that temper of soul which prepared the individual to sacrifice himself for the state and to triumph in pain or death in dogged endurance rather than give way to feebler instincts."

This is the fortifying motive of much of Swinburne's poetry. Mr. L. C. Wilcox summarizes the poet's teaching in this sentence:⁶⁴ "Who endures to the end, who makes no compromise with truth, who asks no reward and fears no punishments, shall come somehow to truth and liberty, and shall grow into knowledge of the things of the spirit."

It remains to see whether the "unities" were observed in Swinburne's plays. It has been seen that all the action was carried on in the presence of the chorus. As said before, the members of the chorus serve as sympathetic spectators. Thus the chorus is the main factor in keeping the action of the play within the "unities." No scene can be presented that cannot take place before the chorus, and no incident be depicted that would be outside of their knowledge. In this respect both *Atalanta in Calydon* and *Erechtheus* conform strictly to the Greek observance of "unities." In each play there is but one story. All details are subordinated to working out this plot before the chorus. So too the "unities" of time and of place are carefully observed. In both plays the action takes place before the palace of the king. Whatever of the plot cannot be presented there is described by messengers. The whole action is supposed to take place in the space of a morning. Thus both plays represent one continuous scene, given with fixed limits of time and place.

The action of each play develops to a climax from an opening situation, described by narrative. The long prologue, given in

⁶³ Symonds, *Studies of the Greek Poets*, Vol. II, p. 38.

⁶⁴ *The Fortifying Principle in Swinburne*. L. C. Wilcox, *North American Review*, Vol. 190, pp. 93-100.

monologue form, in which the situation is disclosed, is again Euripidean. The part of the chief huntsman in *Atalanta in Calydon*, who describes the ravages of the boar sent by Artemis and the preparations for the hunt, might be compared with the part of Apollo in Euripides' *Alcestis*, or of Poseidon in his *Daughters of Troy*. The prologue of *Erechtheus* might be compared with that of *Iphigenia among the Tauri*, or the part of the nurse in *Medea*. In both Swinburne's plays, the end is anticipated by foreboding. In *Atalanta in Calydon* the queen of Calydon, Althaea, tells the chorus how she once dreamed she had brought forth a firebrand. When Meleager was born the Fates came and prophesied⁶⁵ that he should live no longer when the brand on the hearth was burned. So she had plucked out the brand and kept it. A huntsman at the opening of the play in his song to Artemis to speed the hunt has already told that Atalanta has come from Calydon to join the chase. Throughout Althaea's confidences with the chorus, it is clear that Meleager is possessed of a great love for this huntress who has dedicated her life to Artemis. The queen hints⁶⁶ at passionate scenes between her brothers and Meleager because of the part Atalanta is to take in the hunt. This opening situation is developed through the quarrel⁶⁷ between Meleager and the brothers in the presence of Atalanta. The wrangling of the youths creates the feeling that the hunt starts under unfavorable omens. A long choral ode fills in the time from the departure of the hunters till the entrance of the messenger who comes to tell of the victorious ending of the hunt. The hopes of the hearers are raised. It seems as if, after all, the troubles forecast by the queen had been averted. The chorus sings a joyous ode to nature which closes with a prayer to Artemis. They have no sooner ended this outburst of thanksgiving than another messenger enters and announces that the queen's brothers have been slain by Meleager, because they tried to deprive Atalanta of the spoil of the boar. Meleager had given

⁶⁵ *Atalanta in Calydon*, p. 256.

⁶⁶ *Atalanta in Calydon*, pp. 254-255.

⁶⁷ *Ibid.*, pp. 279-281.

her this because she first had wounded the beast. From this point the plot moves rapidly to the end. Althaea after wrestling against the gods yields to the curse that is upon Meleager. She forebodes the fate of her son when promising fit burial for her brothers.⁶⁸

But ye now, sons of Thestius, make good cheer,
For ye shall have such wood to funeral fire
As no king hath; and flame that once burnt down
Oil shall not quicken or breath relume or wine
Refresh again; much costlier than fine gold,
And more than many lives of wandering men.

The spectators see the final working out of the curse when the dying Meleager is brought home by his father. It is clear then that Althaea had taken the brand that measured her son's life and had made of it a funeral fire for her brothers.

In much the same way the plot of *Erechtheus* is developed. In a prayer to earth Erechtheus tells how Poseidon is angry at Athens because he had been beaten in a contest with Athena for its possession. The god had hurled the force of his waves against Athens from the sea, and from the land besieged it with the forces of his Thracian son Eumolpus. An oracle has told Erechtheus that the anger of the god can be appeased only by the sacrifice of one of his daughters. This situation is developed through scenes where this news is broken first to the queen and next to Chthonia, Erechtheus' daughter. The maiden offers herself as a sacrifice to save her city. The account of her death, and of the final struggle between the Athenian and Thracian forces is described by messengers. The Athenians have been victorious, but Erechtheus has been slain by a thunder-bolt. The Athenians, however, have not been deserted by the gods. Athena, like the *deus ex machina* of Euripides,⁶⁹ appears and consoles the forlorn queen and her people by promising great glory to her city.

The limits of this paper will not allow discussion of the

⁶⁸ *Ibid.*, p. 304.

⁶⁹ Cf. Euripides' *Electra*, ll. 1238-1356.

sources⁷⁰ of the plots of *Atalanta in Calydon* and of *Erechtheus*, nor is this topic essential to the main theme of the paper.

In the foregoing discussion an attempt has been made to show Swinburne's close adherence to the principles of the classical Greek Drama. As said earlier, he was not a mere imitator. He not only made his dramas conform in nearly every respect to the severe type of Greek drama, but when he composed them, he seemed almost to be able to put aside the personality of the modern poet, and to experience the sensations of a Greek poet. Yet with this remarkable ability to revive the life and the spirit of another age, he seems to have missed that cardinal virtue of the Greeks, their self restraint. He seemed never to have learned their maxim, "nothing to excess." His plays contain too much poetry. There is too much of fire, wind, sea, the gods, and fate. Beautiful as both plays are in parts, the whole impression is blurred. The reader is given the sensation of viewing a scene through some opaque or opalescent substance. On the whole, however, the plays seem remarkably faithful reproductions of the Greek lyric tragedy.

⁷⁰ For the myth of Meleager see: Homer, *Iliad*, IX, 527; Apollodorus, I, 8; Hyginus, *Fabulae*, 171; Ovid, *Metamorphoses*, VIII, 260-545. Diodorus Siculus, IV, 34.

For the myth of Erechtheus see: Apollodorus, III, 14, 15; Euripides, *Ion*; Ovid, *Metamorphoses*, II, 553; Hyginus, *Poetica Astronomica*, II, 13; Pausanias, I, 2, 5, 8.

III.—ENGLISH INTERJECTIONS IN THE FIFTEENTH CENTURY

BY MARY CRAWFORD

INTRODUCTION

SCOPE AND LIMITATIONS OF TREATMENT

The interjections listed in the present study are grouped according to usage. Their various forms and meanings are noted, together with examples of their occurrence. The treatment has been expanded to include not only simple interjections but interjectional phrases, since the latter, in idea, represent single words. In the York Mystery Plays, when Moses again changes the serpent into a wand, Pharaoh's *Hopp illa hayl* is not a curse but an expression of astonishment. Further, oaths can in no sense be considered other than as ejaculations, else, in the Towneley Plays the shepherds would not be made to swear, anachronistically, by Saint Thomas of Kent; nor would Herod refer so frequently to Mahomet.

The Chester cycle of mystery plays is not included in the material examined. Although the plays themselves were presented before 1400, the four manuscripts which have come down to us date from 1592–1607. On the other hand, the works of Gavin Douglas and of John Skelton have been included, though they are assigned to a time later than the fifteenth century. For example, Mr. Ramsay, who edited the *Magnyfycence* in 1906, decides that it was written about 1516.¹ Both Douglas and Skelton have been considered, however, as affording legitimate material for this study. They were born near the middle of the fifteenth century, and, doubtless, they drew largely upon the experience of their earlier years for the interjections found in their plays.

¹ *E. E. T. S.*, extra series 98. Introd., p. 25.

The fifteenth century was chosen as a basis for this investigation because of its intermediate position. Looking backward to Chaucer and the past, and forward to the Elizabethans, the period, like all formative periods, has especial interest for the student of language.

CHIEF SOURCES OF MATERIAL

A large proportion of the material for the present study has been gleaned from the mystery and morality plays, which are characteristic of the fifteenth century. This is to be expected, for it is in the drama that we find the emotions portrayed most vividly. *The Paston Letters*, which have afforded so rich a field for linguistic studies, have yielded little to this investigation. Theirs is the dignified style common to correspondence of that date, a manner which does not admit ejaculations. The dramatic literature shows the life of the people, their jests, their roguery, their aspirations, their ideals. The romances reflect the tastes of the higher classes, and are so artificial in nature that the emotions depicted are under excellent control. The author usually tells his story himself, without frequent interruptions from the persons chiefly concerned. When the hero directly acquaints us with his state of mind, he confines himself to such colorless interjections as *ah! alas!* and *gramercy!* For vigorous, hearty interjections the York and the Towneley plays are most remarkable. The Coventry and the Digby cycles, which have come to us in later form, are more reserved in nature. They emphasize the ethical and religious interests of mediaeval life. Such interludes as they contain are clearly not intended to be comic. Verging upon the morality play, they lack opportunity to present humorous situations with the accompanying emotions.

Of the moralities, Skelton's *Magnyfycence* yields the most material. Indeed, this play is extremely prolific in oaths, containing no less than eighty-five different forms in the space of its few pages. These various oaths are repeated again and again. The same one may be found three times in as many lines. Including other exclamations, of which there are not a few, each page is thickly besprinkled with interjections. Occasionally one line is

made to contain three of these expressions, all vigorous and highly colored. This is illustrated in line 2324, where Dyspare cries: "Out, harowe! hyll burneth! where shall I me hyde?"

SOME POINTS OF USAGE

Common ejaculations of the fifteenth century are those expressing sorrow, consternation, anger, or contempt, as *wæ!* *harowe!* *owe!* *owte!* *allas!* *tush!* Those most typical, however, are the asseverations, or emphatic denials, which employ oaths and mutilations of the name of God. Familiar illustrations of the latter are the words *Cock* and *Gog* in various combinations.

The romances have no rogues. Their characters move on so high a plane that the display of strong emotions is forbidden them. It is upon the more lowly that the plays depend for their color. As a rule, the exalted characters of the drama use no greater number or variety of exclamations than do heroes of chivalry. Even in the York cycle, Dominus employs practically no interjections. Once, indeed, he is made to say *A!* when in his sorrow he curses the serpent. But, throughout, his language is on a very dignified plane, as is that of the angels of heaven. The more noble among the human characters, such as Mary, Elizabeth, Simeon, and the three kings, are permitted the use of such expressions as *alas!* and *woc is me!* But the shepherds, the soldiers, and the torturers have a wide range including interjections which I have not found elsewhere. In the York Mysteries the shepherds use *hude!* and *colle!* to express their astonishment when they see the star.

Although these plays distinguish between the high and the lowly in the display of emotion, a closer distinction is made between the good and the evil characters. Cain and Abel are both rustics, but Cain goes to the extreme in his use of abusive language, while his brother is mild and gentle-mannered. Lucifer and his angels are not restricted as to their exclamations, and Herod knows no bounds. It is interesting to note that Herod's favorite ejaculation is the anachronistic *by Mahounde!* In this way the authors could best make known to a mediaeval audience the antipathy between Herod and those of the Christian faith.

In the *Magnyfycence* it is not the prince and his good counsellors who make generous use of oaths, but Fansy, Foly, Counterfeit Countenance, and the like. Fansy, indeed, rarely speaks without some imprecation.

On the whole, the fifteenth century literature seems to reflect an increase over earlier periods in the use of interjections. A few forms seem to be disappearing, as Chaucer's *avoy!* or the exclamation *lo!* in meaning equivalent to the Old English *la!* In early Middle English the latter indicated joy, sorrow, or wonder, but instances of its use in these meanings are almost wholly lacking in later Middle English. The fifteenth century *lo!* is a call for attention, and is perhaps a shortened form of the verb *loke* (look). On the other hand, many expressions found in the early sixteenth century are apparently absent in the fifteenth. Among these are the following, from Sir David Lyndesay: *be sueit Sanct Geill! be Sanct Fillane! for God's luife of heavin! be God's croun! and suyith!* (hence, away); also, *by Belzabub! by Gis!* and *by my lewtie!*

As regards derivation, it may be noted that while there are many interjectional expressions of French as well as of vernacular origin, those from the Norse are few and of little relative significance.

SURVEY OF INTERJECTIONS

I. *Interjections Expressing Surprise, Astonishment*

The most common ejaculations found in the fifteenth century are those expressing the more primitive emotions, as wonder, fear, anger, or grief. Of these, wonder is represented in greatest variety.

The same interjection often occurs in different uses. In these cases, the illustrations quoted may be few, but further examples are cited under another head.

benste, benedicite. In meaning usually equivalent to modern *bless us!* These are shortened forms of the plural imperative of Latin *benedicere*, to praise; later, to bless.

Towneley Plays, xiii, 55, Pastor: Benste and dominus! what may this bemeyne? *Towneley*, xiii, 359, Pastor: Benste be here in! *Coventry Plays*, xii, Joseph: A! lord God, benedicite! *Magnyfycence*, 257, Fany: Now, benedicite, ye wene I were some hafter.

In the last example, *benedicite* is so lacking in force as to be almost an affirmation.

colle. Meaning is uncertain. L. T. Smith (*York Mystery Plays*, 119) thinks it equivalent to modern *golly!* The word seems to be a quasi-oath and may be a form of *goles*, which (see *Oxford Dictionary*) is used only in exclamations, as, *by goles*, meaning by God. Instances of the use of *colle* are rare.

York Mystery Plays, xv, 39, Pastor: We! colle! *York*, xv, 54, Pastor: We! no colle!

ey. Cf. modern dialectal use, *ay, ay*, to indicate mild surprise. (*English Dialect Dictionary*.) See also *ey* as a call for attention (xvi, 4). The etymology is difficult. The *Oxford Dictionary* says: "The ME. *ey* is probably a natural ejaculation, nothing similar being found in OE. There is a greater possibility of its being an adoption of OF. *ai*, but this would almost certainly have given *ay, ai*, which are not found, even as variants, in ME." But compare the following example, *York Mystery Plays*, xxviii, 232, Malcus: Malcus! a ay! and I schulde be rewarde. Here it does not appear that Malcus is assenting to anything. He is expressing his ill humor. Again, the forms *ey* and *ay* seem to be used interchangeably in ME. to indicate assent, as seen in examples expressing affirmation, cited under xiv. Hence, they might well be variants in the case under discussion. The word, then, may possibly have been adopted from the OF. *ai, aie*, which, according to Littré, was an old form of *aider*, to help.

