

Playing Monopoly: Actor/Manager Robert William  
Elliston (1774–1831) and the Struggle for a Free  
Stage in London 1802–32

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## Executive Summary

This study reveals the complexity of relationships inherent in a system of theatre governance shaped by exclusive rights. Royal patents granted in 1662 entrusted sole guardianship of the 'national' or 'regular' drama to two 'patent' or 'legitimate' theatres (ultimately, established as The Theatres Royal Drury Lane and Covent Garden). These held privileged access to the traditional canon of serious, literary drama, including Shakespeare. The monopoly regime's power, re-affirmed in The Theatre Licensing Act 1737, prevented all other playhouses, labelled 'minor', from producing the national corpus of plays, and from employing 'the spoken word': continuous speech unaccompanied by music. 'Minor' theatres were restricted to exhibitions of movement, music, and rhyme, commonly termed 'burletta'. By the early 1800s a consensus held the 'patent' regime responsible for degrading rather than preserving dramatic standards.

Actor/manager Robert William Elliston purchased his first London 'minor' theatre in February 1809. From that moment he began a largely self-interested campaign to overthrow the monopoly. Seeking an equitable footing, Elliston made a series of formal challenges, but when they failed he abandoned official channels. Thereafter, while remaining within the law, he adopted subversive means to gain his goal of a free stage. *The Times's* review of Elliston's first circumvention of the law in August 1809, an innovative 'burletta'-ized *Macbeth*, lauded his 'irregular' production, while recognizing this novel version as a landmark incursion into the 'legitimate' canon.

Elliston's pioneering role in the struggle for reform, recorded in 1926, has been little researched since. The thesis re-evaluates Elliston's agency in the 'patent' cartel's demise, so contributing to a re-assessment of the narrative of the monopoly regime, and

the ideological and social significance of its abolition. Once free competition was achieved, the theatre became a space in which the 'legitimate' canon could be accessed by every class of theatre-goer.

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## Abbreviations and Other Conventions

### Archives

Garrick	Garrick Club Library
Garrick <i>Annals</i>	Dramatic Annals Vol. III 1807-1845
Garrick Petitions	'Petitions' Box
Garrick Scrapbook	Theatres of London [Scrapbook]
HL-HTC	Houghton Library, Harvard Theatre Collection
HL-HTC: Elliston Papers	R. W. Elliston's Theatrical Papers 1791-1826
HL-HTC: Playbills and programmes	Playbills and programs from London theatres, ca. 1700-1930
HL-HTC: Theatrical caricature prints	Theatrical caricature prints, ca. 1600–1900
HL-HTC: Winston Papers	James Winston Papers 1733-1871
HLC-PJL	Huntington Library Catalog: Papers of John Larpent 1737-1824
NLS-MA	National Library of Scotland, Murray Archive
V&A-TPC	Victorian and Albert Museum, London: Theatre and Performance Collection

### Other abbreviations

<i>ODNB</i>	<i>Oxford Dictionary of National Biography</i> , Oxford University Press, online edition, 2004-2016
<i>OED</i>	<i>Oxford English Dictionary</i>

*PMLA*

Publications of the Modern Language  
Association

### **Other conventions**

Currency conversion

Assessment of value equivalents is problematic, but some sense can be gained of relevant levels of worth from the use of currency conversion applications. Both the National Archives Currency Converter ([www.nationalarchives.gov.uk/currency](http://www.nationalarchives.gov.uk/currency)) and [www.measuringworth.com](http://www.measuringworth.com) have been employed for this purpose.

[measuringworth.com](http://www.measuringworth.com), an application designed at the University of Illinois at Chicago, is a converter originally intended for economic historians. Three measures have been used: the Income Value Calculator, to indicate the relative average income that would be used to buy a commodity (based on the income index of per-capita GDP); the Purchasing Power Calculator, which compares the relative value of a past amount to a present amount, using various prices, wages, output, etc. This measure multiplies the sum identified by the percentage increase in the Retail Price Index between the given nineteenth century date and 2014; the Real Price Calculator, is a measure using the relative cost of a (fixed over time) bundle of goods and services such as food, shelter, clothing, etc., that an average household would buy. This bundle does not change over time. This measure uses the RPI.

## ***Dramatis Personae* – Principal Players**

Arnold, Samuel James (1774–1852)	Proprietor Lyceum from 1809, renamed English Opera House 1815
Astley, Philip (1742-1814)	Retired Cavalry officer and impresario opened the Olympic Pavilion for exhibitions of horsemanship in December 1806
Bulwer, Edward (1803-73)	M.P., poet, novelist, playwright, statesman and Chairman of the Select Committee on Dramatic Literature 1832
Bunn, Alfred (1796–1860)	Theatre manager and librettist; Elliston's stage manager at Drury Lane 1823–24; lessee of Covent Garden 1833-35 and of Drury Lane 1833-39
Byron, George Gordon Noel (1788–1824)	Sixth Baron Byron, poet and author of <i>Marino Faliero</i>
Catalini, Angelica (1780-1849)	Italian dramatic soprano, made her London debut at the King's Theatre on 15 December 1806 <sup>1</sup>
Colman, George the elder ( <i>bap.</i> 1732, <i>d.</i> 1794)	Playwright and manager Haymarket theatre
Colman, George the younger (1762-1836)	Playwright and theatre manager, Examiner of Plays January 1824-October 1836
Cross, John Cartwright ( <i>d.</i> 1811)	The Surrey's house writer before Elliston's tenure, then Elliston's until 1811. Transcriber of John Gay's <i>The Beggar's Opera</i> dialogue into rhymed couplets, and 'burletta'izer of <i>Macbeth</i>
Davenant, William (1606–68)	Playwright and theatre manager recipient of Charles II's patent 25 April 1662. Established the Duke's Men,

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<sup>1</sup> Garrick *Annals*.

	which company took residence at Covent Garden in 1732
Davidge, George Bolwell ( <i>d.</i> 1842)	Proprietor Royal Coburg Theatre 1824-33
Dibdin, Thomas (1771–1841)	Playwright and actor, Elliston's stage manager and stock writer at the Surrey, succeeded Elliston as manager 1816-22
Elliston, Robert William (1774-1831)	Actor from the age of seventeen. First stage appearance at the Orchard Street Theatre, Bath on 21 April 1791 as <i>Tressel</i> in <i>Richard III</i> . Actor/manager from 1802. Protégé of George III. London début 1796. Father, a London watchmaker, grandfather, a yeoman farmer of Orford in Suffolk
Elliston, Rev. Dr. William (1732-1807)	Master, Sidney Sussex College, Cambridge; Robert William's paternal uncle
Forbes, Captain John	Part-proprietor, Theatre Royal Covent-Garden 1820s-30s
Garrick, David (1717–79)	Actor and playwright; actor/manager Drury Lane 1747-76
Garrick, Eva Maria (1724-1820)	Stage name Violette, married David Garrick at the age of nineteen. She lived as a widow for forty-three years and died aged ninety-nine
Gay, John (1685-1732)	Author of the political satire <i>The Beggar's Opera</i> 1738 targeted at Robert Walpole and his administration
Glossop, Joseph	Proprietor Royal Coburg Theatre 1818-24
Harris, Thomas ( <i>d.</i> 1820)	Senior shareholder, Covent Garden Proprietors 1774-1820
Harris, Henry	Son of Thomas Harris, shareholder Covent Garden Proprietors 1820-22
Kean, Edmund (1787–1833)	Actor, débuted at Drury Lane in January 1814

Kemble, Charles (1775-1854)	Actor/manager Covent Garden 1822-1840/3
Kemble, John Philip (1757-1823)	Actor/manager Covent Garden 1803-14
Killigrew, Thomas (1612–83)	Playwright/theatre manager, recipient of Charles II's patent 15 January 1662; established the King's Company at Drury Lane 1663
Kinnaird, Douglas James William (1788–1830)	Writer, politician, Byron's friend, and member of the Drury Lane Sub-Committee
Larpent, Anna (1758-1832)	Anna Larpent censored plays alongside her husband John Larpent
Larpent, John (1741–1824)	Examiner of Plays November 1778-January 1824
Moncrieff, William Thomas (1794–1857)	Playwright and theatre manager (born William Thomas Thomas)
Moore, Thomas (1779–1852)	Poet, author, Byron's friend and biographer
Murray, John II (1778–1843)	Publisher closely associated with Lord Byron
Osbaldiston, David Webster (1794-1850)	Elliston's leading actor at the Surrey 1809-14, and leading actor and stage manager 1828-1831. Manager of the Surrey 1831-34 and the Royal Coburg 1833-?
Poole, John (1785/6–1872)	Playwright
Raymond, George ( <i>b.1765?</i> ) <sup>2</sup>	Elliston's biographer, prompter at Drury Lane, had access to Winston's papers

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<sup>2</sup> George Raymond, born Tamie Grant in Scotland in 1765, travelled to Ireland as a servant of Lord Westmoreland. At some point he became stage-struck, changed his name to Raymond, and established himself as a prompter at Drury Lane. Percy Fitzgerald, *A New History of the English Stage from the Restoration to the Liberty of the Theatres, in connection with the Patent Houses* From original papers in the Lord Chamberlain's Office, the State Paper Office, and other sources, Vol. II, (London, 1882), p. 392. Raymond drew on James Winston's papers, the greater part of which now comprise the 'Elliston Papers' in the Houghton Library Harvard Theatre Collection.

Scott, John	Proprietor of the Sans Pareil theatre established in 1806 and renamed the Adelphi 1819
Sheridan, Richard Brinsley (1751-1816)	Playwright, politician and actor/manager Drury Lane 1776-1809
Walpole, Robert, first Earl of Orford (1676-1745)	First Lord of the Treasury and Chancellor of the Exchequer 1721-42, first Prime Minister 1735-42, architect of the Theatre Licensing Act 1737
Whitbread, Samuel, M.P. (1764-1815)	Chairman of the joint-stock company The Theatre Royal Drury Lane Company of Proprietors established 1812
Winston, James (1773-1843)	Antiquarian, one-eighth owner of the Haymarket theatre, Elliston's manager at the Olympic and Drury Lane, Garrick Club founding Secretary 1832-43 (born James Bown)

# **Playing Monopoly: Actor/Manager Robert William Elliston (1774–1831) and the Struggle for a Free Stage in London 1802–32**

## **Introduction**

A frame for the thesis, the period between 1802 and 1832 marks the point from which Robert William Elliston entered theatre management to the setting up of a Select Committee on Dramatic Literature (hereafter ‘Select Committee’). The 1832 Select Committee met to enquire into ‘the state of the laws affecting the interests and exhibition of the Drama’ prompted by a profound and widely-held disquiet at declining performance values and writing standards, and a climate of lax morals associated with the theatre world. The expression, ‘the state of the drama’, infused the debate, indicating a view of the stage as degraded by inferior productions, and theatre as a national institution betrayed by the ‘patent’ theatre monopoly established at the Restoration. The term the ‘national’ drama, also frequently employed, came to represent the notion of the drama as not only a body of work – the traditional, literary canon – but a symbol of the nation.

The hypothesis presented in this study is that, the abolition of the monopoly regime, under which theatre had been regulated since 1662, was achieved in large part by actor/manager Robert William Elliston’s now forgotten pioneering struggle in the first decades of the nineteenth century. Elliston’s career provides a lens through which to survey the passage of theatre de-regulation. Due to Elliston’s life-long endeavour, a regime based on privilege was destroyed and a system created which allowed fair competition among theatres, and made available all kinds of entertainment to every theatre-goer.

From at least the early 1800s, as Jane Moody has shown, ‘illegitimate’, or ‘minor’ theatre became so popular that the ‘patent’ theatres appropriated ‘minor’ theatre forms. When Elliston produced *Macbeth* at his ‘illegitimate’ Royal Circus in September 1809, Shakespeare being the sole preserve of the ‘legitimate’ stage, he redressed that balance and set in motion a revolution in theatre culture. Elliston favoured legal reform, but when formal channels failed, he adopted covert means to achieve effective liberation of the stage. This circumstance has been lost from view since 1926.

The recovered knowledge of Elliston’s unique counter-action nuances somewhat any proposal that ‘minor’ entertainment *alone* made the ‘patent’ system untenable. The persistent resistance of the monopolists – abolition was not achieved until 1843, despite *de facto* freedom of the stage from at least 1826 - in itself suggests a complicated context in which the campaign to end the monopoly took place. Any re-assessment of de-regulation may conclude that *Macbeth*, performed on a ‘minor’ stage for the first time, confronted and reversed the patentees’ already established annexation of ‘minor’ theatre repertoire. Elliston’s unprecedented, innovative production provided a catalyst for change, both challenging the ‘patent’ cabal with a landmark invasion of privilege, and giving encouragement to others. This moment signalled the rupture of a simple acceptance of the *status quo* on the part of ‘minor’ owners, overturned the established convention of ‘patent’ entitlement, and marked the beginning of the end of the monopoly regime, allowing all playhouses access to the English literary canon as they chose. Throughout the thesis, ‘challenge’, ‘campaign’, ‘crusade’, ‘battle’, ‘fight’ and the ‘struggle’ of its title, describe Elliston’s contest against the ‘patent’ theatres’ supposed privileges. Such language could convey a sense of principle, or ideology underlying Elliston’s action; he appealed, for example, against the regime’s abuse of free trade,

and held a genuine desire to uplift failing dramatic standards. Nonetheless, in the first and last resort Elliston, a complex personality, put his powerfully self-interested motives above benign impulse. This knowledge helps elucidate his contradictory stance towards the monopoly regime. In spite of his conflicted position, the thesis argues that the impact of Elliston's activities was crucial in the struggle for de-regulation. The study does not contend that without Elliston's intervention the monopoly would not have fallen, but maintains that he alone challenged the regime in a concerted and mounting programme of resistance between 1809 and 1819, and from 1827 until his death in 1831.

Over time, the monopoly regime damaged the literary standards and moral and educative function of the 'national' drama it had been established to protect. The thesis contextualises the history of the regime, and evaluates Elliston's agency in achieving the destruction of the 'patent' cartel. The scale of the monopoly's effect becomes clear as the uncovering of sources and material progresses, as does Elliston's place as a leading figure in the drive towards abolition. It is argued that, from 1809, decades ahead of the groundswell of activity in the 1830s pressing for institutional reform, Elliston spearheaded a campaign for a free stage in London, and that the measures he adopted contributed substantially to the monopoly's end.

### **The 'problem'**

A regulatory system founded in the seventeenth century conditioned the state of the London theatre world in the first decades of the nineteenth. Established at the Restoration by Letters Patent, the monopoly power exercised by the two original patentees, and their successors, was buttressed by The Theatre Licensing Act of 1737. This method of theatre regulation imposed restrictions both on audiences' ability to

access the 'national', literary drama, and prevented proprietors of non-'patent' ('minor') playhouses from enjoying an equal market footing.

An increasingly urgent debate about the patents' validity, and the adverse impact of the theatrical regime on the 'national' drama, gathered momentum in late eighteenth century and intensified in the nineteenth. Responding to these anxieties, the Select Committee conducted its enquiry in the summer of 1832. The Committee ruled that the harmful effects of the regime on free trade and the public good required that the theatrical monopoly be dismantled. The truth is, however, that the monopoly's exclusive rights were preserved. The regime continued, despite opposition from influential campaigners, and the Select Committee's findings. Although the patentees' claim to the dramatic canon was flouted increasingly from the early 1800s, it survived in statute until the passing of The Theatres Act 1843 (6 & 7 Vict., c. 68).

This study tracks, and offers a re-assessment of the anti-monopoly campaign from the late 1700s to the outcome of the Select Committee enquiry. The history of the regulatory regime has important implications for our understanding of how London's theatre world evolved. The tendency of recent scholars is to date the origins of the push for de-regulation to between the late 1820s and early 1830s. This research, however, reveals anti-monopoly sentiments expressed in the late eighteenth- and early nineteenth centuries, and demonstrates that these coalesced in Elliston's pioneering, formal and covert campaigns which began in 1809 and endured for two decades. Contemporaneous evidence suggests that, under Elliston's influence, a *de facto* equivalence between the 'patent' and 'minor' stages had been achieved by 1826. In practice, the regulation forbidding non-'patent' theatres to perform 'the spoken word' unaccompanied by music had been overthrown.

Elliston's career provides a suitable framework for the study, because of the extensive scope of his immersion in theatre as actor and proprietor; because he managed both 'patent' and 'minor' houses, at times concurrently, on which divide the monopoly debate centred; and because examination of sources reveals arguments for the recognition of his pivotal role in the regime's eventual downfall. Mining uncatalogued or neglected sources, this study brings to light the level of Elliston's involvement, barely acknowledged today. Not since the early twentieth century have his endeavours been seen to have constituted 'a necessary preliminary to any progress whatsoever', setting in train a new era for English drama.

Analysis of Elliston's contribution identifies two distinct propositions. The first relates to the period of his proprietorship of the 'minor' Royal Circus/Surrey and Olympic theatres, and the second to his seven-year tenure as Lessee of the 'patent' Theatre Royal Drury Lane. The former tests the contention that 23 February 1809, the date of Elliston's first London acquisition, marked the real beginning of the monopoly's destruction. The latter proposition concerns certain unintended outcomes of Elliston's actions, and argues that, by overriding the 'old' Agreement between Drury Lane and Covent Garden (see Chapter Five), Elliston, more than any other individual, stamped the seal on the regime's demise.

### **Methodology and approach**

The thesis follows a largely chronological and thematic sequencing of the events outlined in the 'Chapter overview' below. The research combines literature review, archival research, and document analysis. Documents consulted are wide-ranging. They include personal papers and correspondence, accounts and ledger records,

leases, petitions, parliamentary papers, legal statutes, legal judgements, law reports, case law, prosecution records, dramatic criticism and essays, play texts, prompt books, playbills, handbills, tracts, pamphlets, reminiscences, memoires, diaries, biographies and auto-biographies, newspapers, journals and periodicals, London maps and surveys, caricature images and illustrations. Elliston's unauthorised production of Byron's *Marino Faliero* in 1821, provides a case study of the process of licensing and censorship, and laws affecting publication and performance.

Essential to the study are Charles II's Letters Patent, and legislation concerning copyright, licensing and censorship arising from the 1662 patents; principally, The Statute of Anne 1710 (8 Ann., c.19) and The Theatre Licensing Act 1737 (10 Geo II, c.28). Further important material includes the patentees' 1818 Memorial (petition) to the Lord Chamberlain, and the 1832 Select Committee Report. The research also draws upon rarely accessed documentary primary sources: uncatalogued Garrick Club Library papers contribute material on the Third Theatre Movement 1809-12, on Elliston's fight against the patentees, and his own battles, as a patentee, with prominent 'minor' theatre rivals. Uncatalogued material contained in the Houghton Library's collection of R. W. Elliston's Theatrical Papers 1791-1826 supplies evidence of the strategy behind Elliston's formal bids to gain parity with the 'patent' houses, correspondence with the Examiner of Plays, salary payment records and theatre accounts.

Catalogued primary sources in the Houghton Library's Harvard Theatre Collection include prompt-book copies of Elliston's Shakespeare productions at Drury Lane, and images illustrating rising concern about the state of the drama in the early 1800s. The Bodleian Library, Oxford gives access to the only copy in Britain on public record of D. W. Jerrold's *The Flying Dutchman*, in the preface to which Elliston set out

his vision for a deregulated theatre. British Library and The London Library catalogues furnish additional eighteenth- and nineteenth-century material unique to their collections. Respectively, The Huntington Library John Larpent Archive and The National Library of Scotland John Murray Archive give access to licensing records, previously unconsidered accounts ledgers, and copyright data. Elliston's and his wife's personal letters revealing his motivations and plans, are found in the Victoria & Albert Museum Department of Theatre and Performance Collection. The Cadbury Research Library and Shakespeare Birthplace Trust provide letters and images. Images have also been sourced from the Lambeth Archives and the Westminster City Archive.

Principal secondary source material covers the work of Marc Baer, Jonathan Bate, Peter Blaney, Peter Burke, Frederick Burwick, Philip Connell, Jim Davis, Tracey C. Davis, Dewey Ganzel, Vic Gatrell, Robert Hume, Lawrence Klein, Loren Kruger, Nigel Leask, Sally Ledger, Katherine Newey, Judith Milhous, Jane Moody, James Raven, Gillian Russell, Michael F. Saurez, S. J., Julia Swindells, David Francis Taylor, and David Worrall. These resources supply material for discussion of themes of reform, national identity, the 'national' drama, the theatre of opposition, audience, performance genres, critical reception, Shakespeare and the stage, theatre management, economics of the stage, licensing and censorship, authors' rights, copyright law, history of the book, the Select Committee's findings, and the socio-political context in which Elliston and the wider theatre world operated.

The study exposes and examines ideologies embedded in theatre culture from early- to mid-nineteenth century, and relates them to the recommendations of the 1832 Select Committee. Concepts explored in and supported by secondary resources are developed in the thesis. 'Decline of the drama', 'the state of the drama', the classic

canon and canon formation, and disparate beliefs about the values the 'national' drama ought to reflect, emerge as strong themes. The debate concerning why and in what ways the monopoly regime affected performance, literary and moral standards is explored. Shakespeare as national icon is discussed in relation to paradoxical concepts of authenticity and popular appeal. Notions of 'politeness' are raised, especially in discussion of cultural divides and the monopoly's durability. The experience of war affecting all Britons, patriotism, and popular dissent are examined. The sailor trope, held in esteem by London theatre audiences, and *John Bull* as metaphor for a shifting sense of national identity both appear. Notions of 'reform' and resistance to change, xenophobia, English/British identity and character, and concepts of élite and popular culture, thread through the narrative as leitmotifs.

The study acknowledges a range of contexts in which challenges to the theatre regime in the early 1800s played out: the effects of war, including a heightened sense of nationhood and nationality, population growth, increased heterogeneity of the population, and a swelling current of liberal, reformist opinion. In the theatre world, populism vied with élitism, 'rationality' with sensation, and convention with innovation. On examination, these binary oppositions are shown to defy neat categorisation, instead, revealing the complexity of shifting and leaching boundaries between cultures. Elliston's circumstances are explored in the context of theatre and wider social and political concerns of his time; his commercial and personal objectives, and his lost history.

The thesis recovers Elliston's vanished recognition as shaper of the way London theatre developed. He struggled against the monopoly's claimed exclusive rights from the inception of his management career in London. Contemporary commentators

credited Elliston as a pioneer of theatrical reform, but his reputation as a leading campaigner soon faded. Today, Elliston's contribution goes largely unacknowledged. Not one of John Brewer, Marc Baer, Dewey Ganzel, Russell Jackson, Iain McCalman, Katherine Newey, Nial Osborough, Julia Swindells, or David Thomas, names him.<sup>1</sup> Despite his ground-breaking 'illegitimate' productions of Shakespeare, Elliston is absent from Richard W. Schoch's commentary on Shakespeare burlesques.<sup>2</sup> Frederick Burwick, Jim Davis and Penny Gay record Elliston's Shakespeare 'burlettas', but not their significance in testing the monopoly.<sup>3</sup> Tracey C. Davis recognises in Elliston an entrepreneur and showman.<sup>4</sup> David Worrall registers Elliston's approach to entrepreneurship, rather than the substance of his challenges to the system.<sup>5</sup> Elliston's imprint on developments leading to theatre de-regulation is absent from all these accounts.

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<sup>1</sup> John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997). Marc Baer, *Theatre and Disorder in Late Georgian London* (Oxford, 1992). Dewey Ganzel, 'Patent Wrongs and Patent Theatres: Drama and the Law in the Early Nineteenth Century,' *PMLA*, LXXVI (1961), 384-96. Russell Jackson, 'Actor-Managers and the Spectacular' in Jonathan Bate and Russell Jackson (eds.), *Shakespeare in Illustrated Stage History* (Oxford, 1996). Iain McCalman (ed.), *An Oxford Companion to the Romantic Age: British Culture 1776-1832* (Oxford, 1999). Katherine Newey, 'Reform on the London Stage' in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780-1850* (Cambridge, 2003) and 'The 1832 Select Committee' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014). Nial Osborough, 'Chapters from the History of the Dramatic Author's Performing Right', *Dublin University Law Journal*, 33 (2011), 10-41. Julia Swindells, *Glorious Causes: The Grand Theatre of Political Change, 1789-1833* (Oxford, 2001). David Thomas, 'The 1737 Licensing Act and Its Impact' in Swindells and Taylor, *Oxford Handbook of the Georgian Theatre*.

<sup>2</sup> Richard W. Schoch, *Not Shakespeare: Bardolatry and Burlesque in the Nineteenth Century* (Cambridge, 2002) and 'Shakespeare Mad' in Gail Marshall and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), pp.73-81.

<sup>3</sup> Frederick Burwick, 'Georgian Theories of the Actor'; Jim Davis, 'Looking towards 1843 and the End of the Monopoly'; Penny Gay, 'Jane Austen's Stage'; in Swindells and Taylor, *Oxford Handbook of the Georgian Theatre*, pp. 160, 162, 189, 537 and 538.

<sup>4</sup> Tracey C. Davis, *The Economics of the British Stage 1800-1914* (Cambridge, 2000).

<sup>5</sup> David, Worrall *Theatrical Revolution: Drama, Censorship and Romantic Period Subcultures 1773-1832* (Oxford, 2006), pp. 41-4.

## Chapter overview

Chapter One: 'Elliston's challenge in context I: how the regime functioned'. This chapter examines the implications for the early nineteenth-century theatre world of the system of governance established by Charles II's patents, and The Theatre Licensing Act 1737. Placing Elliston's unique pioneering activities in context, the chapter provides an overview of his personal history and conflicted character, enquires into his motives for entering theatre management, and supplies a brief historical account of the regulatory regime. An exploration of the theatre space as a meeting point for a cross-section of the population, but also barriers that existed between élite and popular culture, an effect, it is argued, of the monopoly's strangle-hold on the traditional English literary canon, gives insight into the challenges Elliston faced. Evidence is offered for Elliston's status as an anti-monopoly pioneer, and his conflicted position towards regulation explained. An outline of the tools and mechanisms by which the monopoly was maintained assists scrutiny of the legitimacy of the patentees' mandate, and of interests that militated against theatrical reform, which may have assisted the regime's protracted longevity.

Chapter Two: 'Elliston's challenge in context II: 'the state of the drama'', addresses the overwhelming perception in the early nineteenth century of the 'national' drama in decline, and its causes. A growing realisation of both the established theatre as a 'national' concern, and the body of work represented by the literary canon, is discussed. The debate reveals views of the nation and delineations of Englishness which were unstable, changing, and depended upon the constituency by whom they were expressed. Caricatures of productions at Drury Lane and Covent Garden provide stark illustrations of the monopolists' uttermost departure from the classic canon.

Exploration of the monopolists' betrayal of their trust as guardians of the 'national' drama draws on the official complaint brought against Elliston by the patentees in 1818. His rebuttal of the charges, and subsequent victory, it is claimed, caused the regime's eventual overthrow.

The ever-present fear of popular dissent, engendered by the Gordon Riots of 1780, and shock-waves of the French Revolution, together with the diverse, but pervasive effects on the English population of the wars with France, form a backdrop to discussion of the 'Old Price Riots' of 1809. The events of the longest-lasting riot in theatre history provide a vehicle for examining the changing cultural landscape: radical expression, xenophobic rhetoric, notions of national identity, social uncertainty and lost rights, and the composition, character, and dramatic tastes of the early nineteenth-century audience.

The chapter appraises Elliston's opportunist approach to upheavals in the theatre world, his exploitation of the regulatory regime's ambiguities, his formal, ultimately abortive anti-monopoly campaigning, and success in gaining for his 'minor' theatres 'respectability' and a heterogeneous audience. In 1818, Elliston's claim, as a 'minor' proprietor, to have rescued the 'national' drama from 'patent' corruption, marked an early, then unrecognised step towards transition of the 'national' drama from high- to middle-brow. His assumption of personal responsibility for preserving the 'national' drama at the end of his career, it is argued, testifies not only to his proclivity for self-aggrandisement, but to his life-long commitment to liberation of the stage.

Chapter Three: 'Elliston's anti-monopoly campaign: covert and transgressive means', examines Elliston's adoption of unorthodox strategies to circumvent the system

of governance. In a radical attempt to make 'illegitimate' theatre both legitimate and conspicuous, Elliston was the first 'minor' theatre proprietor to stage 'legitimate' drama from the traditional canon, including Shakespeare, though disguised. By avoiding 'the spoken word', the exclusive privilege of the 'patent' houses, substituting instead the 'illegitimate' genres of 'burletta', *ballet d'action* and the new form, melodrama, Elliston transgressed without penalty. This chapter asks why Elliston continued his anti-monopoly campaign by covert means, whether his use of hybrid forms aided his endeavours, and whether that usage tells us what those genres represented. In particular, the hard-to-define genres of 'burletta' and melodrama are examined, because of Elliston's manipulation of these flexible forms in his circumvention of the regulations. Elliston led the initiative by which 'burletta' eventually came to provide a disguise for the introduction of dramatic dialogue at the 'minor' theatres. Reasons for the rapid acceptance of melodrama, a form with its roots in Revolutionary France, are examined in the social and political context of the genre's arrival in London. An expressive mode that appealed directly to the sentiments, within forty years melodrama not only dominated the stage but suffused popular culture. As a prelude to Chapter Four's exploration of Elliston's project to dislodge the monopolists' producing transgressive versions of 'legitimate' plays, questions are asked about the nature of Elliston's 'burletta' *Macbeth*, in which techniques of melodrama were clearly present, and Shakespeare's genius, when his original language is subtracted from the equation.

Chapter Four: 'Elliston recasts the classic canon', examines the reception and significance of Elliston's 'irregular' productions of three particular traditional, 'legitimate', plays: John Gay's *The Beggar's Opera*, Shakespeare's *Macbeth*, and David Garrick's *The Jubilee*. The chapter engages with the narrative of David Garrick's deification of Shakespeare, and submits that Garrick annexed the Bard's reputation to gain iconic

status for himself. It is suggested that, in turn, Elliston sought to appropriate Garrick's legacy, to emulate Garrick's success, and to achieve equal eminence. Notions of 'authenticity', antiquarianism, and tensions between tradition and innovation are discussed. The chapter argues, nevertheless, that Elliston genuinely wished to make Shakespeare accessible to all. He provided 'every Information to simplify the Plot' for those theatre-goers to whom Shakespeare had previously been unavailable. Elliston sold copies of Shakespeare's play-texts at Drury Lane, and made sincere, though compromised attempts to return to a lost authenticity in his staging of Shakespeare's plays.

Chapter Five: 'Unintended outcomes', reveals the unplanned effects of Elliston's managerial reign at Drury Lane. The chapter shows that, in an attempt to guard his interests, always uppermost of Elliston's motives, he suppressed 'minor' competitors with rigour. The significance of copyright law and the power of patent privilege emerge as dominant features of Elliston's pursuit of rivals and his own pirating of plays. At the same time, Elliston assailed his brother 'patent' house by disregarding the secret undertaking not to compromise each other's interests entered into by Drury Lane and Covent Garden in the late 1700s. Regardless, Elliston poached players, infringed copyright and depleted his own financial resources by over-paying star actors. Elliston's vigorous pursuit of 'minor' competitors resulted in the intensification of their opposition to the regulatory regime. Elliston's overturning of the 'old' Agreement weakened the 'patent' alliance, to diminish further the resilience of the 'legitimate' theatres in the market-place. A combination of Elliston's improprieties, his illness, and his overspending are mooted as causes for his dismissal from Drury Lane in June 1826, though it is noted that none of his successors succeeded commercially.

