

THE PLAY ON THE EVE OF THE ESSEX REBELLION

By Ian Haste

It is generally agreed that a play was enacted on the day before the Essex Rebellion of 1601 to stir up the public and get them involved in support of the Earl of Essex. However, there has been some debate as to which play was performed. The contending plays are *Richard II* by William Shakespeare, and *Henry VIII* by Dr. John Hayward.

Was the play performed just that once or many times before?

Why was Shakespeare not reprimanded?

Was Essex involved in the selection of this play?

After transcribing the original documents of the trial of the Earl of Essex in 1599, I aim to demonstrate quite clearly that William Shakespeare played no part in either the writing or production of that play.

On the morning of Sunday, 8th February 1601, Robert Devereaux, the second Earl of Essex, marched into the City of London with a band of loyal followers. They were soon arrested and put under House Arrest. Essex claimed his purpose was to gain audience with the queen, but at his trial a few days later he was found guilty of treason and, thereafter, beheaded. Here follow direct transcriptions from the trial in 1599 from documents entitled:

'Analytical Abstract in support of the charge of treason against the Earl of Essex.'

These documents were drawn up at the trial of Essex by Francis Bacon on **29 September 1599** and are a record of some of the interrogations at the trial.¹

The Erle of Essex is charged with high Treason, namely, That he plotted and practised with the Pope and King of Spaine for the desposing and settling to himself Aswell the Crowne of England, as of the kingdome of Ireland.

This is proved fyue wayes

Charge 1.

That the Erle of Essex, should not deale against Tyrone but succede and take him as his frend / And to lett him rule as head under the Pope in Ireland,

untill such tyme as the Erle of Essex, were fully confirmed to the Crowne, and reconciled to the Pope.

Charge 2.

He was instructed by father Persons, to persuade the Erle to maintaine the Tytle of the Infanta yf the Erle would undertake the tytle for ye Infanta he should deale for peace between Spaine End vpon these conditions

- 1. That Ireland should be quiett.*
- 2. That the Low Contreis should not be assisted against Spayne.*
- 3. That Spaine should have the Indies free.*

Charge 3.

The Erle of Essex was generally held and esteemed by the Rebels in Ireland, as their speciall friend

Charge 4.

That there hath passed secret lettres and Intelligence betwixt the Erle of Essex and Tyrone.

That the Erle of Essex and Tyrone, had combined themselves together vpon the plott, namely that the Erle should be king of England, and Tyrone Viceroy of Ireland

Charge 5.

By the Erle of Essex owne Actions. In some matters con-cerning this cause apparently confirming ye intent of this Treason.

Dr (or Sir) John Hayward (sometimes spelled Heyward) was a historian, lawyer and politician.² On **11th July 1599**, he was summoned to appear before the Star Chamber for the writing of a book, sometimes referred to as a pamphlet or a play, entitled *Henry The Fourth*. This book included the deposition and murder of king Richard II.

Hayward then took it, before July 1599, to the censor Samuel Harsnet for approval to be printed. Straightaway an epistle and dedication were added after approval by Harsnet, but before it was printed by John Wolfe. It was these additions which caused problems for Essex rather than the book itself. Over 500 copies were sold and then the Archbishop of Canterbury ordered the epistle and

dedication be removed. After removal, another 500+ copies were sold. An updated version was acquired from Hayward and this sold more than 1,000 copies again. *Henry VIII* was the best-selling book ever printed by John Wolfe. The book was dramatized before 29th September 1599 and it was dedicated to Essex.

Hayward is accused in court of inserting seditious material into his play:

11 July 1600 att at the Courte.

The confession of Doctor hayward before the lo keeper the lo: Admirall mr Secretary and mr chauncelor of the exchequer. (Sir Edward Coke)

'He selecteth a storie 200 yere olde, and publisheth it this last yere, intending the application of it to this tyme maketh choice of that story only, a kinge is taxed for misgoverment, his counsell for coverage and advantage for those priuate, the king censured for confaring benefits of hatefull paucities, and fauorites, the nobles discontented, the commons growing, the continuall taxation. Wherevppon the king is deposed, and by as ... and in the ende murder'

Hayward tried to print it secretly and without official approval. From the confession of the Censor, Samuel Harsnet:

'the author of this pamphlett published his pamphlett without my Lord & master his approbation at all, contrarie to warrant in that behalf. the Author knoweth in his conscience this is true that when his pamphlett had mine approbation it was heddesse without epistle, preface, or dedication at all.'