Mankind, 354, New-Gyse: Ey, how ye turne þe erþ wppe & down! *Castell of Perseverance*, 1575, Malus Angelus: Ey, what deuyll, man! *Coventry Plays*, xvi, Pastor: Ey, ey! this was a wondyr note. *La Male Regle de T. Hoccleue*: Ey, what is me.

[Eh]. This may be a modernization of *ey*. The examples quoted are from A. W. Pollard's *Fifteenth Century Prose and Verse*, in which the modern spelling has been used throughout. For other illustrations, see [Eh] in Affirmation, xiv.

The Nativity, Pastor: Eh! friends, there came a pirie of wind.

how, howe, howe now. Modern *how!* or *what!* In expanded form, *how is this?* OE. *hū*. In exclamations, *hu la!*

York Mystery Plays, xv, 37, Pastor (on seeing the star): We! howe! *York*, xi, 386, Rex: Howe nowe! es there any noyes of newe? *Toteneley Plays*, xxv, 152, Satanus: How! in tyme that tale was told.

huddle. This interjection is equivalent to modern *whew!* according to L. T. Smith (*York Mystery Plays*, 119). The examples cited are perhaps the only instances of an interjectional use of the word. The etymology is dark. The form may be connected with *hudd(e)*, a dialectical form of *hood*, in common use during the fifteenth century. The verb *huddle* is a diminutive, perhaps from Teutonic root **hud*, to cover. (See *Oxford Dictionary*.) OE. *hydan*, hide.

York Plays, xv, 37, Pastor: We! huddle! *York*, xv, 46, Pastor: Whe! huddle! be-halde into the heste! (east).

ille hayle. Originally meaning *ill luck*. Here, expressing astonishment. Compare OE. *hæl*, prosperity. The Middle English *hayle* is probably of Scandinavian origin. (Björkman, *Scandinavian Loan-Words in Middle English*, pp. 39, 44.) Cf. *hayle* expressing a greeting (XII). See also combinations with *hayle*, expressing terror (II).

York Plays, xxviii, 287, Malcus (when his ear is restored): What! ille hayle! I hope þat I be hole!

O. Equivalent to modern *why!* See *O!* expressing lamentation (III); impatience (IV); adoration (IX); and its use with the vocative (XXI). This interjection is more common with us than in ME., having to a great extent replaced the older *A!*

York Plays, viii, 41, Noe: O! mercy, lorde, quat may þis meyne?

ow, owe. Probably modern Scotch *ow*, used in a concessive sense. In ME. it expressed astonishment, as well as other emotions. Compare *ow* showing consternation (II); lamentation (III); and exultation (XI).

Coventry Plays, xii, Joseph: Ow! dame, what thinge menyth this?

out, outte, owte. This seems to have lost its force as an elliptical expression and to have become, in ME., purely interjectional. It is most commonly used in connection with other ejaculations. See, also, *out* expressing terror (II); lamentation (III); and anger (IV).

York Mystery Plays, xxxiii, 161, Cayphas: We! outte! . . . so I stare. *York*, xxxiii, 166, Cayphas: Out! slike a sight suld be sene! *York*, xxviii, 259, Judaeus: We, oute! I ame mased almost.

we, whe. Here, equivalent to modern *why!* Corresponds to OE. interjection *wā!* It may come directly from OE. *wāa*, *wā*, either of which would become ME. *wę*. Björkman (*Scandinavian Loan-Words in Middle English*, p. 39) sees no sign of a Scandinavian origin here. The OE. *ā* of *wā* was not diphthongal, and probably depends on Latin *vā*. Compare *wę* indicating consternation (II); sorrow (III); and anger (IV).

York Plays, xv, 49, Pastor: We! telle me men, emang vs thre. *York*, xxxviii, 298, Miles: Whe! harrowe! deuil, whare is he away? *York*, xxxiii, 236, Preco: We! nay sir, why shuld I be soo? *York*, xv, 38, Pastor: We! man, þou maddes all out of myght. *York*, xxx, 378, Miles: Whe! harke how þis harlott he heldis. *York*, xv, 46: Whe! hudde! be-halde into the heste!

wemmow, wemay, wemo, wema. For other forms and examples see interjections expressing irritation (IV); contempt (VI); and a call to stop XVI, (2). Etymology uncertain. It may have been originally a curse, connecting with OE. *wemman*, to defile. Cf. Wright, *English Dialect Dictionary*.

Towneley Plays, xxvii, 291, Lucas: Wemmow! where is this man become?

what. OE. *hwæt!* the neuter form of *hwā*, who. An introduc-

tory expletive, frequent in OE. narratives. *Beowulf* and *Andreas* open with this form. *Hwæt* stands at the beginning of a new topic. It serves as introduction to an address in the midst of a longer speech. Less forcefully, it is used as a weak interjection, in which office it persists as late as the sixteenth century. As in modern English, it frequently introduces declarative, as well as interrogative, sentences. (Cf. Wülfiŋg, *Syntax in den Werken Alfreds des Grossen*, 688 ff.) According to Grimm, *Deutsche Grammatik*, iv, 448 ff., this use of the neuter of the interrogative pronoun as an exclamation is peculiar to Old English and Old Saxon.

Magnyfyence, 288, Magn: What! I have aspyed ye are a carles page. *Magn.*, 384, Fany: What! sholde you pynche at a pecke of grotes. *York Plays*, xv, 44, Pastor: Say, felowes, what! *York*, xxvi, 184, Janitor: What! demes þou till oure dukes. . . . *York*, xxviii, 287, Malcus: What! ille hayle! I hope I be hole. *Everyman*: What! weenest thou that I am thine?

why. OE. *hwī hwȳ*, instrumental of *hwæt* or *hwā*, used adverbially. Cf. also *why* expressing anger (IV).

Everyman: Why, ye said if I had need. *York Plays*, x, 189, Isaac: Why! fadir, will God þat I be slayne? *York*, xi, 314, Rex: Why! is ther greuance growen agayne? *Magnyfyence*, 1307, Fany: Why, shall I not haue Foly with me also? *Magn.*, 509, Counterfeit Countenance: Why, shall we dwell togyder all thre? *Magn.*, 510, Crafty Conveyance: Why, man, it were to great a wonder.

II. *Consternation, Terror*

In the list of interjections expressing terror are found a few peculiar forms which are of rare occurrence, but which are, therefore, of greater force. Others, more common, are listed under several headings. The word *harrow* might well have been included in this division since there is a close connection between the feeling of fear and a cry for rescue. Examples of this interjection, however, are cited under calls for help, XVI (1).

dewes. Perhaps equivalent to modern *deuce!* But cf. the *Ox-*

ford Dictionary on the etymology of the latter. *Dewes* is from OF. *deus*, nominative form of *deu*, modern *dieu*, God. Not in native English use, but sometimes kept in translation, or put into the mouth of a foreigner or of a fiend.

York Plays, i, 92, Lucifer: Owe! dewes! all goes downe!

dyce. Apparently a variant of *dewes*, in the example cited below. Mr. Ramsay, however, classifies it under the head of oaths by miscellaneous objects. (See his edition of *Magnyfycence*, E. E. T. S., extr. ser. 98, p. 83.)

Magnyfycence 781, Crafty Conveyance: Nay, come at ones, for the armys of the dyce!

hyll burneth. *Hyll* is evidently a variant of *hell*, from OE. *helan*, hide, conceal. *The Oxford Dictionary* does not enter the form *hyll*, however. In the *York Plays* (xxix, 82 and xxxii, 21) *hille* and *hillis* are used as verbs meaning to cover.

Magnyfycence, 2324, Dyspare: Out harrowe! hyll burneth! where shall I me hyde?

hopp illa hayle, wyth yllahayll. Meaning, originally, *ill luck seize him!* A more intensive form of *ille hayle*, in I, above. *Hopp* comes from the OF. *happer*, to seize suddenly. The French form is either borrowed from the Hollandish *happen*, to bite, with which the meaning accords, or it is simply imitative of the sound of the mouth which seizes, bites (Littré).

York Plays, xi, 245, Rex: Hopp illa hayle! *Towneley*, viii, 258, Pharao: wyth ylahayll!

owe. See *owe* expressing surprise, in I above.

York Plays, i, 92, Lucifer: Owe! dewes! all goes downe!

York, xi, 347, Rex: Owe! come þat in our presence?

out, outte. For etymology, cf. *outte* expressing astonishment in I above. See, also, under sorrow, lamentation (III); and anger (IV).

York Plays, xxxviii, 288, Miles: What! oute allas! what schall I saie? *York Plays*, xi, 403, Rex: Owte! ay herrowe! devill, I drowne! *Wisdom*, 907, Mynde: Out! I tremble for

drede, by Sent Powle! See, also, examples cited under *we*, below.

we, whe. For discussion, see *we* expressing surprise, I above. Cf. also *we* under sections III and IV.

York Plays, xxxiii, 269, Cayphas: We! out, we are shente alle for shame. *York*, ix, 99, Uxor: We, owte, herrowe! *York*, xxxviii, 298: Whe! harrowe! deuill, whare is he away? *York*, xi, 338, Rex: We! lorde, new harme is comon to hande.

III. Sorrow, Lamentation

Exclamations of sorrow are most frequent, although they are not found in so great variety as those of some other classes. All the interjections listed in this division are common in the fifteenth century, and all occur more or less frequently in modern literature.

a, ha, ha a. Sometimes repeated, *a, a*. Not found in OE. Perhaps from OF. *a! ah!* As an expression of physical pain it has been superseded, in modern usage, by *Oh!* Cf. also *A! ha!* expressing anger (IV); and joy (X).

Merlin, 546: A, leeve Soster what do ye here? *Merlin*, 1019, A, Faire sone, quod sche thanne tho. *Three Kings' Sons*, p. 8, l. 18. A, verray God! y may do the no service. *York Plays*, v, 150, Dominus: A! wikkid worme, woo worthe the ay. *Digby Plays, Burial of Christ*, 450, Mary: A, a, my dere sone Jesus. *Merlin*, 439: Ha, Sire, sche Seide, J am ful wo! *Eneydos*, ch. 41: Ha, a, fayre sone! The following from *Magnyfycence*, 1729, expresses physical pain: Magn.: A, my hede!

alas, allas, alasse, allace, alese, allese. Meaning *ah wretched!* Compare French *hélas!* OF. *ha las! a las!* a combination of *ha* and *las*, *lasse*, wretched, originally, weary, from Latin *lassum*. Sometimes found with a substantive, as *alas the while*.

Digby Plays, Burial of Christ, 453: Allese, scho commys! A, what remedye! *Magnyfycence*, 1847, Fanny: Alasse, alasse, an heuy metynge! *Castell of Perseverance*, 1289, Bonus Angelus: alas! Mankynde is bobbyt & blent as þe blynde! *Everyman*: Alas! shall I have no longer respite? *Digby Plays, Christ's Resurrection*, 1191, Petrus: Alese! of myself why presumyd I.

Towneley, x, 313, Joseph: Alas, what am I wo! *York*, i, 115, Lucifer: Yhe ly, owte, allas! *Robin Hood Ballad*, 8th fytte: Alas! then said good Robin, Alas and well a wo! *Morte Darthur*, ii, ch. 18: Allas, sayd balyn, that euer I shold see this day! *Nativity*, Herod: Into Egypt? alas for woe! *The Murning Maiden*: My sweit, allace! quhy dois he so? *The Quare of Jelusy*, 202: Allace, þe wo! allace þe sad greuance!

O, Oo, ow, in ME. expresses physical pain, sorrow, terror, surprise, impatience, or exultation. Cf. sections I, II, III, IV, IX, and XI.

York Plays, vii, 79, Brewbarret: O! maister Caym, I haue broken my to! *York*, xxxiv, 154, Mary: Oo! doufully nowe is he dighte. *Morte Darthur*, ii, ch. 6: O Balyn two bodyes thou hast slayne. *Castell of Perseverance*, 2989: ow, ow! my good gothe al to wrak! *Magnyfycence*, 2048: O feble Fortune, O doufull Destiny!

out, owte. See *out* expressing surprise (I); consternation (II); and anger (IV).

York Plays, i, 97, Lucifer: Owte owte! harrowe! helples, slyke hote at es here. *York*, i, 104, Lucifer: Owte! ay wala-way! I well enew in wo nowe! *Towneley*, ix, 74, Imperator: Out, harow, full wo is me! *York*, i, 105, Diabolus: Owte! owte! I go wode for wo. *Castell of Perseverance*, 2148: Out! myn herte gynneth to breke. *Castell of Per.*, 2200: Out! my prowde bak is bent!

wa, wo, woe. OE. *wā, wō*, modern *woe*. Compare Scotch usage, *wa'e's me!* For further discussion of OE. *wa* cf. *we*, expressing surprise (I).

York Mystery Plays, i, 113, Lucifer: Walaway! wa! es me now, nowe es it war þane it was. *York Plays*, xiii, 143, Joseph: Allas! me is full wa! *Towneley*, xiii, 35, Pastor: Woe is me this dystres! *Quare of Jelusy*, 202: Allace, þe wo! allace, þe sad greuance! *Merlin*, 439: Ha, Sire, sche Seide, I am ful wo! *Nativity*, Herod: Into Egypt! alas for woe!

woo (wa) worthe the. Meaning, *woe come to thee!* For *woo*,

see *wa* above. The form *worth* comes from OE. *weorþan*, happen, become. Originally a curse, this expression has lost most of its force.

York Plays, v, 107, Adam: Ille counsaile woo worthe the!
York, vi, 51, Eua: wa worthe þe whyle! *York*, v, 150, Dominus: A! wikkid worme, woo worthe þe ay! In the last example, the idea of malediction is still forceful.

we. For discussion, see *we* expressing surprise (I) above. Cf. also *we* expressing consternation (II) above, and anger (IV) below.

York Plays, xi, 313, Egyptian: We! lorde, we may not lede this liffe. *York*, xiii, 141: Joseph: We! why gab ye me swa?
York, xxviii, 273, Malcus: We! oute! all my deueres are done.
York, xi, 139, Moses: We! lord, þai wil nocht to me trayste.
York, i, 115, devil: We! lurdane, þu lost vs. *Towneley*, iv, 128, Abraham: Shuld I that ganstand? We, nay, ma fay!

walaway, wala way, well a way, well a wo, well-away, wele-wo, walo-way, welawo, weleaway, welaway.

With some modification, this expression of grief has come down in Shakespeare as *well-a-day!* Compare *woe the day!* See, also, Rossetti's revival of it in the refrain (*A Death-Parting*), "Water-willow and well-away!" Originally OE. *wā-lā-wā*, which properly meant *wo! lo! wo!* For discussion of *wo*, see *wa* above, and *we* expressing surprise (I). For *lo!* cf. calls for attention in XVI, 4.