Chapter Six: 'Elliston's bravura: *Marino Faliero*; Patent illegitimacy', provides a case-study of the unauthorised staging of Byron's play in April 1821. It uncovers the means by which Elliston brought *Marino Faliero, Doge of Venice* to the stage, the role of the Examiner of Plays within the regulatory framework, and the play's reception as text and in performance. It interrogates the effect of the production on Byron's reputation and his publisher's profits. These themes bring out discussion of the concept and purpose of 'closet' plays, copyright law, the censoring process, critical responses, and allusions drawn between the play's text and the political landscape of the 1820s. Parallels between the plot of *Marino Faliero* and the Cato Street Conspiracy are explored for the alleged stimulus the event may have given Byron's writing of the play as a covert vehicle for his radical sympathies. The Queen Caroline Affair is referenced for two reasons: to show ways in which radical activists harnessed pro-Queen sympathies to attack the King and Tory Government, and the deployment of theatre for political effect. In her campaign against George IV, Caroline yoked 'minor' south-bank theatre proprietors and audiences to her cause. The chapter reveals the popularity the Queen sustained, even as her cause waned, through an incident at Elliston's 'patent' Drury Lane, on the occasion of her unscheduled presence at a performance of *Marino Faliero*.

Chapter Seven: 'Legacies', reflects on debates prompted by Elliston's unsanctioned production of *Marino Faliero*, and its legacy. This chapter examines the business arrangement between Byron and Murray (Byron's publisher and holder of the copyright to *Marino Faliero*), to explore the publisher/author relationship. The court case that followed Elliston's unauthorised performance, *Murray v. Elliston*, highlights the prevailing uncertainty over the interpretation of copyright law. The ruling became case

law, establishing what Elliston had argued throughout; that authors possessed no rights over their work in performance. The chapter concludes with Elliston's own legacy, arguing that he stimulated and contributed to the debate about the English theatre's ills, at the heart of which lay the monopoly regime. Though he did not live to see it, Elliston's struggle laid the groundwork for liberation of the stage.

Assessing new sources and re-evaluating neglected material, this research provides evidence to re-establish Elliston as a lead figure in the transformation of the dramatic culture from one controlled by cartel to a system based on fair competition. At the same time, the study uncovers unexpected paradoxes and complexities inherent in a theatrical system shaped by the power of exclusive rights. It unpacks the tensions between the monopolists, their opponents, and those responsible for regulating the stage, and addresses the ideological debates arising from these conflicting positions.

## Chapter One: Elliston's challenge in context I: how the regime functioned

### Introduction

In his earliest, but still influential, research in social and cultural history, Peter Burke suggested that, at least until the eighteenth century, two cultural traditions existed – the ‘great tradition’, a learned culture transmitted by the élite, and the ‘little tradition’ of popular culture in which the common people participated.<sup>1</sup> Revisions have followed, including by Burke himself, John Brewer, Philip Connell and Nigel Leask, though not related specifically to theatre culture.<sup>2</sup> Burke’s original qualifying observation, that the élite participated in the ‘little tradition’, but the common people did not participate in ‘great tradition’,<sup>3</sup> was all but reversed in the theatre world of the early nineteenth century. In a rapidly urbanizing London, the ‘patent’ theatres were rare, secular indoor spaces where, bar the most impoverished, a broad cross-section of the populace met,<sup>4</sup> but the élite avoided ‘illegitimate’ houses. Even in 1832, when the regime’s control of the ‘legitimate’ canon had become ineffective, the stigma attached to ‘minor’ theatres persisted. Edward Bulwer, Chairman of the Select Committee appointed to enquire into the laws affecting Dramatic Literature, admitted that he had attended a ‘minor’ theatre

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<sup>1</sup> Peter Burke, *Popular Culture in Early Modern Europe* (London, 1978), pp. 23, 24 and 270.

<sup>2</sup> For example: Peter Burke, *A Social History of Knowledge: From Gutenberg to Diderot* (Cambridge, 2000) and *A Social History of Knowledge II: From the Encyclopaedia to Wikipedia* (Cambridge, 2012). John Brewer, *The Common People and Politics 1750-1790s* (Cambridge, 1986). Philip Connell and Nigel Leask (eds.), *Romanticism and Popular Culture in Britain and Ireland* (Cambridge, 2009).

<sup>3</sup> Connell and Leask, *Romanticism and Popular Culture*, p. 9.

<sup>4</sup> Elaine Hadley, *Melodramatic Tactics: Theatricalized Dissent in the English Marketplace, 1800-1885* (Stanford, 1995), p. 37. Gillian Russell, *The Theatres of War: Performance, Politics, and Society 1793-1815*, p. 112.

only 'by accident'.<sup>5</sup> It was this absence of the *élite* from 'minor' theatres, perpetuated by the regime's privileged hold on high cultural forms that, from 1809, Robert William Elliston fought to break down. Towards the end of the 1700s and into the early 1800s, the 'patent' theatres, profit-led, increasingly annexed 'low' forms of entertainment from 'illegitimate' theatre, to the chagrin of serious theatre-goers. They continued to retain, however, sole rights to the 'regular' drama, leaving to the 'minor' theatres what Edward Wedlake Brayley described in 1826, as 'the arbitrary restraints of recitative and inexplicable dumb-show.'<sup>6</sup>

In 1800, London's 'illegitimate' theatre world consisted of four principal houses situated at the outskirts of the city: Sadler's Wells, Clerkenwell (opened by Richard Sadler for summer music in 1683, rebuilt in 1765); Astley's Amphitheatre, Westminster Bridge Road (established by Philip Astley, equestrian performer and circus proprietor, in 1769); the Royal Circus, Southwark (launched by the composer Charles Dibdin in 1782 as the Royal Circus and Equestrian Philharmonic Academy); The Royalty Theatre, Wellclose Square (erected in 1785, owned by Astley in 1800.)<sup>7</sup> By 1809, to these had been added, both in central London, Philip Astley's Olympic Pavilion, Wych Street, erected in 1805, and the Sans Pareil in the Strand, founded in 1806 by merchant John Scott (see also Appendix 12: Places of Summer amusement). Tumbling, rope-dancing, and feats on the wire, Rudolf Ackermann recorded, 'had long been the entertainment of the British populace.'<sup>8</sup> 'Minor' theatres were confined to such exhibitions: 'Music,

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<sup>5</sup> Edward Bulwer, 'The State of the Drama', *The New Monthly Magazine and Literary Journal*, No. 34, 131–35, February 1832, p. 135.

<sup>6</sup> Edward Wedlake Brayley, *Historical and Descriptive Accounts of the Theatres of London* (London, 1826), p. 73.

<sup>7</sup> Allardyce Nicoll, *A History of English Drama 1660-1900: Volume IV, Early Nineteenth Century Drama* (Cambridge, 1970), pp. 222 and 231.

<sup>8</sup> R. Ackermann, *The Microcosm of London, or London in Miniature, 1808–11* (London, 1904), Vol. III, p. 14.

Dancing, Burlettas, Spectacle, Pantomime and [in cases such as Elliston's Olympic] Horsemastery.<sup>9</sup> As decreed by Charles II's Letters Patent and The Theatre Licensing Act 1737, none of these houses was permitted to stage 'Tragedy', 'Comedy', or 'Farce', privileged genres of the 'national' drama (also termed the 'regular' or 'legitimate' drama), otherwise the dramatic canon.

The canon's stock of traditional full-length, five-act plays in English was delivered in continuous speech unaccompanied by music (hereafter 'the spoken word'). We see in this and Chapters Two and Three, that Elliston's initiatives challenged the authority on which the 'patent' theatres' claim to an exclusive and perpetual right to the canon of literary drama was based. The canon embraced a large repertory of pre-Restoration plays inherited by Thomas Killigrew – Shakespeare, Ben Johnson (1572-137), Philip Massinger (1583–1640), and Thomas Otway (1652–85). It also included new plays accreted up to the introduction of The Theatre Licensing Act 1737, plus works of contemporary playwrights considered consistent with dramatic tradition, such as Richard Brinsley Sheridan (1751–1816) and George Colman the younger (1762–1836).<sup>10</sup> In the heart of London, the 'patent' theatres, The Theatre Royal Drury Lane (hereafter Drury Lane') and The Theatre Royal Covent Garden (hereafter 'Covent Garden'), controlled the canon. They reigned in the principal theatre-going Winter Season (October to Easter), supplemented from Easter to September by the 'Summer' 'patent', The Theatre Royal Haymarket (hereafter 'the Haymarket'). This period was that also permitted to 'minor' (or 'Summer') theatres. A rare exception, the Olympic,

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<sup>9</sup> 'A return specifying the number and name of each Theatre, and the terms upon which each Theatre has been Licenced [sic] annually by the Lord Chamberlain, during the year 1820.' *Report from the Select Committee on Dramatic Literature: with the Minutes of Evidence*. Ordered, by the House of Commons, to be Printed, 2 August 1832, Appendix 7.

<sup>10</sup> J. Moody, *Illegitimate Theatre in London 1770-1840* (Cambridge, 2000), p. 51. Jacky Bratton, *New Readings in Theatre History* (Cambridge, 2003), p. 141.

purchased by Elliston in 1813, was granted a year-round Licence when established in 1805. Elliston, this study argues, spearheaded the mounting resistance to élite control of dramatic representation noted by Philip Connell and Nigel Leask.<sup>11</sup>

### **Elliston the man: complex and conflicted**

Although a ‘minor’ theatre, the Royal Circus, St. George’s Fields, Southwark, south of the Thames, had long been a well-known place of entertainment in London.<sup>12</sup> When Elliston purchased the lease in February 1809, he brought to the enterprise a range of attributes uncommon among ‘minor’ playhouse proprietors. He had a privileged education, was renowned as a ‘legitimate’ stage actor and became a Royal favourite on that account, being invited to Frogmore by George III in August 1799, and organizing Royal festivities at Radipole in August 1801.<sup>13</sup> Over nearly two decades on the ‘legitimate’ stage, Elliston acquired a deep-rooted knowledge of repertoire and stage craft, and managerial and directorial skills learned from the provincial actor/managers Tate Wilkinson (1739–1803) and William Dimond (c.1750– 1812), and playwright/manager George Colman the elder in London.<sup>14</sup> These characteristics made him a figure in that milieu unusually qualified to challenge the governing regime. Elliston’s background equipped him with an understanding of ‘how to act about it’<sup>15</sup> which others lacked. In his formal campaigning Elliston approached the King, the

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<sup>11</sup> Connell and Leask, *Romanticism and Popular Culture*, p. 34.

<sup>12</sup> The Royal Circus: first licensed in 1753. Garrick Scrapbook. .

<sup>13</sup> George Raymond, *Memoirs of R W Elliston, comedian, 1774–1831*, 2 Vols. (London, 1844), Vol I, p. 130. Philip H. Highfill, Jr., Kalman A. Burnim and Edward A. Langhams, (eds.), *A Biographical Dictionary of Actors, Actresses, Musicians, Dancers, Managers and other Stage Personnel in London 1660–1800*, Vol. V (Eagon to Garrett) (Carbondale, Il., 1978), p. 61. Letter to Dr. William Elliston from Mrs. E. Elliston at Bath dated 29 August 1799. V&A-TPC.

<sup>14</sup> George Colman the elder (*bap.* 1732, *d.* 1794), playwright and theatre manager, and father of George Colman the younger (1762–1836), also a playwright and theatre manager, and Examiner of Plays January 1824–October 1836.

<sup>15</sup> Letter to Elliston from Warner Phipps dated 17 March 1810. HL-HTC: Elliston Papers, Box 1. Warner Phipps, actuary of the Albion Assurance Company, was a life-long friend and advisor to Elliston. Michael J. Wood, *The Descendants of R W Elliston* (Adelaide, 1995), p. 8.

Prince of Wales, the Prime Minister and the Lord Chamberlain with direct personal appeals, while his informal manoeuvres centred on a sound knowledge of the law, and deft manipulation of repertories and genres. Elliston's ingenious skirting, not breaking, of the regulations illustrates Jane Moody's proposition that the law's restrictions fostered theatrical invention.<sup>16</sup> Led by Elliston from 1809, by the 1830s, as observed by Katherine Newey, the 'minors' prospered, regenerated the drama with a vibrant repertoire, and reinvigorated the experience of London theatre-goers.<sup>17</sup> That this was made possible by successive Lords Chamberlain's lack of will to enforce the law (highlighted in the Select Committee proceedings) than essential weakness in codification, is demonstrated by Elliston's effectiveness as a 'patent' proprietor in invoking the law and its heavy penalties (see Chapter Seven).

It is not easy to place Elliston in the class hierarchy. He was born on 7 April 1774 at Orange Street, Bloomsbury, London, to Robert Elliston (1752-1800), youngest son of William Elliston (1710-67), yeoman farmer of Gedgrave, Orford, Suffolk, and Anne Martyn (*d.*1798). Elliston's father, following an apprenticeship in Whitechapel, became a watchmaker in Covent Garden. A man of indolent habits and low pursuits, Elliston père 'wanted a regulator to his own conduct.'<sup>18</sup> From the age of nine years, Elliston's uncle, his father's eldest brother, the Rev. Dr. William Elliston (1732-1807), acting *in loco parentis*, educated Elliston at St. Paul's School. Elliston spent the holidays at Cambridge, where Dr. William was Master of Sidney Sussex College, continuing his education, or travelling. Intended for academic life, Elliston showed an

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<sup>16</sup> Moody, *Illegitimate Theatre*, p. 4.

<sup>17</sup> Katherine Newey, 'Reform on the London Stage' in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780–1850* (Cambridge, 2003), p. 242. Katherine Newey, 'The 1832 Select Committee' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737–1832* (Oxford, 2014), p. 142.

<sup>18</sup> Raymond, *Memoirs of R W Elliston* Vol. I, p. 12.

early talent for performance. As a schoolboy he acted at the Lyceum in private theatricals, and proved himself an original orator at St. Paul's speech day in 1790.<sup>19</sup> In 1791, at the age of seventeen years, Elliston rejected 'that kind of life that was pointed out for me', causing a serious rift with Dr. William.<sup>20</sup> Elliston's distaste for the 'rigid rules of college life' led him to Bath where his promise was noted on his appearance on 21 April as *Tressel* in *Richard III* at the Orchard Street Theatre.<sup>21</sup> Bath's fashionable reputation was at its height and the Theatres Royal in Bristol and Bath, run jointly by Dimond, gave aspirant actors opportunities for wide-ranging experience and served as a nursery for future London stars.

Elliston's letter to Dr. William of December 1792 provides us with evidence of his conflicted personality, and ambivalent attitude towards his chosen profession. While claiming to be respected 'as an actor & for what is of a much greater consequence – a man,' Elliston accused himself of 'self-conceit' and 'superficial cleverness.' He confessed, 'I can only pity myself for a delusion that has so lamentably led me astray [...] these sighs arise from the degrading comparison of What I am & What I might have been.' The knowledge that 'performers are too oft held in a despicable light & [...] few establish a very respectable character' continued to dog him. In 1809, for example, he felt it necessary to announce his intention to give his first London 'minor' theatre 'all the respectability in his power.'<sup>22</sup> Elliston closed his letter of 1792, 'I only hope [...] you will in time be reconcil'd both to that [his career] & your nephew.' Cordial relations were

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<sup>19</sup> Ibid., pp. 12-13. Highfill, *Biographical Dictionary of Actors*, pp. 56-8.

<sup>20</sup> Letter to Dr. William Elliston from Elliston at Mr. Thompson's, Black Fryers' Gate, Hull dated 25 December 1792. HL-HTC: Elliston Papers, Box 1.

<sup>21</sup> Letter to Dr. William dated 25 December 1792. HL-HTC: Elliston Papers, Box 1. Highfill, *Biographical Dictionary of Actors*, p. 57.

<sup>22</sup> Handbill printed for Elliston by Lowndes and Hobbs, Printers, Marquis-Court Stratford-Place, dated 13 June 1809. HL-HTC: Elliston Papers, Box 1.

resumed only with Elliston's marriage in 1796 to Elizabeth Rundall/Rundell (1774-1821), partner in a Miss Flemming's dancing academy in Bath and, from 1802, proprietor of her own academies in Bristol and Bath.<sup>23</sup> According to George Raymond, 'Mrs Elliston was the fashion, the rage with debutantes in elegant life.'<sup>24</sup> Dr. William became godfather to Eliza, born in 1791, the first of ten children, supported Elliston in what became a celebrated career as an actor on the 'legitimate' stage in Bath and London, and encouraged him to enter theatre management.

From Bath, Elliston made his London début at the Haymarket in June 1796. Reviews of the performance concluded that Elliston was an actor of 'superior merit' and 'a vast addition to the London stage, increasing both its professional and moral reputation.'<sup>25</sup> He then performed at Covent Garden between September 1796 and May 1797.<sup>26</sup> The focus of his career, nevertheless, remained in Bath until September 1804, when he joined Drury Lane, acting with the Company for four consecutive Seasons and making London his home.<sup>27</sup>

### **From Actor to Manager: becoming a theatrical entrepreneur**

Elliston set out in management with substantial capital accumulated from his earnings as an actor, augmented by an inheritance in 1807. He gained rapid fame at the 'patent' theatres in Bath and London, and received a corresponding level of reward. His wife wrote of him as 'highly honor'd & highly paid' by the Royal family in August

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<sup>23</sup> Highfill, *Biographical Dictionary of Actors*, p. 62.

<sup>24</sup> Raymond, *Memoirs of R W Elliston* Vol. I, p. 146.

<sup>25</sup> *Ibid.*, p. 58.

<sup>26</sup> Raymond, *Memoirs of R W Elliston* Vol. I, p. 97.

<sup>27</sup> Highfill, *Biographical Dictionary of Actors*, pp. 61-2.

1799.<sup>28</sup> He earned one hundred and forty pounds at Windsor and Frogmore - one hundred pounds, plus a twenty-five guinea gift from the George III, three guineas from Princess Elizabeth and ten guineas from the Queen. In total, these earnings exceeded £12,200 present value.<sup>29</sup> His benefit performance at Bath in March 1800 was sufficient to enable him to bank the 2014 equivalent of c.£4,000: 'My night you will be pleased to find was most excellently and fashionably attended [...] & I am able to send you a £50 note to add to my little stock.'<sup>30</sup> On taking up permanent residence in London in 1804, Elliston earned the equivalent of c.£2,350 per week as principal actor at Drury Lane.<sup>31</sup> When Dr. William died in February 1807, his bequest to Elliston quickly became public knowledge. Jane Austen wrote to her sister on 20 February, 'Elliston [...] has just succeeded to a considerable fortune on the death of an Uncle.'<sup>32</sup> Michael J. Wood, chronicler of Elliston's descendants, calculates the total sum left to Elliston at £2,685.<sup>33</sup>

Elliston spoke of his ambition to become a theatre manager from at least 1797.<sup>34</sup> In 1800, when possibilities arose at Bath and London's Covent Garden, he wrote to his uncle, 'I should prefer it very much if I had any hopes held out to me of having a moderate share of the concerns.'<sup>35</sup> Neither opportunity materialized. Elliston became

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<sup>28</sup> Letter from Mrs. E. Elliston at Bath to Rev. Dr William Elliston dated 29 August 1799. V&A-TPC.

<sup>29</sup> £140 in 1799 = Purchasing power of £12,280 in year 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>30</sup> Letter from Elliston at Bath to Rev. Dr. William Elliston dated 27 March 1800. HL-HTC: Elliston Papers, Box 1.

<sup>31</sup> £30 in 1804 = Purchasing power of £2,358 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>32</sup> Letter from Jane Austen to Cassandra from Southampton dated 20 February 1807 in Deidre Le Faye, *Jane Austen's Letters*, (Oxford, 1995), p. 122.

<sup>33</sup> Estates Duty Register IR26/121, No. 117. Wood, *The Descendants of R W Elliston*, p. 9. £2,685 in 1807 = Purchasing power of c.£190,900 or income value of c.£3,242,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>34</sup> Letter dated 15 August 1797 from Elliston to Rev. Dr William Elliston, Sidney College, Cambridge. V&A-TPC: 1973/A/83.

<sup>35</sup> Letter dated Sunday 23 February 1800 from Bath addressed to Rev. Dr. William Elliston. HL-HTC: Elliston Papers, Box 1.

proprietor of his first theatre at Wells in 1802,<sup>36</sup> and temporary acting manager of the Haymarket in London the same year,<sup>37</sup> after which his plan to become an out-and-out actor/manager fell into abeyance. In 1809, Elliston agreed terms of 2,500 guineas a year for a seven-year lease on the Royal Circus.<sup>38</sup> This purchase heralded a period of intense activity to establish himself as a fully-fledged, entrepreneurial actor/manager at the start of a twenty-two year London management career. Between 1807 and 1813, Elliston undertook a series of major expenditures, which, as regards theatre acquisition, ended only in 1827 (see Appendix 1).

From the year in which he inherited his fortune, Elliston set about acquiring the trappings of a gentleman, firstly, purchasing a prestigious home at 9 Stratford Place, Westminster. In 1808 he commissioned a portrait from the society painter George Henry Harlow, a pupil of Thomas Lawrence. The execution of an original and two copies suggests that the portrait may have been intended for public consumption.<sup>39</sup>

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<sup>36</sup> Raymond, *Memoirs of R W Elliston*, p. 151.

<sup>37</sup> Elliston was paid £14 per week to fulfil the joint roles of lead actor and acting manager, hiring actors and selecting plays. Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 11.

<sup>38</sup> 'Statement of facts in support of the Bill at present pending in the House of Commons relative to the Licence of the Surry [*sic*] Theatre.' Poole & Greenfield, Grays Inn, 1816. *Garrick Annals*. £2,625 in 1809 = Purchasing power of £170,100 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>39</sup> Harlow painted the actors Charles Mathews and John Liston, and exhibited their portraits at the Royal Academy. Jim Davis, 'Spectatorship', in Jane Moody and Daniel O'Quinn (eds.), *The Cambridge Companion to British Theatre 1730–1830* (Cambridge, 2007), p.64. Harlow drew Byron in 1810. Iris Origo, *The Last Attachment: the story of Byron and Teresa Guiccioli as told in their unpublished letters and other family papers* (London, 1949), Plate 2.

One copy of Elliston's portrait is lodged in the National Portrait Gallery London archives: George Henry Harlow. Oil on canvas, engraved 1808 30 ¾ in. x 25 ½ in. (781 mm x 648 mm). Gift of Mary Elliston [Mary Ann(e) (1817–1897)]. NPG 2136. This is most likely 'The portrait of Elliston, by Harlowe [...] withdrawn by Mr. Winston, the executor, for one of the family' from the sale of Elliston's Wardrobe following his death. Unattributed press clipping hand-dated 16 September 1831. HL-HTC: Elliston Papers, Box 1.

A second is in the Garrick Club collection. G0190. Oil on canvas. George Henry Harlow. 76.5 cm x 63.5 cm. It is probable that this copy exhibited in Pall Mall in 1819 (the year Elliston became lessee of Drury Lane). HL-HTC: Elliston Papers, Box 1. Possibly also it is that exhibited in Charles Mathew's Theatrical Museum and Picture Gallery: 'In May we took possession of Ivy Cottage [...] a space near it was found for the addition of the Picture Gallery, which was immediately planned and begun.' Mrs. Mathews, *A Continuation of the Memoirs of Charles Mathews, Comedian*, Vol. I (Philadelphia, 1839), p. 48.

A third is in the collection of the Tasmanian Art Institute, Hobart, gifted in 1935. William Gore Elliston (1798–1872), Elliston's second child, emigrated in 1830 with his youngest brother Edmund (b. 1813). Edmund returned the following year, but William lived the rest of his life in Tasmania.

Depicting him as genteelly unostentatious in subdued but fur-collared jacket - a sober, affluent, private man, all signifiers of his profession removed - the portrayal may have represented to Elliston the image he wished to promote. Applying Roy Porter's notion, this 'deliberately wrought work of art' functioned as a 'socio-cultural voice'.<sup>40</sup> Elliston's anxieties about status, the 'despicable light' that so concerned him in 1792, dissolve in the presentation of a restrained, distinguished figure distanced from the ignoble traits commonly associated with the theatre world. Elliston's conflicted character is no more evident than here. A highly celebrated actor, and a man of remarkable energy, enterprise and resource, also a self-publicist, a voluptuary, drunkard, gambler, adulterer, and keeper of louche acquaintance, Elliston became a notorious rather than respected figure in society. Having secured the Royal Circus, Elliston looked outside London that same year, purchasing the Croydon theatre in August 1809 for £940,<sup>41</sup> an interest he retained until 1826, and leasing the 'legitimate' Theatre Royal Manchester, perhaps to provide income during the Winter Season.

Following his heavy expenditure from 1807 to 1809, and despite critical and financial success at his first London theatre, Elliston continued to rely on the income acting provided. He took engagements at the Haymarket in 1810 and 1811,<sup>42</sup> where, as a demand for recovery of arrears of June 1811 shows, his salary forty pounds per week was not always paid.<sup>43</sup> Elliston established a Literary Association at John Street, Bristol

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<sup>40</sup> Roy Porter, 'Seeing the Past', *Past & Present*, No. 118 (Feb. 1988), 186–205, pp. 186–87.

<sup>41</sup> Report of Elliston's purchase of the Croydon theatre: *The Morning Chronicle*, 21 August 1809. (See Appendix 1). £940 in 1809 = Purchasing power of £60,920 in 2014 or Income value of £1,086,000. [www.measuringworth.com](http://www.measuringworth.com).

<sup>42</sup> Unattributed press cuttings dated August 1810 and 16 October 1811. HL-HTC: Elliston Papers, Box 1.

<sup>43</sup> Brander Matthews and Laurence Hutton (eds.), *Actors and Actresses of Great Britain and the United States: Robert William Elliston*, Vol. 2, No. 7 (New York, 1896), p. 165. Letter from W. A. Allen [Elliston's legal adviser], New Bridge Street, to the Proprietors of the Haymarket Theatre, dated 6 June 1811. HL-HTC: Elliston Papers, Box 1. £40 in 1811 = Income value of £42,140 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

in 1811, but put the library up for sale in July 1812.<sup>44</sup> In June 1812 he signed a five-year contract to perform at the re-built Drury Lane effective 12 September.<sup>45</sup> By late 1813 Elliston appears to have exhausted his reserves. His purchase of the Olympic in January for 3,000 guineas plus £200 per annum ground rent, and in March, a five-year lease on The Theatre Royal Birmingham at £300 per annum,<sup>46</sup> may account for the shortfall, especially since the Olympic was forced to close for three months. At year end, Elliston's desperation was such that he appealed for help to an uncle-by-marriage, the Rev. Dr. Thomas Martyn, receiving this rebuff in early December:

Considering the multitude and extensiveness of your plans, I cannot be surprised that you should be in want of capital [...] but I am sorry to say that it is absolutely not in my power to assist you with the loan you request ...<sup>47</sup>

What Elliston's approach to his uncle and catalogue of outgoings between 1807 and 1813 tells us is twofold: he over-stretched himself financially during this period of domestic expenditure and acquisition of theatrical property, and it was crucial that his enterprises bring him commercial success.

## **Elliston v. the regime: a double-edged sword**

Elliston's stated wish to 'furnish an adequate substitution to himself and to his large and increasing family'<sup>48</sup> informed both his anti-monopoly campaign as a 'minor'

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<sup>44</sup> *A Catalogue of a Select and Valuable Collection of Books, which are now selling ... at R. W. Elliston's establishment ... Bristol ... July 13, 1812*, (Bristol, 1812).

<sup>45</sup> 'Agreement between the Theatre Royal Drury Lane Company of Proprietors dated 30 June 1812 and Robert William Elliston of Stratford Place in the Parish of Saint Marylebone Esquire [...] for the term of 5 years to commence from the Twelfth day of September.' HL-HTC: Elliston Papers, Box 1.

<sup>46</sup> Raymond Mander and Joe Mitcheson, *The Lost Theatres of London* (London, 1968), p. 255. Murray, *Robert William Elliston Manager*, p. 69.

<sup>47</sup> Letter to Elliston from Dr. Thomas Martyn, Pertenhall [Bedfordshire] dated 7 December 1813. HL-HTC: Elliston Papers, Box 1. Thomas Martyn, a colleague of Dr. William, was Professor of Botany at Sidney Sussex College, Cambridge for sixty-three years. He married Elliston's paternal aunt Martha, so becoming Dr. William's brother-in-law. Martyn's most popular work, *Letters on the Elements of Botany* (8 edns.), was a translation and continuation of the original work by Jean-Jacques Rousseau. 'Thomas Martyn (1735–1825)', *ODNB*.

theatre owner, and his persecution of ‘minor’ proprietors during his lessee-ship of the ‘patent’ Drury Lane. The nature of the regime led Elliston to adopt irreconcilable stances towards theatre regulation. As David Worrall tells us, when Elliston, lessee of The Theatre Royal Birmingham, acquired the Olympic in London in 1813, he had to operate as an owner working both within and without the ‘patent’ licensing system as part of his day-to-day management activity.<sup>49</sup> At Drury Lane from 1819 to 1826, Elliston was wholly preoccupied with preservation of his ‘patent’ privilege (see Chapter Seven). Yet, two years before his death, without acknowledging this ‘lapse’, he declared that he had lived and would perish fighting for legislative reform of the theatre.<sup>50</sup>

The ‘patent’ theatres’ hold on the ‘regular’ drama obstructed Elliston’s route to achieving his commercial ambitions. His efforts to bring down the monopoly as proprietor from 1809 to 1816 of the Royal Circus (renamed the Surrey in 1810), and the Olympic between 1815 and 1819, were not driven by altruism, but by hard-nosed self-interest. This acknowledged, the thesis argues that Elliston, a complex personality with benign as well as powerfully self-interested motivations, contributed significantly to a free stage. The call for regulatory reform at the beginning of the nineteenth century arose from an increasingly shared and articulated abhorrence of the ‘state of the drama’ examined in Chapter Two. By what Elliston claimed as an unjustified and unsustainable exercise of privilege in a climate of reform - ‘the small dealer [...] is as well entitled to

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<sup>48</sup> Handbill dated 13 June 1809. HL-HTC: Elliston Papers, Box 1.

<sup>49</sup> David Worrall, *Theatric Revolution: Drama, Censorship and Romantic Period Subcultures 1773–1832* (Oxford, 2006), p. 43.

<sup>50</sup> D. W. Jerrold, *The Flying Dutchman; or The Spectral Ship: A Drama. With the preface by R.W. Elliston* (London, 1829), pp. xiii-xiv. Christopher Noel Murray, *The Great Lessee: The Management Career of Robert William Elliston (1774-1831)*. A Dissertation presented to the Faculty of the Graduate School of Yale University in Candidacy for the Degree of Doctor of Philosophy, 1969, p. 321.

assistance and favour, as the wholesale speculator<sup>51</sup> – the patentees deprived audiences of the ‘regular’ drama on both ‘patent’ and ‘illegitimate’ stages.