The printer wanted the book dedicated to the Earl of Essex. John Wolfe, was the printer of *Henry VIII* and examined on **13th July 1600**:

'And vppon some Conferance hadd between them, this examynat praid hym to yt might be dedicated to the Earle of Essex, ffor that he was a Marciall man and was ...'

With some seditious material inserted, Hayward's book was a best seller.

'And further sayth that fyve or six, hundred of them weire sould before any suche Commaundment was gven, ffor he sayth that never any booke was better sould or more desired, that ever he printed then this booke was, ...'

Hayward inserted more seditious details resulting in the sale of even more books.

'And about easter tearme followinge the people Callinge exsedinglie for yt, this examyn examynate obtayned a new / copie \ eddiscion of the said Doctor Hayward wherain many thinges were altered from the former and yet the vollume Increased.'

Hayward acted on his own initiative and the older editions of the book were destroyed.

'And so this examine never spake with the Earle after the / firste \ delivery of the bookes. And further said that all of the last Edition weire burnt in my Lord of London's house.'

John Wolfe was imprisoned for printing the updated version of the book.

'And this Examynate sayth fffurther that he was Committed 14 dayes for the printinge of the laste Edition and loste all the bookes of the laste that Edition'

Hayward dedicated his book to the Earl of Essex against his will. Although John Hayward's book *Henry VIII* was a best seller, he confessed he had invented and inserted stories tending to prove that deponents of kings and princes have had good success. Being asked to dedicate it to a man of honour he foisted a dedication to the Earl of Essex 'who neither liked nor wanted the dedication'. But Essex did allow the publication and printing of the book, and it was dramatized soon after.

It was important, to the point of paying extra money for it, that Hayward's *Henry VIII* was performed on the day before the insurrection for maximum effect in stimulating the support of the common folk. The examination of Augustine Phillips took place on **18th February 1600**:

'The Examination of augustyne phillypps servant vnto the L. Chamberlyne and one of hys players taken the xvijth of Februarij 1600 vpon hys oth. 'Sr Charles pery Sr Joseyne pery and the L. montegle with some thre more spak to som of the players in the presans of thys examine to have the play of the deposyng and kyllyng of Kyng Rychard the second to be played the Saterday next promysyng to gete them xls. more then their ordynary to play yt . . . hys fellowes were determyned to have played some other play, holdyng that play of Kyng Richard to be so old & so long out of vse as that they shold have small or no Company at yt. But at their request this Examine and his fellowes were Content to play yt the Saterday . . .'

To achieve the desired impact, Shakespeare's *Richard II* would need the purged contents to be located, written back into the play, and rehearsed – all within a day or so. However, the seditious content had only recently been removed.

It is widely believed that the players received just forty shillings for that special performance. The document states, however, that they were paid 40/- more than they would normally receive. We do not know the normal fee, but 40/- was a significant bonus and enough to persuade them to accept.³

Sir Francis Bacon's deposition tells us that Hayward's *Henry III* was often performed before Essex went to Ireland. On his return from Ireland in late 1599, performances of the play had not continued, and it was therefore described as 'old and out of use'. Hayward's play had incited the rebels and had served its purpose, while 'Shakespeare's' *Richard II* lay impotent in that regard.

While under oath in a court of law on **17 February 1600** and being examined by the Lord Chief Justice Sir John Popham, the Queen's Attorney General, Sir Gelly Merrick (Essex's steward), swore that at the Globe theatre on 8th February 1600, the eve of the Essex Rebellion, the play enacted was John Hayward's *Henry III* and it was about the killing of Richard II.