Castell of Perseverance, 3035: Ye, a-las, & welawo! *Castell of Per.*, 3070: weleaway! I was ful wod. *Nativity*, Joseph: Well-away! woman, now may I go. *Robin Hood Ballad*, 8th fyttē: Alas, then said good Robin, Alas and well a wo! *Towneley Plays*, v, 36, Esaw: Now, alas, and walo-way! *Towneley*, I, 132, Demon: Alas, alas, and wele-wo! *Battle of Agincourt*, Therefore their song was Well a way! *York*, i, 113, Lucifer: Walaway! wa! es me now, nowe es it war þane it was. *York*, xxxii, 309, Judas: So wala way! *Coventry Plays*, xii, Joseph: Alas and welaway!

IV. Impatience and Anger

Most of the interjections expressing anger perform a double office, being found in other uses. A few of the forms are peculiar to Middle English and, even in the fifteenth century, are of rare occurrence. Of those which have come down to us, some have lost much of their original force.

a, ah. For discussion, see *a! ah!* expressing sorrow (III) above. Cf. also *a! ah!* expressing joy, in X below.

Nativity, Herod: Ah, that these villain traitors hath marred. *Towneley Plays*, ix, 76, Imperator: A, fy, and dewyls! whens cam he? *York*, xxviii, 235, Cayphas: A! sir, of your speech lette, and late vs spede.

ay. Cf. *ey* expressing surprise, in I, above; also *ay* in affirmation (XIV).

York Plays, xxviii, 232, Malcus: Malcus! a ay! and I schulde be rewarde.

dogge, dogges. In use from the thirteenth to the fifteenth centuries as a deformation of the name of God, but found infrequently in the fifteenth. Indeed, in the examples cited, it may not be an expletive, but simply the substantive *dog*, as a term of abuse. However, the general context indicates its interjectional use. Compare modern French, "Quel chien de temps!" and English slang, "What dog-gone weather!" Julian Sharman, in *A Cursory History of Swearing*, ch. iv, says: "Examples can be quoted of the occurrence of the word *dog* or *dogue*, as a malediction similar to that of 'goddam,' and at a date nearly as distant." Mr. Sharman, however, explains the term as originating in a game of chance, popular with the old Greeks and Romans. In that case it would be similar in meaning to the word *deuce!* used in games, and, in modern usage, an exclamation of annoyance. It may be noted here that this *deuce!* is not the ME. *dewes!* (cf. II, above).

York Plays, xi, 240, Rex Pharao: A! dogg! þe deuyl þe drowne! *York*, xix, 106, Herod: A! dogges, þe deuell you spede! *York*, xvii, 121, Herod: In þe deuyl way, dogges, Fy!

Magnyfycence, 303: Go shake the, dogge, hay, syth ye wyll nedys!

Do way,—wey, away. OE. *weg* in reference to conduct. Meaning *put away! have done!* Compare *do wey* expressing reproach, in V.

York Plays, v, 60 Satan: Woman! do way! *Mankind*, 82, Mercy: Do wey! do wey this reuell, sers, do wey! *Mankind*, 83, Now-a-Days: Do wey, goode Adam! do wey! *Mankind*, 576: Do wey. I wyll no more so oft on the chyrche-style. *Magnyfycence*, 397, Fansy: Do away, I say!

fy, fye, ffy, fie. Modern French *fi!* Apparently an OF. *fi-fi*, Latin *fi*, an imitation of a sound instinctively made upon noticing a disagreeable smell. Old Norse *fy* of similar origin. Danish *fyskam* (of like origin), *fi!* shame to you! In modern use *fy* expresses contempt or reproach, but the examples found in ME. are used to express anger. The word retains something of its old force in the Elizabethan literature. Compare Macbeth, V, i, 35, "Fie, my lord, fie! a soldier and afeard!" Here Lady Macbeth expresses all the scorn which she made use of earlier in the play.

Magnyfycence, 2020: Fye on this worlde full of Trechery! *Magn.*, 1972: Fy, fy, that euer I sholde be brought in this snare! *York Plays*, xi, 67, Rex: Fy on þam! to þe devell of helle! *York*, xi, 217, Rex: Fy on the! ladde, oute of my lande! *York*, xxix, 298, Cayphas: Why! fie on þe faitoure vn-trewe! *York*, xxix, 328, Miles: What! fye on the beggarr! *York*, xvii, 121, Herod: In the deuyl way, dogges, Fy! *Towneley*, ix, 76, Imperator: A, fy, and dewyls! whens cam he? *Towneley*, xiii, 204, Mak: ffy on you! goyth hence out of my presence!

hagh, ha. A natural exclamation found in Greek, Latin, most modern Romance, and all modern Germanic languages. Not recorded in OE., but current in OF. and in ME. from about the fourteenth century. OE. had, however, the *ha, ha!* of laughter.

Towneley Plays, viii, 355, Miles: A, my lord! . . . Pharao: hagh! *Towneley*, ii, 33, Cayn: A ha! god gif the soro & care.

ho. Not recorded in OE. Here, equivalent to the *what* of indignation. Cf. *ho* used as a call for attention (XVI, 4).

Digby Plays, Conversion of Saint Paul, 454: Ho! owyt, owyte! he that I most trustyd to. *Towneley*, xii, 103, Pastor: A, good sir, ho! who am I?

how. For etymology, cf. *how* expressing surprise, in I above.

Towneley Plays, ii, 84, Caym: How! let furthe youre geysse, the fox will preche. *Towneley*, ii, 37, Cayn: How! pike-harnes, how! com heder belife.

O, ow, owe. For discussion, see *O, ow*, expressing surprise, in I, and sorrow, in III above. Also *O*, expressing terror (II), adoration (IX), and in its vocative use (XXI).

York Plays, ix, 93, Noe: O! woman, arte thou woode? *Castell of Perseverance*, 1358: ow! þat harlot is now bold! *Castell of Per.*, 2870: owe, Mankynde! hathe Dethe with þee spoke? *Castell of Per.*, 2883: ow, Werld! Werld euere worthe wo!

out, oute, owte, owyt, owyte. Discussed under *oute* showing surprise, in I above. See also the same word, in II and III.

The Nativity: Another way! Out! out! out! (Herod is angry, having learned that the three kings have returned by a different route.) *Towneley Plays*, ii, 275, Caym: We! oute! haro! help to blaw! *Digby Plays, Conversion of Saint Paul*, 454: Ho! owyt, owyte! he that I most trustyd to. *York*, ix, 98, Uxor: We, owte! herrowe! *York*, i, 108, Diabolus: Owte! on þe Lucifer, lurdan! *York*, i, 115, Lucifer: Yhe ly, owte! allas! *Mankind*, 436: Oute! ye xall not assay. *Castell of Perseverance*, 1414: owte on þee, dedly synne!

we. Compare *we* used to express astonishment, in I; terror, in II; sorrow, in III.

Towneley Plays, ii, 314, Caym: We! na! I aght the a fowll dispyte. *Towneley Plays*, xiv, 308, Herod: We, fy on dewyls! fy, fy! *Towneley*, ii, 323, Caym: We! yei! that shal thou sore abite. *Towneley*, ii, 53, Caym: We! now, no thyng, bot call on tyte. *York Plays*, xxxiv, 33, Miles: We! howe! high myght he hyng! *York*, xxxiii, 168, Pilate: We! ere ye

fonde, or youre force fayles you? *York*, xxxiii, 175, Pilate: We! spitte on them, ill mote þai spede! *York*, xxvi, 193, Pilate: We! speke on, and spare not þi spell.

wemay, wemo. Compare *wemmoz* expressing astonishment, in I above; and *wema* expressing contempt, in VI below.

Towneley Plays, ii, 148, Caym: Wemay, man, I hold the mad! *Towneley*, ii, 198, Caym: Wemo, wemo, foure, lo, here!

what. For etymology, see *what* expressing surprise, in I above.

York Plays, xvii, 76, Herod: What! false losell, liste þe flighte? *Towneley Plays*, ii, 31, Caym: What! it semys for me ye stand none aw! *Towneley*, xiii, 201, Mak: What! ich be a yoman, I tell you, of the king. *Towneley*, ii, 39: What, boy, shal I both hold and drife?

why. Discussed under the subject of surprise, I above.

York Plays, xxix, 298, Cayphas: Why! fie on þe faitoure vn-trewe!

ya, yha, yei, yaa. Expresses angry shame, as well as impatience. Cf. also, affirmation, in XIV below.

Towneley Plays, ii, 323, Caym: We! yei! that shal thou sore abite. *Coventry Plays*, xii, Joseph: ya! ya! alle old men to me take tent. *York*, xiii, 224, Joseph: Yha! Marie, drawe thyn hende. *York*, xxxiii, 162, Annas: Ya, harrowe, of this traytour. *York*, xiii, 218, Joseph: Goddis sande! yha, Marie! *York*, xi, 210, Rex: Yaa! wende þou to þe devell of hell.

V. *Reproach*

Interjections expressing reproach are less numerous than those classified in the preceding divisions, and illustrations are more rare. Some are listed, with examples, in other meanings. All are in modern use, although, in most cases, found infrequently.

alas, allas. For discussion, see *alas, allas*, expressing lamentation, III above.

York Plays, v, 106, Adam: Allas! what haue I done, for shame! *York*, v, 84, Adam: Alas! woman, why toke þou þis? *York*, v, 88, Adam: Allas! thou hast done a mys.

do wey,—wa. Cf. *do way!* expressing impatience, in IV above.
Towneley Plays, x, 326, Angelus: Do wa, Joseph, and mend thy thoght. *York*, v, 121, Adam: Do wey, lefe Eue, whame þan?

go to. Expressing impatient reproach. Apparently more frequent in the next century.

Mankind, 89: Go to! for I haue hade a praty scott-lynge.

late be, let be. Meaning, *forbear! cease! let be!*

De Regimine Principum, 2103: Nay, lat be þat! *York Plays*, xiii, 297, Mary: Forgiffnesse, sir! late be! for shame. (Loving reproach.)

s(c)hame, for shame. OE. *scamu, sceamu*. Perhaps from *skam*, cover. *Shame* is an expression still used to express reproach.

York Plays, v, 106, Adam: Allas! what haue I done, for shame! *Kingis Quair*, 58: Sluggart, for schame! lo, here thy goldin houre. *Occleve, Jereslaus's Wife*, 87: ffor shame, fy.

wa worthe (you). For etymology see *wa worthe*, expressing lamentation, in III above.

York Plays, xiii, 97, Joseph: A! maidens, wa worthe you! *Castell of Perseverance*, 2883: ow, Werld! Werld euere worthe wo!

VI. *Mockery and Contempt*

Interjections expressing mockery occur less frequently than those representing the more primitive emotions. (See Class I.) The first three listed here are common in modern usage, having retained their original force. The place of the fourth in this class is doubtful. The remaining forms are rare, even in the fifteenth century.

strawe, stra. Figuratively used to indicate anything absolutely worthless. Still in use with the same meaning, though not in interjectional form.

Gavin Douglas, Prolog to Aeneid I, 17: Stra for þis ignorant blabring imperfyt! *Magnyfycence*, 549: Tusche, a strawe!

it is a shame! *Magn.*, 564, Fanny: Tushe, a strawe! I thought none yll.

tush, tushe, tusshe, tusche, tussch, tysche. Probably an assibilated form of *tusk*. Formerly, also *twish!*

Mankind, 783: Tysche! a flyes weynge! wyll ye do well!
Magnifycence, 650: Tusshe! fonnysse Fanny, thou arte fran-tyke. *Magn.*, 786: Tusche! he that hath nede, man, let hym rynne. *Magn.*, 251: Tusche, hold your pece, your langage is vain. *Everyman*: Tush! by thy thanks I set not a straw!
York Plays, xxxiii, 121, Pilate: Ya, tussch! for youre tales.

tut. Synonymous with *tush*, above.

Magnifycence, 1745: Measure? Tut! what the deuyll of hell!

vath. Meaning is obscure. It may be connected with the French adverb *va*, from the imperative of Latin *vadere*, to go. The *-th* may be the personal ending of the verb; but this is doubtful. In the example quoted the word seems to carry with it the idea of mockery.

Coventry Plays, xxxii, Judaeus: Ya! vath! vath! now here is he That bad us dystroy oure tempyl on a day.

wassaille, wassaylle. Anciently, a salutation or toast, meaning, "health to you!" ME. *wæs hæil*, literally, "be thou well!" Icelandic *heill*, hale, sound, cognate with OE. *hāl*. For further discussion see *hayle* expressing greeting, in XII. *Wæs* is a variant of ME. *wes*, imperative of *wesan*, to be. (For form *wæs* in OE. cf. *Beowulf*, 407: *Wæs þu, Hroþgar, hāl!*) The only example of *wassaille* noted is not listed with greetings, because it is used in mockery.

York Plays, xxix, 372, Miles: Wassaille! wassaylle!

wema. Cf. *wemo* expressing surprise, in I, and anger, in IV above.

Towneley Plays, xxiii, 183: Tortor: wema, man! I trow thou doyte!

VII. Pleading

Under the head of pleading only one interjectional expression, *mercy*, is listed. The word *pity*, which today is commonly used in the same sense, has been noted with this use only once (*Not-browne Mayde*). Apparently, in Middle English, this word retained more of its original meaning of *piety*, or kindness of disposition.

mercy(e). Meaning, as in modern English, mercy, goodwill, kindness. From Latin *merx*, price.

Nativity: Mercy, Mary! for now I know. *Nativity*: Mercy, Mary, while I live. *Coventry Plays*, viii, Anna: A! mercy, Lord! mercy! mercy! mercy! We are synfolest. *Coventry*, xxvi, Cives: Wherefore we alle at onys to the exorte, Cryeng mercy! mercy! mercye! *York*, viii, 37, Noe: O! mercy lorde, quat may þis meyne? *Wisdom*, 954: Mercy, Gode! why change I nowte. *Castell of Perseverance*, 116: Mercy, God! be now myn frende! *Castell of Per.*, 1300: Mercy, God, þat man were a-mendyd! *Murning Maiden*: Schir, mercy for your mycht!

VIII. Gratitude

As expressions of gratitude, only the word *mercy* and its variants have been noted. In the fifteenth century, evidently, the OE. *þanc* had been completely superseded by the French word.

gramercy(e), grammercy. Meaning *great thanks!* From OF. *grant merci*; *grant*, great, and *merci*, thanks. *Merci* formerly meant *reward*; from Latin *merx*, price. Hence, originally, *gramercy* was equivalent to "May God reward you greatly!" Both *mercy* and *gramercy*, without modifiers, were used as interjections, expressing thanks. Cf. Modern French *merci!*

York Plays, vii, 34, Abell: Gramercy! god of thy goodnes. *York*, xiii, 92, Joseph: Gramercy, Marie, saie what chere. *Siege of Harfleur*: Grammercy, Sirs, the king gan say. *Everyman*: Verily, Fellowship, gramercy! *Robin Hood Ballad*: Grammercy, Sir, said he. *Morte Darthur*, i, ch. 14:—and gave him King Lott, whereof he said gramercy. *Castell of*

Perseverance, 570: Mary, felaw, gramercy! *Guy of Warwick*, 6997: Syr, sche seyde, gramercye!

mercy. Meaning *thanks*. See *gramercy* above.