Elliston refused to accept the limiting of the canon to the ‘legitimate’ stage, and the consequent restriction of ‘minor’ houses to exhibitions of rhyme, song, dance and action, termed ‘burletta’. He entered his early plea to replace ‘burletta’ with ‘the spoken word’ not only for himself, but on behalf of all ‘minor’ proprietor; an instance of his capacity for altruism:

In soliciting this privilege, I do not desire to hold any right which may not be granted to the other Summer Theatres acting under the same description of license. Their claim to such privilege, if urged, will be equally strong with mine, and I humbly apprehend that it would be a benefit to the public if they possessed it.<sup>52</sup>

When introduced to London in the 1740s, ‘burletta’ ‘had no taint of the illegitimate about it.’<sup>53</sup> David Worrall tells us, however, that in the early nineteenth century the ‘burletta’ form became entirely associated with the culture of the non-élite.<sup>54</sup> Concurrently, as we have noted, the élite became separated from the common people as never before by profound differences of world view.<sup>55</sup> Ultimately, ‘burletta’ became a term connoting a ‘generic disguise for the introduction of dramatic dialogue at the minor theatres.’<sup>56</sup> Discussion at Chapter Three demonstrates that ‘burletta’ was an elusive term.<sup>57</sup>

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<sup>51</sup> *Copy of a Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, against the Olympic and Sans Pareil Theatres; with copies of two letters in reply to the contents of such Memorial by R. W. Elliston, Comedian* (London, 1818), pp. 13-4.

<sup>52</sup> Letter dated 1 March 1810 to the Rt. Honourable Spencer Perceval concerning *Mr. Elliston's Statement on his Application to Parliament*. Garrick Petitions.

<sup>53</sup> John C. Greene, *Theatre in Dublin, 1745–1820. A History*, Vol. I, (Maryland, 2011), p. 337. Joseph Donohue, ‘Burletta and the Early Nineteenth-century English Theatre’, *Nineteenth-Century Theatre Research*, I (1973), p. 41.

<sup>54</sup> Worrall, *Theatric Revolution*, p. 363.

<sup>55</sup> Burke, *Popular Culture in Early Modern Europe*, p. 270.

<sup>56</sup> Moody, *Illegitimate Theatre*, p. 31.

<sup>57</sup> Connell and Leask, *Romanticism and Popular Culture*, p. 8. Nicoll, *A History of English Drama 1660–1900, Volume IV*, p. 345.

Elliston, for example, rejected the notion that ‘rhyme’ formed a necessary component. When tested, the ingenuity of Elliston’s argument concerning the derivation and meaning of ‘burletta’ resulted in legal opinion that the genre defied precise definition:

... since there were no criteria for judging whether the entertainment described came within the meaning of the term ‘burletta’, they [Law Officers for the Crown] could not rule on that point.<sup>58</sup>

Commencing with Shakespeare’s *Macbeth*, Elliston gradually introduced a wide range of Comedy and Melodrama from the ‘legitimate’ canon, plays in which he had taken lead roles at Drury Lane, and produced them, like *Macbeth*, as ‘burlettas’.<sup>59</sup> The first recorded ‘legitimate’ actor to perform on an ‘illegitimate’ stage, Elliston further transgressed convention by recruiting other well-regarded ‘patent’ theatre actors to his ‘minor’ house, by now named the Surrey, to play in his expanding repertoire of ‘legitimate’ plays. As early as February 1812, stars from Drury Lane and Covent Garden joined his rival Company, including Messrs. De Camp, Webb, Dowton, and Mrs. Edwin.<sup>60</sup> Elizabeth Edwin played for Elliston at the Olympic in 1818; in that year she also performed at Drury Lane, the Haymarket, the Adelphi and the Surrey.<sup>61</sup> In only a few years, Elliston had made his ‘illegitimate’ theatres sufficiently ‘respectable’ for these performers not to share his initial discomfort at ‘riding on the outside of the coach’.<sup>62</sup>

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<sup>58</sup> Lord Viscount Sidmouth’s letter dated 9 July 1818 conveying the opinion of the Law Officers of the Crown upon the subject of The Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, 1818. Garrick Petitions.

<sup>59</sup> For example, at the Surrey in August 1812, Elliston staged an adaptation of John Tobin’s five-act Comedy, *The Honeymoon*, performed at Drury Lane in January 1805, and of James Kenny’s *Matrimony*, presented at Drury Lane in November 1804, in both of which Elliston and Mrs. Edwin took star roles. Murray, *The Great Lessee*, p. 329.

<sup>60</sup> Murray, *Robert William Elliston Manager*, p. 45.

<sup>61</sup> ‘Edwin [*née* Richards], Elizabeth Rebecca (1771?–1854), actress’. *ODNB*.

<sup>62</sup> Handbill issued by Elliston from his home at Stratford Place on 13 June 1809. HL-HTC: Elliston Papers, Box 1.

## Anti-monopoly pioneer

Contemporaneous and near-contemporary commentators bore witness to the uniqueness of Elliston's battle, and the lead his actions gave other 'minor' houses. His close friend Warner Phipps (see note 15) responded to Elliston's unparalleled action in approaching Spencer Perceval to allow 'the spoken word' at his 'minor' house:

I think that others, circumstanced as you are [...] will remember the Boldness of your appeal – this is exactly what [...] others would gladly have done, had they known how to act about it.<sup>63</sup>

Elliston's rival, Joseph Glossop, proprietor of The Royal Coburg Theatre from its opening in 1818 to 1824, prosecuted by Elliston when manager of Drury Lane for performing 'regular' drama against the terms of his 'minor' Licence, confirmed:

Mr. Elliston was the first to lead the Minor Theatres into that species of representation of which he is now the first to complain.<sup>64</sup>

Theatre historian Edward Wedlake Brayley claimed in 1826:

It is to him [...] that the minor theatres are indebted for the emancipation they at present enjoy from the arbitrary restraints of recitative and 'inexplicable dumb-show'.<sup>65</sup>

Later in the century, theatre historian Percy Fitzgerald declared Elliston pivotal in the matter of the struggle for a free stage:

... Elliston was to do good service in fighting the battles of the minor theatres against the great patent houses. This contest he carried on during the course of years [...] during which time he laid his grievances before the public by appeals to the Chamberlain and others.<sup>66</sup>

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<sup>63</sup> Letter to Elliston from Warner Phipps dated 17 March 1810. HL-HTC: Elliston Papers, Box 1.

<sup>64</sup> J. Glossop, *Theatrical Inquisitor, and monthly mirror*, January 1820–November 1820; April 1820; 16, 94.

<sup>65</sup> Edward Wedlake Brayley, *Historical and Descriptive Accounts of the Theatres of London* (London, 1826), p. 73. Brayley (1773–1854), a fellow of the Society of Antiquaries, wrote on a range of scientific, literary, and artistic subjects.

<sup>66</sup> Percy Fitzgerald, *A New History of the English Stage from the Restoration to the Liberty of the Theatres, in connection with the Patent Houses From original papers in the Lord Chamberlain's Office, the State Paper Office, and other sources*, Vol. II, (London, 1882), pp. 398-99.

At the beginning of the twentieth century Watson Nicolson claimed Elliston's accession to London 'minor' theatre management marked a significant historical shift:

... the real beginning of the revolution that was to destroy the theatrical monopoly; [...] until Elliston brought his genius to bear [...] no practical line of action had as yet been laid out.<sup>67</sup>

Similarly, Ernest Bradlee Watson proclaimed Elliston's critical role in the theatre world's transformation, describing him as 'the Dionysiac reveller in the new'.

Certain it is that in the stage developments that Elliston set in motion [...] was to be found the beginning of distinctly new things for the English drama. [...] they were [...] a necessary preliminary to any progress whatsoever.<sup>68</sup>

## **Nature of the regime: tools and mechanisms of regulation**

To understand how the system functioned, and the questioning of the patents' validity that arose in the early nineteenth century, the study seeks to elucidate what Jane Moody described as the 'incomprehensible histories' of the patents.<sup>69</sup> It does so by exploring the chronology of ownership of rights to the two 1662 Letters Patent - a complex web fragmented by assignment, sharing, mortgaging and acquisition. F. W. H. Sheppard alone furnishes a list of forty-one individuals, ranging socially from baronets and knights to ironmongers and carpenters, each of whom, between 1732 and 1737 purchased a one fiftieth share of Davenant's patent, presumably to finance the new Covent Garden Theatre.<sup>70</sup>

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<sup>67</sup> Watson Nicolson, *The Struggle for a Free Stage in London* (London, 1906), p. 288.

<sup>68</sup> Ernest Bradlee Watson, *Sheridan to Robertson: A Study of the Nineteenth Century London Stage* (Cambridge, Mass., 1926), pp.174-75.

<sup>69</sup> Moody, *Illegitimate Theatre*, p. 46.

<sup>70</sup> F. W. H. Sheppard, *The Theatre Royal Drury Lane and the Royal Opera House Covent Garden*, Vol. XXXV of *The Survey of London* (London, 1970), pp. 109-11.

## Patents and Licences

The monopoly regime originated in Charles II's Letters Patent. These grants conferred exclusive rights on courtiers Thomas Killigrew (1612–83) and Sir William Davenant [D'Avenant] (1606–68), both playwrights and theatre managers, to establish two Companies of Players to perform the 'regular' (literary) drama. Robert Walpole's Theatre Licensing Act of 1737 reaffirmed the monopoly Charles II created, so consolidating and perpetuating the legal and social divide between 'patent' and 'minor' theatres.<sup>71</sup>

It is useful in our discussion to avoid confusion among the three types of Licence associated with theatre regulation, and to understand the distinction between patents and Licences. Each Licence performed a separate function. One was that issued annually by local magistrates to the non-'patent' theatres allowing them to operate. These playhouses were categorised as 'minor' (low in esteem, and mostly located at the margins of the city), or 'illegitimate' (since prohibited from staging 'legitimate' drama), or 'Summer' theatres, being open in the summer months. With the passing of the Act of 1737, the Lord Chamberlain became responsible for issuing operating Licences to 'minor' theatres inside Westminster. Legislation brought in in the mid- to late 1700s to control rowdiness in what were considered places of 'low' entertainment, confirmed local magistrates' earlier powers respecting touring players.<sup>72</sup> Whether inside or outside Westminster the Licence could be withdrawn at any time if infringed.

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<sup>71</sup> The Theatre Licensing Act 1737 (Act of Parliament:10 Geo.II, c.28), Clause I, reprinted in J. Raithby (ed.), *Statutes at large*, Volume 5 (London: Eyre & Strahan, 1811), pp. 266-68.

<sup>72</sup> David Thomas, 'The 1737 Licensing Act and its Impact' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 104.

Another form of Licence arose from the 1737 legislation's stipulation that the Lord Chamberlain censor any new play, or old play with new material added. The issuing of an actual Licence allowing the performance was neither a requirement of the Act nor subsequent legislation, but, as Leonard Conolly explains, the practice of providing documentary evidence emerged, perhaps to afford managers a form of security.<sup>73</sup>

The third species of Licence was granted by the monarch at intervals between 1694 and 1714 to provide legitimacy to the patentees during the early period of the Killigrew patent's dormant state (see 'Dispersal and Dormancy' below). Theatre patents and substitute Licences were distinct entities. Licences were non-transferable. Time-limited patents replaced the monarchs' annual Licence from 1714. Patents, whether perpetual or time-limited, could be transferred to others entirely or in portions.

### ***A brief history of the patents***

Charles II instigated the 'patent' monopoly with the express purpose of reducing profanity, obscenity and scurrility on stage.<sup>74</sup> By giving control to Killigrew and Davenant, he ridded theatre of strolling players and like 'scandalous and mutinous persons.'<sup>75</sup> The King awarded patents in perpetuity to Killigrew on 15 January and Davenant on 25 April 1662, allowing these men alone the power to erect playhouses, to control the price of entry and payments to actors, to present dramatic entertainments and license them.<sup>76</sup> The notion of 'perpetuity' attached to the patents, later challenged, applied not only to Killigrew, Davenant, their 'heirs and assigns', but bound future

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<sup>73</sup> L. W. Conolly, *The Censorship of English Drama 1737-1824* (San Marino, Ca., 1976), p. 18.

<sup>74</sup> 'Copy of Killigrew's Patent', *Report from the Select Committee 1832*, Appendix 2.

<sup>75</sup> Ibid.

<sup>76</sup> Nicholson, *The Struggle for a Free Stage*, p 2. Sheppard, *The Theatre Royal and the Royal Opera House*, p. 7. 'Copy of Killigrew's Patent', *Report from the Select Committee 1832*, Appendix 2.

monarchs to honour Charles's pledge: 'Us, our heirs and successors, do give and grant [...] full power, licence and authority.'<sup>77</sup>

Killigrew's exclusive privilege came to be vested in Drury Lane from 1663 and Davenant's in Covent Garden from 1732. The two houses, sometimes labelled the 'established' or 'great' theatres, became known more commonly as the 'major' (being dominant), the 'legitimate' (since staging 'legitimate' drama), the 'patent' (from their founding patents), and the 'Winter' theatres (because their Season ran from October to Easter). The 'patent' theatres retained exclusive rights to 'the spoken word'. The patents barred all competition - 'none other, shall from henceforth act or represent 'tragedies, comedies, plaies, operas, musick, scenes and all other entertainment of the stage, whatsoever' – and forbade the patentees from working against each other's interests: 'the one maie not encroach upon the other by any indirect meanes'<sup>78</sup> (see discussion of the 'old' Agreement at Chapter Seven).

### ***Dispersal and dormancy***

Killigrew drew together a Company of actors, the King's Men, under the King's direct patronage. Initially, Killigrew's troupe took up residence at Gibbons's Tennis Court, Vere Street. He then built a permanent home on a site at Drury Lane and Brydges Street, opening the theatre on 7 May 1663. This was the first of four playhouses erected on the same site, the last of which endures to the present day.<sup>79</sup> Killigrew left operational control of Drury Lane to others. By the 1670s, his Company

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<sup>77</sup> 'Copy of Killigrew's Patent', *Report from the Select Committee 1832*, Appendix 2.

<sup>78</sup> Ibid.

<sup>79</sup> Brian Dobbs, *Drury Lane: Three Centuries of the Theatre Royal 1663-1971* (London, 1972), p.31.

was foundering, and keen to salvage the situation, Killigrew's son Charles sought a merger; the United Company, combining the two patents, came into being in 1682.<sup>80</sup>

Davenant formed the Duke's Men, their patron being the King's brother, the Duke of York, and based his Company at the Lincoln's Inn Fields theatre. Davenant managed the venture himself, and profitably. At his death in 1668, his elder son, also a Charles, inherited the patent. Later, Charles Davenant's younger son, Alexander, borrowed secretly the equivalent of the price of a controlling interest in the theatre from Christopher Rich, a former lawyer, and his partner Thomas Skipwith. Alexander part-repaid the loan by conveying rights in the patent, but reneged on the balance of monies in 1693, so forfeiting that share of his patent rights.

Skipwith had purchased a share of Davenant's patent just before the merger, so acquiring an interest in the United Company. This holding of Skipwith's, together with Alexander Davenant's surrendered portion, gave Rich and Skipwith an interest in the United Company equal to Charles Killigrew's.<sup>81</sup> The United Company took up residence at Drury Lane, and from 1693, Charles Killigrew and Rich oversaw the business. Rich's stringent cost-cutting soon led to a rebellion, resulting in William III awarding a Licence directly to Drury Lane's company of actors, headed by Thomas Betterton.<sup>82</sup> Independently of Rich, the actors set up at Davenant's old Lincoln's Inn Fields theatre in 1694.<sup>83</sup> William's Licence, renewed annually between 1695 and 1714, is significant in

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<sup>80</sup> Judith Milhous, 'Company Management' in Robert D. Hume (ed.), *The London Theatre World 1660-1800* (Carbondale and Edwardsville, 1980), pp. 2-6. 'Christopher Rich (*bap.1647, d.1714*)', *ODNB*.

<sup>81</sup> 'Christopher Rich (*bap.1647, d.1714*)', *ODNB*.

<sup>82</sup> 'Thomas Betterton (*bap.1635, d.1710*)', *ODNB*. 'Christopher Rich (*bap.1647, d.1714*)', *ODNB*.

<sup>83</sup> Betterton approached his old friend, Charles Sackville (1643–1706) for help. Appointed Lord Chamberlain to William III on 14 February 1689, Sackville held exceptional powers in his Office at that time, governing in the queen's name during William's absences in the Low Countries 1691-94. 'Charles Sackville, sixth earl of Dorset and first earl of Middlesex (1643–1706)', *ODNB*.

the history of the patents as the first incidence of Royal intervention in Charles II's 'perpetual' grant.<sup>84</sup> The substitute vehicle gave reason to dispute the patentees' authority, and to raise the question of free trade in the drama.

In 1709, Rich's conduct precipitated another revolt at Drury Lane, leading Queen Anne to ban him from performing plays altogether, in effect depriving him of his patent. By a series of negotiations, however, in 1714 Rich gained assent from George I to re-assert his Killigrew rights at a newly built Lincoln's Inn Fields theatre.<sup>85</sup> Christopher Rich's 'entitlement' to operate Killigrew's patent at a theatre other than Drury Lane, if such it was, was not tested, for he died in November 1714. At his death Christopher Rich certainly possessed both Letters Patent, and the rights passed to his sons: John Rich (1692–1761) the elder son, and his brother, Christopher Mosier. John Rich continued at Lincoln's Inn Fields until transferring to his newly built Covent Garden on 7 December 1732. From that point Covent Garden became the permanent home of the Davenant patent.

By 1761, John Rich owned the entire Killigrew patent. Along with Covent Garden theatre, John bequeathed to his wife both Killigrew's and Davenant's Letters Patent. She sold the theatre in 1767, along with the two 1662 patents, to George Colman the elder and Thomas Harris.<sup>86</sup> Colman and Harris paid £60,000 for the theatre and patents together.<sup>87</sup>

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<sup>84</sup> Milhous, 'Company Management', p. 10.

<sup>85</sup> 'Christopher Rich (*bap.*1647, *d.*1714)', *ODNB*.

<sup>86</sup> 'John Rich (1692–1761)', *ODNB*. 'Sir William Davenant (1606–1668)', *ODNB*.

<sup>87</sup> 'Thomas Harris (*d.*1820)', *ODNB*. £60,000 in 1797 = Purchasing power of £5,550,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

***The Letters Patent: ‘an imposition practised on the public’?*<sup>88</sup>**

The monopoly exercised by Drury Lane and Covent Garden dominated the London theatre world between 1660 and 1843, but for a century or more the theatre’s continuing claim to ancient privilege had been baseless. Disputes concerning the inviolability of Charles II’s grant are found as early as 1720, but grew in the period culminating in the establishment of the Select Committee.<sup>89</sup> After the failure of the Select Committee’s attempt to abolish the monopoly, Francis Place revived the question of the patents’ authority. Place, a campaigner for Parliamentary reform – he demanded destruction of ‘the old rotten system’ - and reform more generally, insisted that

From the year 1764 to some time subsequent to 1816,<sup>[90]</sup> one of the patents, called the dormant patent, was wholly laid aside and never used; and yet the proprietors of the two houses pretended that, by virtue of the two patents, they had the exclusive right to perform tragedies, comedies, and other stage exhibitions.<sup>91</sup>

The Killigrew patent’s dormancy is important in challenging the patentees’ claim to ‘perpetual’ rights. The date from which the patent lapsed - the point at which it left the possession of Drury Lane’s proprietors - is uncertain. Judith Milhous believes the patent ceased to be lodged at Drury Lane in 1682, on formation of the United Company; William III issued the first Licence substituting for the patent in 1694; Francis Place gives the date as 1764 (between John Rich’s bequest to his wife in 1761 and her sale to

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<sup>88</sup> Francis Place, ‘A Brief Examination of the Dramatic patents’ extracted from *The Monthly Magazine*, March 1834 (London, 1834), p. 3. Francis Place (1771–1854) was a radical, chronicler, and prominent supporter of theatre reform. ‘Francis Place (1771-1854)’ *ODNB*.

<sup>89</sup> Sir Richard Steele, *The State of the Case between the Lord Chamberlain of His Majesty’s Household, and the Governor of the Royal Company of Comedians, with the Opinions of Pemberton, Northey, and Parker, concerning the Theatre* (London, 1720). *Report from the Select Committee 1832*, Recommendation 1, p. 3. Nicholson, *The Struggle for a Free Stage*, p. 288.

<sup>90</sup> Sheppard gives the date as December 1813. Sheppard, *The Theatre Royal Drury Lane and the Royal Opera House Covent Garden*, pp.5 and 22.

<sup>91</sup> Place, ‘A Brief Examination of the Dramatic Patents’, p. 3.

Colman and Harris in 1767). Though Christopher Rich's right to the Killigrew patent may have been restored in 1714, the privilege it conferred was never reinstated at Drury Lane. It is clear that both patents were owned by Covent Garden at John Rich's death, and sold on to Colman and Harris.

From whichever date, once the Killigrew patent was no longer vested in Drury Lane, the Royal theatre required Royal authority to operate. Since 1694 Drury Lane had functioned under William III's Licence, between 1704 and 1714 under Queen Anne's annual Licence, and thereafter with a series of time-limited patents awarded by Georges I, II, and III. George I awarded the first of these twenty-one year patents to Sir Richard Steele, on his acceptance of the governorship of Drury Lane in October 1714.<sup>92</sup> Under the terms of the Licence, day-to-day conduct of the theatre's affairs remained in the hands of three actor/managers, Robert Wilkes, Colley Cibber, and Barton Booth. It was they who invited Steele to seek the appointment because, as Cibber put it, 'many Days had our House been particularly fill'd, by the Influence, and Credit of his Pen.'<sup>93</sup> In July 1732, after Steele's death, George II issued a further twenty-one year patent to the three actor/managers Wilkes, Cibber and Booth; perhaps a hedge against the impending establishment of the second 'patent' theatre at nearby Covent Garden. Further illustrating the complexity of the patents' history, within fifteen months Booth and Cibber parted with substantial portions of their share, and the greater part of the value, sold and re-sold in 1733, 1744 and 1747, passed to others.<sup>94</sup>

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<sup>92</sup> Sheppard, *The Theatre Royal and the Royal Opera House*, p. 13. Milhous, 'Company Management', p. 10.

<sup>93</sup> 'Sir Richard Steele (*bap.*1672, *d.*1729)', *ODNB*.

<sup>94</sup> Milhous, 'Company Management', p. 10. Sheppard, *The Theatre Royal and the Royal Opera House*, p. 14.

The exclusive grant to the first patentees enabled them to reap commercial benefit from London's renewed appetite for play-going after a period of limited access. Successive proprietors continued to deem Charles II's original grant a superior asset, despite the security provided by substitutes. During his building of a larger Drury Lane theatre between 1791 and 1794, Richard Brinsley Sheridan purchased forty-six sixtieths of the Killigrew patent from Thomas Harris at a cost of £11,667, perhaps to safeguard the £150,000 invested in the reconstruction.<sup>95</sup> Fourteen-sixtieths, nonetheless, remained in other hands, and from 1795, Sheridan operated Drury Lane under a twenty-one year patent granted by George III: the patent in force when Drury Lane burned down in 1809.<sup>96</sup>

Full ownership of the Killigrew patent became an absolute requirement for the establishment of a new Drury Lane theatre in 1812, because the freeholder, the Duke of Bedford, made full possession a condition of granting the ground lease.<sup>97</sup> In the interim, to assist the rebuilding project under the direction of Samuel Whitbread,<sup>98</sup> George III extended Sheridan's patent to the new owners, Whitbread, Peter Moore, Harvey Christian Combe 'their successors and assigns', in the form of another twenty-one year patent dated 19 June 1812, to become effective from 2 September 1816.<sup>99</sup> The arc of dispersal of shares in the patent spread wide: the remaining portion was finally purchased in December 1813 from a George White, a clerk in the House of Commons,

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<sup>95</sup> The purchase occurred in 1793. Sheppard, *The Theatre Royal and the Royal Opera House*, p 6. £11,667 in 1793 = Purchasing power of £1,222,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>96</sup> *Ibid.*, pp. 7 and 21.

<sup>97</sup> *Ibid.*, p. 7.

<sup>98</sup> Samuel Whitbread (1764-1815) M.P., became Chairman of the joint-stock company - The Theatre Royal Drury Lane Company of Proprietors - established in 1812 to manage the newly erected theatre

<sup>99</sup> 'Copy of the entry in the books of the Lord Chamberlain's Office of the Patent for the Drury Lane Theatre.' *Report from Select Committee 1832*, Appendix 3.

who had it by inheritance.<sup>100</sup> By the end of 1813, therefore, each of the 'patent' houses owned its respective 1662 patent in full. Additionally Drury Lane was in possession of a time-limited patent active until 1837.

## The Theatre Licensing Act 1737 and its impact

Whereas the 1662 patents sought to control licentiousness on stage, press regulation of the same year prevented 'the frequent Abuses in printing seditious, treasonable and unlicensed Bookes and Pamphlets, and for regulating of Printing and Printing presses.'<sup>101</sup> Theatre legislation caught up in 1737 when Robert Walpole introduced political censorship of the stage in a period of political instability.<sup>102</sup> Walpole sought to restrict the performance of Henry Fielding's and John Gay's vicious political satires targeted at him and his administration.<sup>103</sup> Although scholars question whether politics or obscenity provided the actual stimulus, *The Golden Rump*, the last in a succession of Fielding's plays of the 1730s ridiculing Walpole personally and politically, may have provided the pretext.<sup>104</sup> *The Golden Rump*, a play published, but not performed, satirised Walpole and his administration as toadying worshippers of George II's gilded buttocks. Walpole, in any event, succeeded in persuading Parliament that more stringent regulation of the theatre was warranted.

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<sup>100</sup> Sheppard, *The Theatre Royal and the Royal Opera House*, pp. 5 and 22.

<sup>101</sup> Licensing of the Press Act 1662 (14 Charles II, c.33). John Raithby (ed.), *Statutes of the Realm: Volume 5, 1628-80*, (London, 1819), pp. 428-35.

<sup>102</sup> Thomas, 'The 1737 Licensing Act and its Impact', p. 94.

<sup>103</sup> An explanatory note in the *Theatrical Inquisitor* of 1820 ascribed the genesis of the 1737 Act to Walpole's response to Fielding's dramatic satires mocking 'certain persons of high rank, and great influence in the political world.' *Theatrical Inquisitor, and monthly mirror*, January 1820-November 1820; February 1820, p. 109.

<sup>104</sup> Thomas, 'The 1737 Licensing Act and its Impact', p. 94. Calhoun Winton, 'Dramatic Censorship' in Robert D. Hume (ed.), *The London Theatre World 1660-1800* (Carbondale and Edwardsville, 1980), pp. 303-04.

The 1737 Act extended control of the theatre through a system of licensing and censorship under the absolute authority of the Lord Chamberlain, an Officer of the Royal household. Penalties were introduced for unlicensed houses, strengthening earlier legislation against uncontrollable strolling players, considered 'rogues and vagabonds'.<sup>105</sup> Like the 1662 patents, the 1737 Act deterred the establishment of rivals, preventing the proliferation of playhouses in a time when London's population and the appetite for leisure pursuits were increasing. Despite the ban, 'minor' theatres were allowed to operate, but denied the genres of 'Tragedy', 'Comedy' and 'Farce'; collectively, the 'legitimate' or 'regular' drama, and privileged vehicle for enactment of 'the spoken word'. As Isabella Alexander points out, the Act supported the monopoly by restricting the production of serious dramas to the two theatres already enjoying Royal sanction.<sup>106</sup> Perversely, perpetuation of their privilege enabled the patentees to stage productions driven by commercial, rather than artistic imperatives that many believed debased the drama. The only right the Act removed from the monopolists was that of censoring their own productions.

### **The Lord Chamberlain's role in Licensing and Censorship**

In the sixteenth century the Master of Revels filled the role of censor on behalf of the Lord Chamberlain. The Letters Patent transferred that obligation to the patentees, but the 1737 Act returned the duty to the Lord Chamberlain. The Act added censorship of political allusion to the suppression of profanity, obscenity and scurrility proscribed in

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<sup>105</sup> Thomas, 'The 1737 Licensing Act and its Impact', p. 96.

<sup>106</sup> Isabella Alexander, 'Neither Bolt nor Chain, Iron Safe nor Private Watchman, Can Prevent the Theft of Words': The Birth of the Performing Right in Britain' in Ronan Deazley, Martin Kretschmer and Lionel Bently (eds.), *Privilege and Property: Essays on the History of Copyright* (Cambridge, 2010), p. 322.

the patents,<sup>107</sup> and made stage censorship a systematic statutory requirement for the first time.<sup>108</sup> Apprehension at theatre's potential to create moral harm or political unrest persisted, leading the Select Committee to report on the advantage to the public of theatre 'freed from the possibility of licentiousness' by the 'control' of the Lord Chamberlain.<sup>109</sup> The Lord Chamberlain's role as censor included not only removing objectionable material from the stage, but promoting theatre's function as an educative and improving force. In the early 1800s, a strong sense developed that this important function had been diluted by the 'patent' theatres' move from didacticism to entertainment.<sup>110</sup> Advocates of the Third Theatre in 1811 argued that 'rational Drama tends to ameliorate the morals of the people.'<sup>111</sup> The wording of George III's patent the following year, designed to protect Drury Lane from the threat of a Third Theatre, and to bolster the monopoly's authority, stated: 'it being our Royal Will [...] that Our theatre may be instrumental to the promotion of virtue and instructive to human life.'<sup>112</sup> Those attempting to assume cultural leadership (of whom members of the Select Committee were representative) believed in theatre's didactic virtues; 'pedagogical instruction was necessary if humanity was ever to acquire civilized methods of conduct.'<sup>113</sup> The Select Committee's own agenda for reform encouraged the respectable conduct and self-

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<sup>107</sup> Davenant's Patent, dated 15 January 1662, *Report from the Select Committee 1832*, Appendix 1.

<sup>108</sup> Jane Moody and Daniel O'Quinn (eds.), *The Cambridge Companion to British Theatre 1730-1830* (Cambridge, 2007), p. 25.

<sup>109</sup> *Report from the Select Committee 1832*, p. 6.

<sup>110</sup> Marc Baer, *Theatre and Disorder in Late Georgian London* (Oxford, 1992), p. 192. Matthew S. Buckley, 'Refugee theatre: Melodrama and Modernity's Loss', *Theatre Journal*, Vol. 61, No. 2 (May, 2009), pp. 183 and 186. Dewey Ganzel, 'Patent Wrongs and Patent Theatres: Drama and the Law in the Early Nineteenth Century', *PMLA*, Vol. 76 No. 4 (September 1961), p. 389.

<sup>111</sup> 1811 'Declaration by Persons in favour of a Third Theatre' Clause IV. *Garrick Annals*.

<sup>112</sup> 'Copy of the entry in the books of the Lord Chamberlain's Office of the Patent for the Drury Lane Theatre.' *Report from the Select Committee 1832*, Appendix 3.