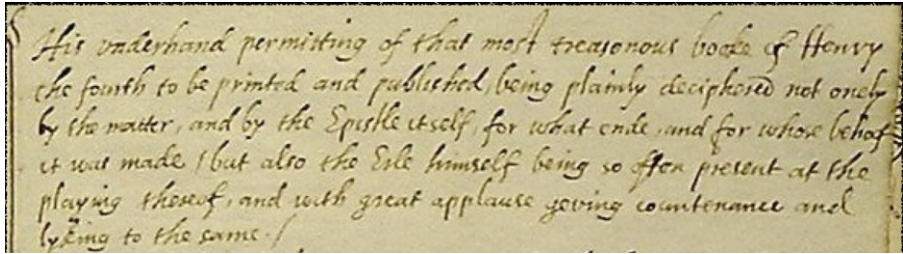
“The Examination of Sr Gelly merick Knyght taken the xvijth of Februarij, 1600. He sayeth that vpon Saterday last was sennyght he dyned at Gunter's in the Company of the L. monteagle, Sr Christoffer Blont, Sr Charles percye, Ellys Jones, and Edward Bussbell, and who else he remembreth not and after dynner that daye at the mocyon of Sr Charles percy and the rest they went all together to the Globe over the water wher the L. Chamberlens men vse to play and were ther somwhat before the play began, Sr Charles tellyng them that the play wold be of harry the iijth ... Thenne he was at the same play and Cam in somwhat after yt was begon, and the play was of Kyng Harry the iijth, and of the kylyng of Kyng Richard the second played by the L. Chamberlen's players'

Gelly Meyricke

Tudor courts routinely allowed torture, lengthy interrogations and harsh imprisonments for misinformation to the court. Penalties for the guilty included amputations, hanging, beheading, and other gruesome punishments. So,

Gelly Merrick would be most careful to tell the truth while he was facing charges in court on ‘*xvijth of Februarij 1600*’ (18th February 1600).

Essex actively encouraged the production and performance of Hayward’s *Henry VIII*.



‘His underhand permitting of that most treasonous booke of Henry the fourth to be printed and published, being plainly deciphered not onely by the matter, and by the Epistle itself, for what end and for whose behoof it was made / but also the Erle himself being so often present at the playing thereof, and with great applause giving countenance and lykings to the same.’

Dr Hayward’s *Henry VIII* was chosen in part because it was the only available play at that time which depicted the deposing and killing of a monarch upon a stage. John Hayward’s book, which had now been transposed to the stage play also entitled *Henry VIII*, was dedicated to Essex and was chosen as a catalyst to the Essex Rebellion.

The only play that is ever named in the court proceedings is *Henry VIII* and the only man ever named as being an author or playwright of anything in this affair is John Hayward. Hayward’s *Henry VIII* was the one play which contained the deposition of Richard II and his subsequent murder. The name Shakespeare was never mentioned, neither was a play entitled *Richard II* ever mentioned anywhere in the court proceedings or elsewhere relevant to the Essex Rebellion.

Today the positions are reversed. Hayward’s play has been lost (although the book survives) so the only surviving play from the period covering the deposition and murder of Richard II is Shakespeare’s *Richard II* whose seditious scenes were

re-inserted by 1608 in the reign of James I.⁴ Although generally assumed to be *Richard II*, debate on this issue has been reported elsewhere.⁵

Performance of the scenes which had been removed would be in direct and open opposition to Cecil's directive. Stubbs was 'stubbed' for a similar incident in 1579, yet the Lord Chamberlain's Men were not punished for playing these scenes before a paying public.

Augustine Phillips was neither punished nor questioned about the reinstatement of any seditious material, nor did he receive censure for his part in the playing of it. Essex was accused of spending much time and being intricately involved with Hayward's *Henry III*. As he required a play of seditious nature to promote his imminent rebellion, it is inconceivable to believe that Essex, for no apparent reason, suddenly abandoned Hayward's *Henry III*, which contained all the elements he desired, in favour of Shakespeare's *Richard II* which had all the essential elements removed.

Essex is dead. Hayward is imprisoned in the Tower. Queen Elizabeth is with William Lambarde who came to Greenwich to present Elizabeth I with 'the fruits of his long years of research in the royal archives which were mouldering in the tower'. He eventually put them into book form and presented the book to the Queen who told him that this book was the best gift she had received in her forty years as Queen. On reading through them, when the Queen reached the reign of Richard II she is reported to have said: 'I am Richard II, know ye not that?'²⁶ They were not discussing Shakespeare's play entitled *Richard II*.