Coventry Plays, x: A! mercy! mercy! mercy! Lord, we crye, The Blysayd of God we se art thou. (The bishop is thankful because Joseph's rod buds.) *Coventry*, x, stage direction for above example: Et clamant omnes "mercy! mercy!"

God a mercy, godamercy. Meaning *thank you!* Equivalent to *God reward you!* See *gramercy*, above.

Digby Plays, Mary Magdalene, 619: Jesus: god a mercy, symont (Simon), þat þou wylt me knowe! *Digby*, the same, 958, Rex: now godamercy, berel brytest of bewte! *Magnyfy-cence*, 1313: God haue mercy, good godfather! *Nativity*: God have mercy, Joseph, my husband so meek!

IX. Adoration, Praise

In expressing a supreme emotion, interjections are few in number. Besides the ecclesiastical *ave* and the vernacular *hail*, there are found only natural exclamations combined with descriptive phrases showing an exalted mood.

a. For discussion, cf. *A!* expressing sorrow, in III above.

Wisdom, 77: A, soueren Wysdom, sanctus sanctorum! *Wisdom*, 83: A! soueren joy, my hertis affyance! *York Plays*, i, 41: A! mercyfull maker, full mekill es þi mighte. *York*, i, 121: A! lorde, loid be thi name. *York*, iii, 61: A, blissed lorde! *York*, viii, 41, Noe: A! lorde, I lowe þe lowde and still.

ave. Expresses adoration in salutation. For discussion and examples, see *ave* in greeting, XII below.

hayle. Like *ave*, expresses adoration in greeting Cf. XII, below.

O. Expresses adoration. See, also, *O*, expressing astonishment, in I; terror, in II; lamentation, in III; impatience, in IV; and its use with the vocative, XXI.

Wisdom, 69: O, worthy spowse, and soueren fayer. *Wisdom*, 74: O creator, loue of yowur creatur? *Wisdom*, 93:

O endles Wysdom! how may I haue knowynge Off þi Godhede incomprehensyble? *Wisdom*, 99: O soueren Auctour, most credyble!

X. Joy, Merriment

With one exception, the expressions of merriment listed in this division are confined to natural exclamations, repeated to form various combinations. Modern usage has added nothing to this mode of showing merriment.

a, ah. For discussion, see *a! ah!* used to express sorrow, in III above. Cf. also *a! ah!* expressing anger, in IV. In the first example cited, the definite meaning is satisfied expectancy.

The Nativity: Prophet: A! I preceive the seed. . .

In the second example is shown enjoyment of a joke, purely merriment:

Magnyfycence, 1297: A, Syr, a, a! howe by that?

a ha, aha. A combination of *a!* and *ha!* formerly written separately. In the first example, again, the meaning is definitely a hope fulfilled.

Nativity, Pastor: Aha! now is come the time that old fathers hath told. *Magnyfycence*, 2448: A ha! Fanky and Foly met with you, I trowe. *Mankind*, 606: A ha! well! on! ron! Gode gyff hym ewyll grace!

ha, ha. The ordinary representation of laughter. For this form in OE., see *ha* expressing irritation, in IV above.

York Plays, xv, 65, Pastor: Ha! ha! þis was a mery note. *Towneley*, xii, 226, Pastor: Ha, ha, goderhayll! I let for no cost. *Eneydos*, ch. 57: Ha ha, valyaunte bachelor! *Magnyfycence*, 1110; Foly: Ha, ha, ha! herke, Syrs, harke! *Magn.*, 1202, Fanky: Ha, ha, ha, ha, ha, ha! *Magn.*, 2160: Ha, ha, ha! For laughter I am lyke to brast.

hay, ha. Indicates merriment in greeting.

Towneley Plays, xii, 86, Pastor: hay, ha! are ye in this towne?

ut hoy. An expression of joy. *Ut* is the name of a musical

note, from *ut* in the Latin hymn from which the names of the notes were taken.

An English Carol of the fifteenth century: Ut hoy! . . .
Can I not sing but hoy!

XI. Exultation

Interjections expressing exultation are, in most cases, to be distinguished from those indicating simple merriment (see class X) by a boastful, self-gratulatory spirit. The greater variety of forms shows, too, the greater complexity of this mood.

a, ha. Cf. *aha, a ha*, expressing joy, or merriment, in X above.

Towneley Plays, xxii, 403, Tortor: A, ha! now ar we right arayde. *Castell of Perseverance*, 2688: A, A! þis game goth as I wolde.

away the mare, away care. Both expressions mean *away with melancholy!* The mare was a kind of evil spirit or goblin supposed to produce bad dreams by sitting on the chest of the sleeper. Cf. modern *nightmare*. The word *mare* is also used as an oath. Cf. *Magnyfycence*, 1391: in the mare's name!

Magnyfycence, 1326, Foly: Now then goo we hens. Away the mare! *Wisdom*, 500: A, ser, all mery, þan! away, care!

goderhayll. Meaning *good luck!* From the OE. *tō gōdre hale!* *hayll*, is from Old Norse, *heill*, sound, whole. See *hayle* in combinations expressing astonishment, in I; and terror, in II, above. *Goderhayll* is not connected with the word *God*, but *good*. Cf. modern Scotch *heal* in the sense of *health*.

Towneley, xii, 226, Pastor: ha, ha, goderhayll! I let for no cost.

ha a. For other uses, cf. *a ha! ha ha!* and *hay ha!* expressing merriment, in X above.

Morte Darthur, I, ch. 10: Ha A said Ban and Bors, they were my good friends. (Ironical.)

ho. Expresses boasting. See *ho* expressing a call for attention, in XVI, 4, below.

Digby Plays, Conversion of Saint Paul, 412: Ho, ho, be-holde me, the mygte prince of the parts in-fernall.

hof. Apparently equivalent to *ho!* above.

Digby Plays, Mary Magdalen, 491: Hof, hof, hof, a frysche new galavnt.

O. For other uses, see *O* in sections I, II, III, IV, IX, and XXI. As in modern usage, this form may express many different emotions, according to the context. In the following example it is used in self-gratulation.

York Plays, i, 65, Angel: O! what I am fetys and fayre and figured full fytt!

Owe, ow. See *ow!*, *owe!* expressing surprise, in I, above; consternation, in II; lamentation, III.

York Plays, i, 81, Lucifer: Owe! certes! what I am worthely wroghte with wyrschip, i-wys! *York*, i, 92, Lucifer: Owe! what I am derworth and defte! *Castell of Perseverance*, 2779: ow, now it is tyme hye.

XII. Greeting

It might be supposed that the word *ave* would be set aside to indicate reverential greeting, and that the vernacular *hail* would serve as the more common form. As shown by the examples cited, however, these terms are used interchangeably to express great respect in greeting. The Norman French supplies the more colloquial form in *what cheer*. *Benste* and *God save you*, originally blessings, have, by the fifteenth century, become as lacking in force as the modern *good-bye*.

ave. Meaning *hail!* *welcome!* or *farewell!* *adieu!* From Latin *ave*, imperative of *avere*, *to be well* or *to fare well*. Identical in meaning with *wassail*, of Germanic origin. (Cf. *wassaille*, expressing mockery, in VI above.)

Coventry Plays, xiii, Maria: Gabryel come and seyde to me, Ave! *York*, xxxiii, 409, Miles: Aue! riall roy and rex judeorum! (Ironical.)

benste. For meaning and etymology, see *benste* expressing surprise, in class I.

Towneley Plays, xii, 46: Benste, benste, be us emang.

hayl(e), all hayle, heyl(1), alle heyl. Meaning *be hale! be well!* For other uses, see *hayle*, in combinations, to show surprise, in I; consternation in II, above. According to Björkman (*Scandinavian Loan-Words in Middle English*, p. 43) *hail* is probably a Scandinavian loanword. Compare Old West Scandinavian *heil*, Old Swedish *hæl*. Modern *hail!* is evidently not direct from OE. *hāl*, which would give (*w*)*hole*; nor from OE. *hāl*, which, normally, would give modern *heal*.

Hail, as an interjection, implies respectful or reverential greeting.

Mankind, 202: All heyll, semeley father! ye be welcome to þis house! *Castell of Perseverance*, 1748: heyl, set in þyn selle! *Castell of Per.*, 1795: heyl, syr kynge! fayre þee be-falle! *York Plays*, xii, 145, Angel: Hayle! Marie! full of grace and blysse. *York*, xiii, 75, Joseph: All hayle! God be here-inne! *York*, xiv, 58, Mary: Hayle my fadir and hayle my sone! *Coventry*, xxiv, Nuncius: Alle heyl! Martha and Mawdelyn eke. *Coventry*, ii, Serpens: Heyl ffayr wyff and comely dame!

welcom(e), -cum. Meaning *welcome guest*. From OE. *wilcuma*, a combination of *willa*, will, and *cuma*, comer, an agent-noun from *cuman*, come.

Everyman: Welcome, my Good Deeds! now I hear thy voice. *York Plays*, xii, 201, Elizabeth: Welcome! mylde Marie. *York*, xiii, 89, Marie: Welcome! als God me spede. *Magnyfycence*, 920, Fanny: Nowe welcom, by the God holy! *Magn.*, 1516: Welcome, Pleasure, to our Magnyfycence. *Castell of Perseverance*, 588: Welcum, syr, semly in syth!

what che(e)re. Meaning *how are you?* ME. *chere* was adopted from Norman *chere*, face, which is from late Latin *cara*, face, countenance. Hence *chere* signifies disposition, mood, showing in conduct.

Assembly of Gods, 1471: What chere! howe lyketh the thys

syght? *York*, ix, 99, Noe: What now! what cheere? *Not-browne Mayd*, 45: Myne owne hart dere, with you what chere?

God saue you. This expression has lost its force as a blessing, and is, in ME., purely interjectional.

Morte Darthur, II, ch. 16: Balyne sayd God saue you.

XIII. *Dismissal*

1. Kindly Dismissal

Of the three interjections listed as indicating kindness in dismissal, two have come down to our own time. *Good-bye* does not occur, since this corrupted form has its origin in the sixteenth century.

As shown by the examples, expressions of kindly dismissal are much less numerous than those of angry dismissal. Of the latter, few are common in modern usage.

adieu, adew(e), adue. The exact equivalent, in meaning, of the English *good-bye*. Compare French *adieu*. From *à*, to, and *dieu*, God. Hence, "I commend you to God." Originally said to the person parted from, as *farewell* was said to the one leaving.

Everyman: Adieu! for I shall never see thee no more!
Everyman: Adieu by Saint John! *Towneley Plays*, xii, 406,
 Pastor: Now, brethere, adew! *Not-browne Mayd*, 235: But
 nowe, adue! *Mankind*, 602: A-dew, fayer mastere! *Mag-
 nyfyence*, 967: Adue tyll sone. *Magn.*, 1850: Adue tyll to
 morowe. *Magn.*, 1874: Adewe, for I wyll not come in his
 klokys.

fare well, farewell. An expression of good wishes when friends part. Originally addressed to the one leaving, but, later, merely a formula at parting. Imperative of OE. *faran*, to go, combined with *well*; OE. *wel* is a cognate of *will*, in the sense of *agreeably to wish*.

Towneley Plays, xiii, 568: ffare well all thre. *Magnyfyence*,
 967: Farewell, my frende. *Magn.*, 1850: Fare well tyll sone.
Mankind, 155: Far well, jentyll Jaffrey! *Mankind*, 598: For

well, euerychon! *Castell of Perseverance*, 153: fare-wel, fayre frendys. *Castell of Per.*, 1000: Fare-wel in fere! *York Plays*, x, 227, Abraham: Farewell! my sone, I sall þe yelde. *Everyman*: Now farewell, and there an end!

Fare fall the, fayre thee befall. Equivalent in meaning to *farewell* above.

Towneley Plays, xii, 189, Pastor: fare fall the! *Castell of Perseverance*, 729: how, Folye, fayre thee befall! *Castell of Per.*, 1795: heyl, syr Kyng! fayre þee befall! (Here the expression denotes greeting.)

2. Angry Dismissal

avaunt. Meaning *begone! be off!* From French *avant*, before, forward, which is from Latin *ab ante*, from before. Originally and literally, *avaunt* means *move on! Onward!*

Digby Plays, i, 313, Watkyn: Avaunt, ye skowtys, I defye you euery-chone. *Mankind*, 629: A-vante, knawys! lett me go by!

avoyde. A fifteenth century form of *avoid*. Anglo-French *avoidier*. OF. *esvuidier*, *e-vuidier*, to empty out. Hence, to banish.

Mankind, 64: A-voyde, goode brother!

forth. OE. *forth*, German *fort*. Old Teutonic *forth* from an older **frþo*, **prto* connected with *before* and *further*.

Mankind, 495: Forth! & espye were ye may do harme!

foule mot the falle, foule myght thou fare. In meaning, the exact opposites of *farewell* and *fare fall the*, above.

York Plays, xxx, 385: Miles: Flitte fourthe, foule myght þou fare! *York*, xxxii, 222, Pilate: Foule mot þe falle!

hens(e). Meaning *go away!* From ME. *hennes*, earlier *henne*, *hen*, an adverb with genitive suffix *-es*, *-s*. Original stem is **hi*, meaning this. Cf. *here*, used as a call for attention (XVI, 4) below.

Mankind, 380: Hens, thevys! ye haue made many a lesyng.

Magnyfycence, 1725: Hens, thou haynyarde! *York Plays*, xix, 120: Hense! tyte, but þou þe hye.

hee. Evidently a variant of the verb *hie*, to go, to begone! Cf. *hye*, *hy*, as a call of encouragement (XVI, 3).

Towneley Plays, xiii, 489, Uxor: So hee! *Mankind*, 373: Hye yow forth lyuely! for hens I wyll yow dryffe!

trus. Meaning *be off!* ME. *trussen*, *trushen*, to go, to be off, as one who has been sent packing. The primary meaning of *trussen* is to tie up, to pack.

Towneley Plays, xii, 202, Pastor: Trus! go we to mete.

vta. Meaning is obscure. Perhaps the word is connected with *vath*. Cf. *vath* expressing contempt, in VI above. It may be, however, a purely imitative sound. Or it may be a call for attention. See XVI, 4, below.

York Plays, xxxi, 234, Rex: Kyte oute yugilment, vta! oy! oy!