<sup>113</sup> Angie Sandhu, 'Enlightenment, Exclusion, and the Publics of the Georgian Theatre' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 16.

improvement of a mixed theatre-going public.<sup>114</sup> Elliston, by widening access to, and stimulating an appetite for, Shakespeare at the Royal Circus and at Drury Lane, re-asserted theatre's didactic purpose and recognised the growing heterogeneity of London's theatre audience, much in advance of the Select Committee's findings.

The Act of 1843, which belatedly implemented the Select Committee's recommendation to abolish monopoly privileges, restricted the powers of the Lord Chamberlain, but continued to uphold his duty to prohibit the performance of plays which might threaten the preservation of good manners, decorum or the public peace.<sup>115</sup> Theatre censorship continued until the passing of the Theatres Act 1968<sup>116</sup> which finally removed the Lord Chamberlain's and so the monarch's role in theatre regulation:

The Theatres Act 1843 is hereby repealed; and none of the powers which were exercisable thereunder by the Lord Chamberlain of Her Majesty's Household shall be exercisable by or on behalf of Her Majesty by virtue of Her royal prerogative.<sup>117</sup>

### ***Licensing: a bothersome business***

Local magistrates customarily licensed 'minor' theatres, though not without controversy. With the 1737 Act, the Lord Chamberlain, not the magistrates, became responsible for issuing and reviewing Licences within 'Westminster and the liberties

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<sup>114</sup> Katherine Newey, 'Reform on the London Stage' in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780–1850* (Cambridge, 2003), pp. 244 and 246.

<sup>115</sup> The Theatres Act 1843: An Act for regulating theatres (6 & 7 Vict., c.68). The National Archives at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>116</sup> The Theatres Act 1968 (1968 c.54): 'An Act to abolish censorship of the theatre and to amend the law in respect of theatres and theatrical performances.' The National Archives at [www.legislation.gov.uk](http://www.legislation.gov.uk).

<sup>117</sup> *Ibid.*, Clause I.

thereof.<sup>118</sup> In practice, it was not until 1805, with the establishment of the first ‘illegitimate’ playhouse in Westminster, the Olympic, Elliston’s second London ‘minor’ from 1813, that the Lord Chamberlain fully exercised his licensing function under the 1737 Act.<sup>119</sup> Outside the Lord Chamberlain’s jurisdiction, local magistrates licensed places of entertainment as before.<sup>120</sup>

The Act of 1737 charged the Lord Chamberlain with regulating all those places which performed ‘any interlude, tragedy, comedy, opera, play, farce or other entertainments of the stage, or any part or parts therein,’ and to suppress rivals.<sup>121</sup> In reality, the degree to which the Lord Chamberlain curbed competition seems to have depended on the partiality, or whim, of individual holders of the Office (incumbents are listed at Appendix 2). Lord Dartmouth, for example, granted Philip Astley a year-round Licence at the Olympic, despite the patentees’ petition against the application because they would be ‘deeply affected by such new undertaking’ in their neighbourhood.<sup>122</sup> In the face of further objection, Dartmouth went on to give the Sans Pareil a Licence in 1806.<sup>123</sup> He continued to frustrate Drury Lane’s and Covent Garden’s proprietors’ expectations to the extent that, in 1808, they took legal opinion on their entitlement to his protection, which found in their favour:

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<sup>118</sup> The Theatre Licensing Act 1737, Clause V.

<sup>119</sup> The Lord Chamberlain granted Philip Astley a Licence for music, dancing, pantomime and equestrian exhibitions in 1805. Mander and Mitcheson, *The Lost Theatres of London*, p. 225. Philip Astley (1742–1814), equestrian performer and circus proprietor, took a ten year lease on the Olympic in 1805. He opened the theatre as the Olympic Pavilion on 1 December 1806, and sold it to Elliston in 1813. Errol Sherson, *London’s Lost Theatres of the Nineteenth Century*, (London, 1925), p. 225. Nicoll, *A History of English Drama 1660–1900, Volume IV*, p. 228. ‘Philip Astley (1742–1814)’, *ODNB*.

<sup>120</sup> Further legislation relating to ‘minor’ houses followed: the Act of 1751 (25 Geo. II, c.36) introduced to regulate ‘disorderly houses’ and an Act for Regulating Places of Public Entertainment of 1755 (28 Geo II, c19). The Enabling Act 1788 (28 Geo. III, c. 30) confirmed magistrates’ pre-1737 power to police touring players. Thomas, ‘The 1737 Licensing Act and its Impact’, p. 104.

<sup>121</sup> The 1737 Licensing Act (10 Geo. II, c.28) Clause I, Reprinted in Raithby, *Statutes at large*, pp. 266-68.

<sup>122</sup> *Garrick Annals*. George Legge, earl of Dartmouth (1775-1810).

<sup>123</sup> John Scott established the Sans Pareil in 1806, and renamed the house the Adelphi in 1819.

Lincoln's Inn, Feb. 23, 1808

The Proprietors appear to have a strong claim on the protection of the Lord Chamberlain in the enjoyment of their undisputed patent Rights.

Signed: A. Piggott <sup>124</sup>

The finding seems not to have influenced Dartmouth: further reason for complaint arose in March 1811, when Sheridan declared in Parliament that the rebuilding of Drury Lane had been delayed because of Dartmouth's resolve 'to oppose the erection of any theatre in the City of Westminster.'<sup>125</sup>

On purchasing the Olympic, Elliston inherited the remaining portion of Astley's atypical year-round, ten-year 'minor' Licence. In May, the Marquis of Hertford, then in Office, acceded to the patentees' request to withdraw Elliston's Licence at the Olympic, but reinstated it in December 1813.<sup>126</sup> The cause may have been Elliston's provocative naming of his new enterprise the 'Little Drury Lane Theatre', given its proximity to the 'patent' playhouse. Re-opening may have been contingent on Elliston's changing the name: 'the house was closed by the Lord Chamberlain; but it was opened again [...] as the Olympic Theatre.'<sup>127</sup> In 1814 Elliston improved and partly rebuilt the Olympic,<sup>128</sup> at which point his Licence was again endangered, perhaps because the patentees saw Elliston's enhancements as a threat, but ostensibly because of Astley's death a year before the ten-year Licence was due to expire. Elliston's wife wrote in November 1814:

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<sup>124</sup> The Opinion of A. Piggot, William Adam, R. Richards and Francis Const, lawyer, dated 23 February 1808, signed by A. Piggot. *Garrick Annals*.

<sup>125</sup> T. C. Hansard, *Parliamentary Debates*, (London, 1811), Vol. XIX 1811 22 February-10 May 1811. Kraus Reprint Co. (New York, 1970), p 496.

<sup>126</sup> Unattributed Press clipping dated 16 May 1813. HL-HTC: Elliston Papers, Box 1. Mander and Mitcheson, *The Lost Theatres of London*, p 261. Francis Ingram-Seymour Conway, second marquis of Hertford (1743–1822).

<sup>127</sup> Brayley, *Historical and Descriptive Accounts*, p. 87.

<sup>128</sup> *Ibid.*, p. 88.

... there is a talk of its being open in December only we are not sure of our Licence, old Astley is dead the Licence, was granted to him they may not chuse to renew it to us.<sup>129</sup>

We have evidence directly from Elliston that Hertford reduced the term of the Olympic's Licence in 1816.<sup>130</sup> His new, again unusual, Michaelmas to Easter 'Winter' permit ran in parallel with the monopolists' Season, favouring Elliston to the extent of providing an opportunity to encroach on market share.

In November 1815, the patentees complained of Hertford's 'act of injury' against them in granting Samuel Arnold a 'Summer' Licence for the Lyceum.<sup>131</sup> In 1817 the monopolists objected further when local magistrates permitted Arnold to operate year round.<sup>132</sup> Since Arnold's house came under the Lord Chamberlain's jurisdiction, it is puzzling that magistrates should have involved themselves, or have been allowed to do so. This sign of the system's defects explains the Select Committee's declaration that existing licensing regulations were unclear and ineffectual, and that magistrates be removed from the process by making the Lord Chamberlain responsible for licensing all London theatres (see Appendix 3).

In 1818, the patentees' pleaded with Hertford that their long-established rights had been swept away by the grant of Licences to the Olympic and Sans Pareil, accusing Hertford of neglecting his duty to suppress competition.<sup>133</sup> Whether or not

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<sup>129</sup> Letter from Bath dated 13 November 1814. V&A-TPC: 1973/A/83. Astley died in October 1814. Programme listings for 1814 show the Olympic operated only in January, February and March that year. Murray, *The Great Lessee*, pp.332-33.

<sup>130</sup> *Copy of Memorial* 1818, p. iv.

<sup>131</sup> *Garrick Annals*. Samuel James Arnold (1774–1852), playwright and theatre manager, son of the composer Samuel Arnold (1740–1802), established the English Opera House in 1815 at premises he had formerly conducted as the Lyceum Theatre.

<sup>132</sup> *Petition of Theatre Royal Drury Lane Company of Proprietors and of Thomas Harris on behalf of himself and the other Proprietors of the New Theatre Royal Covent Gardens, to the Magistrates for the County of Middlesex*, dated 1817. Garrick Petitions.

<sup>133</sup> *Copy of a Memorial* 1818.

Dartmouth's *de facto* support of the 'minors' was founded in radical beliefs is unclear. Leonard Conolly describes him as a pragmatist in matters theatrical, and notes that Dartmouth did little to prevent the rise of 'minor' theatres, despite the threat they presented to the 'patent' houses.<sup>134</sup> We know too, that he tried to obstruct the rebuilding of Drury Lane (see note 124). Hertford's general reluctance to protect the monopoly remains opaque, given his 'particular disapproval of radical politics attached to literature.'<sup>135</sup> Regardless, by 1832, the ability of 'minor' theatres to function 'as if there had been a law legalising their existence' was recognised, and in part attributed to the leniency of these two men in office.<sup>136</sup>

### ***Censorship, and consequences for the drama***

The 1737 Act required that 'a true copy of the text' of any new play or amended old play be forwarded for approval at least fourteen days before the first performance.<sup>137</sup> 'The master or manager' was obliged to sign each submission,<sup>138</sup> and usually, was required to pay a fee of two guineas, whether or not the piece received approval.<sup>139</sup> Non-compliance attracted a fine of fifty pounds and, in the case of 'minor' theatres, loss of Licence.<sup>140</sup>

In March 1738, to support him in his duties, the Lord Chamberlain established the position of Examiner of Plays to administer the system of approving, amending, or

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<sup>134</sup> Conolly, *The Censorship of English Drama*, p. 28.

<sup>135</sup> *Ibid.*, p. 29.

<sup>136</sup> Nicholson, *The Struggle for a Free Stage*, p. 431.

<sup>137</sup> Conolly, *The Censorship of English Drama*, p. 15.

<sup>138</sup> The Theatre Licensing Act 1737, Clause V.

<sup>139</sup> Conolly, *The Censorship of English Drama*, p. 16. Two guineas (£2 2s. 0d.) in 1810, for example = *Income value* of £2,241 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>140</sup> £50 in 1737 = *Income value* of £154,500 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

prohibiting plays intended for performance.<sup>141</sup> John Larpent held that Office between November 1778 and January 1824, the greater part of the period covered by the thesis.<sup>142</sup> This study explores the significance of the Examiner's role, using Elliston's staging of *Marino Faliero, Doge of Venice* as a case study (see Chapter Six). Understanding how the arrangement functioned and its consequences, is integral to that discussion. For example, the fourteen-day stipulation was rarely observed and managers often forwarded the Examiner a text they had pre-censored to save time and the risk of rejection.<sup>143</sup> Leonard Conolly points out that, to make the system work at all efficiently, both sides ignored the strict letter of the law.<sup>144</sup> Charles Mathews, for instance, bypassed the regulations for his one-man show *At Home* by forwarding the Examiner a sketch of the content, while inventing new material and introducing modifications to old material at every performance.<sup>145</sup>

Elliston innovated to circumvent the law, but the law inhibited new writing. Reintroduction of pre-censorship of the written word, abolished in 1695, curbed social and political satire in the theatre of the early 1800s, which, combined with a conservative attitude towards the drama, sapped the 'patent' repertory of 'a currency and vitality'.<sup>146</sup> Pre-censorship deterred literary writers, because it left their work open to interference with stylistic and dramatic intent (see Chapter Six). When new writing was accepted, the author was obliged to tolerate any changes the manager and

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<sup>141</sup> Conolly, *The Censorship of English Drama*, p. 15. Thomas, 'The 1737 Licensing Act and its Impact', p. 99.

<sup>142</sup> Conolly, *The Censorship of English Drama*, p. 183.

<sup>143</sup> *Ibid.*, p. 20.

<sup>144</sup> *Ibid.*, pp. 13 and 21.

<sup>145</sup> Worrall, *Theatric Revolution*, p. 66.

<sup>146</sup> *Ibid.*, p. 109.

Examiner might make,<sup>147</sup> a requirement that subjected playwrights to the risk of reputational damage and lowering the status of the profession.<sup>148</sup> Although works by contemporary playwrights 'consistent with dramatic tradition' could be accepted into the canon,<sup>149</sup> David Worrall observes that, in practice, much new writing was excluded from the 'patent' theatres.<sup>150</sup> Managers tended to steer away from commissioning contemporary plays, and refused unsolicited works, to avoid the trouble and cost of applying for permission to stage new pieces.<sup>151</sup> Worrall cites the publishing of a selection of spurned plays by their authors, who called for reform of the stage because of the monopolists' restrictive practices.<sup>152</sup>

We may frequent what tavern we please, [...] read what we will; but in our amusements we must be slaves to the patentees of Drury Lane and Covent Garden.<sup>153</sup>

Censorship meant opportunities were lost to invigorate the canon with new works of merit. The monopolists' exercise of exclusive rights depleted the drama, and sacrificed literary values to the pragmatics of the market place.

### **Theatre reform: vitiated by vested interests?**

The history of the patents shows that successive proprietors of the established theatres accorded Charles II's grants pre-eminent status. The monopolists continued to legitimise their ventures by invoking the inalienability of the Letters Patent. As Francis

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<sup>147</sup> Conolly, *The Censorship of English Drama*, p. 5.

<sup>148</sup> Thomas, 'The 1737 Licensing Act and its Impact', p. 98.

<sup>149</sup> Moody, *Illegitimate Theatre*, p. 51. Bratton, *New Readings in Theatre History*, p. 141.

<sup>150</sup> Worrall, *Theatric Revolution*, p. 63.

<sup>151</sup> Conolly, *The Censorship of English Drama*, p. 16.

<sup>152</sup> *The New British Theatre; a Selection of original drama, not yet acted; some of which have been offered for representation but not accepted* (1814). Worrall, *Theatric Revolution*, pp. 63-5.

<sup>153</sup> *Ibid.*, p. 65.

Place asserted, by deceit, the public had been prevented from seeing the legitimate drama performed, 'except in the places and at the prices the monopolist chose to provide for them' (see note 151 above). Drury Lane had been kept open on the authority of twenty-one year patents, renewed from time to time, not in conformity with the patents granted by Charles II, but 'in direct opposition to the exclusive right which the holders of Davenant's and Killigrew's patents have since claimed.'<sup>154</sup>

The long campaign to overthrow the theatrical monopoly occurred in the context of wider initiatives to reform institutions based on privilege. In the period of Elliston's early struggle against the regime, bodies such as Parliament, the church, the law, courts and prisons, the universities, medical colleges, municipal corporations, and The Bank of England came under scrutiny.<sup>155</sup> Hansard's record of Parliamentary Debates for 1810 shows that, of these, Parliamentary reform dominated: petitions came from the Freeholders of Middlesex, City of Westminster, Common Council of the City of London, Reading, Liverpool, Worcester, Canterbury, Kingston upon Hull, Berwick upon Tweed, Berkshire, Nottingham, Coventry, and Southwark.<sup>156</sup>

After the fire of 1809, a group of eighty-six subscribers formed The Theatre Royal Drury Lane Company of Proprietors to build and manage the new theatre.<sup>157</sup> Many of the individuals directly involved in the subsequent management supported social and institutional reform. Inconsistent with their otherwise reformist ideas, however, they

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<sup>154</sup> Place, 'A Brief Examination of the Dramatic patents', p. 3.

<sup>155</sup> Burns and Innes, *Rethinking the Age of Reform*, p. 3.

<sup>156</sup> Hansard, *Parliamentary Debates*, Vol. XV, January 23-March 1 1810. Kraus Reprint, pp. 354-55, and 363-66; Hansard, *Parliamentary Debates*, Vol. XVI – 2 March-17 May 1810, p. 952; Vol. XVII, 18 May – 21 June 1810. Kraus Reprint, pp. 114, 118, 119, 194, 201, 441, 503, 601, 605, 607, and 654. .

<sup>157</sup> This number included two Dukes, Bedford (see note 95) and Argyll, another peer, three peers' sons, four baronets, and several Whig M.P.s. Others were bankers (Thomas Coutts and Thomas Hammersley), City merchants, employees and agents of the theatre's pre-fire administration, and friends of Sheridan. Sheppard, *The Theatre Royal and the Royal Opera House*, p. 21.

created an élite cadre, influential at Court and in Parliament, to protect their interests in the monopoly. Proprietors and investors in the theatre chose to defend the regime rather than to open the stage to ‘the ordinary consequences of competition’ for the public good.<sup>158</sup> Sheridan recognised the contradiction. In the course of opposing the Bill to establish a Third Theatre in March 1811, he acknowledged openly that ‘he should be charged with defending a monopoly, and he was perfectly sensible of the just odium in which monopoly was generally held.’<sup>159</sup> Sheridan campaigned for electoral reform, and generally defended public liberties, but upheld the theatrical monopoly on the ‘indisputable’ grounds that interference with the *status quo* was ‘contrary to the whole spirit of legislation.’<sup>160</sup> Excluded from management on Drury Lane’s re-opening in 1812, in 1811 Sheridan retained a commercial interest. Combe, Moore, and Whitbread campaigned against corruption in high places, for protection of civil liberties, and advocated Parliamentary reform.<sup>161</sup> The Duke of Bedford, another supporter of civil liberties, as owner of the land on which Drury Lane stood, benefited by the monopoly’s continuance: ground rent amounted to £1,703 per annum.<sup>162</sup> This network of noblemen, gentlemen and men of business directed an institution with its claimed *raison d’être*, by supposed ancient trust, the protection of the ‘national’ drama. Yet, they colluded in the abandonment of the ‘regular’ drama on stage, and turned a blind eye to long-practised immorality in and around the theatre.

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<sup>158</sup> *Report from the Select Committee 1832*, p. 5.

<sup>159</sup> London Theatre Bill, 25 March 1811, Hansard *Parliamentary Debates*, Vol. XIX 1811 22 February-10 May 1811. Kraus Reprint, p. 497.

<sup>160</sup> *Ibid.*

<sup>161</sup> ‘Harvey Christian Combe (1752–1818)’, *ODNB*. ‘Peter Moore (1753–1828)’, *ODNB*. ‘Samuel Whitbread (1764–1815)’, *ODNB*.

<sup>162</sup> John Russell, sixth duke of Bedford (1766–1839), *ODNB*. Sheppard, *The Theatre Royal and the Royal Opera House*, p. 23. £1,170 in 1812 = Income value of £1,919,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

### The regime's unaccountable longevity

Elliston, pioneer in the campaign against the monopoly, failed to overcome the opposing forces of vested interests through legislation, even though he achieved freedom of the stage in all but law long before the regime's formal demise. The Select Committee's proposals for a reformed theatre in which the monopoly had no part were defeated in the Lords in 1833, and the regime survived for a further decade. (A summary of the Select Committee's findings appears at Appendix 3). It follows that we might seek to explain, or at least question, why the regime persisted in the face of moves to reform institutional privilege, and escalating protest at and a Parliamentary enquiry into 'the state of the drama'. Actress Fanny Kemble, daughter and sister of patentees, has left us a record of the monopolists' case:

The great companies of good sterling actors would be broken up and dispersed, [...] no play of Shakespeare's could be decorously put on the stage [...] and the public would fare worse for the change.<sup>163</sup>

The Select Committee observed, conversely:

It appears manifest that such privileges have neither preserved the dignity of the Drama, nor, by the present Administration of the Laws, been of much advantage to the Proprietors of the Theatres themselves.<sup>164</sup>

Tracey C. Davis, Dewey Ganzel and Katherine Newey offer separate views on why the monopolists' protected their privilege so vigorously, despite conclusive evidence of the patents' diminishing power.

Tracey C. Davis maintains that, whatever might be claimed for artistic motives, the true reason for the regime's tenacity was financial.<sup>165</sup> This may be so, but if the

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<sup>163</sup> Frances Anne Kemble, *Record of a Girlhood* (London, 1878), Vol. II, pp. 255-56. Frances Anne [Fanny] Kemble (1809–1893): actress and author, daughter of Charles and sister of John Philip, both 'patent' actor/managers. At least twenty-two of Fanny's close relatives were occupied full time in the theatre. 'Frances Anne Kemble (1809–1893)', *ODNB*.

<sup>164</sup> *Report from the Select Committee 1832*, p. 5.

monopolists believed the patents safeguarded their investment, they deceived themselves. Expectation of the patents as revenue raisers had ceased to be a reality by 1820 at the latest. Captain John Forbes, Covent Garden's proprietor in 1832, told the Select Committee that his theatre had lost money consistently since 1820.<sup>166</sup> A Drury Lane ledger for the period 1812–18 shows the theatre made a profit in the re-opening Season 1812–13 (£12,494 9s. 1d.), but accumulated overall debts of £36,785 between 1813 and 1818 (see Appendix 4).<sup>167</sup> A later Sub-committee report recorded an amount due to creditors in 1819 of £92,000.<sup>168</sup> By the 1809 fire, arrears of New Renters' dividends amounted to £43,912, and the proprietors after 1812 were committed to pay them alone £3,750 per annum.<sup>169</sup> Subscribers known as the 'New Renters' had funded Sheridan's Drury Lane opened in 1794 (the structure destroyed in the 1809 fire). These New Renters, Tracey C. Davis tells us, maintained a claim on George III's time-limited Patent under which Drury Lane operated.<sup>170</sup> Money was also owed to the freeholder, the Duke of Bedford, and to the theatre's employees and other creditors.<sup>171</sup> Most claimants agreed to take arrears by means of future rental payments, which arrangement adversely affected future profitability. As Alfred Bunn (Drury Lane's manager 1833-39) ruefully observed, the 1793 subscribers' rights 'were handed over to the [1812] proprietors as heirlooms upon the patent and the smoking ruins of the old

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<sup>165</sup> Tracey C. Davis, *The Economics of the British Stage 1800-1914* (Cambridge, 2000), p. 24.

<sup>166</sup> *Report from the Select Committee 1832*, p. 100.

<sup>167</sup> *Drury Lane Ledger* for Seasons 1812-13; 1813-14; 1814-15; 1815-16; 1816-17; 1817-18. HL-HTC: Elliston Papers, Box 2. £12,494 in 1813 = Income value of £13,250,000 in 2014. £36,785 in 1818 = Income value of £45,010,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>168</sup> Report of the Theatre Royal Drury Lane Sub-committee dated 5 July 1823. *Garrick Annals*. £92,000 in 1819 = Income value of £123,400,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>169</sup> The 'New Renters' maintained a claim on George III's time-limited patent under which Sheridan operated Drury Lane from 1794 until the fire. Davis, *The Economics of the British Stage*, pp. 256-57.

<sup>170</sup> Tracey C. Davis, *The Economics of the British Stage 1800-1914* (Cambridge, 2000), p. 256.

<sup>171</sup> *Ibid.*

buildings.<sup>172</sup> Davis confirms that, with the carrying forward of old rent charges, post-1812, it became all but impossible to maintain Drury Lane as a commercial proposition.<sup>173</sup> Neither under Elliston between 1819 and 1826, nor his successors, did the theatre become a paying concern. Drury Lane's empty treasury at the end of Elliston's first Season influenced his decision to produce his unauthorised version of Byron's *Marino Faliero*.<sup>174</sup>

Given the heavy burden of debt, Dewey Ganzel expresses surprise that the proprietors found investors foolish enough to throw good money after bad, a point made emphatically by Elliston in his rejoinder to the patentees' 1818 Memorial.<sup>175</sup> Derived from his reading of Select Committee testimony, Ganzel offers an alternative explanation for the monopolists' reliance on the patents' commercial value. Lacking decisive proof, he infers that income from prostitution conducted in areas set aside at nearby premises outweighed the loss of ticket sales.<sup>176</sup> Association of prostitution with the theatre dates from the early history of London theatre, lending weight to the hypothesis. By the end of the seventeenth century and through the nineteenth, areas adjacent to the theatres were recognized haunts of prostitutes.<sup>177</sup> As a means of recovering Covent Garden's rebuilding cost of £300,000,<sup>178</sup> in 1809 John Philip Kemble introduced a tier of private boxes for rental at £300 per annum: a project he was forced

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<sup>172</sup> Alfred Bunn, *The Stage: both before and behind the Curtain*, 1840, Vol. II, p. 79.

<sup>173</sup> Davis, *The Economics of the British Stage*, pp. 256-57.

<sup>174</sup> Entry for 17 September 1820. Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819-1827* (London, 1974), p. 19.

<sup>175</sup> Elliston insisted that if the patentees embarked on expenditure 'to the extent they allege' in full knowledge of the existing, authorised, neighbouring 'minor' theatres, be the consequence on their own heads. *Copy of a Memorial 1818*, pp. 33-4.

<sup>176</sup> Ganzel, 'Patent Wrongs and Patent Theatres', p. 391.

<sup>177</sup> Baer, *Theatre and Disorder*, p. 206.

<sup>178</sup> *Ibid.*, p. 21.

to abandon.<sup>179</sup> Prostitutes thronging the auditoria of the great theatres deterred respectable patrons, but Kemble's new formal provision of closed private rooms, each with an ante-chamber, independent entrances and stairs, institutionalised immorality. The boxes attracted criticism from such as Henry Redhead Yorke, supporter of and commentator on the 'Old Price Riots' discussed in Chapter Two:

It is unworthy of [...] any civilized nation that, in a public theatre twenty-eight little brothels should be let at the rate of £5600 *per annum* in open violation of morality and public decency.<sup>180</sup>

We learn from F. W. Sheppard that Drury Lane acquired several houses and outbuildings between 1702 and 1775. At various times, these separate buildings were used as accommodation for such as scene rooms, a 'lamp lighting' room, a wardrobe, accommodation for actors, and the box office lobby. David Garrick purchased two properties with direct access to the theatre; a house in Russell Street containing a passage to the playhouse, and another in Little Brydges Street with two passageways. Ganzel's speculation is strengthened by two pieces of evidence. Whitbread's Lease of 1812 shows that houses in Little Brydges Street were sublet to supplement the Company's income,<sup>181</sup> and a report of June 1819, issued by C. W. Ward, Secretary to Drury Lane's Company of Proprietors, records 'The Rents of the Houses adjoining the Theatre' (and 'Produce of the Fruit Offices under Lease').<sup>182</sup>

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<sup>179</sup> Moody, *Illegitimate Theatre*, p. 64. John Philip Kemble (1757-1823): Actor/manager Covent Garden 1803-14. £300 in 1809 = income value of £351,200 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>180</sup> *Political Review* 4 November 1809 cited in Baer, *Theatre and Disorder*, p. 206. Yorke was a political writer of radical sympathies, a student barrister and advocate of parliamentary reform. 'Henry Redhead Yorke (1772-1813)', *ODNB*.

<sup>181</sup> Sheppard, *The Theatre Royal and the Royal Opera House*, pp. 30-9.

<sup>182</sup> Printed report issued by C. W. Ward dated 9 June 1819. HTC-HL: Elliston Papers, Box 3.

The effect of noble patronage attached to The Theatres Royal moves Katherine Newey to propose a class-inflected basis for the regime's longevity; the desire of some to maintain, and others to attain, the still-active cultural and social capital of the aristocracy 'through participation in the activities of the political and social élites.'<sup>183</sup> Though facing the debased value of their patents, and growing ever more fearful of financial ruin, the proprietors prized the social currency of 'privilege'. Newey's argument finds an echo in Lawrence Klein's concept of 'politeness': a means of making a cultural assertion about oneself, that shaped learning and the arts, and important aspects of social and institutional life.<sup>184</sup> Newey's proposition intersects with Klein's observation that the individual who lacked lineage and land as criteria for gentility, might achieve or enhance a claim to gentility through 'politeness'.<sup>185</sup> Application of this concept to the patentees - a concern with the manner in which actions are performed and consequent recognition of the necessity of 'social artifice'<sup>186</sup> - explains their concealment, for a 'gentleman' may not, openly, embrace mercantilism.

Neither Davis, nor Ganzel, nor Newey accepts the patentees' specious defence of the monopoly as a servant of the public good. Dewey Ganzel's conjecture that income accrued secretly from prostitution, requires further research. The patents may have guaranteed box office income in excess of expenditure into the early nineteenth century, but evidence of accumulating losses disproves that argument after 1820. The proposition that proprietors and investors valued association with élite practices above profit, offers a distinctive hypothesis, and carries a sense of Peter Borsay's idea that

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<sup>183</sup> Newey, 'The 1832 Select Committee', pp. 141 and 149.

<sup>184</sup> Lawrence E. Klein, 'Politeness and the Interpretation of the British Eighteenth Century', *Historical Journal*, 45 (2002), p. 869.

<sup>185</sup> Klein, 'Politeness and the Interpretation of the British Eighteenth Century', p. 876.

<sup>186</sup> *Ibid.*, p. 874.

'politeness' allied to commerce furthered claims to 'representative status and authority'.<sup>187</sup>

While the monopolists resisted change utterly, other men representing élite culture embraced notions of reform and progress.<sup>188</sup> The paradox deepens when we note that, twenty years on, the Select Committee, formed of cultured men of liberal persuasion, submitted recommendations for a reformed theatre constrained by élitist views.<sup>189</sup> Conversely, we have noted that those aristocratic figures responsible for theatre governance, Dartmouth and Hertford, did not inevitably uphold the interests of their co-guardians of the 'national' drama. Such examples of demonstrable divisions among men of the same cultural background support Kate Davison's contention that such contradictions co-existed, dispelling binary notions of élite and popular.<sup>190</sup>

Ideas of what constituted the canon, or a neat divide between 'high' and 'low' cultural taste, become equivocal when we consider, as instances, Elliston's 'legitimate' 'burlettas' (discussed in Chapters Three and Four), and the Select Committee's traditional view of theatre's purpose. The Select Committee, while ruling that the 'regular' drama be open to all, sought to restrict the canon to dramatic works and authors worthy of cultural and literary recognition.<sup>191</sup> Elliston's success opposes the notion that the élite clung to the 'great tradition' and entirely abandoned popular culture

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<sup>187</sup> Peter Borsay, *The English Urban Renaissance: Culture and Society in the Provincial Town, 1660-1770* (Oxford, 1989) cited by Gillian Russell, 'Keats, popular culture, and the sociability of theatre' in Connell and Leask, *Romanticism and Popular Culture*, p. 198.

<sup>188</sup> Joanna Innes, 'Reform' in English Public Life: the fortunes of a word' in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780-1850* (Cambridge, 2003), p. 94.