Government Interrogations concerning *Henry III* from contemporary documents shown above took place on the following dates:

29th Sept 1599 Francis Bacon: '*Henry the fourth*'

17th Feb 1600 Sr Gelly merick: '*harry the iiijth*'

18th Feb 1600 Sr.Gelly merick: '*Kyng Harry the iiijth, and of the kylling of Kyng Richard the second*'

18th Feb 1600 augustyne Phillypps '*deposyng and kylling of Kyng Rychard the second*'

Gelly Merrick '*The play of Henry IV. No play else would serve*'.

Upon the death of Elizabeth and the coronation of James the First of England, Dr John Hayward, now released from prison, became History tutor to James's children. Essex's sentence: to be 'Hanged, Drawn & Quartered' was commuted to a beheading.

End Notes:

1. All quotations given here are taken by various recorders of the original documents written as the *Analytical Abstract in support of the charge of treason against the Earl of Essex* ~ Drawn up by Francis Bacon 29 September 1599. Also subsequent court records on February 1600. (See biographical note below.)

2. *Encyclopedia Britannica*, Hayward, Sir John (1911).

3. 40 Shillings is the extra money paid for the inconvenience of performance. What could 40 shillings have purchased in 1599? The Essex Record Office, and in particular the Petre family of Ingatestone in Essex, offer this:

*Two & a half cartloads of wood 10/2d. A 40 gallon barrel of beer 5/-
A nyar mouse trap for my chamber 6d. Ten Chyckyns greate and ffat 5/-
One saddle, 3 bridles & 5 girthe 8/-. 1 pair Breechers 5/8d. One axe 5d
To our Stuard at his Temple the 10th daye for three and a half weeks board 12p
For the Cleaning of my teeth 2/-. For my Haircut 4d.*

To use any remaining loose change, one could have purchased numerous 'Yron Nayles at 100 per 5d' and carried them home in a nice new Chamber Pot at 1/-.

4. From "The censorship of the deposition scene in Richard II" by Professor Janet Clare, Honorary Professor of English at the University of Bristol.

It is well known that the deposition scene failed to appear in print in the Elizabethan editions of the play or in subsequent reprints and that it was not published until well into the reign of James I, in the first quarter of 1608. The inserted piece is different in kind from the remainder of Act IV which surrounds it.'

5. *Dating Shakespeare's Plays*, Kevin Gilvary (ed.). Published by The de Vere Society (2010). Also available on the DVS website: <https://deveresociety.co.uk/edward-de-vere-as-shakespeare/dating-shakespears-plays/>

6. This quotation was first printed in 1780, as an appendix to a biographical account of Lambarde in John Nichols' historical miscellany: *Bibliotheca Topographica Britannica*.

See also Ian Haste's previous article 'Vere's Rings in *The Merchant of Venice*' and biographical note (p.35) in the October 2021 *DVS Newsletter*.

From Richard Malim

Ian Haste's case is that Hayward's *Henry iiiii* is more likely to be the play performed at the time of the Essex putsch in 1601 than *Richard II*. In the first place there is no evidence that *Henry iiiii* was a play, rather than just a political essay. Hayward was not one of Henslow's Lord Admiral playwrights, and given Oxford's interest, a rival play might not be attractive to the Lord Chamberlain's Men as the producers of the Shakespeare History plays. The reference to the 'playing thereof' on page 37 could equally be to *Richard II* or to that play alone. Someone identifiable inside the LCM must have dramatised *Henry iiiii* if Ian's case is to stand.

Wells and Taylor (Textual Companion) seem to think that the *Richard II* abdication scene was not simply an addition put into Q4 in 1608, but part of an original manuscript because the 1623 version is superior to, and from an earlier version of, Q4. Shakespeare himself had 'retired' to Stratford. The strangest things of the whole episode are that Southampton was not executed, and the LCM players were completely unpunished. The other point is why did Pope refer to the play as an old one when Hayward's play was rather new?

As an Oxfordian I naturally think these matters can be laid at Oxford's door, but the issues are a long way from proof one way or another. (Ian may have met these points in his talk.)