XIV. Affirmation and Negation

The list of interjections showing affirmation is remarkable for its length, while, on the other hand, one word, with its variants, indicates negation.

The number of expressions used to strengthen a declaration is noteworthy. In the fifteenth century, evidently, truth-telling was a virtue not always practised, and a simple statement was hardly to be credited. This condition, doubtless, gave rise to the still greater number of oaths and asseverations (see class XVII) originally used to urge the truth of an assertion.

Amen. Through Latin (or French) and Greek, from Hebrew *ā-mēn*, certainty, truth, which is from the verb *āman*, to strengthen, to confirm.

York Plays, xvii, 35, Primus Rex: Amen! so myght it bee. *Towneley*, xii, 189, Pastor: fare fall the!—Garcio: Amen! *Coventry*, viii: Amen, ffor charyte. *Mankind*, 303: Amen! for sent charyte, amen! *Mankind*, 718: Amen! (dicant omnes). *Coventry*, viii, Chorus: Amen. *Occleve*, *To the Blessed Virgin*,

the Mother of God, 140: And of my soule wasshe away the sore! Amen!

Ay, ey, [eh]. Meaning *yes*. For form [eh] see section I, above.

Nativity, Herod: Eh! and that kerne of Bethlehem, he shall be dead. *Nativity*, Nuntius: Eh, sir, so they showed me. *Nativity*, Miles: Eh! brother, such tales may we not tell. *Nativity*, Prophet: Eh! trust it well. *Mankind*, 124: Ey, ey! yowur body ys full of Englysch Laten. *York Mystery Plays*, v, 71: Ay! goddis shalle ye be!

certes, sertis, certeynlye. Equivalent to *in truth, truly*. From OF. *certes*, or *à certes*, according to Littré. Latin *a certis*, meaning from certain (grounds), certainly.

York Plays, i, 81, Lucifer: Owe! certes! what I am worthely wroghte with wyrschip, i-wys! *Morte Darthur*, xiv, ch. 1: Certes fayre newew sayd she, your moder is dede. *Morte Darthur*, xvii, ch. xi: Certes, sayd Galahad, and ye blede soo moche ye maye dye. *Castell of Perseverance*, 296: Certis, I haue no more. *Castell of Pers.*, 339: & sertis thou schalt not wante! *Towneley Plays*, x, 299: Certys, I forthynk sore of hir dede.

in faythe, mafa(y). Cf. Fr. *foi, ma foi*. Compare modern Irish dialect, *faith!* In the next century we find *lewte* (loyalty) used in the same way as *fay* in the fifteenth.

Magnyfycence, 663: In fayth, and Lybertyes rome is there but small. *Magn.*, 809: Nay, in good faythe; it is but the gyse. *Magn.*, 292: In fayth, Broder Largesse, you haue a mery mynde. *Magn.*, 2266: Ye, in faythe; or ellys thou arte to great a glotton. *Towneley Plays*, iv, 39: Ma fa! sone I hope he shall. *Towneley*, xxiii, 564: Ma-fay, I tell his lyfe is lorne. *Towneley*, xxiv, 245, Pilate: That appentys unto me, mafa! art thou mad? *Merlin*, 796: Now, mafey, thanne this goth amys!

forsothe, for suth. The modern use of this word is to express contempt. In ME. it kept its original value of *in truth*. It unites the preposition *for* and the noun *soth*, truth. Modern *forsooth*.

York Plays, xiii, 209: For suth, I am a mayden clene. *York Plays*, xvii, 85, Herod: Thre Kyngis, forsothe! *Magnyfycence*, 1257: But nowe, forsothe, man, it maketh no mater. *Magn.*, 1263: Forsothe, tell on; hast thou any mo? *Magn.*, 2418: Nowe welcome, forsothe, Sad Cyrcumspeccyon. *Castell of Perseverance*, 327: Ya, forsoth, and that is wel sene. *Towneley Plays*, xiii, 750: fför sothe, all redy. *Not-browne Mayd*, 151: Forsoth, I trowe, ye and your bowe.

in dede. Modern *indeed*. OE. *dād*, related to OE. *dōn*, to do.

Magnyfycence, 36: In dede, Syr, that Lyberte was not worth a cue. *Magn.*, 374: And in dede, Syr, I here men talke. *Magn.*, 594, Fаны: No, in dede. *Magn.*, 1696: Nay, indede, but I sawe howe ye prayed. *Everyman*: Yea, indeed, I have it here.

I say, I vowe. Intensive or emphatic. In nature akin to *in dede*, *in truth*, *for sothe*, and *I trowe*.

Coventry Plays, xii: Go chere hyre therefore, I say. *Towneley*, ii, 32: I say, donnyng, go fare! *Towneley*, ii, 41: Say, mall and stott, will ye not go? *Magnyfycence*, 306: Gete you hens, I say, by my counsell. *Magn.*, 1167: Wotyst thou, I say, to whom thou spekys? *Magn.*, 2239: Ye be the theuys, I say, away my goodys dyd cary. *Castell of Perseverance*, 2249: War! syr Glotoun shal makyn a smeke ageyns this castel, I vowe.

I trow(e). ME. *trowen*, OE. *trūwian* or *trēowan*, to trust, believe, connected with the noun *trēow*, trust.

Occleve, Jereslaus's Wife, 114: And robbid ryche folk, ye woot, I trowe. *Magnyfycence*, 348: I trowe, by our lady, I had ben slayne. *Magn.*, 808: Cockes harte! I trowe thou wylt make a fray. *Mankind*, 98: I trow, of ws thre I herde you speke. *Magn.*, 2448: A ha! Fаны and Foly met with you, I trowe. *Not-browne Mayd*, 151: Forsoth, I trowe, ye and your bowe.

God wote, I wote. The third singular, *wāt*, of OE. *witan*, know, became *wot* in ME. by regular development.

Magnyfycence, 247: Ye coulde not ellys, I wote, with me endure. *Magn.*, 248: No, God wote, it were great payne.

i-wys. Meaning *certainly*. Revived in modern usage; together with *eftsoons* and words of like nature. The modern form *I wis* is due to misconception. The prefix *i-* is not a pronoun, but a weakening of *ge-*, the old sign of the perfect participle. Compare German *gewiss*. The form *wis* or *wys* is from OE. *witian*, know. Cf. *wote*, above. Hence *i-wys* originally meant *known*.

York Plays, i, 81, Lucifer: Owe! certes! what I am worthely wroghte with wyrship, i-wys! *Magnyfycence*, 1176: Nay, iwys, fole; it is a doteryll. *Castell of Perseverance*, 201: I-wys, fro Carlylle In- to Kent, my carpynge þei take. *Coventry*, xii: That she is with i-wys. *Nativity*: For the breathing of these beasts hath warmed well, i-wis.

pard(i)e, perde. Literally, an oath, *per Dieu*. Cf. French *dieu*, God.

Not-browne Mayd, 187: That where ye be, me semeth, parde. *Towneley Plays*, xiii, 426: Perde. *Occleve, To the Blessed Virgin, the Mother of God*, 87: By thee the world restored is pardee. *Magnyfycence*, 1308: Yes, perde, man, whether that ye ryde or go. *Magn.*, 1755: Yet somtyme, parde, I must vse Largesse. *York*, xv, 45: Me falles for to haue parte, parde! *Everyman*: Ye promised me otherwise, pardie!

sikerle, sekerlye. Meaning *certainly*. In Scotch dialectal usage, *sickerly*. OE. *sicor*, *siker*, from Latin, *securus*, without care. *Secure* and *sure* are doublets of *sicker*.

York Plays, xxxviii, 303, Miles: Sekirlye, I telle vs schente. *York*, xiii, 63: But is nought sho, sekirly. *Merlin*, 836: No, so me good helpe, Sire, Sikerle! *Guy of Warwick*, 6998: I yow sey, sekerlye. *Coventry*, xii: Sekyr, sere, beth nowth dysmayde. *Battle of Agincourt*: And the Earl of Devonshire, sikerly!

verily. Meaning *truly, certainly*. From OF. *verai* (Fr. *vrai*, true), combined with ME. ending *-ly*. Connected with Latin

verācem. Hence *verily* is a hybrid, composed of a Latin root and a vernacular suffix.

Everyman: Nay, verily! *Everyman*: Verily, Fellowship, gramercy! *Everyman*: Trust me, verily.

ye, ya, yaa, yee, yea, yha, yhe, yis, yys, yey, yes. All ME. forms of modern *yes*.

Mankind, 85: Yys, Mary, I prey yow. *Wisdom*, 712: Ya! wo ys hym xall hem offende? *Magnyfycence*, 506: Yes, yes, by lakyn, I shall the warent. *Magnyfycence*, 609: Ye, for your wyt is cloked for the rayne. *York Plays*, xi, 231: Yaa! sir, he saide þou suld despise. *Digby Plays, Burial of Christ*, 186: Yee, yee, Josephe! of hir he had grete compassion. *Towneley*, xii, 135: yey, bot tell me, good, where ar youre shepe, lo? *London Lyckpenny*: Yea, by Cock. *Coventry*, xxx, stage direction: Et clamabant omnes: "yys! yys! yys! alle we seye he is worthy to dey, ya! ya! ya!" *York*, v, 41, Satan: Yha, Eue, to me take tente. *York*, v, 75, Satan: Yhe! why trowes þou noyte me? *York*, xxviii, 299: Whe! yis, felawes, be my faith he is fast.

yowe. In meaning, perhaps equivalent to *ya* and its variants, above.

York Plays, xxx, 295, Cayphas: Yowe! that schalke shuld not shamely be shente.

nay, na, no. *Nay* is a loan-word from ON. *nei*, no, not, which is composed of the negative particle and *ei*, ever (compare Gothic *aiw*). Hence *nay* is, literally, not ever. The ME. *no* has been noted but rarely in exclamations.

Towneley Plays, iv, 128: Shuld I that ganstand! We, nay, ma fay! *Towneley Plays*, ii, 93, Caym: Nay! thou fyndys me not so mad! *Towneley Plays*, ii, 314, Caym: We! na! I aght the a fowll dispyte. *Coventry*, xii, Joseph: Nay! nay! yet it God fforbede. *London Lyckpenny*: Nay, by Cock. *Siege of Harfleur*: Nay, said the captain, by God and by St. Denis! *Wisdom*, 853: Nay! I kan bettur hym qwytte. *Mankind*, 118: Be-tray! nay, nay, ser! nay, nay! *Castell of Perseverance*, 1718: Nay! be Belyals bryth bonys. *York*, xi, 338, Rex: No!

devill! will itt no bettir be? *York*, xi, 325, Rex: No, devill!
and sitte they so in pees?

XV. *Doubt, Disapproval*

The form listed as expressing doubt or disapproval is one very common in modern usage, although its variant, *ahem*, occurs more frequently.

hem. Originally a vocalized representation of the sound made in clearing the throat with a slight effort. Used to attract attention, or to express doubt or hesitation.

Magnyfycence, 664: Hem! that lyke I nothyng at all.
Magn., 211: Hem, Syr, yet beware of "Had I wyste!"

XVI. *Various Calls*

I. Calls for Help

Middle English literature is rich in cries and calls of all kinds. As is to be expected, these are most common in the dramatic literature, and are ascribed most frequently to rustics, as the shepherds, Cain, Esau, and others of the less dignified characters. Some of the most unusual of these expressions are found in modern dialect speech.

harowe, herrowe, harow, haro(o), harro, harowe. (The form *haroye* is found in the Chester Plays.) Meaning is *help!* Cf. French *haro*. Origin uncertain. It may be merely an imitative sound. Adopted from OF. *haro, haron, harol*, of obscure origin. Obsolete in English since the beginning of the seventeenth century. As early as the fourteenth century, the popular idea was that this expression was a call upon Rau, Rollo, or Raoul, who led the Northmen to France. But this (cf. *Oxford Dictionary*) is inconsistent with the form of the word. Littré says: "Diez condemns the *ha Raoul* theory. He suggests the OHG. *hera* or *hara*, Old Saxon *herod*, which meant *here.*" This accords with the meaning, which is, *come here! come to my help!*

Gavin Douglas, King Hart: Quhat was þeir mair, but

“harro! taik and slay!” *Magnyfycence*, 2324: Out harowe! hyll burneth! where shall I me hyde? *York Plays*, i, 97, Lucifer: Owte owte! harrowe! helples, slyke hote at es here. *Towneley*, ii, 275, Caym: We! out! haro! help to blaw! *Nativity*: Out! villain wretches, haro upon you I cry. *York Plays*, ix, 99: Uxor: We owte! herrowe! *York*, xi, 403, Rex: Owte! ay herrowe! devill, I drowne! *Towneley*, ix, 74: Imperator: Out, harow, full wo is me! *Towneley*, xiii, 438, Mak: Bot I may cry out “haroo!”

help(e). Imperative of verb help, OE. *helpan*.

York Plays, i, 94, Lucifer: Helpe! felawes, in faythe I am fallende. *York*, ix, 101, Noe: Helpe! my sonnes to holde her here. *Digby Plays, Mary Magdalene*, 265: A! help! help! I stond in drede. *Mankind*, 106: Lady, helpe! *Castell of Perseverance*, 2556: A, swete ladys, helpe! *Everyman*: O Jesus, help! all hath forsaken me!

2. Calls to Stop

abyde. OE. *abidan*, to remain, to wait. Scotch *bide*.

Mankind, 424: Abyde! to sone I xall yt se. *Towneley Plays*, xxv, 229: how! thou belamy, abyde!

halde on. OE. *healdan, haldan*, restrain, keep. Anglian form *haldan* stayed in North, but in Midland and hence in standard English, the verb became *hold*. See *beholde* as a call for attention (XVI, 4). *Halde on* means *stop! wait! hold on!*

York Plays, xv, 63, Pastor: Yf ye will helpe, halde on! (Here equivalent to “Stay! it was thus!”) *Mankind*, 672: Holde, master Myscheff! & rede this!

have do. Meaning *cease! have done!* *do* is the participial form of OE. *dōn*, with loss of the *n*.

Coventry Plays, xvi, Pastor: Have do! this songe begynne. *Castell of Perseverance*, 2238: haue do, my chyldryn! now haue do! *Castell of Pers.*, 1878: Haue do þanne! the deuyl pee tere! *Towneley Plays*, xiii, 663: hold youre tonges; haue done!

wemo. Compare this form used to show surprise, in I; irritation, in IV; contempt, in VI.

Towneley Plays, vi, 132, Esaw: Wemo! felows, hold youre hend.

3. Calls of Encouragement

come of. In the sense of *come on*. OE. *cuman*, come, has imperative *cum*, *cym*. In ME. the spelling changed from *u* to *o*. Compare the modern slang phrase *come off!* equivalent to "Stop what you are doing and do what I wish."