<sup>189</sup> *Report from the Select Committee 1832*, p. 5. *The Westminster Review*, 35, 31 January 1833, cited in Newey, 'The 1832 Select Committee', p. 152.

<sup>190</sup> Kate Davison, 'Occasional Politeness and Gentlemen's Laughter in 18th Century England', *The Historical Journal*, 2014, Vol. 57(4), p. 921. Connell and Leask, *Romanticism and Popular Culture*, p. 8.

<sup>191</sup> Sandhu, 'Enlightenment, Exclusion, and the Publics of the Georgian Theatre', p. 14.

disseminated in places of popular assembly.<sup>192</sup> Even so, Elliston's own position was conflicted. His initiative at the Surrey attracted the élite – audiences and actors - to his 'burletta'-ized Shakespeare, but he abhorred popular forms on the 'legitimate' stage. That Shakespeare could be performed on an 'illegitimate' stage and buffooneries on the 'legitimate', illustrates both the divergence between what constituted the canon and what was played, and that a definition of 'popular culture' proves elusive. Censorship's stultifying effect on the canon caused audiences, playwrights, performers, critics and those opposed to institutional privilege to complain of the adverse effects of the monopoly regime. Captured in the expression 'the state of the drama', and attributed to the perpetuation of an anachronistic monopoly, these concerns suffused the theatre world in the first decades of the nineteenth century.

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<sup>192</sup> Connell and Leask, *Romanticism and Popular Culture*, p. 9.

## Chapter Two: Elliston's challenge in context II: 'the state of the drama'

### Introduction

*For operas, ballets and spectacles, the two patent theatres are well enough suited, but it cannot be denied that they are wholly inadequate for any other dramatic purpose.*<sup>1</sup>

In February 1832, Edward Bulwer's coruscating criticism of 'the pernicious monopoly of the great theatres', from which this chapter takes its title, intensified public debate about the 'state of the drama'.<sup>2</sup> He questioned whether the 'patent' theatres had produced a single play in the last twenty years 'worthy of attention, and fit for the rational amusement of men and women.'<sup>3</sup> Bulwer's influential denunciation provided the impetus for the Parliamentary enquiry into the role of theatre in national life.

Early nineteenth-century notions of the traditional, literary canon as a body of work and as a '*National* object',<sup>4</sup> had roots in a sense of the arts as a 'national' concern that emerged in the eighteenth century.<sup>5</sup> Published complaints against the monopoly's

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<sup>1</sup> *The Times*, 31 January 1831.

<sup>2</sup> Edward George Earle Lytton Bulwer (1803-73), first Baron Lytton from 1866, M.P., poet, novelist, writer, playwright, statesman and Chairman of the Select Committee on Dramatic Literature 1832, which recommended abolition of the monopoly regime.

<sup>3</sup> Edward Bulwer, 'The State of the Drama', *The New Monthly Magazine and Literary Journal*, No. 34, February 1832, p. 135.

<sup>4</sup> In 1812 Samuel Whitbread promoted Drury Lane's rebuilding as a '*National* object' protected from exploitation by those seeking private advantage. Record of a meeting of the rebuilding Committee held on Wednesday, 3 July 1811 under the chairmanship of Samuel Whitbread. Garrick *Annals*. T. C. Hansard, *Parliamentary Debates* (London, 1812) Vol. XXII, 17 March - 4 May 1812, 20 March 1812, p. 97. Kraus Reprint Co. (New York, 1970).

<sup>5</sup> Connell and Leask, *Romanticism and Popular Culture in Britain and Ireland*, p. 9. J. Moody, *Illegitimate Theatre in London 1770-1840* (Cambridge, 2000), p. 51.

malignant effect on 'national taste' are found as early as 1779.<sup>6</sup> Discussion of 'the decline of the drama' continued in earnest into the 1790s. In that decade, plays dealing in slight, sentimental themes circulated in print, swamped the 'legitimate' stage, and came to be seen as morally and politically destabilising.<sup>7</sup> Disapproval grew from 1802 with the adoption by the 'patent' theatres of the French genre of melodrama. As a foreign import and hybrid form, combining a range of dramatic modes, melodrama came to be seen as a contaminant of the English canon, and further, the nation. This injury to the nation's virtue and political security led to moves to repress mainland European influence, and to revivify the idea of England's native literary genius.<sup>8</sup> Ideas of nationality and identity embedded themselves in critical and public discourse, while social and political upheaval dictated the tenor of the age.

Vic Gatrell describes the anti-Catholic Gordon Riots of 1780, the most alarming and tumultuous disturbances in London, as changing 'all manner of assumptions in London and in England too'.<sup>9</sup> Starkly revealing the precariousness of social stability, the frightening reality of popular lawlessness cast a long shadow.<sup>10</sup> The simmering threat of popular dissent unsettled all future reliance on deference to secure social order.<sup>11</sup> The national mood was affected profoundly by a near-constant state of war

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<sup>6</sup> *Theatrical Monopoly: being an address to the public on the present alarming coalition of the managers of the winter theatres* (London, 1779), p. 22.

<sup>7</sup> Moody, *Illegitimate Theatre*, p. 48.

<sup>8</sup> Julie A. Carlson, *In The Theatre of Romanticism: Coleridge, Nationalism, Women* (Cambridge, 1994), pp. 13 and 31.

<sup>9</sup> Vic Gatrell, *The First Bohemians: Life and Art in London's Golden Age* (London, 2013), pp. 341-42 and 352. Vic Gatrell, *City of Laughter: Sex and Satire in Eighteenth-Century London* (London, 2007), pp. 27 and 73.

<sup>10</sup> James Gillray's *No Popery or Newgate Reformer* shows a low-life cudgel-wielding brute intent on burning and pillage. Gatrell, *The First Bohemians*, pp. 356-57.

<sup>11</sup> Joseph Thomas Cozens (2016), *The Experience of Soldiering: Civil-Military Relations and Popular Protest in England, 1790-1805*. Ph.D. thesis, University of Essex, p. 214.

between 1793 and 1815.<sup>12</sup> So pervasive were the effects of the war effort that all Britons shared the experience, though not a common reaction; responses ranged from unconditional loyalty, to ambivalence, resentment or hostility.<sup>13</sup> Volunteers, even those motivated by some measure of self-interest, were more likely to express popular loyalism than disaffected or pressed men.<sup>14</sup> Civilians - nobility, gentry, middling types and artisans - attracted to the spectacle of mock battles and parades at military camp sites across the country, were more likely to be caught by patriotic fervour than protestors against 'recruitment by press gang' in the London Crimp Riots of 1794-95.<sup>15</sup> Troops were used to maintain public order in such incidents as The Gordon Riots and later, 'Peterloo' (discussed in Chapter Six), when soldiers, many veterans of Waterloo, killed protestors demanding parliamentary reform on their home soil.<sup>16</sup> The soldiery, too, harnessed the potential threat they posed, to negotiate with government for improved conditions of service.<sup>17</sup> In the theatre world, Gillian Russell draws our attention to the convergence of Covent Garden's Old Price Riots of 1809 (hereafter, 'the Riots') with a stage in the Napoleonic Wars at which the country faced critical setbacks in the fighting.<sup>18</sup> The Rioters, she says, contested the territory of the theatre as if it were as important as the field of battle.<sup>19</sup> Because of their long duration, socio-political character, and the intense public interest they generated, the Riots provide us with source material for exploring the changing cultural landscape.

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<sup>12</sup> Gillian Russell, *The Theatres of War: Performance, Politics, and Society 1793-1815*, pp. 1, 3 and 96.

<sup>13</sup> Cozens, *The Experience of Soldiering*, pp. 12, 14 and 16.

<sup>14</sup> 'Many failed artisans, shopkeepers, and clerks took the opportunity of increased bounties to exchange the debtor's prison for the man-of-war.' Russell, *The Theatres of War*, p. 114.

<sup>15</sup> Russell, *The Theatres of War*, pp. 34-7. Cozens, *The Experience of Soldiering*, pp. 46-8.

<sup>16</sup> Sally Ledger, *Dickens and the Popular Radical Imagination* (Cambridge, 2007), pp. 10-11.

<sup>17</sup> Cozens, *The Experience of Soldiering*, pp. 10, 12, 15 and 131.

<sup>18</sup> Russell, *The Theatres of War*, p. 96.

<sup>19</sup> *Ibid.*

Though demanding a return to previous prices, the protestors' ambit covered far wider political issues. The Rioters' determined to combat Kemble's cynical commercialism and social divisiveness, which to them represented a violation of the ancient contract between the providers and consumers of theatre.<sup>20</sup> According with Connell and Leask's perception that it was the largely mythical role of 'the people' in the constitution that in most contemporaries' minds distinguished English liberty from Continental absolutism,<sup>21</sup> the Rioters' arguments come together in xenophobic rhetoric and expressions of particular notions of national identity. The classic embodiment of English popular political consciousness, and endlessly appropriable figure for the common people, 'John Bull', became the Rioters' image of self-identity.<sup>22</sup> A familiar and potent symbol accessible at different times to various groups across the political spectrum,<sup>23</sup> for the Rioters he personified an urban, put-upon radical patriot and mouthpiece of collective opinion, with a right to express himself freely in a public theatre.<sup>24</sup> 'John Bull' combatted actor/manager John Philip Kemble's arrogant impositions with, as Joseph Cozens describes in another context, 'the confrontational quality of the radical reformer campaigning to restore lost rights enshrined in the British constitution.'<sup>25</sup>

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<sup>20</sup> Marc Baer, *Theatre and Disorder in Late Georgian London* (Oxford, 1992), pp. 66-7.

<sup>21</sup> Connell and Leask, *Romanticism and Popular Culture*, p. 25.

<sup>22</sup> *Ibid.*

<sup>23</sup> Between the late eighteenth- and early twentieth century 'John Bull' appears most frequently concerned with the tax question. John Doyle's caricatures pre-1832 show him as miserable, beset by taxation and burdened by encumbrances which threatened to encroach on his fundamental rights as an Englishman. Miles Taylor, 'John Bull and the Iconography of Public Opinion in England c.1712-1929', *Past and Present* (1992) 134 (1), p. 98. Peter Mellini and Roy T. Matthews, 'John Bull's Family Arises', *History Today* (1987), xxxvii, p. 22. Jeannine Surel, 'John Bull' in Ralph Samuel (ed.), *Patriotism: the Making and Unmaking of British National Identity* (London, 1981), p. 13. By 1832, 'John Bull' is presented as a pro-Reform figure avowing, 'Blood and fire I will have Reform'. Taylor, 'John Bull and the Iconography of Public Opinion' p. 109. Mellini and Matthews, 'John Bull's Family Arises', pp. 21-22.

<sup>24</sup> Mellini and Matthews, 'John Bull's Family Arises', p. 22.

<sup>25</sup> Cozens, *The Experience of Soldiering*, p. 14.

'John Bull' made Kemble pay for disregarding the unwritten constitutional pledge which viewed proprietor and public as a partnership, with the audience as ultimate arbiter.<sup>26</sup> Kemble was forced to restore former prices, sack the highly paid foreign soprano, Angelica Catalini,<sup>27</sup> and demolish his new closed, private boxes, 'offensive to the national habits'.<sup>28</sup> The boxes offended, for the immoral practices with which they were associated, for reducing space in the theatre for Gallery occupants, and for markedly segregating classes. Foreign forms, such as these socially divisive private boxes, equated with un-Englishness and the decay of native culture. 'Englishness', defined as boldness, honesty and plain-dealing, contrasted unfavourably with characteristics of depravity and duplicity attributed to outsiders. Xenophobia became institutionalised, as seen in the title of Arnold's English Opera House, founded under the Lord Chamberlain's authority.

With the humbling of 'King John' (see Appendix 5),<sup>29</sup> the Rioters exacted satisfaction of their social, economic and political demands, so restoring themselves to the position of masters in their house. Although their rhetoric hinted at revolution,<sup>30</sup> the protesters remained loyal monarchists, seeking resolution in conventions of former

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<sup>26</sup> Moody, *Illegitimate Theatre*, p. 67.

<sup>27</sup> Angelica Catalini (1780-1849), Italian dramatic soprano, made her London debut at the King's Theatre on 15 December 1806. Catalini received over £100 per night in 1808 (£5,250 for two nights per week over seven months). Garrick *Annals*. £5,250 in 1808 = Income value of £6,735,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>28</sup> 'The O.P. Riots and Covent-Garden', 'Theatrical Examiner', No. 58, *The Examiner*, 19 November 1809, pp. 744-45 in Houtchens, *Leigh Hunt's Dramatic Criticism*, p. 33.

<sup>29</sup> *The stage of public opinion. King John and John Bull*, engraved by Isaac and George (?) Cruickshank, published October 1809. (BLC No. 11419). Courtesy The British Library.

<sup>30</sup> Hugh Cunningham, 'The Language of Patriotism, 1750-1914', *History Workshop Journal*, No. 12 (1981), p. 16.

times, rather than a revolutionary new order. In the minds of the élite in this era, however, fears of revolution and political radicalism were rarely absent.<sup>31</sup>

Traditionally, theatre existed to promote moral improvement and, by extension, social deference and discipline, and to preserve the English literary tradition of spoken drama. The spread of domestic melodrama as a popular form - the struggle between good and evil at its core implicitly threatening the social order<sup>32</sup> - some viewed as a betrayal of theatre's purpose. John Larpent, Examiner of Plays, worked to contain this growing tide of popular dramatics;<sup>33</sup> meanwhile, the élite retreated from the theatre. As plot lines changed to foreground the world of the common people rather than the wealthy, the portrayal on stage of behaviours and habits they did not recognize failed to engage the interest cultured theatre-goers. One critic, some months before Elliston's tenure, described Drury Lane as 'a raree-show for the strangers who visit the metropolis and a treat in the holidays for the children whose delight is easily purchased.'<sup>34</sup> Rising numbers of incomers may have accounted for the patentees' adoption of programmes targeted at less sophisticated audiences, less accustomed to theatre-going.

William Hazlitt voiced rare dissent in a climate of growing despair at the debasement of the stage:

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<sup>31</sup> Edward Higgs, *Identifying the English: A History of Personal Identification 1500 to the Present* (London, 2011), p. 99.

<sup>32</sup> Ledger, *Dickens and the Popular Radical Imagination*, p. 7.

<sup>33</sup> David Worrall, *Theatrical Revolution: Drama, Censorship and Romantic Period Subcultures 1773–1832* (Oxford, 2006), p. 364.

<sup>34</sup> *The Modern Stage - Letter to Hon. George Lamb ... on the decay and degradation of English Dramatic Literature, etc.* (London, 1819). The letter, dated 24 March 1819, pre-dates Elliston's lessee-ship. George Lamb (1784-1834), politician and writer, was Secretary to the Drury Lane Sub-committee.

In commencing our account of the drama for the year 1820 [...] we do not think we should be justified [...] in making a general complaint of the degeneracy of the stage [...] it has not fallen off to any alarming degree, either in the written or acted performances.<sup>35</sup>

For many, 'the state of the drama' represented a national disgrace. Elliston joined the public discussion in 1818 with his scathing observations on the monopolists' 'corruption of the National Drama': 'the "dignity" of the great national concern of Drury Lane was supported, lately, by the little girl who personated Richard the Third.'<sup>36</sup> At the commencement of Elliston's lessee-ship, recognising the nadir to which Drury Lane had sunk, *The Times* commented, 'he has to raise it from a state of comparative degradation', and reported Elliston's promise 'to throw the stage open to genius, and to support the best interests of the legitimate Drama.'<sup>37</sup> Hazlitt's view may have been moderated by Elliston's attempts to elevate dramatic standards, and in 1820, to re-establish Shakespeare's authentic text on stage at Drury Lane.<sup>38</sup>

## A theatre world in turmoil

Well acquainted with 'the state of drama' debate on his entry into London management, Elliston had no means of predicting events in the theatre world about to unfold. The first alone was known to him. Beginning in September 1808 and not completely resolved until October 1812, all four happenings threaten the monopoly

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<sup>35</sup> A. R. Waller and Arnold Glover (eds.), *The Collected Works of William Hazlitt: Lectures on the English Comic Writers. A View of the English Stage. Dramatic Essays from 'The London Magazine'* (London, 1903). William Hazlitt (1778–1830): writer, journalist and theatre critic.

<sup>36</sup> *Copy of a Memorial presented to the Lord Chamberlain by the Committee of Management of the Theatre-Royal Drury-Lane and by the Proprietors of the Theatre-Royal Covent-Garden, against the Olympic and Sans Pareil Theatres; with copies of two letters of reply to the contents of such Memorial, addressed to the Lord Chamberlain by Robert William Elliston, Comedian* (London, 1818), pp. 78-9.

<sup>37</sup> *The Times*, 5 October 1819.

<sup>38</sup> Elliston produced 'authentic' versions of *Coriolanus* in January 1820 and *King Lear* in April 1820. George C. D. Odell, *Shakespeare from Betterton to Irving*, Vol. II (New York, 1966), p. 148.

regime's existence, and cumulatively benefitted Elliston. On 20 September 1808, Covent Garden was destroyed by fire, leaving Drury Lane the sole functioning 'Winter' playhouse. Five months later, on 24 February 1809, Drury Lane also burned down. The theatre did not rise from the ashes for near to four years. In March 1809, with both 'patent' theatre buildings destroyed, a Third Theatre Committee formed to press for the creation of an additional 'legitimate' establishment. Envisioned as a corrective to Covent Garden's and Drury Lane's debased condition, this new stage would be dedicated to 'rational entertainment [...] which alone is worthy to be selected for a British audience, and sanctioned by the legislature of an enlightened nation.'<sup>39</sup> When Elliston launched his Royal Circus on 3 April 1809, both 'great' theatres were out of commission and threatened by a serious new 'patent' rival.

The final incident, the most serious riot in theatre history, began on 18 September 1809, as actor/manager Kemble opened his re-built theatre. The disruption at Covent Garden, for which increased ticket prices provided the immediate pretext, lasted sixty-seven nights. The disturbance became known as the 'O.P. Riots' after the massed placards and tokens marked 'O.P.' (old price) to signify the cause of protest. The scope of the protesters' demands, nevertheless, covered far wider cultural and constitutional issues than the reinstatement of former terms of entry. These included abhorrence of foreign influence, and the notion of the British theatre as a mirror of 'our invaluable constitution [...] open to all classes in their several ranks and degrees.'<sup>40</sup> Trusting in the traditional concept of theatrical monopoly as 'a tacit tenure for the benefit, amusement, and instruction of the people', the Rioters' believed that the drama

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<sup>39</sup> Advertisement published on 23 October 1809 in John Jos. Stockdale, *The Covent Garden Journal* (London, 1810), Vol. II, p. 586.

<sup>40</sup> Henry Yorke, *Considerations on the Past and Present State of the Stage* (London, 1809), pp. 32-3, in Moody, *Illegitimate Theatre*, p. 67.

should be 'one free and equal arena'.<sup>41</sup> In this connection, Ernest Bradlee Watson made a pertinent observation. Declaring Kemble and Elliston two great, but distinctive forces in English theatrical management, he described Kemble as living and moving in a world 'far above the people', while for Elliston, 'the drama was a thing of the people and for the people'.<sup>42</sup> Elliston both embraced and pioneered change:

The times he worked in were changing times and he tried to move with them, indeed to lead from the front where freedom in the theatre was concerned. He was a genuinely transitional figure in British theatre.<sup>43</sup>

Though by chance favouring Elliston's venture, these upheavals endangered the monopoly's survival: Drury Lane's long-term inactive state and uncertain future, the move to establish a rival 'patent' theatre, Covent Garden's effective non-functioning, and Rioters' threat to dismantle the regime – 'How long will the confusion last?/Until *High Price* chagrin'd retires/Or pale *Monopoly* expires'.<sup>44</sup> It took three years for the danger to subside. Kemble capitulated to end the Riot in December 1809, and vested interests ensured that the Third Theatre Bill failed in September 1812, allowing Drury Lane to rise again:

Their monopoly alone would not have enabled them to re-build their theatre, if it had not been for the assistance of parliament.<sup>45</sup>

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<sup>41</sup> Moody, *Illegitimate Theatre*, p. 67. Julia Swindells, *Glorious Causes: The Grand Theatre of Political Change, 1789-1833* (Oxford, 2001), p. 32. Baer, *Theatre and Disorder*, p. 57.

<sup>42</sup> Ernest Bradlee Watson, *Sheridan to Robertson: A Study of the Nineteenth Century London Stage* (Cambridge, Mass., 1926), pp.174-75.

<sup>43</sup> E-mail communication dated 24 September 2012 from Elliston's biographer, Professor Emeritus Christopher Murray.

<sup>44</sup> This quotation is taken from a ditty sung in the auditorium printed in the press on 12 October. *The Morning Chronicle*, 12 October 1809.

<sup>45</sup> Hansard *Parliamentary Debates* Vol. XXII, 17 March - 4 May 1812, 20 March 1812. Kraus Reprint, p. 100.

Drury Lane was funded, restored, and re-opened in October 1812 without facing competition from an additional 'patent' house, and Elliston returned to the Company of actors.

### **Elliston pursues his interest, and a formal anti-monopoly campaign**

Elliston challenged the monopoly at a time when the continuance of one 'patent' theatre, Drury Lane, was in question, and the other disrupted. Elliston acquired the Royal Circus on 23 February 1809; Drury Lane was destroyed by fire on 24 February; Elliston commenced performances at his Royal Circus on 3 April; the 'Old Price Riots' began at Covent Garden on 18 September and ended on 14 December; Parliament heard the first petition for a Third Theatre in October 1809. Elliston, 'the perniciously clever', 'first great huckster of the "illegitimate"',<sup>46</sup> navigated a path through these events with his own advantage in mind. Entrepreneurs, like Elliston, who saw a market in the growing population's desire for theatrical entertainment, contested the patentees' privileged entitlement to serious drama. From the outset, Elliston adopted various stratagems to gain a level playing field for dramatic presentation, using recognised channels, but also subversive means. Until they proved entirely futile, Elliston pursued formal initiatives – 'the grievances he laid before the public by appeals to the Chamberlain and others.'<sup>47</sup>

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<sup>46</sup> Watson, *Sheridan to Robertson*, pp.174-75.

<sup>47</sup> Percy Fitzgerald, *A New History of the English Stage from the Restoration to the Liberty of the Theatres, in connection with the Patent Houses From original papers in the Lord Chamberlain's Office, the State Paper Office, and other sources*, Vol. II, (London, 1882), pp. 398-99.

The Royal Circus, renamed the Surrey in April 1810,<sup>48</sup> stood outside the Lord Chamberlain's authority, and apart from the 'patent' theatres, whose proprietors complained frequently that the 'minors' 'detracted from the receipts of the Theatres Royal.'<sup>49</sup> The playhouse's insalubrious surroundings meant it lacked regular, local, theatre-going patrons. Debtors, living within the rules of The King's Bench prison, forbidden entry to theatres, formed a large segment of the population. The area also housed the Indigent Blind School, the Home for Penitent Prostitutes and, from 1811, the Royal Bethlehem Hospital for the criminally insane.<sup>50</sup> The area had a radical past, and future. St. George's Fields provided the rallying point for the 1780 march on Westminster against the Catholic Relief Act that developed into The Gordon Riots.<sup>51</sup> Southwark Freeholders submitted a petition for Parliamentary reform in 1810. Also in 1810, denizens and magistrates supported Elliston's plea to Spencer Percival to be allowed 'the spoken word'. In 1832, residents again petitioned to for permission to see 'some portions of the National Drama' on the Surrey stage.<sup>52</sup>

On taking possession, Elliston began making significant improvements. Rudolf Ackermann wrote of Elliston's newly opened house:

The Royal Circus, in its present renewed and improved state, is a very handsome theatre. The stage is judiciously adapted to the various kinds of amusement which it exhibits, the scenery is various and beautiful, and the audience part offers a very pleasing *coup d'oeil* of taste and elegance.<sup>53</sup>

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<sup>48</sup> William G. Knight, *A Major London 'Minor': The Surrey Theatre 1805-1865* (London, 1997), p.2. Colonel Temple West established the Royal Circus in November 1782.

<sup>49</sup> Tracey C. Davis, *The Economics of the British Stage 1800-1914* (Cambridge, 2000), p. 29.

<sup>50</sup> Sarah Wise, *Lunacy, Liberty and the Mad-doctors of Victorian England* (London, 2012), p. 88.

<sup>51</sup> Gatrell, *The First Bohemians*, p. 340

<sup>52</sup> Katherine Newey, 'Reform on the London Stage', in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform in Britain: 1780-1850* (Cambridge, 2003), p. 249.

<sup>53</sup> R. Ackermann, *The Microcosm of London, or London in Miniature, 1808-11* (London, 1904) Vol. III., p.17.

By the formal end of his first Season in September 1809, Elliston had drawn not only the 'respectable', but the élite to his 'minor' house. The rarity of a popular theatre audience crossing social divides in this way drew press comment. Glowing accounts appeared immediately, so quickly had Elliston placed 'illegitimate' drama on 'a respectable and useful footing [...] to make my theatre deserving of patronage.'<sup>54</sup> *The Morning Post* declared, 'the Royal Circus is becoming a place of fashionable resort.'<sup>55</sup> In June the *Post* printed a list of distinguished 'fashionables', including the Duke of Norfolk, who had attended Elliston's theatre the previous week.<sup>56</sup> In July, a review of the 'prodigiously attractive [...] so much talked of Burletta' (John Gay's *The Beggars' Opera*, with Elliston in the role of *Macheath*) was followed by a similar report:

The houses have been astonishing: the following fashionables have graced the boxes this week; the Marquisses of Headfort and Blandford, Earls Breadalbane and Craven, Lord Stuart [...] Ladies Craven, De Spencer and Philips ...<sup>57</sup>

Elliston's success at this point owes nothing to the hiatus at Covent Garden, because the 'Winter' theatres would always have been closed April to September. In this light, it is difficult to argue that audience attendance at the Royal Circus on 29 September, the night following the commencement of Rioting, owed anything to élite flight from the 'patent' house:

The boxes contained many of the nobility, and the audience was altogether as respectable and brilliant as we have ever beheld in the best days of our winter theatres ...<sup>58</sup>

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<sup>54</sup> *Copy of a Memorial*, 1818, p. iv.

<sup>55</sup> *The Morning Post*, 20 April 1809

<sup>56</sup> *The Morning Post*, 26 June 1809.

<sup>57</sup> *The Morning Chronicle*, 7 July 1809. *The Times* published an almost identical report. *The Times*, 7 July 1809.

<sup>58</sup> *The Times*, 30 September 1809.

That continuance of the Riots had a beneficial effect on Elliston's enterprise is suggested by the extension of his 1809 Season, nominally September, until 4 November 1809.<sup>59</sup>

***Elliston, the Pantheon, the Third Theatre, and other bids for freedom 1809 to 1810***

In the summer of 1809, attempting to gain purchase on 'legitimate' performance, Elliston entered an agreement with Henry Greville, proprietor of the 'minor' Argyle Rooms, to operate a joint 'Winter' Licence for the performance of Opera with Dialogue, (and of Ballet, Burletta, Pantomime, Spectacle, and other similar entertainments).<sup>60</sup> According to a July press report, 'Mr Elliston accepted the proposal on condition that the regular Drama should be allowed.'<sup>61</sup> Elliston was to have 'entire management and direction' of the venue, the Pantheon in Oxford Street.<sup>62</sup> (This venture would have created a 'Winter' equivalent of Samuel Arnold's 'Summer' Lyceum/English Opera House.) In August 1809, the Lord Chamberlain granted Greville alone a Licence permitting him to 'to substitute Dialogue for Recitative',<sup>63</sup> and Elliston was much aggrieved that 'dialogue' had slipped his grasp.<sup>64</sup> The Lord Chamberlain's letter's

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<sup>59</sup> Christopher Murray, 'Elliston's Productions of Shakespeare' (1970). *Theatre Survey*, 11, p. 104.

<sup>60</sup> Undated printed document: 'Mr. Greville and Mr. Elliston's Plan of a British Winter Opera'. HL-HTC: Elliston Papers, Box 1.

<sup>61</sup> *The Morning Post*, 28 July 1809.

<sup>62</sup> Undated printed document: 'Mr. Greville and Mr. Elliston's Plan of a British Winter Opera'. HL-HTC: Elliston Papers, Box 1. Established in Oxford Street in 1772, the Pantheon was a venue for masquerades and concerts.

<sup>63</sup> Exchange of correspondence between Elliston and Lord Dartmouth. HL-HTC: Elliston Papers, Box 1. Henry Greville established the Pantheon, Oxford Street, for private theatricals. It became home to the Pic Nic Society. A satire on the Society's proceedings appears in Charles Williams' (1797-1830) *A Peep into Tottenham Street or Dillitanti Performers in Training*; Lettered: 'Pubd March 9<sup>th</sup> 1802, by S W Fores 50 Piccadilly'; Hand-coloured etching, 257x260 mm; Literature BM Satires 9919. Mark Bills, *Samuel William Fores, Satirist: Caricatures from the Reform Club* (Sudbury, 2015), catalogue accompanying Gainsborough House exhibition November 2014-February 2015, p. 83.

<sup>64</sup> Manuscript letter from the Lord Chamberlain's office dated 17 August 1809. HL-HTC: Elliston Papers, Box 1.

concluding pronouncement dashed future hope: 'I am further desired to inform you of his Lordship's determination not to grant any more Licences.'<sup>65</sup>

Elliston's further bids for a free stage – to gain 'legitimate' status for his 'minor' house – followed the Royal Circus's successful first Season. His end-of-Season address to the audience, unusually reported in *The Morning Post* on 30 September 1809, reaffirmed his determination to produce entertainments 'in an elegant and rational form',<sup>66</sup> 'rational' signifying intellectual engagement, as opposed to passive spectatorship. Attempting to commandeer the Third Theatre proposal, Elliston wrote to the Prince of Wales in person on 16 November. He offered to take upon himself management of this addition to the 'patent' houses, reasoning that his 'disposition to rational Enterprise' qualified him for the task.<sup>67</sup> Elliston added that his proven record of successful dramaturgical and financial management qualified him to run the Royal Circus, or a new establishment, as a Third Theatre. Implicitly alluding to the patentees' neglect of the drama, Elliston insisted that, under his management, a third 'legitimate' house would advance Literature and Art. He asserted, too, that this theatre would prove lucrative, unlike the existing 'patent' houses.<sup>68</sup>

Elliston's allusion to his own managerial and financial competence suggested, by implication, that the patentees possessed neither. Elliston avoided making explicit accusations, but evidence exists to support his veiled charge of fiscal ineptitude. In 1809, Covent Garden faced a discrepancy between rebuilding costs of c.£500,000 and

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<sup>65</sup> Ibid.

<sup>66</sup> Unattributed review dated 29 September 1809. HL-HTC: Elliston Papers, Box 1. *The Morning Post*, 30 September 1809.

<sup>67</sup> *The humble Memorial of Robert William Elliston, of Stratford Place, in the County of Middlesex, Comedian*, dated 16 November 1809. HL-HTC: Elliston Papers, Box 1.