Reply by Ian Haste

First, my thanks to Hank and Richard for their comments, it is always good to receive feedback. Here follows my response to Hank Whittemore:

'This argument is built upon several possible incorrect assumptions'

Rather than assuming certain events and emulating what others have written before, my comments have been sourced almost entirely from contemporary court documents which, by nature, are above reproach. I tried not to assume anything.

'... there exists no text of a Hayward play'

I agree with that.

'... and no evidence that the Chamberlain's Men ever performed it'

The deposition of ‘augustyne phillypps’ (April 2022 *DVS Newsletter* p.35) surely proves that a play was indeed performed. According to this deposition taken in a court of law 18th Feb 1600 by Prosecutor Sir Francis Bacon, at least six people gave evidence to say that a play was performed and that it was indeed the Chamberlain’s men who performed it. This is not an incorrect assumption but a court document. See (April 2022 *DVS Newsletter* p.35).

Further evidence the play was of king Henry VIII & performed by the Chamberlain’s Men at the Globe theatre (Examination of Sir Gelly Meyricke (April *DVS Newsletter* p.36.)

The Examination of S^r Gelly merick Knyght taken the xvijth of Februarij, 1600. . . . they went all together to the Globe over the water wher the L. Chamberlens men vse to play and were ther somewhat before the play began, S^r Charles tellyng them that the play wold be of harry the iiiijth . . . and the play was of Kyng Harry the iiiijth, and of the kylling of Kyng Richard the second played by the L. Chamberlen’s players.

The politically sensitive ‘deposition scene’ in Shakespeare’s play was not printed until 1608, when one title page declared the text was ‘as it hath been publicly acted’ by the Chamberlain’s Men. We don’t know if it had been included in the 1601 special performance, but we also don’t know if the company ever performed the play without it.

We do know for certain that the ‘deposition scene’ had been ‘publicly acted’ in the 1600 performances by the Chamberlain’s Men (see above).

An Interesting extract from the same trial pertaining to Essex (April *DVS Newsletter* p.37):

His vnderhand permitting of that most treasonous booke of Henry the fourth to be printed and published, being plainly deciphered not onely by the matter, and by the Epistle itself, for what ende, and for whose behoof it was made / but also the Erle himself being so often present at the playing thereof, and with great applause geving countenance and lyking to the same.

And part of the same trial procedures (April *DVS Newsletter* p.36):

Under oath in a court of law & being examined by the Lord Chief Justice Sir John Popham the Queen’s Attorney General: Gelly Merrick swore that at the Globe theatre on 8th Feb, the eve of the Essex Rebellion, the play enacted was Henry VIII and it was about the killing of Richard II.



And, finally, a comment from Eddi Jolly, as a *DVS Newsletter* referee

Augustine Phillips' reply/defence that the play was 'so old and so out of use that they should have small company at it' may be disingenuous; it may have been he didn't see its potential significance. It is noticeable that '[t]he treatment of the actors on this occasion contrasts strikingly with the experience of Ben Jonson and two fellow actors of Pembroke's Company (Gabriel Spencer and Robert Shaw), who were imprisoned and probably threatened with torture for performing the "very seditious" *Isle of Dogs* in the summer of 1597' (Arden Shakespeare, *Richard II*, 2002, p.11 fn). And it seems very likely that the play the Earl of Essex's supporters paid Shakespeare's company to revive in February 1601 included the abdication scene, not present in the quartos from the 1590s, because otherwise it wasn't making the political points the Earl's supporters intended.

Ian Haste's argument is an interesting one, and the (very useful) documents he's presented seem to support it, but as he and other correspondents note, there are frustrating gaps in the extant evidence from which it is difficult to gain a total understanding of what went on. It is regrettable that the 'rules' of English now may not have applied then, too, when Sir Gelly Meyricke reports:

Thenne he was at the same play and
Cam in somewhat after yt was begon, and the play was of Kyng
Harry the iiijth, and of the kylyng of Kyng Richard the second
played by the L. Chamberlen's players

This would suggest **one** play about King Harry the fourth including the killing of King Richard, which isn't what Shakespeare has left us with.

But perhaps Augustine Phillips and his men were let off the hook because the payment occurred the day before Essex's failed rebellion, and the target of the Crown was Essex, not a band of players.