Morte Darthur, xx, ch. 4: Come of thenne, sayd they alle, and do hit. *York Plays*, xxix, 153, Malcus: Come of, do tyte! (quickly).

doo. Meaning is obscure. Apparently an interjection in the example quoted. However, it may be elliptical for *do say!*

York Plays, xxviii, 266: Doo, whame seke ye all same?

hy(e). Means *to make haste*. Compare *hee* expressing angry dismissal (XIII, 2). Cf. also, modern *hie*.

York Plays, xxviii, 181, Cayphas: Sir knyghtis, in hy! The same expression is used adverbially, as follows: *York*, xxviii, 187, Miles: Go we hens þan in hy.

let see(n). Equivalent to *come on! let us see!* Found in *Occleve, The Court of Good Company*, 64: Ensaumpleth vs let seen & vs miroure. *York Plays*, xxviii, 158: Late se sir, I pray you. *York*, xv, 63: If ye will helpe, halde on! late see, for þus it was.

do tyte. Meaning *hasten! tyte*, in the Yorkshire dialect, and others, means *soon, readily, quickly*. See Wright, *English Dialect Dictionary*.

York Plays, xxix, 153, Malcus: Come of, do tyte! *Mankind*, 152: Felouse, go we hens tyght!

4. Calls for Attention

awake. From OE. *wacan*, to wake, with intensive prefix *a-*.

Towneley Plays, xii, 296, Angelus: herkyn, hyrdes, awake!

behold(e). OE. *bihalden* and modern German *behalten* are cognate. The application of the word to watching is, among modern languages, confined to the English. But Gothic records *halden* only in the meaning *watch over, guard, herd cattle*. Hence *beholde* is equivalent to the phrase, *hold in observation*.

Occleve, *To the Blessed Virgin, the Mother of God*, 126: Beholde! Digby *Plays, Conversion of Saint Paul*, 412: Ho, ho, be-holde me, the mygte prince of the partes infernall.

ey. Compare other uses in sections I and XIV. Here *ey* is equivalent to *ho!* or *hail!*

Mankind, 337: Ey, Mankynde, Gode spede yow with yowur spade! *Castell of Perseverance*, 2367: Ey, for Beyalys bonys, þe kynge, where-a-bowte stonde ye al day?

hark, herke, herkyn. As in modern use. The imperative form. ME. *hercnen, hercnian*, from OE. *heorcnian, hercnian* gives *hearken*, from the source of Eng. *hark*. German *horchen*.

Mankind, 479: Herke now! I say þou hast many a peny? *York Plays*, xv, 37: Herkyn to me! *York*, xxix, 132: Herke! Knyghtis. *Nativity*: Hark, Sim, hark! I hear our brother on the lo. *Towneley*, xii, 264: Bot hark! who so can best syng. *Magnyfycence*, 1110: Ha, ha, ha! herke, Syrs, harke! *Towneley*, xii, 296, Angelus: herkyn, hyrdes, awake! *Nativity*: Hark! they sing above in the clouds clear. *York*, xxix, 276: Herke! Jesus of Jewes will haue joie.

hay. Cf. *hay* expressing merriment, in X above. In modern usage, commonly spelled *hey!* Scotch (*h*)oi!

Magnyfycence, 303: Go shake the, dogge, hay! *Mankind*, 713: Hay, doog! hay, whoppe! whoo! *Magn.*, 1118: Hay, chysshe! come hyder!

hem. See *hem* expressing doubt or disapproval, in XV above.

Magnyfycence, 779: Hem, Colusyon! *Magn.*, 1198: Hem, Fansy! regardes, voyes vous.

hò(o). Cf. *ho* used in anger, IV above.

The Nativity: What ho! fellows! ho! ho! ho! *London Lyckpenny*: And one cryed "Hoo! go we hence!"

how(e). In meaning, equivalent to *ho* above. See also *how* expressing astonishment, in I.

Towneley Plays, xii, 83: gyb, I say, how! *Towneley Plays*, xxv, 229, Satan: how! thou belamy, abyde! *York*, xxviii, 292: Howe! felawes, drawe nere. *Coventry*, vi, Deus: Moyses, how! Moyses, Herke to me. Henryson, *The Paddock and the Mous*: How, Juppiter! of nature god and king. *Castell of Perseverance*, 579: How, lord! loke owt! *Mankind*, 725: What, how! ostler, hostler! lende ws a foot-ball! *Castell of Per.*, 1727: Howe! Flypyrgebet! Bakbytere!

lew. The meaning is uncertain. It is perhaps a variant of *lo!* *loo!* This is in accord with its use in the example cited.

Towneley Plays, iii, 507, Uxor: Hence bot a litill she commys, lew, lew!

lo(o), lok(e), loke out. *Lo* and *loo* are probably shortened forms of ME. *loke*, OE. imperative *loca*, from *locian*. Very frequent in ME.

Occleve, *Letter of Cupid*, 445: Lok! and ye shal so fynde yt hardely. *Castell of Perseverance*, 579: How, lord! loke owt! *Merlin*, 1573: lo, quod Merlyne, a custoume it Js. *Mankind*, 138: Lo, mastur! lo! here ys a pardon bely mett. *Towneley Plays*, ii, 34, Caym: lo! now hard she what I saide. *York*, x, 225, Abraham: But loo! her sall no force be felde. *Morte Darthur*, vii, ch. 11: Lo, said the damoysele, yonder is a lord that oweth yonder cyte. *Kingis Quair*, 49 (amended text): lo! suich delyte. Occleve, *Letter of Cupid*, 453: But oonly, loo for this entencion. *Everyman*: Lo! Fellowship forsaketh me. *Not-browne Mayd*, 201: Loo! myn herte swete. *Not-browne Mayd*, 217: Loo yet before ye must doo more. *York*, xxviii, 256: Be-holdis all hedirward, loo!

oyas, oy. Meaning *hear ye!* OF. *oies*, *oyes*, imperative plural of *oir*, hear, from Latin *audicātis*. Identified, through misconception, with the two words *O yes* and often so written. See the *Oxford Dictionary*. As shown by the examples, *oyes* or *oyas* was the call of a court officer to win attention to an announcement.

York Plays, xxx, 360, Beadle: Oyas! oyas! *York*, xxxi, 239, Rex: oy! man, arte þou woode? *York*, xxxi, 319: Do crie we all on hym at onys: Oyes! oyes! oyes! *Towneley*, ii, 416, Caym: And cry oyes, oyes, oy! *Coventry*, x, Nuncius: Oy! al maner men takyth to me tent. *Mankind*, 659: Oy-yt! Oy-yyt! Oyet!

se. OE. imperative *seoh*, from *sēon*, to see.

Magnyfycence, 572: Cockes woundes! se, Syrs, se, se!

whe. Equivalent to *ho* above. In etymology, apparently connected with *we*, section I above.

York Plays, xxviii, 250: Whe! stānd, traytoure, I telle þe. *York*, xxviii, 251, Cayphas: Whe! do, knyghtis, go falle on be-fore. *York*, xxviii, 299: Whe! yis, felawes, be my faith he is fast!

what. For etymology see *what* expressing surprise, in I above.

York Plays, xv, 44: Say, felowes, what! *Magnyfycence*, 396: What! I say, herke a worde. *Mankind*, 719: What, how, Mankynde! fle þat felyschyppe, I yow prey! *Magnyfycence*, 325: What, Fansy! Fansy!

here. OE. *hēr*. Evidently connected with the pronominal stem **hi* (*this*), which also yields *hither* and *hence*. The development is not clear.

Mankind, 425: Here, here! se my hede, goode master!

who(o), whop(p)e, whow, anow. Apparently, natural ejaculations to attract attention.

Mankind, 600: Whope! who! Mercy hath brokyn hys nekekycher a-vows. *Mankind*, 713: Hay, doog! hay, whoppe! whoo! go yowur wey lyghtly! *Mankind*, 726: Whoppe, whow! a-now, a-now, a-now, a-now!

5. Calls of Warning

alarum. Meaning *to arms!* Composed of *à*, *l'*, and *arme*. The first examples are found about the commencement of the fourteenth century. Note Italian *all'arme*, a signal to announce the approach of the enemy.

Magnyfycence, 2323: Alarum, alarum! to longe we abyde!
asarme, as armys. Means *to arms!* Formerly OF. *as armes!*
 at arms.

Castell of Perseverance, 2070: As armys, Mekenes! *Castell of P.*, 1970: "asarmys," as an heyward. *York Plays*, xix, 276: Asarme! eure ilke man.

wa(a)r, **be ware**. Meaning *look out!* OE. *war*, *wary*. Still used interjectionally in dialect speech of England and Scotland. See *English Dialect Dictionary*.

Towneley, ii, 25: Io furth, greyn-horne! and war oute, gryme! *Towneley*, xxiv, 73: War, war! for now com I. *Castell of Perseverance*, 2236: War, war! late mans flesche go to! *Castell of P.*, 2249: War! syr Glotoun schal makyn a smeke a-geyns þis castel, I vowe. *Mankind*, 109: Be ware! ye, may son lyke a bofett. *Mankind*, 166: Be ware þereof! yt ys wers than ony felony or treson. *Towneley*, xxiv, 113: War, war! and make rowme. Occleve, *La Male Regle de T. Hoccleue*, 244: Lordes! beeth waar! Occleve, *La Male Regle*, 351: Be waar, Hoccleue!

6. Calls for Silence

Pe(e)s, **pesse**, **peace**, **peas(s)e**. In ME. a verb meaning *be silent*, *stop*. From the ME. noun *pees*, *pais*, OF. *pais*, *paiz*, Fr. *paix*, Latin *pax*, *pacis*. Cf. *appease*.

York Plays, xvii, 74: Pees! dastard, in þe deueles dispite. *York Plays*, xxviii, 275: Pees! Petir, I bidde þe. *Magnyfycence*, 998: Pease, man, pease! *Mankind*, 420: Pesse fayer babys! *Castell of Perseverance*, 340: Pes, aungel! þi wordis are not wyse! *Everyman*: Peace! I am deaf! I look not behind me! *Towneley Plays*, ii, 400: Peasse, man, for godis payn! *Towneley Plays*, xiii, 460: Peasse, man, be still!

qwyst. Identical with modern colloquial *whist!* *be silent*. An imitative form.

Mankind, 586: qwyst! pesse! þe Deull ys dede! *Mankind*, 550: qwyst! pesse! I xall go to hys ere.

7. Calls to Animals

hyte. A word of encouragement to urge a horse forward.

Towneley Plays, II, 55: harrer, morall, iofurth, hyte!

stow(e). A call for hawks. In modern use as an interjection in the Shetland and Orkney Islands, with meaning of *hush!* *silence!* See *English Dialect Dictionary*.

Magnyfycence, 912: Fasy, craynge: Stow, stow! *Magn.*, 968, Fasy: Stowe, byrde, stowe, stowe!

teuyt. Meaning is obscure. Like *stow* above, it may be a call to a hawk.

Magnyfycence, 1005, Fasy: Teuyt, teuyt!

tyr. A call to sheep, meaning *skip! go on!* Apparently opposite in meaning to *why*, below.

Towneley Plays, xii, 114, Pastor: I say, tyr, now agayne!

Towneley, xii, 113: I say, tyr!

war. A hunter's call.

Towneley Plays, ii, 29, Caym: War! let me se how down will draw.

whop. A call to sheep. Its apparent meaning is *go on!* for the first shepherd is always urging them, as opposed to the second shepherd. The word is found in the Yorkshire dialect in the sense of *to hurry, to pass by swiftly*. See the *English Dialect Dictionary*.

Towneley Plays, xii, 19, Primus Pastor: Whop!

why. A call to sheep, meaning, evidently *stop! be quiet!* as opposed to *whop* above.

Towneley Plays, xii, 117, Secundus Pastor: Tup, I say, whyr!

XVII. Oaths

The following oaths are merely listed, with citations of their occurrence. No attempt is made to give examples in full, with the connection, since there is little danger of ambiguity. The general classification is in part based on that suggested by W. L. Ramsay in his edition of the *Magnyfycence* (E. E. T. S., extr. ser. 98, p. 83).

1. By the divine name, parts, or attributes.

Lorde, *Magnyfycence*, 1875. **Lorde God**, *Magn.*, 2047; *Assembly of Gods*, 1930. (**Lord**) **Jhesu**, *Morte Darthur*, iv, ch. 21; vii, ch. ii, iv, ch. 23; *Magn.*, 318, 324. **My God**, *Coventry Plays*, xiii. **By God of heuen**, *Magn.*, 1080. **Verray God**, *Three Kings' Sons*, p. 8, l. 18. **By heuen kyng**, *Wright's Chaste Wife*, 439. **Be Cryste; by Cryste**, *Guy of Warwick*, 7959; *Magn.*, 922; *Mankind*, 559. **By ihesus**, *Towneley*, xii, 308. **By God**, *Magn.*, 341; 754; 289; 346. **By the goode Lorde**, *Magn.*, 1253; *Magn.*, 1732. **By the God holy**, *Magn.*, 920. **By Jesse (Jesu?)**, *Magn.*, 975. **By Jesu that slayne was with Jewes**, *Magn.*, 2167. **By Hym that crosse kyst**, *Magn.*, 1416. **By Hym that hell did harrowe**, *Magn.*, 1561. **By the holy trinitye**, *Mankind*, 370. **By God and St. Denis**, *Siege of Harfleur*. **Goddys sake**, *Pilgrimage of the Life of Man*, 839; *Magn.*, 2251; *Coventry*, xiii. **In Goddys name**, *Magn.*, 2397; *Mankind*, 68; *Coventry*, xiii. **God's grace**, *Harfleur*. **Goddis loue**, *Castell of Perseverance*, 1442. **Gody's myght**, *Wright's Chaste Wife*, 326. **Godes pyne**, *Wright's Chaste Wife*, 461. **By hym that all wrought**, *Wisdom*, 771. **By hym that me dere boght**, *Towneley*, ii, 461. **Be Jhesu Cryst that me dere bowt**, *Mankind*, 116. **For Goddes brede (bread)**, *Magn.*, 1728. **For the passyon of God**, *Magn.*, 2276. **By Goddes sacrament**, *Magn.*, 943. **By Goddes cope**, *Magn.*, 1116. **By Goddys body**, *Magn.*, 948; 399; *Castell of Per.*, 2923. **By Cokkes body** (*Cokke* and *Cocke* are corruptions of the name of God), *Mankind*, 605; *Magn.*, 682. **By Cocke**, *London Lyckpenny*. **By Cockes bones**, *Magn.*, 801, 961. **By Goddes fote**, *Magn.*, 768; 2216. **Bi Godis sydis (sides)**, *Towneley*, ii, 458. **Goddis sande (hand)**, *York Plays*, xiii, 218. (This is an interesting case of attraction of one letter of a word to the next word. Cf. *Sent Tanne*, in XVII, 2.) **By gottys dere nalys (meaning the nails in the cross)**, *Towneley*, xvi, 116. **Goddys blod**, *Castell of Per.*, 880. **For Cristis blod**, *Castell of Per.*, 403. **Cockys harte**, *Magn.*, 512; 576; 574; 596; 685; 783. **Cockes wounds (modern sounds!)**, *Magn.*, 572; 1619. **Cockes armes**, *Magn.*, 782; 573; 1615. **His armes**, *Towneley*, xxiv, 324. **By the**

harte of God, *Magn.*, 1157. **Be Goddis yne** (eyes), *Magn.*, 1109. **Crystes cross**, *Towneley*, xiii, 118; *Mankind*, 435. **Crystys curs**, *Mankind*, 99; *Towneley*, xiii, 147. **Dewes** (probably a corruption of the name of God), *York*, i, 92. **Dogg, Dogges** (probably a mutilation of the name of God), *York*, xvii, 121; xi, 240; xix, 106. *Magn.*, 303. **Cryst it blysse**, *Magn.*, 974. **God it forfende**, *Magn.*, 1115. **God forbede**, *Magn.*, 246; *Coventry*, xii. **God wote**, *Magn.*, 248; *Mankind*, 778; *Castell of Per.* **So me good** (God) **helpe**, *Merlin*, 836. **So helpe me God**, *Magn.*, 1259; 1653; 1733; *Mankind*, 227. **So God haue mercy on me**, *Merlin*, 791. **So (Als) God (the) spede**, *Wright's Chaste Wife*, 537; 546; *Magn.*, 379; *York*, xiii, 89. **I make (give) (God) a-vowe**, *Mankind*, 494; 617; *Castell of Per.*, 880; *Wisdom*, 893; *Towneley*, xii, 84; *Magn.*, 529; 1827. **To God I make an othe**, *Magn.*, 145. **To (For) God avowe**, *Magn.*, 1817. **So god me rede**, *Guy of Warwick*, 3252.