<sup>68</sup> Ibid.

cash at bank of £127,601; the proprietors were later indicted for false book-keeping.<sup>69</sup> Drury Lane had been insured for only £35,000 and the owners obtained just £12,000 for the ruins.<sup>70</sup> As a result of the 1809 fire, the theatre had liabilities amounting to over £500,000.

Elliston learned from his solicitor, W. E. Allen, of the Prince of Wales' rejection of his application,<sup>71</sup> but when the Third Theatre Committee petitioned George III on 8 February 1810, Elliston made a further approach. On Allen's advice, this time Elliston addressed the Prime Minister, Spencer Perceval. In a letter of 1 March, Elliston submitted a request to Perceval for a Bill submitting his case to be presented in Parliament.<sup>72</sup> As 'the spoken word' was silenced at the 'patent' houses, Elliston appealed to Perceval to be allowed dialogue unaccompanied by music on his 'illegitimate' stage.<sup>73</sup> Though propelled by his commercial ambitions, this initiative had as its goal a general widening of access to the 'regular' drama. Elliston argued against the restrictions imposed on 'minor' theatres by the 1737 Act: 'that the dialogue [..] should be in the nature of Recitative; that is, that it should be attended throughout with an accompaniment of music.'<sup>74</sup> He requested permission 'to perform musical or operatic pieces, with dialogue in the ordinary way', citing the award of 'a license of the same kind to Mr. Greville' (see notes 64 and 65).<sup>75</sup> Elliston gave assurances that, if his

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<sup>69</sup> Davis, *The Economics of the British Stage 1800-1914*, pp. 259-260. W. C. Oulton, *History of the Theatres of London 1795-1817*, 3 Vols. (London, 1818), p. 173.

<sup>70</sup> Davis, *The Economics of the British Stage 1800-1914*, p. 257.

<sup>71</sup> Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 28.

<sup>72</sup> Hughes' *Royal Circus*, Vol. 2, Stead Coll., New York Public Library cited in Murray, *Robert William Elliston Manager*, p. 29 and Note 26, p. 171.

<sup>73</sup> Letter dated 1 March 1810 to Rt. Honourable Spencer Perceval concerning *Mr. Elliston's Statement on his Application to Parliament*. Printed Hartnell Albion-Press, Bermondsey-Street, Southwark. Garrick Petitions.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

petition were successful, he would not infringe the patentees' preserve of 'Tragedy', 'Comedy', or 'Farce'. Elliston made this undertaking, perhaps conscious of the monopolists' earlier prosecution of the *Pantheon*.<sup>76</sup> Indeed, fearing Drury Lane's hostility, Elliston wrote to Sheridan on 2 March 1810 to convince him that their interests were not in conflict.<sup>77</sup>

Elliston sought the backing of magistrates and residents of Southwark in this campaign (as Elliston's successor at the Surrey, David Osbaldiston, was to do in the groundswell of reform of the early 1830s).<sup>78</sup> These local people lobbied in his favour, firstly praising Elliston's transformation of the Royal Circus from a resort 'of the lo[wer] orders of Society' to one 'nightly filled by persons of Rank & Fortune thereby rendering the said [Theatre] a place of Entertainment very desirable & agreeable.'<sup>79</sup> They went on to appeal for the lifting of 'the artistic impediment of musical accompaniment', describing the constraint as 'a restriction which cannot in any manner benefit the public.'<sup>80</sup> Elliston's Bill was presented in Parliament on 5 March 1810. He received Perceval's reply on 11 March: a refusal, on the grounds that it would 'alter the whole principle upon which theatrical entertainments are at present regulated in the metropolis.'<sup>81</sup> Warner Phipps' letter to Elliston following this response confirms Elliston's pioneering status as a challenger of the monopoly: 'others [...] will remember the Boldness of your appeal.'<sup>82</sup>

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<sup>76</sup> 'Representation to the Marquis of Salisbury by the proprietors of Drury Lane and Covent Garden theatres: Petition against the *Pantheon* (1805)'. Garrick Petitions.

<sup>77</sup> Murray, *The Great Lessee*, p. 75.

<sup>78</sup> Actor/manager David Webster Osbaldiston (1794-1850) managed the Surrey 1831-34.

<sup>79</sup> *Hughes' Royal Circus*, Vol. 2, Stead Coll., New York Public Library in Murray, *Robert William Elliston Manager*, p. 29 and Note 26, p. 171.

<sup>80</sup> *Petition of Magistrates & Inhabitants of the Boro' of Southwark & various other Places in the Coy of Surry*, MS, Hoblitzelle Theatre Arts Library cited in Murray, *Robert William Elliston Manager*, p. 29 and Note 26, p. 171.

<sup>81</sup> Murray, *The Great Lessee*, p. 76.

<sup>82</sup> Letter to Elliston from Warner Phipps dated 17 March 1810. HL-HTC: Elliston Papers, Box 1. .

Also in March 1810, Elliston renewed his efforts in the House of Lords to have the Royal Circus endorsed as the Third 'legitimate' playhouse.<sup>83</sup> Pleading that he already owned a suitable theatre, Elliston added that the encroachment of a separate, purpose-built 'patent' house would fatally endanger 'a valuable part of my property'.<sup>84</sup> In so claiming, Elliston harnessed the patentees' argument that competition in any form would result in their 'total and certain ruin'.<sup>85</sup>

Following Perceval's rejection, Elliston continued improving his theatre:

They are going on admirably, I believe, at the Circus. Wilson [...] tells me the Ceiling & Floor are finished: that the Proscenium looks excellently & that it is nearly time for the Decorator to begin.<sup>86</sup>

When he opened as the Surrey theatre on 23 April 1810, Elliston had removed the horse-ring to orient the house towards stage performance.<sup>87</sup> He changed the name in order, Jane Moody has proposed, to distance the theatre from its equine past.<sup>88</sup>

Elliston took advantage of Drury Lane's closure between February 1809 and October 1812. During the years of Drury Lane's inactivity, Elliston continued to operate beyond the 'minor' theatre Season at his now-named Surrey; April to December in 1810, and January to December in 1811. In 1812, as Drury Lane re-emerged in the October, Elliston also remained open January to December, and increased the number

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<sup>83</sup> David Morris was to attempt the same in 1831, lobbying the King to approve the Haymarket as the Third Theatre. Katherine Newey, 'The 1832 Select Committee', in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of Georgian Theatre 1737-1832*, p152.

<sup>84</sup> Letter from Warner Phipps to Elliston at Bath dated 17 March 1810 and Letter from Elliston at Bath to his lawyer W. E. Allen dated 18 March 1810. HL-HTC: Elliston Papers, Box 1.

<sup>85</sup> 'Petition against the *Pantheon* (1805)'. Garrick Petitions.

<sup>86</sup> Letter from Warner Phipps to Elliston dated 17 March 1810. HL-HTC: Elliston Papers, Box 1.

<sup>87</sup> Knight, *A Major London 'Minor'*, p.10.

<sup>88</sup> Moody, *Illegitimate Theatre*, p. 35.

of performances. As the Surrey came under the jurisdiction of local magistrates, they must either have chosen to ignore, or have given consent to Elliston's extended Seasons.<sup>89</sup> Drury Lane re-opened on 10 October 1812 with *Hamlet*, and with Elliston in the title role; one of the many anomalies that characterised Elliston's relationship with the monopolists. Elliston's 1813 programme at the Surrey included 'irregular' versions of the four plays by Shakespeare regarded by Georgian audiences as the most iconic - *Richard III, Hamlet, King Lear, Romeo and Juliet* - suggesting he hoped to continue to retain in Drury Lane's first Season the audience he attracted while the 'patent' house was dark.

Despite his position as a rival proprietor, Drury Lane gave Elliston a five-year contract in June 1812,<sup>90</sup> making his position even more ambiguous when he acquired the Olympic in January 1813. Elliston enlarged the building, and transformed the interior of this former theatre-cum-circus, making it a credible rival in amenity to the 'patent' theatres. On the Olympic's opening night – 19 April 1813 – Elliston appeared, not in his own theatre, but as *Archer* in the *Beaux' Stratagem* on the Drury Lane stage.<sup>91</sup> Subsequently, he explained:

I serve them to the best of any ability I might possess. But resist as the competitor in the small theatrical concern I hold in London.<sup>92</sup>

The press remarked on the extent of Elliston's 'concerns' in 1813:

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<sup>89</sup> See 'Summary of Recommendations and Observations of the 1832 Select Committee appointed to enquire into the laws affecting Dramatic Literature', Recommendation 2, Appendix 3.

<sup>90</sup> Agreement between Theatre Royal Drury Lane Company of Proprietors dated 30 June 1812 and Robert William Elliston of Stratford Place in the Parish of Saint Marylebone Esquire .... HL-HTC: Elliston Papers, Box 1.

<sup>91</sup> *The Morning Chronicle*, 19 April 1813.

<sup>92</sup> *Copy of a Memorial* 1818, p. 136.

Mr. Elliston (independent of his engagement at Drury Lane,) is manager of Surrey Theatre, Astley's Pavilion [the Olympic], and the ['patent'] Birmingham Theatre; and to crown all, has opened a Bookseller's shop at Bristol !<sup>93</sup>

Elliston again opened the Surrey for the full calendar year in 1813, but with fewer performances, and ran only two programmes at the Olympic before his Licence was withdrawn.<sup>94</sup>

Elliston made his final official attempt to gain traction on the monopoly in March 1817 with a petition to the Prince Regent. The 'patent' houses were the only theatres allowed the title 'Royal', but in this sally, Elliston asked permission to erect a new building on the Olympic site, and to name it 'The Royal British Theatre' under the Regent's patronage.<sup>95</sup> Elliston's bid followed in The Royal Coburg Theatre's footsteps, but also pre-empted that theatre's claim, for the Coburg's opening was delayed by lack of finance, opening eventually in May 1818. With its patron the Prince of Saxe Coburg, the Coburg became the first non-'patent' 'Royal' theatre in 1816 (the Royal Circus, at its foundation, had been dedicated to equestrianism, not theatricals). The foundation stone was laid on 14 September 1816 by the Prince and his wife, Princess Charlotte of Wales, daughter of the Prince Regent.<sup>96</sup>

None of Elliston's ploys was successful. Parliament helped fund the rebuilding of Drury Lane and rejected the Third Theatre proposal, so preserving the existing regime. The arguments Elliston marshalled in his efforts to perform 'the spoken word' – his right

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<sup>93</sup> *The Leeds Mercury*, 24 April 1813. The report was not entirely correct: Elliston had opened the bookshop in 1811 and put it up for sale the following year. Robert William Elliston, *A Catalogue of a Select and Valuable Collection of Books, which are now selling ... at R. W. Elliston's establishment ... Bristol ...* July 13, 1812.

<sup>94</sup> Murray, *The Great Lessee*, pp. 325-32.

<sup>95</sup> Petition to HRH the Prince Regent dated 17 March 1817. HL-HTC: Elliston Papers, Box 2.

<sup>96</sup> The first stone of the Royal Coburg Theatre was laid on 14 September 1816 by the Prince of Saxe Coburg and his wife Princess Charlotte of Wales, daughter of The Prince Regent. The theatre opened on 11 May 1818. Raymond Mander and Joe Mitcheson *The Royal Coburg Theatre 1818 to the Old Vic 1968: A History of 150 Years of the Old Vic* (London, 1968).

to an equal footing with the ‘regular’ theatres, and the right of all ranks to access the ‘regular’ drama – met with stolid resistance, even with the enthusiastic support of Southwark’s magistrates and residents and Elliston’s assurances to the patentees. Elliston’s pleas failed, despite the proven respectability of his theatre, his ability to produce ‘rational’ entertainment, his commitment to improve dramatic standards, and his managerial competence and fiscal stability in a period of uncertainty for, and deprecation of, the ‘legitimate’ theatres. From this point, Elliston’s formal campaigning fell into abeyance. Having first confronted the regime’s restrictions, he then identified and exploited its ambiguities: Elliston continued his crusade by covert means. The regulatory system proved malleable in the hands of a determined, innovative, progressive, and self-interested theatrical entrepreneur.

### **Popular theatre and the ‘national’ drama**

As at the Surrey, so too at the Olympic, Elliston attracted superior audiences.<sup>97</sup> Following the Lord Chamberlain’s sanctions of 1813 and 1814, however, Elliston’s repertoire suggests that he lowered his sights for a while.<sup>98</sup> That Elliston at this time was in debt is clear from his stage manager James Winston’s letter to Mrs. Elliston of November 1815, in which he spoke of ‘lessening the present accumulating losses’. The letter indicates that the Olympic, at that time, drew audiences of uncultured tastes - ‘simple minds and opinions incompatible with élite sensibilities’<sup>99</sup> - more usually associated with popular theatre:

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<sup>97</sup> Raymond Mander and Joe Mitcheson, *The Lost Theatres of London* (London, 1968), p. 260.

<sup>98</sup> Murray, *The Great Lessee*, pp. 332-35.

<sup>99</sup> Peter Burke cited in Kate Davison, ‘Occasional Politeness and Gentlemen’s Laughter in 18th Century England’, *The Historical Journal*, 2014, Vol. 57(4), pp. 925-26.

I need not state to you that the Audience who attend the Olympic Theatre are not the most refined, or, that to please them, the entertainments must be very broad (perhaps I might add vulgar) & your Dance was too elegant for their understanding ...<sup>100</sup>

Popular theatre generally attracted unsophisticated audiences seeking amusement, spectacle, and a constant succession of novelty. A typical bill at Sadler's Wells, London's longest established 'minor' theatre, for example, included 'Dances', 'Comic Pranks', a pantomime featuring Grimaldi the Clown,<sup>101</sup> followed by a set piece, such as the melodrama, *The Ocean Fiend*, the last two scenes being 'performed on real water'.<sup>102</sup> Little distinguished this programme from that offered at the 'patent' theatres, where, Elliston declared, 'All these modes to "support the dignity of the national drama" must be spared.'<sup>103</sup>

Horses must not be mixed with tragedians [...] dogs with singers, and rope dancers with comic actors [...] "real water" and tumblers [...] Chinese garnitures and barbarous illumination! [gas lighting].<sup>104</sup>

By 1818, the Olympic had recovered its fortunes and reputation. In contrast to the 'patent' theatres, Elliston stated, and while not encroaching on the 'regular' drama, the Olympic provided 'a rational and highly entertaining order of amusement.'<sup>105</sup> Unlike his practice at the Surrey, Elliston neither attempted Shakespeare, nor versions of pre-

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<sup>100</sup> Letter to Mrs. Elliston from James Winston, 68 Dean Street, Soho Square, dated Friday Evening 10 November 1815. HL-HTC: Elliston Papers, Box 1. James Winston (1773-1843): Elliston's stage manager at the Olympic and Drury Lane, one-eighth proprietor of the Haymarket theatre 1805-43, antiquarian, and founder and Secretary of the Garrick Club 1832-43.

<sup>101</sup> Joseph [Joe] Grimaldi (1778-1837), actor and pantomimist. Famed as a clown, Grimaldi played a series of 'legitimate' parts at Drury Lane in 1799. He first appeared as a clown at Sadler's Wells in 1801, and made his Covent Garden debut in October 1806. He appeared in pantomime at both theatres throughout his career. *ODNB*.

<sup>102</sup> *The Morning Chronicle*, 16 and 20 May 1807. *The Morning Post*, 20 May and 22 June 1807.

<sup>103</sup> *Copy of a Memorial* 1818, pp. 38-9.

<sup>104</sup> *Ibid.* Elliston introduced gas lighting to the Olympic's front-of-house as early as 1815. Undated and unattributed press cutting. HL-HTC: Elliston Papers, Box 2.

<sup>105</sup> *Copy of a Memorial* 1818, pp. iii and 22.

Restoration works.<sup>106</sup> A melodrama, *Love's Perils, or the Hermit of St Kilda*, followed by a rope-walker and a pantomime, *Punch's Festival, or, Harlequin's Christmas Box*, formed his opening night programme.<sup>107</sup> Nonetheless, we cannot tell whether Elliston introduced surreptitiously the unaccompanied 'spoken word', as he had at the Royal Circus/Surrey. *Rob Roy; or, The Travellers' Portmanteau* performed on 16 February 1818, came closest to a 'legitimate' play performed at Elliston's Olympic.<sup>108</sup> Adapted by his stock writer, W. T. Moncrieff, *Rob Roy* was the second only of Sir Walter Scott's works to reach the London stage. The association of this literary writer with a 'minor' house perhaps caused the monopolists particular alarm.<sup>109</sup> The patentees' own competing productions followed: Covent Garden's *Rob Roy MacGregor; or, Auld Lang Syne* on 11 March, and Drury Lane's *Rob Roy MacGregor* on 24 March.<sup>110</sup>

### Popular theatre annexed

David Worrall suggests that the patentees' hold on 'the spoken word' ensured that 'burletta', and pantomime, became the vehicles, particularly in the south-bank hinterlands, 'through which an emerging class could find their aspirations and condition articulated and reflected.'<sup>111</sup> Far from adhering to the 'legitimate' genres of 'Tragedy', 'Comedy' and 'Farce', the patentees appealed to a popular audience base by appropriating 'minor' genres, including 'burletta' and animal acts, so that, in the heart of London, these forms were not confined to the plebeian public sphere. Elliston cited the

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<sup>106</sup> Murray, *The Great Lessee*, p. 334.

<sup>107</sup> Mander and Mitcheson, *The Lost Theatres of London*, p. 261.

<sup>108</sup> *The Times*, 16 February 1818.

<sup>109</sup> Walter Scott's *Guy Mannering* staged as a melodrama, appeared at Covent Garden in March 1816. Allardyce Nicoll, (ed.), *A History of English Drama 1660–1900, rev. Volume IV, Early Nineteenth-century Drama 1800–1850* (Cambridge, 1970), p. 397. Scott's novel *Rob Roy* was published on 17 December 1817.

<sup>110</sup> *The Times*, 11 March and 24 March 1818.

<sup>111</sup> Worrall, *Theatric Revolution*, p. 363.

example of *The Burletta of Tom Thumb*, announced in a Covent Garden's playbill of March 1818,<sup>112</sup> and condemned animal acts on the 'legitimate' stage.

A staple of popular theatre, animals appeared at Elliston's Surrey and Olympic. At the Surrey, he engaged an equestrian troupe,<sup>113</sup> and introduced dog-drama with some success.<sup>114</sup> A letter records Elliston's concern, at the Olympic, that care be taken 'of the dresses of the Dogs'.<sup>115</sup> When the 'patent' houses appropriated animal acts from the 'minor' theatres early in the 1800s, justifying their adoption as necessary 'to catch popular favour',<sup>116</sup> criticism was intense. Elliston's sardonic response to the 1818 Memorial, a formal complaint from the monopolists to the Lord Chamberlain, shows that, regardless, the practice continued.

... dogs must be found, who should bark more eloquently than the "Dog of Montargis" was engaged to do, on the stage of the Theatre Royal, Covent Garden [...] children must be found to support the "dignity" of the great national concern of Drury Lane ...<sup>117</sup>

Two caricatures, one of the Drury Lane stage in 1803 (see Appendix 6),<sup>118</sup> and the other of Covent Garden in 1811 (see Appendix 7),<sup>119</sup> convey a sense of these exhibitions as the monopolists' farthest departure from the literary canon and most ignominious betrayal of the 'national' drama.

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<sup>112</sup> *Copy of a Memorial* 1818, p. 68.

<sup>113</sup> Surrey playbill dated 30 July 1811. *Garrick Annals*. Elliston's second son Henry [Henry Twistleton Elliston] (1802-1864?) appears on the bill as a 'Polish Knight'.

<sup>114</sup> Knight, *A Major London 'Minor'*, pp. 15 and 64.

<sup>115</sup> Letter from Elliston at Shrewsbury to Winston, Acting Manager, Olympic Theatre, dated 22 November 1815. HL-HTC: Elliston Papers, Box 1.

<sup>116</sup> Thomas Wright, *Caricature History of the Georges or Annals of the House of Hanover, compiled from the squibs, broadsides, window pictures lampoon, and pictorial caricatures of the time* (London, 1868), p. 558.

<sup>117</sup> *Copy of a Memorial* 1818, pp. 78-9.

<sup>118</sup> *The Manager & His Dog – or a new Way to keep one's Head above Water, a Farce performed with rapturous Applause at Drury Lane Theatre*. Pub. H. Humphrey, 17 December 1803. Aquatint and etching; 9 ¾ x 12 ¼. HL-HTC: Theatrical caricature prints.

<sup>119</sup> *The Centaur-ian Manager*: Plate in *The Satirist*, 1 October 1811. Aquatint and etching; 6 ¾ x 13. HL-HTC: Theatrical caricature prints.

A 'tribute' to dog-drama, and Sadler's Wells' famed aquatic scenarios, *The Manager & His Dog* features *Carlo*, a St. Bernard, and 'real water'. A lampoon of Frederick Reynolds' *The Caravan*,<sup>120</sup> the etching characterises Sheridan's degradation of the drama as 'drowned honour'.<sup>121</sup> *Carlo's* kennel is shown at home on the stage while 'Comedy' weeps with shame. Two camels survey the scene; perhaps an implicit criticism of the spectators' passive consumption. *The Centaur-ian Manager* depicts the drama grotesquely travestied. The caricature features Kemble, half-man, half-horse, hiring a troupe of dogs, cats, and monkeys, Mrs. Siddons as the 'Tragic Muse',<sup>122</sup> Shakespeare debased, and Dora Jordan,<sup>123</sup> as 'Comedy', defiled by clown and harlequin, stock pantomime figures. A devil, perhaps tempting Kemble to avarice, looks on. The whole provides a powerful allegory of mercantilism's corrupting effect on the 'national' drama.

Distaste for animal displays is evident in Henry Crabb Robinson's diary note of 13 May 1811, in which he proclaimed *Timor the Tartar* at Covent Garden 'a mere pantomime equestrian spectacle.' The same night, he found the 'legitimate' performance of *Richard III* at the same theatre, 'tame and flat'; neither performance satisfied his discerning taste.<sup>124</sup> Crabb Robinson's testimony, drawn upon elsewhere in

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<sup>120</sup> Frederick Reynolds' *The Caravan; or, The Driver and his Dog*, was performed at Drury Lane in December 1803.

<sup>121</sup> Richard Brinsley Sheridan (1751-1816), actor/manager Drury Lane 1776-1809.

<sup>122</sup> John Philip Kemble (1757-1823), Covent Garden's manager 1803-14. Sarah Siddons (*née* Kemble), John Kemble's sister, established herself as the most acclaimed tragic actress of her time. She has been widely regarded as the greatest female performer in English theatrical history. 'Sarah Siddons (1755-1831)', *ODNB*. Lampooning Siddons' popular-icon status came close to sacrilege.

<sup>123</sup> Dorothy (Dora) Jordan (1761-1816): comic actress and popular idol, and mistress for seventeen years of the Duke of Clarence, the future William IV. Between 1794 and 1807 she bore Clarence ten children. Peter Thomson, *Acting and Actors from Garrick to Kean*, in Jane Moody and Daniel O'Quinn (eds.), *The Cambridge Companion to British Theatre 1730-1830* (Cambridge, 2007), p. 16. The weeping image may hold further meaning, for the Duke cast her off in 1811, the year in which the caricature was published.

<sup>124</sup> Entry for 13 May 1814, Eluned Brown, (ed.), *The London Theatre 1811-66: Selections from the diary of Henry Crabb Robinson* (London, 1966), p. 35. Henry Crabb Robinson (1775-1866), diarist and theatre-goer, met Goethe, Schiller and Madame de Stäel, counted as friends Wordsworth, Coleridge and Charles Lamb, and knew the critics William Hazlitt and Leigh Hunt.

this study, provides a record of play-going in the early nineteenth century. His observations reflect the trend of contemporary criticism, and the shift in taste of acting style and repertoire. His visit to the Olympic in March 1818, narrowly preceding the patentees' Memorial, providing evidence for the attendance of 'respectable' patrons and high production standards, lends substance to the monopolists' anxiety.

... called on Lamb when I was persuaded to go to Elliston's little theatre where I was much more amused than I have frequently been at the great theatres.<sup>125</sup>

The patentees lodged the Memorial following the 1816-1817 Season in which Drury Lane recorded losses of £10,552.<sup>126</sup> Elliston has left us his analysis of 'the state of the drama', and ideas of the purpose of theatre in national life, in the form of a rebuttal of the monopolists' charge that he contravened the terms of his Licence at the Olympic theatre.

### **Elliston under attack: the monopolists' Memorial of 1818**

*But the sentiment of "monopoly", and of unlimited sway, is so perpetually uppermost in the imaginations of these gentlemen, that there is no object to which they turn their attention, in which they can omit to exhibit something of the omnipotence with which they suppose themselves endowed.*<sup>127</sup>

Elliston's evaluation predates Bulwer's observation of the monopoly's neglect of the 'national' drama, preservation of which being the regime's justification for existence. The Memorial debate, made public by Elliston (at a price of three shillings), and his exoneration from all charges, left no doubt that, while claiming otherwise, the

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<sup>125</sup> Entry for 1 March 1818, Brown, *The London Theatre 1811-66*, p. 88.

<sup>126</sup> See Appendix 4: Theatre Royal Drury Lane Ledger showing Income, Expenditure, Profit and Loss for the six Seasons 1812 to 1818. HL-HTC: Elliston Papers, Box 2. £10,552 in 1818 = Income value of £12,910,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com). The patentees estimated that the Olympic encroached on their market share to the value of £150 per night. *Copy of a Memorial*, 1818, p. 5.

<sup>127</sup> *Copy of a Memorial* 1818, p. 82.

monopolists had abandoned their duty. Elliston accused the patentees of encroaching on the 'minor' repertoire, arguing, at the same time, that the public had a right to see on the 'minor' stage, 'some of their old favourites, whom cabal, or a vexatious spirit, had drawn from their proper position in the Theatres Royal.'<sup>128</sup>

Inactive between 1809 and 1812, Drury Lane did not oppose Elliston at his first 'minor' London house. Unlike the Royal Circus/Surrey, the Olympic (and John Scott's Sans Pareil) came under the Lord Chamberlain's authority, and the houses' proximity to the 'patent' theatres meant they drew patrons from the same catchment area.<sup>129</sup> With his history of success in Southwark, when Elliston opened the Olympic early in April 1813 he presented a close threat. The patentees joined forces at once to arraign Elliston for exceeding his Licence; an allegation he denied in a letter 'to the Editor of the Day' on 10 May 1813 (incongruously, his Benefit night at Drury Lane featuring Angelica Catalini, object of the Rioters' abuse in 1809).<sup>130</sup>

I have to assure you [...] that the license granted to the Olympic Theatre *has not been exceeded*; either to its application, in point of time; or as to the nature of the performances exhibited; or as to any other particular which is capable of proof ...<sup>131</sup>

When the 'patent' proprietors instigated another dispute over his Licence in 1815, Elliston concluded that the monopolists' had resolved to 'annihilate' him.<sup>132</sup> His fears

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<sup>128</sup> Ibid., p. iii.

<sup>129</sup> The Olympic was situated at the junction of Wych Street and Newcastle Street, close to Drury Lane. John Scott's Sans Pareil was located in the Strand, equidistant from Covent Garden and Drury Lane.

<sup>130</sup> Theatre Royal Drury Lane playbill dated 10 May 1813, HL-HTC: Playbills and programmes. *The Morning Post*, 10 May 1813. Catalini came under xenophobic attack in 1809; the Rioters' demands led to her dismissal from Covent Garden.

<sup>131</sup> Press cutting of letter addressed to the Editor, unnamed newspaper [possibly *The Morning Post*] dated 10 May 1813. HL-HTC: Elliston Papers, Box 1.

<sup>132</sup> Postscript to letter from Elliston at Shrewsbury to James Winston at the Olympic dated 3 and 4 November 1815: 'For I conclude it is the intention to annihilate all the rights or wrongs of every Minor Theatre.' HL-HTC: Elliston Papers, Box 1.

were realised in April 1818, when they appealed for the closure of the Olympic and Sans Pareil theatres:

These theatres have continued [...] further and further to abuse their licenses, till at length, they have become Theatres for the performance of the REGULAR DRAMA [...] nightly performed.<sup>133</sup>

Founded on the supposed inalienability of their exclusive right to the English canon, the patentees' claimed that these 'minor' theatres' subversion of 'legitimate' plays endangered the 'national' drama. They accused the Lord Chamberlain of neglecting his obligation to suppress competition.<sup>134</sup> They claimed that they had risked huge sums in support of the 'national' drama 'on the sacred faith of their Patent rights',<sup>135</sup> but deprived of income by 'minor' rivals, they argued, they could no longer fulfil the responsibility entrusted to them.<sup>136</sup> The petition bore the signature of Thomas Harris for the Covent Garden proprietors. Seventeen members of the Sub-Committee signed for Drury Lane, including two Earls, three men of letters,<sup>137</sup> and several M.P.s and City merchants; men of high or aspiring social status, seeking to protect their interests.<sup>138</sup>

His antagonists' pedigree did not deter Elliston. Rather, he used the Memorial to broadcast his opposition to the regime, publishing the monopolists' petition together with

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<sup>133</sup> *Copy of a Memorial* 1818, p. 2.

<sup>134</sup> *Ibid.*, p. 3.

<sup>135</sup> *Ibid.*, p. 7.

<sup>136</sup> *Ibid.*, pp. 6-7.

<sup>137</sup> One of these literary men, William Linley (1771–1835), Sheridan's brother-in-law, was a schoolfellow of Elliston's at St. Paul's. According to Elliston, they maintained a relationship of 'thirty-six years on cordial terms'. *Ibid.*, p. 133.

<sup>138</sup> Drury Lane Committee: Essex, Yarmouth, P. Douglas, P. Moore, Trustee, R. Walpole, Richard Wilson, Edward Ellice (merchant and politician), J[ohn]. Dent (politician and book collector), Robert Alb. Cox, Pascoe Grenfell (copper magnate), Thomas H. Farquhar, Edward Codrington, Douglas Kinnaird (Byron's *friend; banker*, writer and politician), [Sir] Thomas Turton, W[illiam] Linley (writer and composer), David Ricardo (political economist), G[eorge] Lamb (Select Committee member, politician and writer). T[homas]. Harris on the part of the proprietors of Covent Garden. *Ibid.*, p. 8.

his lengthy response of 26 May 1818.<sup>139</sup> Elliston refuted each allegation, offering evidence on every count. He denied encroaching on the preserve of 'legitimate' theatre, accused the 'patent' houses of degrading rather than upholding the 'national' drama, disclaimed responsibility for their losses, and defended the Lord Chamberlain. Elliston contended that unprofessionalism, mismanagement, profuse and ostentatious rebuilding, debased productions and overpriced tickets accounted for the monopolists' diminished income. He charged the patentees with sacrificing dramatic standards to blatant mercantilism:

Nothing can stop their clamours, but the filling of their pockets: nothing [...] can properly raise their interests, but the downfall of their fellow traders.<sup>140</sup>

The monopolists' desertion of the 'regular' drama in favour of popular forms, Elliston maintained, degraded the 'national' drama utterly.

The impossibility of the Olympic having exceeded its Licence - every piece having been submitted to and approved by the Lord Chamberlain's office - constituted Elliston's final, unassailable defence.<sup>141</sup> Elliston ended by condemning the patentees' criticism of the Lord Chamberlain: 'nothing can elevate their opinion of your lordship's character, but the surrender of your privileges.'<sup>142</sup> Whether or not Elliston's defence of the Lord Chamberlain proved the decisive blow, despite their eminence, the monopolists' appeal failed.