2. By the saints

Sent Powle, *Wisdom*, 487; 907. **Be Sent Quisyntyne**, *Mankind*, 264. (This may be the source of the sixteenth century *Gis*, but *Gis* may be a variant form of *Jesus*.) **Sent Dauy**, *Mankind*, 802. **By Saint John**, *Siege of Harfleur*; *Everyman*. **Sanct Iohne** (John) **to borrowe**, *Kingis Quair*, stanza 23. **By Saint Anne**, *Everyman*. **Sent Tanne** (St. Anne), *Mankind*, 75. (This is a case of attraction. Cf. *Goddis sande*, under *oaths*, above.) **Be sanct bryd**, *The Murning Maiden*. **Sant nycholas**, *Towneley Plays*, xiii, 118. **Saynt Sym**, *Magnyfyccence*, 585. **Sant thomas of Kent**, *Towneley*, xiii, 458. **Seynt Mychell**, *Guy of Warwick*, 7074. **For seynt Charyte**, *Guy of Warwick*, 7153; *Mankind*, 205, 303. **By God and by St. Denis**, *Harfleur*. **Sent Deny** (a variant of *St. Denis*), *Mankind*, 480. **By our Lady**, *Everyman*; *Magn.*, 348; *Mankind*, 429. **By (our) lakyn**, *Magn.*, 338; 1806; 506. **By saynt Mary**, *Magn.*, 821, 2212. **Marry, Mary**, *Everyman*; *Magn.*, 24; 652; 656; *Towneley*, iii, 226; *Mankind*, 85. **By Mary full of myght**, *Wright's Chaste Wife*, 468. **Bi mary**, *Towneley*, iii, 209. **In Marye name**, *Kingis Quair*, st. 17.

That Mary mott the spede, *Wright's Chaste Wife*, 501. By the holy Mary, *Mankind*, 628. Sant Iame (James?), *Towneley*, xiii, 380.

3. By the devil

Be Satan, *Castell of Perseverance*, 552. By appolyn, Apolin (the destroyer), *Towneley Plays*, xxiii, 533; *Guy of Warwick* 3635. Devill, dewyls, *York Plays*, xi, 37; 403; *Towneley*, vii, 326; ix, 73; ix, 76. What (the) dyvell, *York*, xi, 47; *Castell of Per.*, 2944; *Magnyfycence*, 627; 496; 795; 796; 791; 793; *York*, xi, 325; xi, 338. In the deuelway, *York*, xxxvii, 133. A deuell way, *Mankind* 153. Where the deuyll, *Magn.*, 1128. Deuell me thynketh, *York*, vii, 60. What the deuyll of hell, *Magn.*, 1745. What the deuyll ayleth you, *Magn.*, 636. In the dyuyls date, *Magn.*, 944; 2072. The deuyll spede whyt, *Magn.*, 1007. As the deuyll wolde, *Magn.*, 941. For the armys of the dyce, *Magn.*, 781. (If *dyce* is connected with *dewes*, as seems probable, this should be listed under 1,—oaths by the divine name.) By Belyalays bonys, *Castell of Per.*, 1823; 1799; 2187. In the deueles dispite, *York*, xvii, 74.

4. Miscellaneous

By Mahoune's blode, *Towneley Plays*, xx, 157. By mahowne in heuen, *Towneley*, xvi, 127. Be glorious Mahounde, my soverign Savyour, *Coventry Plays*, xxix. Jupiter (used in a whimsical sense), Henryson's *The Paddock and the Mous*. By my syer's soule, *Magnyfycence*, 1088. By the masse, *Magn.*, 764; 533; 513. By the rode (rood), *Magn.*, 1197; 1140; 1870; *Towneley*, xiii, 182. By the rode of Woodstocke Parke, *Magn.*, 1210. By the armes of Calys (Calais), *Magn.*, 675. By the harte that Gode me gave, *Magn.*, 1782. By my hede (head), *Morte Darthur*, iv, ch. 5. On my lyf, *Morte Darthur*, vi, ch. 3. Bi this day, *Towneley*, xxiii, 186. Ffor charyte, *Coventry*, viii. Pur charyte, *Guy of Warwick*, 7204. A very vengeaunce, *Magn.*, 2105; 2198. In the mare's name, *Magn.*, 1391. By my trouthe, *Magn.*, 812; 343; 363; 537.

Be my feith, *York*, xxix, 229. By the faythe that I owe to God, *Magn.*, 2209. By your soth, *Magn.*, 350.

XVIII. Maledictions

Expressions of malediction are more numerous than those of blessing (see division XIX). As stated in the introduction, both classes are of the interjectional type, having lost their earlier force.

God geue the care, *Wright's Chaste Wife*, 463; *Mankind*, 615. Gog gif the sorow, *Towneley Plays*, ii, 44 (*Gog* is a mutilation of the name of *God*). Foule mot the falle, *York Plays*, xxxii, 222. Foule (or Evil) myght thow fare, *York*, xxx, 385; *Castell of Perseverance*, 1817. The devyll (the) speyd, *York*, vii, 77; xi, 332; xix, 106. The devyll might speyd both him & the, *York*, vii, 95. The devyll the drowne, *York*, xi, 240. To the devell of helle, *York*, xi, 67. The deuyll motte you drawe, *York*, xxx, 431. Nowe to the deuyll I the betake, *Magnifycence*, 401. Ille joie hym wring, *York*, xxxvi, 76. Ill happe on thy hede, *York*, xxix, 307. Woo worthe the, *York*, v, 107; v, 150; *Magn.*, 2103. I pray God gyue you confusyon, *Magn.*, 597. God sende the brayne (*brain*, *caution*), *Magn.*, 608. (Here used teasingly.) Our Lord send you a very vengeance, *Magn.*, 2237. God gyue a very myschaunce! *Magn.*, 497. God gyve him a myscheffe, *Magn.*, 1730. The devyl thee tere, *Castell of Per.*, 1878. Evil mote he preve, *Occleve, Letter of Cupid*, 55. I beschrewe ye all, *Mankind*, 80. Gode gyff hym ewyll grace, *Mankind*, 606.

XIX. Interjections expressing Invocation, Blessing

Gode let (hinder?) hym neuer then, *Mankind*, 297. Jhesu, *Morte Darthur*, i, ch. 15. God his soule quyte, *De Regimine Principum*, 2077. God be our spede, *Towneley Plays*, xii, 295. God saue yow, *Morte Darthur*, i, ch. 16. Cryst be amonge you and the Holy Goste, *Magn.*, 2385. Now Cryst it blysse, *Magn.*, 974. Jhesus preserve you, *Magn.*, 1796; 2567. Blessyd be our Lorde, *Magn.*, 1584. Blessyd may ye be, *Magn.*, 2327. Blyssyde be Ihesu, *Mankind*, 304.

XX. *Exclamations Purely Imitative*

Other imitative exclamations, as *fie*, *qwist*, and calls to animals have been listed under different headings. Those found in this division are rare, and examples are, therefore, few.

lully, lullay. *English Carols*: lully, lullay, thou little tiny child.
By by, lully, lullay.

terli, terlow. *Eng. Carols*: They sang terli, terlow.

hey, huffa, trolly loly. *Songs of Conviviality*: Hey, trolly, loly.
Huffa, galand. *Magnifycence*, 1251: He dawnsys so long, hey trolly loly.

Puf. *Towneley*, ii, 277, Caym: Puf! this smoke does me mych shame. (Cain is choked with smoke.)

XXI. *Expletives with Vocative, and Other Expressions Interjectional in Form, but Lacking in Force*

With one exception the forms listed in this class are still in use with the vocative, or as introductory expletives.

a. *Morte Darthur*, iv, ch. 1: A, sayd the Kynge, syn ye knowe of your aduventure, peruey for hit. *Morte Darthur*, vii, ch. 11: A, foole, said she, thou were better flee by tymes. *Morte Darthur*, vii, ch. 13: A a sayd persaunt, that is the knyght's of the reed launde. *Blanchardyn and Eglantine*, ch. 23: A, madame, saide blanchardyne, pardoune me. *Blanchardync and Eglantine*, ch. 23: Aa, gentyl knight, forced I am at this houre present. *Castell of Perseverance*, 870: A, Auaryce! wel thou spede! *Castell of Per.*, 1164: A, Glotony! wel I þee grete!

adonay. Meaning *Lord*, from Hebrew *adonai*, a plural form. Represented in the authorized version by the word *Lord* in ordinary type. *Adonay* is sometimes of a more forceful nature than is indicated by the example cited below. This is shown by a passage from the *Chester Plays*, xxxv, 273, where Balaack says indignantly: Thou preacheest as a pie, adonay!

Towneley Plays, xvii, 8, Symeon: Now help, lord, adonay!

haa, ha ha. In a purely vocative use, equivalent to *ah!*

Eneydos, ch. 54: haa, goode kynge! *Eneydos*, ch. 57: Ha, ha, valyaunte bachelor.

Ow(e), Oo, O. A mild interjection here, equivalent in force to modern *ah*.

Assembly of Gods, 1930: Oo, Lord God! seyde Doctrine, canst thou not? *Mankind*, 816: O Mankend, . . . þis is a lamentabyll excuse. *Mankind*, 818: O, blyssed Ihesu, help thou this synful synner to redeme! *Castell of Perseverance*, 830: Ow, Mankynde! blyssyd mote þou be! *Castell of Per.*, 1224: Owe, Slawthe, thou seyst me skylle!

so. Apparently used as modern *so*, to express a mild sympathy. In the example quoted, the use is rather jesting.

Magnyfycence, 2071: A, so! that syghe was farre fet!

well. Merely an introductory expletive. OE. *wel* is cognate with *will* in the sense of *agreeably to wish*. Cf. *farewell!* in XIII, 1.

Morte Darthur, xx, ch. 12: Wel, wel, sayd Sir Gawayne to Launcelot—thou shalt not escape my hands. *Magnyfycence*, 300: Wel, wyse men may eat the fysshe, when ye shal draw the pole.

IV.—ON INDEFINITE COMPOSITES AND WORD-COINAGE.

BY LOUISE POUND

Recognition of "blending" as a mode of word-formation, the telescoping of two or more words into one, as it were, or the superposition of one word upon another, is not new among etymologists, although the subject has never been given separate or very elaborate treatment. Some instances of these factitious amalgam forms, the "portmanteau words" of Lewis Carroll's *Through the Looking Glass*, the blend or fusion forms of etymologists or lexicographers, are *dumbfound* from *dumb* and *confound*, *dang* from *damn* and *hang*, *gerrymander* from Elbridge Gerry and *salamander*, *electrocute* from *electric* and *execute*; probably *boost* from *boom* and *hoist*, *lunch* from *lump* and *lunch*, *luncheon* from *lunch* and the now obsolete *nuncheon*, *scurry* from *skirr* or *scour* and *hurry*, *squirm* from *squir* and *swarm*; also numerous mongrel slang or dialect forms, often jocular in intention, like the American *slantendicular*, *solemncholy*, *happenstance*, *grandificent*, *sweatspiration*, or the English dialectal *rasparated*, *boldacious*, *bold-rumptious*. Blend forms have been noted for French, German, and other European languages, and probably have an antiquity which it would be futile to try to trace. Wiclif and other writers, from the fourteenth to the sixteenth century, use *austern*, a composite of *austere* and *stern*; Shakespeare uses *bubukle* from *bubo* and *carbuncle*, and *porpentine*, which may be a crossing of *porcupine* and *porpoint*; and undoubtedly many such forms have won acceptance, from time to time, in the history of the language; although, in most cases, they would be difficult to solve, after use long enough for the striking or whimsical quality which gave them vogue to become dimmed.

Nevertheless it is safe to affirm that factitious blends are being made with the greatest frequency, and have their widest diffusion;

at the present time.¹ For one thing, the modern bent toward conscious analysis of language, the persistent interest in etymology, and the increased knowledge of the processes of word-formation, have led to increased self-consciousness in the handling of language. They have brought greater relish of peculiar or characteristic usages, and hence more effort—sometimes desperate and varied effort—to reach new linguistic effects. Other factors that may have helped to give special impetus to the present inclination toward fusion forms are the popularization of writing of all kinds through the spread of education and the multiplication of readers, the creation of a class of professional humorous, or semi-humorous writers, mainly journalistic, and lastly the growth of realism, which has swept into print a mass of dialect forms, whimsical, perverted, and fantastic, such as never crossed the linguistic horizon of the average reader of a hundred years ago. Especially frequent of creation at present, and accepted in standing, are blend-formations in scientific nomenclature, as *chloroform*, or *formaldehyde*, and designations created for various newly invented articles in trade, as *Nabisco* wafers, made by the National Biscuit Company, *Sealpackerchief*, for a sealed package of pocket handkerchiefs, *Pneu-Vac*, for a vacuum cleaner, or *Locomobile*, for a certain variety of automobile.

But there has not been recognition, at least not specific or definitely formulated recognition, of the fact that vague or indefinite blending exists as a mode of word-formation alongside the more obvious and intentional amalgamation which has challenged and monopolized attention hitherto. The suggestion may be speculative or conjectural, rather than concretely demonstrable; but the hypothesis here put forward, if valid, sheds light in a few dark corners of the etymological field. The most usual modes of creating folk-words at the present time are through imitation of natural sounds, as *fizz*, *kersplash*, *chug-chug*; through analogical ex-

¹ In a forthcoming study entitled *Blends: Their Relation to English Word-Formation*, to be issued in the *Anglistische Forschungen* series, the author expects to illustrate fully their vogue and the frequency of their coinage at the present time, and to note their various usages and characteristics.

tension or enlargement, as *judgmatical* or *splendiferous*; through curtailments, like *bus* from *omnibus*, *auto* from *automobile*; through the creation of new words from proper names, as *mercerialize*, *mackintosh*, *pasteurize*, *boycott*, and the like. Alongside these familiar methods of language creation or modification, many words peculiarly perplexing to etymologists probably originate in a sort of indefinite or eclectic fusion of certain vaguely recollected words, groups of words, or elements in words, already existing in the language. Nor is it unlikely that echoic composites of this class may equal or outrank, in number and importance, the more intentional and recognizable fusion forms which have hitherto attracted the attention of linguists.

The process of word-coinage which, for expediency in classifying the words involved, or in characterizing their manner of origin, I have called in this paper *indefinite blending*, or *reminiscent amalgamation*, borders not only upon blending or fusion proper—definite blends of few and easily recognizable elements being the more likely to be conscious formations and to retain unimpaired the potency in implication of their various elements—but also upon *onomatopoeia*, or direct imitation of natural sounds, and upon the *unconscious symbolism of sounds*.² The latter arises partly from the nature of the sounds themselves; for example from the difference in suggestive power between open or close, high or low vowels; in the quality of certain consonant combinations; in the difference between explosives and continuants; between voiced consonants and voiceless. Poets in particular are likely to avail themselves of this principle to attain what is called 'tone color.' But the symbolism may also arise, or find its suggestive power, partly through *association* with familiar established words in which these sounds occur. The subtle suggestion of combinations of letters is a subject as yet little investigated.

To proceed to specific illustration, it is obvious that certain consonant groups are likely to retain the associations of prominent

² For a suggestive passage on the symbolism of sounds, having some bearing on the matter under discussion, see L. P. Smith, *The English Language*, pp. 102-105 (1912). But see especially H. Bradley, *The Making of English*, pp. 156-159 (1904).

words in which they are found; as the initial *sq-* of *squeeze*, *squelch*, *squirt*, *squirm*, may unconsciously convey the idea of impetus or motion, rather violent motion, perhaps. The final *-sh* of *crush*, *crash*, *splash*, *wash*, *gush*, *dash*, *squash*, *mash*, *swash*, etc., also suggests motion, in this case motion which is continuous, as symbolized by the final spirant. The factitious English and American *squish*,³ or *squush*, and the English *squish*, which have these sounds, may be direct blendings, the one of *squeeze* and *crush*, the other of *squeeze* and *swish*; but it seems more likely that they are indefinite or eclectic composites, which derive their suggestive power from the associations or symbolism of their prominent elements. *Squish* is defined in Wright's *English Dialect Dictionary* as used in the sense of *squeeze*, *squirt*, *squash*, *gush*, *mash*, and these words, vaguely recollected, may well have entered into its composition. Similarly, take the case of the initial *sn-* of *sniff*, *snout*, *snuff*, *sneeze*, *snore*, etc., words associated with the nose, or the sense of smell. The fairly recent *snuzzle*, now admitted into the dictionaries, may be a combination of this *sn-* with the ending of *nuzzle*, *muzzle*, *guzzle*; although *snuzzle* might be solved as a direct blend of *snuff* and *nuzzle*; or merely as the latter word with adscititious initial *s*. The factitious *slosh*, also admitted to the dictionaries, gains probably from the associations or symbolism of the group *slush*, *gush*, *wash*, *splash*, etc. The occasionally appearing *squdged*,⁴ or *squudged*, implies *squeeze*, *crush*, *crowd*, *scrouge*, and the like.

In general it is obvious that in words so formed there would arise a feeling of natural and inherent fitness for the idea expressed. Vague conflation of this sort is an easy and tempting method of word creation,⁵ and it accounts readily enough for many forms for

³ "If I went fust down th' ladder I could click hold on him and chock him over my head, so as he should go squshin' down the shaft, breakin' his bones at every timberin'" . . . Kipling, "On Greenhow Hill," in *Soldiers Three and Military Tales*.

⁴ "They've put us into boots," said Una, "Look at my feet—they're all pale white, and my toes are squdged together awfully." Kipling, "Cold Iron," in *Rewards and Fairies*.

⁵ A decade or more ago (see Leon Mead, *How Words Grow*, XII, 1902), the London *Academy* offered prizes for four new words. Among

which the zealous have vainly sought foreign originals or cognates. There might be doubt as regards which words so arose; a fixed list of "indefinite composites" might not be possible; but there can hardly be doubt of the existence of the method itself.

Distinctive of this variety of blends, if they may be called such, is the fact that they so often suggest or involve onomatopoeia, as the words cited have shown; also the fact that they are not felt as specific composites, as are recognized fusion forms; *e. g.*, *promptual*, *fidgited*, *insinuendo*, *sneakret*, the *universanimous* of Lowell's *Biglow Papers*, or Wallace Irwin's *kissletoe-vine* and *night-inglory bird*.⁶ There is always the sense of intrinsic fitness for the idea expressed, but not a sense of definite elements in amalgam. However, the line between blends proper and conjectural or indefinite blends is sometimes hard to draw. The now well-established though lately formed *squawk* may be a welding of *squeak* and *squall*, but *squeal*, *shriek*, *hawk*, etc., may have haunted the mind also in its creation. *Scurry*, of doubtful etymology, may be a "portmanteau form" from *scour*, older *skirr*, and *hurry*; but, were it a recent instead of an older word, one would be tempted to think that *scud*, *scoot*, etc., might have played some part in its formation. Into *splurge*, for which no etymology has been proposed, might enter the elements of *splash*, with its variants *splatter*, *splutter*, and *large*. *Flaunt* has been thought to blend the elements of *fly*, *flout*, *vaunt*,⁷ etc. The *myowwl*, used by Kipling and others, may combine *moow* and *yowl*, but it involves also the sug-

those suggested were *snumble*, to signify a child's effort to express the sensation felt in the nostrils when one drinks an effervescing mineral water, *screele*, the sensation produced by hearing a knife-edge squeal on a slate, *scrungle*, the noise made by a slate pencil squeaked on a slate, *twink*, a testy person full of kinks and cranks, and several similar formations obviously having their origin in a sort of reminiscent amalgamation.

"Echoic composites" might be a better name than "indefinite composites" for the type of blends treated in this paper, were it not for the fact that "echoic" is usually employed by philologists not in its primary meaning—that which it would have here—but in the meaning of onomatopoeic, given it by Dr. Murray, Mr. Bradley and others.

⁶ "Letters of a Japanese Schoolboy," in *Collier's Weekly*, vi, viii, xix, Vols. 41, 42.

⁷ *New English Dictionary*.

gestive power of *howl*, *wail*, *yell*, etc. Perhaps, if it is expedient to attempt to draw a definite line at all, blend-words proper may be defined as, or restricted to, those having two, or at most three, elements in combination; as the mongrel *quitate* from *graduate* and *quit*, *interturb* from *interrupt* and *disturb*, or *compushity* from *compulsion*, *push*, and *necessity*, or *compushency* from *compulsion*, *push*, and *urgency*, or *boldrumpitious* from *presumptuous*, *bold*, and *rumpus*. Those that recall, or seem vaguely to have the potency of four words or more, might then be classed as indefinite blends. In factitious words of the first type, the elements are often deliberately and consciously chosen. In words of the second type this is by no means to be implied. But much emphasis should not be placed on the number of elements entering into blends. Of more importance surely is the distinction that coinages of the type treated in this paper are created under the influence of indefinite rather than definite suggestion. Many words which are properly to be classed as indefinite composites might depend on no more than two or three words vaguely present in the user's mind.

To some, the words under discussion are "imitative words,"⁸ or "imitative variants" of existent established words. In the sense that the onomatopoetic factor enters into many, as already noted, the name is often valid; but it is less good if "imitative" is meant to imply that they are made in direct imitation of other words. The impelling motive in their creation is less conscious imitation than vague recollection, with resultant fusion, of certain elements in other words; elements which have come—largely through association or reminiscence—to have a certain symbolic power.

To attempt a fixed or exhaustive list of indefinite blends would no doubt, as already noted, prove neither very successful, nor perhaps very profitable. The short list which follows—a list

⁸ See *slump*, originally meaning to fall or sink in a bog or swamp. The *New English Dictionary* calls this word "probably imitative" in origin; but compare the group *slip*, *swamp*, *plump*, *thump*, *bump*, etc., from which it might well have been built. The *Century Dictionary* enters words of the character of *croodle*, *flump*, etc., as perhaps "imitative words."

which might have been indefinitely extended—is meant to be suggestive only; it supplements the illustrative words already cited. Unless entry otherwise is made, the forms listed are from Wright's *English Dialect Dictionary*, and no etymology, or theory of origin, was given for them there. The list is purposely confined mainly to contemporary dialect words. After all, it is these words which one approaches with fewest predilections, and concerning which, since they are contemporary, our *Sprachgefühl* ought to be most reliable. As has been often pointed out, the processes of living dialect speech are often much more important for the investigation of the problems of linguistics, than is investigation of the literary language.

bash, strike, beat, smash. "Aa bashed me head," "Ye've bashed yer hat." Barrère and Leland, *Dictionary of Slang*, following the *New English Dictionary*, suggest Scandinavian origin, and compare Swedish *basa*, strike; but note the group *beat, bang, mash, smash, crush*, etc.

blash, a sudden blaze or flame. "Light sticks only make a blash," "His een blashed fire." "A fire into which paraffin had been thrown was said to blash up." Note *blaze, flare, flash*, etc.

bumble, bungle, blunder, halt, stumble. "He bummed on an' spoiled his work." Note *bungle, fumble, jumble, stumble*, etc.

cangle, quarrel, wrangle, haggle, cavil. "We may not stay now to cangle." Called "perhaps onomatopoeic," in the *New English Dictionary*. Noted in the *Century Dictionary* as apparently a voiced frequentative of a verb *cank*, from *camp*, with possible Icelandic cognates. But cf. the group *cavil, quarrel, wrangle, jangle, haggle*, etc.

chelp, chirp, squeak, yelp, chatter. "Children nowadays will chelp at you and sauce you," "The magpie chelps at ye." Cf. *chirp, cheep, chatter, yelp*.

chirl, chirp, warble. "The laverock chirlt his cantie sang." Cf. *chirp, cheep, trill, shrill*, etc.

chittle, twitter, warble. "The birds are chittlin' bonnily." Cf. *cheep, chirp, twitter, warble*.

criggle, wiggle, creep, crawl, wriggle. "I can feel 'un (the devil) just as if he was a-crigglin' and a-crawlin' in my head." Cf. *creep, crawl, wiggle, wriggle*.

croodle, huddle, crouch, curl, cringe, cuddle, fondle. "The lads croodled down," "Come to mother and 'er'll croodle yo." Cf. *crouch, cuddle, huddle, fondle*, etc.

- crunkle**, rumple, crease. "A yellow crunkled scrap." Cf. *crinkle*, *crumple*, *crease*, *wrinkle*, *rumple*, etc.
- flawp**, go about vulgarly and ostentatiously dressed; also a name given an awkward slovenly person. "Flaupen about frae mornin' ta neet," "A girt idle flawp." Cf. *flaunt*, *flout*, *flip*, *flop*, *flirt*, *awkward*, etc.
- flaze**, flare up, blaze. "This floor can't flaze, for it's made o' poplar." Cf. *flare*, *flame*, *flash*, *blaze*, etc.
- flerk**, jerk about, flourish, flip or flop. "Don't keep flerking that in my face." Cf. *flourish*, *flip*, *flop*, *jerk*.
- flump**, fall heavily, or headlong; a fall accompanied by a noise. "He went down such a flump," "A hawk flumps or flops as a bird," "He fell down full flump." Cf. *fall plump*, *thump*, *bump*, etc.
- friddle**, trifle, potter, waste time. "He was friddlin' on at his work." Cf. *fritter*, *trifle*, *fiddle*, *frivol*, etc.
- glumpish**, glum, gloomy, sullen. "Mary is glumpish to-day." Noted in the *Century Dictionary*. Cf. *glum*, *gloomy*, *lumpish*, *dumps*, etc.
- scrawk**, scratch, scrawl, mark; also squeak, shriek, scream. "Just scrawk yer pen through this," "Wha'dgee scrawk fur?" Cf. *scratch*, *mark*, *scrawl*; *scream*, *squall*, *squawk*, *shriek*, etc.
- skreek**, shriek, scream, creak, make a grating noise. "She skreek'd oot like a cat yawlin'," "It skreeks so it gets my teeth on edge." Cf. *shriek*, *scream*, *squeak*, *creak*, etc.
- scree**, cry, shriek, squeal, scream. "What wi' screalin' wimmin." Perhaps built from *scream*, *shriek*, *shrill*, *squeal*, etc.
- snaggle**, giggle, snicker. "'It must be a very fine game to have such a large score,' I snaggle." *Letters of a Japanese Schoolboy*, xxxvii, by Wallace Irwin. Cf. *snicker*, *giggle*, *gag*, *haggle*, etc.
- snuddle**, nestle, cuddle. "Snuddled together like birds in a nest." Built from *snuggle*, *cuddle*, *huddle*, etc.
- troddle**, toddle, go. "The young things trodlin'." Note *trudge*, *trip*, *trot*, *toddle*.

That words of this type are the special product of modern times or contemporary conditions is by no means to be assumed. They are likely to be as old in language history as are fusion forms or hybrids, or composites in general. The words in the list cited are aggressively dialectal, it is admitted. Like all indefinite blends they tend to be telling, forceful words, not neutral; also they are predominantly rather ugly or unbeautiful formations. In words of special folk or dialect coinage there seems in general to be little striving for the attractive or agreeable. There is marked

tendency toward the jocular; but still more characteristic is the focussing of interest in the expressive.

It is probable enough that the words in the short illustrative list cited are not especially well selected from the many that suggest themselves. No doubt some among them may be in origin direct amalgams, or contaminations; others may not really be amalgams at all; they may have had for example a purely onomatopoeic origin, or they may be loan words; or they may be mere accidental or capricious perversions of forms already in existence. But some are surely obscure blendings, or reminiscent amalgams, of the type under discussion.

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