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<sup>139</sup> A manuscript copy of Elliston's response held in the Garrick Club archive runs to forty-five, double-sided, quarto sheets. Garrick Petitions.

<sup>140</sup> *Copy of a Memorial* 1818, p. 89.

<sup>141</sup> *Ibid.*, p. 23.

<sup>142</sup> *Ibid.*, p. 89.

The Home Secretary (Henry Addington, first Viscount Sidmouth) adjudicated in the case.<sup>143</sup> Informed by investigators that Olympic productions were performed in ‘doggerel’ (‘burletta’ rhyme) before a respectable and crowded audience,<sup>144</sup> he found no grounds to withdraw Elliston’s Licence. Addington concluded that neither the Olympic nor Sans Pareil had performed ‘Tragedies or Comedies, or Operas, or Farces’, nor were their productions of a kind ‘which the Public would expect to receive as amusements at their [the patentees’] hands.’<sup>145</sup> As Elliston claimed, he had not exceeded his Licence ‘in any particular which is capable of proof.’<sup>146</sup> To involve Government in matters of theatre regulation over the head of the Lord Chamberlain, a Royal appointee, signalled an historically important shift.<sup>147</sup> That Elliston’s ‘doggerel’ attracted large, respectable audiences in the heart of ‘legitimate’ theatre-land signals a further significant shift; ‘the beginning of distinctly new things for the English drama’,<sup>148</sup> and the beginning of the end of theatre governed by monopoly, foreshadowed by Elliston in these words:

From the altered circumstances of public taste, or habits; from altered circumstances of [...] localities, and of political considerations [...] any exclamations against the inevitable course of human events must be as unavailing, as they are, in the present instance, unnecessary and unreasonable.<sup>149</sup>

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<sup>143</sup> Addington was Prime Minister 1801-04 and Home Secretary 1812-22. ‘Henry Addington, first Viscount Sidmouth (1757–1844)’, *ODNB*.

<sup>144</sup> Worrall, *Theatric Revolution*, p. 44.

<sup>145</sup> Lord Viscount Sidmouth’s letter dated 9 July 1818 conveying the opinion of the Law Officers of the Crown upon the subject of The Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, 1818. Garrick Petitions.

<sup>146</sup> Press cutting of letter addressed to the Editor, unnamed newspaper, perhaps *The Morning Post* dated 10 May 1813. HL-HTC: Elliston Papers, Box 1.

<sup>147</sup> Worrall, *Theatric Revolution*, p. 44.

<sup>148</sup> Watson, *Sheridan to Robertson*, pp.174-75.

<sup>149</sup> *Copy of a Memorial* 1818, pp. 51-2.

## A changing audience

With a rate of growth that outstripped population increase for the same period,<sup>150</sup> passion for the theatre intensified from the mid-eighteenth century: between 1732 and 1762 attendance at London's two 'patent' theatres increased from 14,016 to 22,182 a week.<sup>151</sup> From the 1790s, spurred by the French wars, the general leisure economy expanded,<sup>152</sup> and theatre proved an increasingly successful money-making activity.<sup>153</sup> A commercial entity from the moment Christopher Rich purchased Killigrew's patent in 1693,<sup>154</sup> as commercialization accelerated from the eighteenth- into the nineteenth century the 'drama' declined apace.<sup>155</sup> Always subject to fluctuating tastes, theatre - as purveyor of intellectually produced goods composed of a script and a performance - carried more risk and required higher capital financing than other artistic ventures.<sup>156</sup> To maximise income and recover the expense of rebuilding in 1809 and 1812 respectively, Covent Garden and Drury Lane became large-scale operations with increased capacity.<sup>157</sup>

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<sup>150</sup> In 1715 the population of London was c.630,000, rising to approximately 740,000 by 1760. [www.oldbaileyonline.org](http://www.oldbaileyonline.org).

<sup>151</sup> J. H. Plumb, 'The Commercialization of Leisure in Eighteenth-Century England', in Neil McKendrick, John Brewer and J. H. Plumb, *Birth of a Consumer Society*, pp. 265-85 (London, 1982), p. 276.

<sup>152</sup> Gillian Russell, 'Playing at Revolution: The Politics of the O.P. Riots of 1809', *Theatre Notebook*, 44 (1990), p. 16.

<sup>153</sup> John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997), p. 356.

<sup>154</sup> *Ibid.*, p. 361.

<sup>155</sup> A view shared by, for example, John Brewer, Tracey C. Davis, Iain McCalman, Neil McKendrick, Maureen Perkins, J. H. Plumb.

<sup>156</sup> Davis, *The Economics of the British Stage 1800-1914*, pp. 6-7.

<sup>157</sup> From 1809 Covent Garden held 2,800 people. Robert Tanitch, *London Stage in the Nineteenth Century* (London, 2010), p. 28. The capacity of Drury Lane from 1812 was 2,897. *A Plan of the Inside of the Theatre Royal Drury Lane, now erecting, Abstracted from the statement by B. Wyatt, Est. architect, Sold by L. Luffman, 377, Strand, London, 1812*. Garrick Scrapbook.

Totalling a little over 1,400,000 by 1815,<sup>158</sup> London had become the largest city in Christian Europe, with perhaps the most diverse population. When Elliston entered London theatre management in 1809, the city was home to c.1,150,000 people catered to by thirteen theatres in regular use.<sup>159</sup> Though theatre-goers represented only a portion of the people of London, rapid population increase and changing demography provided a growing base from which to attract audiences. Gillian Russell tells us that soldiers and sailors of all ranks engaged in the Revolutionary and Napoleonic Wars formed a substantial part of the audience mix.<sup>160</sup> Frederick Burwick suggests that recent immigrants to London from the provinces, Scotland, Ireland, Wales and the Continent made up 80% of theatre audiences.<sup>161</sup> Gregory Dart speaks of the emergence in early nineteenth-century London of a new species of worker; clerks, trainee lawyers, industrial apprentices, shopkeepers and craftsmen.<sup>162</sup> Seeking to distinguish themselves from the labouring classes, the swelling ranks of middling types adopted 'respectability' as an aspect of self-identity.<sup>163</sup> Bound together in social uncertainty, this heterogeneous assortment of people straddled élite and plebeian cultural realms.

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<sup>158</sup> [www.oldbaileyonline.org](http://www.oldbaileyonline.org).

<sup>159</sup> The two 'Winter' 'patent' houses, the 'Summer' 'patent', and ten 'minor' theatres. Nicoll, *A History of English Drama 1660–1900*, Volume IV, pp. 222, 226, 229 and 232.

<sup>160</sup> Russell, *The Theatres of War*, p. 96. In 1804, 482,000 men in the militia, regular army and volunteer corps stood ready to serve in case of invasion. Linda Colley, *Britons: Forging the Nation 1707–1837* (London, 1992), p. 293. In the period 1793 to 1805 the navy multiplied 7.5 times to 120,000 men, the army quadrupled to 160,000, the militia trebled to 90,000 and volunteers to 310,000. Cozens, *The Experience of Soldiering*, pp. 11-12.

<sup>161</sup> Frederick Burwick, *Playing to the Crowd: London Popular Theatre, 1780-1830* (New York, 2011), p. 33.

<sup>162</sup> Gregory Dart, 'Flash Style: Pierce Egan and Literary London 1820-28', *History Workshop Journal* 51 (2001), pp. 184-85.

<sup>163</sup> Connell and Leask, *Romanticism and Popular Culture*, p. 10. Davison, 'Occasional Politeness and Gentlemen's Laughter', p. 926.

David Worrall notices the rise of a reasonably prosperous artisan audience south and east of Westminster,<sup>164</sup> Surrey territory. Middling sorts found a home at Elliston's Surrey and Olympic, which he marketed to 'respectable' audiences eager to access the 'national' drama abandoned by the 'patent' theatres. Separately, 'respectable' middling types moved for a new 'patent' theatre to recover the traditions and conventions of serious drama - those 'admirable performances which had been the delight of our ancestors.'<sup>165</sup> The Third Theatre Committee, perhaps seeking to acquire the cultural and social capital of the élite,<sup>166</sup> was headed by the Lord Mayor of the City of London, the Rt. Hon. Joshua Jonathan Smith,<sup>167</sup> a patternmaker-cum-ironmonger.

### **Audience composition: 'high', 'low' and 'middling'?**

Appendices 8 and 9 give a sense of the interior lay-out of a 'patent' (Covent Garden) and 'minor' theatre (Elliston's Royal Circus) in 1809.<sup>168</sup> Nominally, the auditorium is divided into a hierarchy of 'Box', 'Pit' and 'Gallery' to provide essentially class- and income-based accommodation. Traditionally, Boxes at the 'patent' theatres were filled by the nobility, and those persons of wealth who often attended to be seen rather than to see the play. Undermining this neat notion, Rowlandson's etching, *The Boxes*, shows places occupied by an assemblage of less than reputable patrons.<sup>169</sup> Skilled workers, clerks, tradesmen, merchants, businessmen and professionals took

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<sup>164</sup> Worrall, *Theatric Revolution*, p. 363.

<sup>165</sup> Hansard *Parliamentary Debates*, Vol. XXII, 17 March – 4 May 1812, 20 March 1812. Kraus Reprint, p. 98.

<sup>166</sup> Newey, 'The 1832 Select Committee', pp. 141 and 149. See Chapter One: 'The regime's unaccountable longevity'.

<sup>167</sup> Hansard *Parliamentary Debates*, Vol. XXII, 17 March – 4 May 1812, 20 March 1812. Kraus Reprint, p. 108.

<sup>168</sup> *A Minute & Correct View of the Inside of the New Theatre Covent Garden. Royal Circus pantomime scene* by Rowlandson and Pugin, del. et sculpt.

<sup>169</sup> Rowlandson, *The Boxes*: etching 1809. Gatrell, *The First Bohemians*, pp. 127-8.

places in the 'Pit'. Nobles' footmen were the principal occupants of the Upper Gallery, with the Lower Gallery the preserve of the unruly and disreputable.<sup>170</sup> Charges for entry corresponded. The following pricing structures are taken from 'patent' and 'minor' playbills:

Drury Lane playbill of 16 January 1815:<sup>171</sup>

Boxes	7s. 0d. <sup>172</sup>	Second price <sup>173</sup>	3s. 6d.
Pit	3s. 6d.		2s. 0d.
Lower Gallery	2s. 0d.		1s. 0d.
Upper Gallery	1s. 6d.		

Surrey playbill of 6 April 1812:<sup>174</sup>

Boxes	4s. 0d.
Pit	2s. 0d.
Gallery	1s. 0d.

Popular theatre in general attracted homogeneous audiences with a taste for amusement and spectacle. Elliston's ability to draw in the 'respectable' and the nobility to both his 'minor' houses was atypical, confirming Burke's assertion that the élite tended not to participate in the 'little tradition' of popular culture.<sup>175</sup> Confusingly, 'patent' theatre audiences are described both as heterogeneous – 'raffish young men-about

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<sup>170</sup> James J. Lynch, *Box, Pit and Gallery: Stage and Society in Johnson's London* (Berkeley, 1953), pp. 200-04.

<sup>171</sup> Drury Lane playbill dated 16 January 1815, *Garrick Annals*. The same pricing structure held in July 1818: Drury Lane playbill dated 2 July 1818. HL-HTC: Playbills and programmes. The cheapest seats (one shilling, second price, Lower Gallery) represented 5-10% of an urban unskilled labourer's weekly wage, or one adult's bread consumption. [www.nationalarchives.gov.uk/currency\\_converter](http://www.nationalarchives.gov.uk/currency_converter).

<sup>172</sup> 7s. = two days' craftsman's wages in the building trade. [www.nationalarchives.gov.uk/currencyconverter](http://www.nationalarchives.gov.uk/currencyconverter).

<sup>173</sup> Lower price for admittance after third act (of five) of the main programme piece.

<sup>174</sup> HL-HTC: Playbills and programmes.

<sup>175</sup> Peter Burke, *Popular Culture in Early Modern Europe* (London, 1978), pp. 23, 24 and 270.

town, honest citizens and visitors, servants and the hoi polloi, and richer patrons', sharing a space occupied by orange sellers and prostitutes<sup>176</sup> - and archetypally aristocratic in nature.<sup>177</sup> We know that in the early 1800s London's population continued to swell and that the mix of soldiers, sailors, incomers, and a new class of semi-professionals added to the pool of self-selecting theatre-goers. Ordinary working people are missing from this index, but appear in two studies analysing data from court papers. These enable us to explore further hypotheses of an élite/popular divide, or the heterogeneity of audiences in the first decade of the nineteenth century. One is that conducted by David Worrall using Coroners' records of eighteen deaths caused by a stampede at the 'minor' Sadler's Wells on 15 October 1807. Though a small sample, the findings support the notion of popular theatre audiences as essentially homogeneous. The data show economic status and class-ranking of the Sadler's Wells audience as significantly lower than the sample of predominantly male Rioters taken into custody from Covent Garden. The second study is Marc Baer's examination of Magistrates' Courts' records undertaken to determine the social status of the 1809 Rioters,<sup>178</sup> supplemented by Worrall's subsequent scrutiny of King's Bench Court papers.

David Worrall's Sadler's Wells study helps to establish a concrete idea of the social composition of this 'minor' audience. Domestic servants, labourers, artisans, craftsmen and tradesmen dominate. A prostitute, an errand boy, two labourers' daughters and the son of a looking-glass maker were among the fatalities. Other

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<sup>176</sup> Brewer, *The Pleasures of the Imagination*, p. 326.

<sup>177</sup> Loren Kruger, 'Our National House': The Ideology of the National Theatre of Great Britain', *Theatre Journal*, Vol. 39, No. 1, Theatrical Perception: Decay of the Aura (March, 1987), p. 39. Lynch, *Box, Pit and Gallery*, p. 199.

<sup>178</sup> Baer, *Theatre and Disorder*, p. 142.

occupations included wheelwright, apprentice cabinet maker, porter, servant, carver, and gilder.<sup>179</sup> No evidence is found in the Coroner's records of the presence at Sadler's Wells of professional men, doctors, lawyers or merchants, although Worrall acknowledges that the most vulnerable are likely to have been victims, perhaps skewing the analysis.

What the account of this event gives us, and the Riot record does not, is an understanding of women as participants in the public sphere. Elsewhere, we gain no sense that, by 1801, 54% of London's population was female.<sup>180</sup> *The Morning Chronicle's* report of the inquest lists seven young females, almost half of the deaths.<sup>181</sup> To this record, *The Morning Post* added an eighth, Lydia Carr.<sup>182</sup> Of these young women one only was described as 'a girl of the town' and one as a married woman. The majority accompanied family – husband, mother, sister, cousin – or friends to the theatre.<sup>183</sup> Some sat in the Gallery; the cheapest seats. All the deceased, bar two, were identified by family members; a circumstance suggesting that, while domestic service drew young people from the provinces, some of these theatre-goers may have been native Londoners.

Those audience members taken into custody at Covent Garden numbered one hundred and sixty-one, 62.2% being clerks, tradesmen, professional men or

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<sup>179</sup> Worrall, *Theatric Revolution*, pp. 231-32.

<sup>180</sup> [www.oldbaileyonline.org](http://www.oldbaileyonline.org).

<sup>181</sup> 'Dreadful Calamity': *The Morning Chronicle*, 17 October 1807.

<sup>182</sup> 'Melancholy Catastrophe at Sadler's Wells': *The Morning Post*, 17 October 1807.

<sup>183</sup> Rebecca Ling 20 yrs., accompanied her cousins Elizabeth Monck and her brother into Gallery; Sarah Chalkey, a married woman, not yet 21 yrs., went to the theatre with her husband; Caroline Terrill, a girl of the town, identified by a Swedish Seaman ashore on liberty from a man of war, went into the Gallery with him and three or four of his shipmates; Elizabeth Margaret Ward, 21 yrs., was accompanied by her sister and two young men; Rhoda Wall aged 20yrs., went into the Gallery with her mother; Mary Evans was accompanied by two other young girls; Rebecca Saunders, daughter of a journeyman carpenter, was treated to the play by her mistress, a Mrs. Lewis. *The Morning Chronicle*, 17 October 1807.

gentlemen,<sup>184</sup> traditional occupants of the 'Pit'. Counterintuitively, of those arraigned for physical assault, 66.7% were 'gentlemen' (12 indictments), 39.5% clerks and tradesmen (39 indictments), 38.5% skilled workers (26 indictments), and 36.5% unskilled men (19 indictments).<sup>185</sup> Only ten apprentices - accused of the less serious offences of 'riotous behaviour', 'making noise' and 'displaying the O.P. symbol' - appeared before the magistrates. From King's Bench Court sources, David Worrall adds to Baer's inventory shop-men, coal merchants and footmen in livery.<sup>186</sup> He also suggests that more labourers may have been detained than originally thought, because some cases were dismissed post-arrest. (Perhaps we may take as sympathy with the cause, by the end of October 1809 'a jury of their Countrymen' found innocent twenty-seven out of forty-one Rioters.)<sup>187</sup>

Even if the overall cohort included more labouring men, the data dispel any understanding of the protest as artisan- or plebeian-dominated. Baer's evidence overthrows the former belief that labourers took physical action, clerks made noise, and their betters engaged in rhetorical deeds such as displaying symbols, making speeches and inciting others.<sup>188</sup> During the Riots, the locus of activity was not confined to the 'Pit, but extended to 'the cultivated Company' of gentry occupying dress boxes.<sup>189</sup> More nuanced characterizations are uncovered by this enquiry than the class-based conventions of 'Box', 'Pit' and 'Gallery' at first convey. The findings prompt us to

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<sup>184</sup> Baer, *Theatre and Disorder*, p. 142.

<sup>185</sup> *Ibid.*, Table 4, pp. 152-53. Because individuals were often charged with several offences the percentages total more than 100.

<sup>186</sup> Worrall, *Theatrical Revolution*, p. 228.

<sup>187</sup> *The Times*, 3 November 1809.

<sup>188</sup> Baer, *Theatre and Disorder*, p. 150.

<sup>189</sup> Michael R. Booth, 'The Theatre and its Audience' in Leech and Craik (eds.), *The Revels History of Drama in English* Vol. VI, 1750-1880 (London, 1975), p. 6.

question notions of precise oppositions between élite and popular behaviour in the public sphere, they suggest that individuals thought and acted differently depending on the social context.<sup>190</sup>

What neither study shows is the presence of men at arms, or how they represented themselves.

### **‘Theatres of war’**

Audiences were loud, and their opinions intrusive.<sup>191</sup> Bad behaviour in the theatre, and expressions of jingoistic sentiment such as those characterising the 1809 Riots, were not uncommon. There had been protests against French actors at the Haymarket in the 1730s and anti-French riots at Drury Lane in 1755.<sup>192</sup> The display of ritualised anarchy of 1809 had a precedent in the ‘Half Price’ Riots of 1763, also triggered by unfair pricing.<sup>193</sup> Gillian Russell notes many occasions of casual violence and full-scale rioting in theatres country-wide, as well as incidents in London at Covent Garden in the 1780s.<sup>194</sup> Casual violence occurred on Elliston’s opening night as Lessee of Drury Lane:

From the crowded state of the galleries, some Boxing-night scenes were exhibited [...] but silence was soon restored, and the Comedy most successfully proceeded.<sup>195</sup>

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<sup>190</sup> Pierre Bordieu cited in Davison, ‘Occasional Politeness and Gentlemen’s Laughter’, p. 922.

<sup>191</sup> Gatrell, *The First Bohemians*, p. 127.

<sup>192</sup> Baer, *Theatre and Disorder*, pp. 44 and 73. Jim Davis, ‘Spectatorship’ in Jane Moody, and Daniel O’Quinn (eds.), *The Cambridge Companion to British Theatre 1730–1830* (Cambridge, 2007), p. 58.

<sup>193</sup> The 1763 riots occurred when both ‘patent’ houses attempted to abolish ‘Half Price’ tickets which permitted admission at a lower cost after the third act (of five) of the main piece. Russell, ‘Playing at Revolution’, p. 85.

<sup>194</sup> Russell, *The Theatres of War*, pp. 95 and 107.

<sup>195</sup> *The Morning Post*, 5 October 1819.

Political sympathy for Queen Caroline, expressed on her unannounced visit to Drury Lane in May 1821, caused discomfort to Elliston, a monarchist, and a more serious week-long riot in his house (see Chapter Six).

In the provinces, social tension could develop in towns where barracks had been established - manufacturing centres, such as Sheffield or Nottingham, associated with Jacobinism, or with political activism, like Maidstone or Manchester - in Portsmouth and other major dockyards, and between army and navy.<sup>196</sup> Where conflict existed, it frequently extended into the theatre, often instigated by officers in the Pit identifying themselves as supporters of the King. Though 'gentlemen', provincial circuit manager Tate Wilkinson observed, they rendered themselves 'lower than the *meanest* person in the theatre' in the name of loyalty.<sup>197</sup> Lower-ranking soldiers and sailors occupied the Galleries,<sup>198</sup> perpetuating society's traditional class divide.

Press reports leave us but slight traces of the presence of service-men at the Sadler's Wells incident and the 1809 Riots. At Sadler's Wells, a 'Swedish Seaman ashore on liberty from a man of war', went to the theatre with four of his shipmates (see note 184).<sup>199</sup> They took seats in the Gallery, according to James Lynch, the traditional home of 'the unruly'.<sup>200</sup> During the 1809 Riots, a midshipman's speech, delivered from the Lower Gallery, expressed a notion that pervaded the scene; the inalienability of the rights of the common man, captured, for the Rioters, in the image of 'John Bull'. The midshipman's outburst illustrates the tension between individual rights and the tradition

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<sup>196</sup> Russell, *The Theatres of War*, pp. 109-10 and 114.

<sup>197</sup> Tate Wilkinson, *The Wandering Patentee* (York, 1795), cited in Russell, *The Theatres of War*, p. 111.

<sup>198</sup> *Ibid.*, pp. 109-11 and 113.

<sup>199</sup> The Morning Chronicle, 17 October 1807.

<sup>200</sup> Lynch, *Box, Pit and Gallery*, p. 200.

of loyalty to the monarch as national figurehead: 'We are Britons [...] we have a patriotic king, but still we must fight in defence of our own proper rights.'<sup>201</sup> An address hinting at revolution given by a potential naval officer, accords with Gillian Russell's observation that seeds of political disaffection within the ranks caused superior officers to be wary of the loyalty of subordinates.<sup>202</sup>

For the sailor especially, Gillian Russell tells us, apart from offering entertainment, playhouses became a place of self-definition.<sup>203</sup> The brave, patriotic and carefree 'Jack Tar' figure has a long history on the English stage, Nelson's victories having contributed to his sustained popularity across 'legitimate' and 'illegitimate' arenas.<sup>204</sup> Drury Lane's *The Glorious First of June* (1794) commemorating a naval victory of that date, produced the theatre's largest takings from one night in the whole of the eighteenth century.<sup>205</sup> Astley's Amphitheatre staged a 'Naval Spectacle' based on the same conflict. Despite the high esteem in which audiences held the sailor trope, the London Rioters associated themselves with another icon of the stage, civilian 'John Bull'. 'John Bull' became widely known to theatre-goers through George Colman the younger's dramatization of the character in his most successful play, *John Bull; or, The Englishman's Fireside* (1803).<sup>206</sup> In this domestic melodrama, like 'Jack Tar', 'John Bull'

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<sup>201</sup> Baer, *Theatre and Disorder*, p. 44. Originally, a midshipman in the Royal Navy had the functions of a superior petty officer, and was in most cases appointed or rated by the ship's captain. Some were appointed by the Admiralty, some from the Naval Academy in Portsmouth (1733–1837), and were known as *King's Letter Boys*. All were regarded as potential naval officers, being entitled to walk the quarterdeck to which they aspired. *OED*.

<sup>202</sup> Russell, *The Theatres of War*, p. 114.

<sup>203</sup> Russell, *The Theatres of War*, pp. 98 and 100.

<sup>204</sup> Michael Slater, *Douglas Jerrold 1803–1857* (London, 2002), p. 66.

<sup>205</sup> David Worrall, *Celebrity, Performance, Reception: British Georgian Theatre as Social Assemblage* (Cambridge, 2013), pp.129-30.

<sup>206</sup> George Colman the younger, playwright and theatre manager, had his greatest commercial success with *John Bull; or, The Englishman's Fireside* (1803). 'George Colman the younger (1762–1836)', *ODNB*.

stood as a bold, honest, plain-dealing fellow and admirer of all things English.<sup>207</sup> The conviction that ‘something of the English character was at stake in this conflict’<sup>208</sup> infused the Rioters with an intense sense of nationalism. Riot rhetoric turned constantly to the English liberty of Magna Carta: ‘Britons who have humbled a prince, will not be conquered by a manager’.<sup>209</sup> The Rioters’ ‘John Bull’, compelling Kemble to bow his ‘stiff neck’, linked their cause to English liberty and the rights of free-born Englishmen (see notes 23, 24 and 25 and Appendix 5).<sup>210</sup> Opposing foreign practices and artists (see Appendix 10),<sup>211</sup> the Rioters called insistently for ‘a National Theatre’ and ‘English Drama’.<sup>212</sup>

### **Elliston: his ‘minor’ theatres and the ‘national’ drama**

From his attempt to rename the Olympic ‘The Royal British Theatre’ in 1817,<sup>213</sup> to his claimed assumption of guardianship of the ‘national’ drama in 1829,<sup>214</sup> Elliston’s vision of theatre in national life was informed by self-interest, a real concern with dramatic standards, a belief in the encouragement of talent, a devotion to ‘the legitimate

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<sup>207</sup> John Arbuthnot (1667-1735) created ‘John Bull’ in 1712 depicting him in a series of political satires, *History of John Bull*, as the embodiment of English virtue and ‘common sense’ found in the common man.

<sup>208</sup> Baer, *Theatre and Disorder*, p. 192.

<sup>209</sup> David Francis Taylor, ‘Theatre Managers and the Managing of Theatre History: Theatrical Democracies’ in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 86.

<sup>210</sup> *The stage of public opinion: King John and John Bull*, engraved by Isaac and George (?) Cruickshank, published October 1809. See Appendix 5.

<sup>211</sup> Caricature: *Magistrates reading the Riot Act at Covent Garden 1809*. ‘[A]cting Magistrates committing themselves being their first appearance on this stage as performers.’ The placard reading ‘No Catalini [...] Billington and Dickons for [Ever?]’ acclaims the superiority of English performers over highly-paid foreign singers. Elizabeth Billington (1765–1818), ironically born of German parents, was the first native soprano to enjoy prolonged supremacy at London’s Italian Opera House. Martha Frances Caroline Dickons (c.1774–1833) appeared at Covent Garden in 1807. Between then and 1815 she also performed at the Lyceum, in Drury Lane oratorios, and at the Italian Opera.

<sup>212</sup> Moody, *Illegitimate Theatre*, p. 65.

<sup>213</sup> Petition to HRH the Prince Regent dated 17 March 1817. HL-HTC: Elliston Papers, Box 2.

<sup>214</sup> Gail Marshall and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), pp. 20 and 22.

drama of our country',<sup>215</sup> and in equal access to the English literary canon. Dedicating a performance of *King Lear* to Elliston on 11 July 1831, David Osbaldiston recognised and memorialised Elliston's genuine commitment to the 'national' drama.<sup>216</sup>

As an entrepreneur, Elliston capitalized on the popularity of patriotic nautical themes. This class of melodrama characterised the sailor as simple, loyal to his king, sweetheart and shipmates, but averse to authority based on privilege; attributes the midshipman at Covent Garden exemplified (see note 202).<sup>217</sup> Elliston's *Love's Perils, or the Hermit of St Kilda*, introduced a stage set featuring a ship of war. He commissioned *Love's Perils* for the Royal Circus, staging it first in July 1809, to some acclaim, and played it again at the Olympic.<sup>218</sup>

The scenery is characteristic and striking, particularly the broadside section of a ship of war, a novelty to the stage, and extremely well managed. [...]. It was given out for repetition, amidst shouts of applause ...<sup>219</sup>

The year following the failure of the patentees' Memorial, Elliston became Lessee of Drury Lane, where he set out to reinstate 'legitimate' drama and attract patrons of social standing back to the theatre. He undertook a grand refurbishment of the interior, installed an original dress circle, and held a private view for the nobility and members of the press prior to a packed opening on 4 October.<sup>220</sup> Elliston chose a well-known 'legitimate' Comedy as his main piece that night. John O'Keefe's Comedy, *Wild Oats*;

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<sup>215</sup> *Theatrical Inquisitor*, XV (1819), p. 211.

<sup>216</sup> Marshall and Poole, *Victorian Shakespeare*, p. 22. Elliston died on 8 July 1831. David Osbaldiston (1794-1850) succeeded Elliston as manager of the Surrey 1832–34. Osbaldiston had been Elliston's principal actor and protégé at the Surrey, and was an official mourner at Elliston's funeral. George Raymond, *Memoirs of R W Elliston, comedian, 1774-1831*, 2 Vols. (London, 1844) Vol. II, p. 545.

<sup>217</sup> Russell, *The Theatres of War*, p. 102.

<sup>218</sup> Mander and Mitcheson, *The Lost Theatres of London*, p. 261. Murray, *The Great Lessee*, p. 332.

<sup>219</sup> *The Morning Post*, 1 August 1809.

<sup>220</sup> Murray, *Robert William Elliston Manager*, p. 86 and Note 12, p. 178

or, *The Strolling Gentleman*, an established favourite, had wide appeal, and, adding to the attraction, Elliston played *Rover*, one of his most celebrated roles.<sup>221</sup> In 1818, as a 'minor' proprietor, Elliston asserted that the 'regular' drama, due to the monopolists' neglect, had found protection in the 'minor' houses.<sup>222</sup> In 1819, at the close of his first night as a monopolist in London, he vowed to re-assume guardianship of the 'national' drama, pledging to keep 'the theatre open at all times to the offerings of genius' and to devote himself 'to the legitimate drama of our country.'<sup>223</sup>

Elliston returned to his first London 'minor', the Surrey in 1827. He started his Season on 4 June, again with an established Comedy, *Three and the Deuce* (1806) which he had made his own at Drury Lane playing the three protagonists. *The Morning Chronicle* and *The Times* of 5 June reported an enthusiastic reception. *The Times's* observation that 'the house, at half price, was very fully attended' demonstrates interest from those of modest income, but Elliston's appearance the next week in his iconic role of *Falstaff*,<sup>224</sup> implies he attracted audiences across the social spectrum. Elliston's habit of performing on his own stage, which began at the Royal Circus in 1809, remained a unique attraction:

The house is neatly fitted up and appointed, and several performers of attraction are said to be in treaty for engagements. The acting of the manager alone, however, is a treat not often to be enjoyed at a minor theatre.<sup>225</sup>

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<sup>221</sup> *Wild Oats; or, The Strolling Gentleman*: a Comedy by John O'Keefe, licensed on 12 April and first played at Covent Garden on 16 April 1791. Allardyce Nicoll (ed.), *A History of the English Drama 1660–1900, Volume III, Late Eighteenth-century Drama* (Cambridge, 1969), p. 294.

<sup>222</sup> *Copy of a Memorial* 1818, pp. ii-iii. Kruger, 'Our National House', p. 39.

<sup>223</sup> *Theatrical Inquisitor*, XV (1819), p. 211. Murray, *Robert William Elliston Manager*, p. 87.

<sup>224</sup> Murray, *The Great Lessee*, p. 332.

<sup>225</sup> *The Times*, 5 June 1827.

By December 1828, Elliston had made the Surrey one of the most successful of all the 'minor' houses, offering a mix of entertainment, including Shakespeare; his *Falstaff*, opera, pantomime, and 'Master Betty', a child sensation of the early 1800s.<sup>226</sup> Here Elliston produced his most successful peacetime, nautical melodramas. In the post-war climate, an affinity with depictions of the everyday and domestic represented a retreat from battle, yet the legacy of war perpetuated 'a continual thirst for strong emotions'.<sup>227</sup> Elliston commissioned new nautical pieces, such as Edward Fitzball's *Inchcape Bell* and Douglas Jerrold's *Black-Ey'd Susan* (discussed further in Chapter Seven), notable for its lack of jingoism.<sup>228</sup> Jerrold, a boy entrant to the navy 1813-15, wrote this nautical, but also domestic drama with its star, a real-life naval hero turned actor, T. P. Cooke, in mind.<sup>229</sup> By 1820, Cooke had become the most celebrated archetype of the stage sailor. In *Black-Ey'd Susan* the sailor, *Sweet William*, returns to his wife, *Susan*, the play's domestic icon, after three years' brave service in his nation's wars. Gillian Russell describes the construction of the ordinary sailor as a more authentic 'man of feeling' than his betters;<sup>230</sup> the play makes the ordinary seaman, the hero and central figure, invested with genuine tragic dignity. (With the aid of a devious plot device, *William* escaped execution for violence against his superior officer in order to protect his wife from assault).

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<sup>226</sup> Slater, *Douglas Jerrold*, p.64. Playing adult roles, and 'marketed' as the 'Young Roscius', William Henry West Betty (1791-1874) first appeared on the London stage in December 1804.

<sup>227</sup> Stendhal cited in André Maurois's introduction to R. G. Howard (ed.), *Letters of Lord Byron*, (London, 1962), p. ix.

<sup>228</sup> Slater, *Douglas Jerrold*, p. 67. *The Inchcape Bell; or, The Dumb Sailor Boy*, first played at the Surrey on 26 May 1828. *Black-Ey'd Susan; or, All in the Downs*, opened at the Surrey on 8 June 1829. Nicoll, *A History of English Drama 1660-1900* Volume IV, pp. 313 and 332.

<sup>229</sup> *Ibid.*, pp. 23 and 66. Thomas Potter Cooke (1786-1864).

<sup>230</sup> Russell, *The Theatres of War*, p. 102.

Elliston not only resumed the battle for equal access to the canon, but assuming personal responsibility for preserving the 'national' drama, inversed the supposed 'legitimate'/'illegitimate' divide in theatre culture.<sup>231</sup> The Surrey and the Adelphi led the 'minor' theatres in flouting theatre regulation, producing 'tragedy, comedy, opera, farce, and melodrama [...] in giddy succession.'<sup>232</sup> By the third decade of the nineteenth century, the 'illegitimate' staging of 'regular' drama in defiance of 'patent' privilege had become standard practice. The prevalence was such, that some managers inserted clauses in actors' contracts guaranteeing them against arrest 'while the business of the stage was in progress.'<sup>233</sup>

Financial penalties resulting from accelerating prosecutions grew severe.<sup>234</sup> Costs became so onerous that a meeting of 'Authors and Actors and others interested in resisting the monopoly of the Patent Theatres' was called on 3 January 1832. The chairman opened with the reflection that 'the present attempt to enforce an odious monopoly' would become powerless before public opinion.<sup>235</sup> The language employed by contributors confirms that the 'minor' houses looked upon themselves as responsible for the future of the 'national' drama: 'the present struggle involved the interest of literature'; 'the Petition [...] framed with a view to improve the national drama'; 'the means of regenerating the British drama [...] as noble a cause as has ever been taken

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<sup>231</sup> Playbill for the Surrey Theatre, 15 June 1829, *A Collection of Playbills of the Surrey Theatre*, 2 Vols, British Library, Playbills 311-313, cited in Katherine Newey, 'Shakespeare and the Wars of the Playbills' in Gail Marshall and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), p. 20.

<sup>232</sup> Watson Nicholson, *The Struggle for a Free Stage in London* (London, 1906), p. 308.

<sup>233</sup> *Ibid.*

<sup>234</sup> The Theatre Licensing Act 1737 imposed a fine on each actor, for each infringement of the spoken word in any one play. The penalty per offence was £50. Purchasing power of £50 in 1830 = year 2014 equivalent of £3,998. [www.measuringworth.com](http://www.measuringworth.com).

<sup>235</sup> *The Morning Post*, 5 January 1832.

up by man.<sup>236</sup> It was agreed that the patentees' use of their rights 'to shut out the rights of fellow citizens' could not be tolerated in the modern era, and Parliament must be petitioned to repeal the law.<sup>237</sup>

In 12 January 1832, David Osbaldiston printed a playbill with a petition from the residents of Southwark asking to be allowed 'some portions of the National Drama – left by Shakespeare, Rowe, Sheridan and others, as Legacies to the English Nation.'<sup>238</sup> Emulating Elliston's first covert productions of Shakespeare at the Surrey in 1809 (see Chapter Three), but now overtly, the Surrey's programme for 13 January 1832 advertised 'some highlights, part of the NATIONAL DRAMA' founded on *Othello*, and another on *Macbeth*.<sup>239</sup> In June 1832, as the Select Committee was sitting, Osbaldiston produced *Andreas Hofner the Tell of the Tyrol*: 'an historical, patriotic and serio-comic **national drama**.'<sup>240</sup> Andreas Hofner, a patriot and freedom fighter against French and Bavarian tyranny in 1809, died a hero in 1810. In Osbaldiston's production, the play's theme of tyranny overthrown became identified with English patriotism and freedom: 'some of the political allusions [...] were readily taken by the audience.'<sup>241</sup>

Osbaldiston presented Shakespeare without shrinking, echoing the Rioters' rhetoric of Magna Carta to validate his productions of 'regular' drama: 'a grand National Historical Drama' based on 'SHAKESPEARE's Play of KING JOHN! or, THE DAYS OF

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<sup>236</sup> Ibid.

<sup>237</sup> *The Morning Chronicle*, 4 January 1832. *The Morning Post*, 5 January 1832.

<sup>238</sup> Newey, 'Reform on the London Stage', p. 249.

<sup>239</sup> Ibid.

<sup>240</sup> *The Morning Chronicle*, 12 June 1832. The Select Committee convened on 1 June 1832 and reported its findings in July.

<sup>241</sup> Ibid.

MAGNA CARTA.<sup>242</sup> The Riots of 1809 sparked a debate in which the theatre was declared ‘a national concern connected with the liberties of the people.’<sup>243</sup> Notions of freedom, fairness and reform preoccupied non-patent audiences of the early 1830s. As yet un-sanctioned by law, by the 1830s the ‘national’ drama had become ‘one free and equal arena’<sup>244</sup> for audiences across London. Noted in Edward Wedlake Brayley’s account of London theatres, due to Elliston, this had been the case since the late 1820s:

... it is to him [...] that the minor theatres are indebted for the emancipation they at present enjoy ...<sup>245</sup>

Writing on the ‘state of the drama’ in 1813, James Lawrence proclaimed, ‘all monopolies are against the natural and constitutional Rights of the people.’<sup>246</sup> Throughout the early decades of the nineteenth century, while promoting a narrative of the ‘patent’ houses as havens of the nation’s dramatic heritage, in reality the monopolists populated the stage with ‘low’ cultural forms. That reform of the stage was advocated by the Rioters in one forum, and Elliston in his sphere, serves to demonstrate a strengthening resistance to the idea of ‘perpetual’ privilege, and intolerance of the exercise of assumed authority. An important lesson from this chapter is that theatre became a national metaphor for

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<sup>242</sup> Newey, ‘Reform on the London Stage’, p. 249.

<sup>243</sup> Alexander Stephens, *Memoirs of John Horne Tooke* (2 Vols.; 1813), ii. 373, cited in Baer, *Theatre and Disorder*, p. 114. Tooke was a central figure in the embryonic reform movement. ‘John Horne Tooke (1736–1812)’, *ODNB*.

<sup>244</sup> Swindells, *Glorious Causes*, p. 32. Baer, *Theatre and Disorder*, p. 57.

<sup>245</sup> Edward Wedlake Brayley, *Historical and Descriptive Accounts of the Theatres of London* (London, 1826), p. 73.

<sup>246</sup> *Dramatic Emancipation, or Strictures on the State of the Theatres, and the consequent degeneration of the Drama; on the partiality and injustice of the London managers; on many theatrical regulations; and on the regulations on the continent for the security of literary and dramatic property, particularly deserving the attention of the subscribers for a third theatre.* James Lawrence, Knight of Malta, *The Pamphleteer*, Vol. 2, No. IV, December 1813, p. 374.

constitutional rights and political freedom, maintained against oppressive regimes at home or elsewhere.

## Chapter Three: Elliston's anti-monopoly campaign: covert and transgressive means

### Introduction

His wish to end the 'incessant labour'<sup>1</sup> of an eighteen-year acting career and to gain autonomy, social status, and financial reward, propelled Elliston into London theatre management. Commercial success, his over-riding object, was tempered by a genuinely-held ambition to achieve fair and equal access to the 'national' drama. As an increase in his family approached with the imminent birth of his seventh child, Elliston announced his material reasons for purchasing his first 'minor' theatre in the capital. A handbill issued from his home at Stratford Place announced:

Mr. Elliston has thought it prudent to devote part of his property to a concern [the Royal Circus], which, if well cultivated, may furnish an adequate substitution to himself and to his large and increasing family.<sup>2</sup>

With the thwarting of his formal attempts to gain permission to perform dialogue unaccompanied by music, Elliston devised alternative, surreptitious means by which to challenge exclusive privilege and earn a return on his investment. Excluded from the formal structures of theatre governance, Elliston embarked on a radical attempt to make 'illegitimate' theatre both 'respectable' and conspicuous. He produced 'legitimate' drama at his 'illegitimate' house by transposing and manipulating the existing performance genres of 'burletta' and *ballet d'action*, and the new form, melodrama.

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<sup>1</sup> Handbill printed by Lowndes and Hobbs, Printers, Marquis-Court dated 13 June 1809. HL-HTC: Elliston Papers, Box 1.

<sup>2</sup> *Ibid.* As at June 1809, Elliston had six children; the seventh, Mary Juliet (1809-1811) arrived on 21 July 1809. Between 1797 and 1817, ten children were born to Elliston and his wife Elizabeth née Rundall/Rundell (1774-1821), whom he married at Bath Abbey in June 1796.

The conditions of Charles II's patents, reaffirmed in the Licensing Act 1737, we know, prohibited 'minor' theatres from performing 'regular' drama – 'Tragedies', 'Comedies', 'Operas', or 'Farces'. Theatre regulation confined 'minor' houses to displays of music, dancing, 'burlettas', spectacle, and pantomime, in all of which performances 'the spoken word' was forbidden. Accordingly, when, on first becoming an actor/manager in London, Elliston adopted the conventional 'illegitimate' performance genres of 'burletta' and *ballet d'action* to produce 'legitimate' drama on his 'irregular' stage, his transgression caused a critical sensation.

Chapter Three explores the never-before-attempted performative strategy Elliston followed, namely, to produce 'legitimate' entertainment at a 'minor' house yet remain within the law. An examination of Elliston's *modus operandi* helps us gain an understanding of his development as a reformer and shaper of the theatrical experience. The chapter interrogates why Elliston adopted his innovative approach, and addresses such questions as: 'How did his fusion of the established 'minor' forms 'burletta' and the new genre, melodrama, aid his endeavours?' 'Does Elliston's employment of melodrama help us decide what melodrama represented?' Two further questions, 'What sort of play is Elliston's *Macbeth* the 'burletta'?' and, 'If Shakespeare's language is subtracted from the equation, where does his genius reside?', are introduced as a prelude to following Chapter Four's exploration of Elliston's project to dislodge the monopolists' exclusive rights to Shakespeare, and the traditional canon.

### **Elliston's innovative approach**

A pioneering figure in the struggle to liberate the stage through his campaign to obtain equal access to the dramatic canon, Elliston was progressive in adopting 'the

new', particularly when it held promise of commercial reward. Elliston was enlightened and reformist in that respect. Over all, Elliston's direction of travel was self-declaredly informed as much by hard-nosed self-interest as that of his counterparts, the monopolist 'patent' theatre proprietors, whose ranks he joined in 1819:

I think it an injustice to myself and to my family, not to turn my trade to the best possible account; as every other trader is accustomed to do; and as the memorialists [patentees], in their trade, are so rapaciously anxious to do.<sup>3</sup>

Where his predecessors, in a bid to recoup their investment, had packed in audiences to shows of novelty and spectacle, Elliston made serious attempts to restore literary drama to Drury Lane. His determination to turn his trade to the best possible account emerges nowhere more clearly than in his about-face on becoming exclusively a 'patent' proprietor. To defend his 'patent' rights between 1819 and 1826, Elliston pursued his 'minor' competitors in an uncompromising campaign of harassment, and entirely legitimate, prosecutions (see Chapter Five). Actor Joseph Cowell attested to Elliston's ruthlessness as a manager:

A long and distinguished favourite with the public: his nature too, admirably fitting him not to allow old friendships, humanity or kindness of heart to interfere with his interests.<sup>4</sup>

It is likely that Cowell alluded to Elliston's swift dismissal of a number of performers, in pursuit of his plan to build a Company of the best available talent.<sup>5</sup> Engaged at Drury Lane in 1819, Cowell may have witnessed, or been a victim of the purge.<sup>6</sup> From a

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<sup>3</sup> *Copy of a Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, 1818; with copies of two letters in reply to the contents of such Memorial by R. W. Elliston, Comedian* (London, 1818), p. 90.

<sup>4</sup> J. Cowell, *Thirty years passed among the players in England and America* (New York, 1845), p. 71. 'Joseph Cowell (1792–1863)', *ODNB*.

<sup>5</sup> Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 85.

<sup>6</sup> *Ibid.*

separate perspective, George Colman expressed a not dissimilar view of Elliston's self-interestedness.

What do you all think of Elliston, the actor? I will tell you my opinion. He is one of the most mercenary, selfish creatures I ever met with.<sup>7</sup>

Colman, proprietor of the 'Summer' 'patent', the Theatre Royal Haymarket, employed Elliston in 1802 as his acting manager, and again in 1811, as a principal actor (see Chapter One).

Elliston spent much money and ingenuity on his first London theatre, introducing 'a new style of elegance, taste and magnificence'<sup>8</sup> to add to 'both the character and profit'<sup>9</sup> of his Southwark undertaking. He expended considerable sums on producing works of merit, and embellishing the theatre itself, to make the house far more well-thought-of than any other 'minor' theatre.<sup>10</sup> Elliston had fulfilled these aspirations by the end of the first Season, but to succeed, he had to attract patrons from far afield. His principal target audience resided elsewhere. The suburban population of semi-rural St. George's Fields comprised bankrupts, non-conformists and those whose only experience of theatre was an annual visit to Astley's Amphitheatre to enjoy circus-style entertainment.<sup>11</sup> Of serious theatre-goers there were few. To entice patrons, Elliston offered subscription season tickets, at seven guineas, above the reach of working

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<sup>7</sup> W. G. Knight, *A Major London 'Minor': The Surrey Theatre 1805–1865* (London, 1997), p. 9.

<sup>8</sup> Murray, *Robert William Elliston Manager*, p. 32.

<sup>9</sup> Handbill printed by Lowndes and Hobbs, Printers, Marquis-Court dated 13 June 1809. HL-HTC: Elliston Papers, Box 1.

<sup>10</sup> *Ibid.*

<sup>11</sup> Murray, *Robert William Elliston Manager*, p. 33. Philip Astley established Astley's Amphitheatre at the south-east foot of Westminster Bridge in 1769.

men,<sup>12</sup> and made it known, *sub rosa*, that his programme included the performance of ‘regular’ drama.<sup>13</sup> The Royal Circus/Surrey’s location was remote from the London theatre hub: toll gates marking the metropolis’s southern extremity can be seen in Appendix 11. Given the theatre’s geographic setting, unpaved access and absence of other attractions in the vicinity, the merit of Elliston’s productions alone can account for the decent reputation and popularity of his playhouse.

Elliston claimed in November 1809, when bidding to manage the subsequently abandoned ‘Third Theatre’ (see Chapter Two), that his enterprise produced ‘a considerable degree of profit’.<sup>14</sup> 1809 was a successful year, but we know from Chapter One that Elliston spent heavily. He remained convinced that the ‘regular’ drama provided the key to serious income-generation. The failure of his various attempts to be allowed dialogue unaccompanied by music - culminating in Spencer Perceval’s refusal on the grounds that any concession would ‘alter the whole principle upon which theatrical entertainments are at present regulated’<sup>15</sup> - set in motion Elliston’s subversive campaign.

### **Subversive strategy: Elliston pushes the boundaries**

With the definitive collapse of his formal campaign to perform ‘legitimate’ drama at his ‘minor’ theatre, and in pursuit of income to recoup his vast outlay, Elliston’s only remaining option lay in pushing the boundaries of legislation. The limits imposed by the

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<sup>12</sup> The Real Price value of £7 7s. 0d. in 1809 = £455.50 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>13</sup> Murray, *Robert William Elliston Manager*, p. 33. Knight, *A Major London ‘Minor’*, p. 3.

<sup>14</sup> The humble Memorial of Robert William Elliston, of Stratford Place, in the County of Middlesex, Comedian ... dated 16 November 1809. HL-HTC: Elliston Papers, Box 1.

<sup>15</sup> Murray, Christopher, Noel, *The Great Lessee: The Management Career of Robert William Elliston (1774-1831)*. A Dissertation presented to the Faculty of the Graduate School of Yale University in Candidacy for the Degree of Doctor of Philosophy, 1969, p. 76.

regulatory regime compelled him to continue to engage in, what Jane Moody has described as, the ‘deeply political conflict about who should control theatrical culture.’<sup>16</sup> Innovations of genre, form, and style enabled Elliston to lift works from the ‘legitimate’ canon, yet avoid the impositions of the Licensing Act of 1737. Criticised as the man who turned *Macbeth* into a kind of operatic pantomime, Elliston’s ‘illegitimate’ contrivances have also been defended:

...he [Elliston] was forced to the expedient because no theatre but the two patent houses could present the standard plays ...<sup>17</sup>

The strategy Elliston devised to outflank the monopolists without infringing the terms of his Licence, relied in large part on his inventive use of dramatic form. Elliston employed the established performance genres ‘burletta’, *ballet d’action*, and the new form, melodrama, to transpose classic favourites to the ‘illegitimate’ stage. He compensated for absence of spoken dialogue with the exaggerated movement and gesture characteristic of these forms, singly or combined, and added sumptuous costume, music, lighting and spectacular scenery.

### **Performance genres re-presented**

Mockingly, Elliston commented on the monopolists’ practice of manipulating genres to cater to popular taste. They did not hesitate to exploit the ‘patent’ houses’ unique entitlement to perform all types of entertainment:

‘Patent’ pieces, my lord, are not unfrequently a good deal like ‘patent medicine’. The names bestowed on each, are those which may make them most current and profitable.<sup>18</sup>

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<sup>16</sup> J. Moody, *Illegitimate Theatre in London 1770-1840* (Cambridge, 2000), p. 4.

<sup>17</sup> George C. D. Odell, *Shakespeare from Betterton to Irving* Vol. II (New York, 1966), p. 149.

<sup>18</sup> Copy of a Memorial 1818, p. 63.

Among additions to the traditional canon, the 'patent' stage was allowed performances of English ballad opera, and 'burletta', derived from ballad opera, a form that became associated with 'low' culture, but 'originally had no taint of the illegitimate about it.'<sup>19</sup> Elliston described 'burletta's form on the 'legitimate' stage before its designation as a wholly popular genre:

A term long and invariably applied in their own theatres to a 'comic drama', constructed without rhyme or recitative [...] displaying talents of some of the best comedians ... .<sup>20</sup>

The Royal patentees designated 'burletta' as definitively a working-class dramatic genre, David Worrall says, 'as soon as the agitation for a third theatre evolved in parallel with a reasonably prosperous artisan audience situated to the south and east of Westminster.'<sup>21</sup> 'Burletta's mutability makes its history of central importance in understanding the interplay between the 'minor' and 'patent' theatres,<sup>22</sup> and helps to explain how vital was 'burletta's imprecise definition to the effectiveness of Elliston's covert strategy.

Because of the restrictions under which Elliston, and all proprietors of 'minor' houses laboured, 'burletta', according to a definition he framed, became his default medium. He manipulated the loosely-defined genre to create versions of the 'regular' drama with wide appeal that challenged regulation, but escaped penalty. Such

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<sup>19</sup> Joseph Donohue, 'Burletta and the Early Nineteenth-century English Theatre,' *Nineteenth-Century Theatre Research*, I (1973), p.41.

<sup>20</sup> *Copy of a Memorial* 1818, p.63.

<sup>21</sup> David Worrall, *Theatric Revolution: Drama, Censorship, and Romantic Period Subcultures 1773-1832* (Oxford, 2006), p. 363.

<sup>22</sup> Michael Burden, 'The Writing and Staging of Georgian Romantic Opera' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 426.

productions as his transgressive adaptations of *The Beaux' Stratagem* and *Antony and Cleopatra* in May 1810 are typical:

... nothing could have been more 'legitimate' than these dramas, yet the burletta conception could allow of their free performance ...<sup>23</sup>

Allardyce Nicholl's observation is supported by a review of *The Beaux' Stratagem* that not only described the transposition of Farquhar's prose into poetry as most successful, but noted the production's unusually high performance standards 'not even dreamt of at the first institution of these ['minor'] Theatres.'<sup>24</sup> Elliston's manipulation of 'the 'burletta' conception' allowed the performance of 'regular' drama in an 'illegitimate' space, within the law, for the first time in London theatre history.

In the early decades of the nineteenth century, at one and the same time, 'burletta', defied definition and indicated a play that would not infringe the terms of a 'minor' theatre Licence.<sup>25</sup> Elliston led the initiative by which 'burletta' eventually came to provide this 'convenient generic disguise for the introduction of dramatic dialogue at the minor theatres.'<sup>26</sup> His Royal Circus/Surrey programme from 1809 to 1814 illustrates an increasing reliance on melodrama as his 'minor' management career progressed.<sup>27</sup> Frederick Burwick's study notes just this development of new hybrid forms of 'burletta' and melodrama in the Georgian theatre, in which the proportion of musical

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<sup>23</sup> Allardyce Nicoll (ed.), *A History of English Drama 1660–1900, rev. Volume IV Early Nineteenth-century Drama 1800–1850* (Cambridge, 1970), p. 140.

<sup>24</sup> Unattributed press cutting dated 23 May 1810, titled 'Summer Theatres'. HL-HTC: Elliston Papers, Box 1.

<sup>25</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 345.

<sup>26</sup> Moody, *Illegitimate Theatre*, p. 31.

<sup>27</sup> Murray, *The Great Lessee*, pp. 324–31.

accompaniment receded and spoken dialogue increased.<sup>28</sup> The progressive blurring of distinction assisted Elliston fundamentally, and the historiography of these ‘illegitimate’ genres illuminates any assessment of Elliston’s subversive strategy.

### ‘Burletta’ re-constructed

When the term ‘burletta’ appeared on the London scene, it described Italian comic *intermezzi*, and, later, the ballad opera form in English, performed on the ‘legitimate’ stage.<sup>29</sup> The genesis of ‘burletta’ in England may be traced to the flourishing of ballad operas of the 1730s, in the wake of the success of John Gay’s *The Beggar’s Opera* (1728), comprising spoken dialogue and songs with a comic or satiric intent.<sup>30</sup> The most commercially successful play of the eighteenth century, proceeds from Gay’s opera, it is said, enabled John Rich to build Covent Garden theatre.<sup>31</sup> (Elliston adapted the money-making *The Beggar’s Opera* to his ‘minor’ stage in his first Season at the Royal Circus.) Originally performed in Italian or French, the first appearance in London of ‘burletta’ as a genre, has been dated to 1748. *La Comedia in Comedia*, performed at the Haymarket on 8 November 1748, was commented upon as being ‘the first of this Species of Musical Drama ever exhibited in England’.<sup>32</sup>

The scope of music, as entertainment, covered a broad spectrum of comic opera, operatic farce, ballad farce, musical interlude, musical entertainment, and ‘burletta’;

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<sup>28</sup> Frederick Burwick, ‘Georgian Theories of the Actor’, in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737–1832* (Oxford, 2014), p. 185.

<sup>29</sup> Burden, ‘The Writing and Staging of Georgian Romantic Opera’, p. 426.

<sup>30</sup> Ibid.

<sup>31</sup> Vic Gatrell, *The First Bohemians*, pp. 125–26.

<sup>32</sup> John C. Greene, *Theatre in Dublin, 1745–1820. A History*, Vols. I and II (Maryland, 2011), p. 337.

'burletta' being considered the most difficult to classify of all these terms.<sup>33</sup> In the summer of 1758, Italian 'burlettas' translated into English were presented with great success at Marylebone Gardens (see Appendix 12).<sup>34</sup> By the 1760s, 'burletta' had appropriated ballad opera's satirical functions.<sup>35</sup> Scholars argue that a quest for novelty may account for the developing importance of music in the theatre in the years after 1760.<sup>36</sup> In the first half of the nineteenth century, the definition of 'burletta' remained hard to pin down, and continued to be disputed, though music was generally agreed to form an integral part. Although music remained a constant feature of most definitions, the elasticity of the term is evident from the following diverse descriptions advanced by past and present practitioners, critics and scholars:

The tinkling of the piano and the jingle of the rhyme, were the chief characteristics.<sup>37</sup> (1812)

A piece in verse, accompanied by music.<sup>38</sup> (1818 – the patentees)

Burletta – light, fanciful, farcical – description of dramatic entertainment; and in which **by custom**, songs, or other musical interspersions, are sprinkled, for the purpose of giving to the piece a more gay, and exhilarating character.<sup>39</sup> (1818 - Elliston)

[It is] interspersed throughout with songs at least, whatever may be the other characteristics of a Burletta.<sup>40</sup> (1824)

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<sup>33</sup> James J. Lynch, *Box, Pit and Gallery: Stage and Society in Johnson's London* (Berkeley, 1953), p.30. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 137. A. C. Sprague, *A Macbeth of Few Words*, in Robert A. Bryan, Alton C. Morris, A. A. Murphree and Aubrey L. Williams (eds.), *Essays in Honour of C.A. Robertson ... All These to Teach* (Gainesville, 1965), p. 80.

<sup>34</sup> Greene, *Theatre in Dublin, 1745–1820*, p. 337. Robert. D. Hume (ed.), *The London Theatre World 1660–1800* (Carbondale and Edwardsville, 1980), p. 352.

<sup>35</sup> Michael Burden, 'Opera in the London theatres', in Jane Moody and Daniel O'Quinn, *The Cambridge Companion to British Theatre 1730–1830* (Cambridge, 2007), p. 209.

<sup>36</sup> Lynch, *Box, Pit and Gallery*, p.30. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 137. Sprague, *A Macbeth of Few Words*, p. 80.

<sup>37</sup> *Theatrical Inquisitor*, October 1812 in Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 139.

<sup>38</sup> The definition of 'burletta' offered by the patentees: *Copy of a Memorial* 1818, p. 5.

<sup>39</sup> *Copy of a Memorial* 1818, p. 71.

... drama in rhyme [...] which is entirely musical.<sup>41</sup> (1832)

... anything except tragedy and comedy; the one hard and fast rule being that a certain number of songs should be introduced, and the notes of a piano occasionally struck throughout the performance.<sup>42</sup> (1889)

... any performance without spoken dialogue.<sup>43</sup> (1926)

... songs were associated with it, and such spoken dialogue as it contained was accompanied by music.<sup>44</sup> (1965)

A species of theatrical performance given entirely to musical accompaniment.<sup>45</sup> (1980)

A series of song and dance routines ... .<sup>46</sup> (1996)

... drama with songs and spoken dialogue.<sup>47</sup> (2014)

On his appointment as Examiner of Plays in 1824, George Colman told the Lord Chamberlain that, to qualify as a 'burletta', a piece must have at least five or six songs 'where the songs make a natural part of the Piece, *and not forced into an acting piece*.'<sup>48</sup> Before his promotion to office, as a playwright and theatre owner, Colman offered a since much-quoted definition:

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<sup>40</sup> Opinion ventured by the Lord Chamberlain to his Examiner of Plays in 1824. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 138.

<sup>41</sup> John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997), p. 387.

<sup>42</sup> Henry Barton Baker, *The London Stage its History and Traditions 1576–1888*, Vol. 2 (London, 1889), p. 3.

<sup>43</sup> Ernest Bradlee Watson, *Sheridan to Robertson: A Study of the Nineteenth Century London Stage* (Cambridge, Mass., 1926), p. 28.

<sup>44</sup> Sprague, *A Macbeth of Few Words*, p. 80.

<sup>45</sup> Hume, *The London Theatre World 1660–1800*, p. 345.

<sup>46</sup> Jonathan Bate, 'The Romantic Stage', in Jonathan Bate and Russell Jackson (eds.), *Shakespeare an Illustrated Stage History* (Oxford, 1996), p. 104.

<sup>47</sup> Burden, 'The Writing and Staging of Georgian Romantic Opera', p. 426.

<sup>48</sup> Ibid. George Colman, Examiner of Plays January 1824–October 1836. John Russell Stephens, *The Censorship of English Drama 1824–1901* (Cambridge, 1980), p. 157.

... drama in rhyme [...] which is entirely musical; a short commick piece, consisting of recitative and singing, wholly accompanied, more or less, by the orchestra.<sup>49</sup>

Colman's insistence on 'recitative' as essential to the 'burletta' form is enlightening. *The Oxford English Dictionary* describes 'recitative' as 'a style of musical declamation intermediate between singing and ordinary speech, used especially in the dialogue and narrative parts of an opera or oratorio' – making it ideally suited to a situation in which speech unaccompanied by music was banned.

Elliston's publicity tells us 'burletta' could be employed to appeal to different tastes at different times. He advertised his 'illegitimate' *Macbeth*, which he called a 'Grand Ballet of Action', but others, a 'burletta' - 'ELLISTON is about to bring out Shakespeare's *Macbeth*, at the Circus, *as a burletta!*<sup>50</sup> – emphasising his intention to produce Shakespeare authentically, together with traditional accompanying music.<sup>51</sup> At the Olympic (see Chapter Two), we see in what became a popular risqué farce, *Giovanni in London*,<sup>52</sup> the variety of descriptions (offered flippantly) by which 'burletta' might be known:

New Broad Comic EXTRAVAGANZA ENTERTAINMENT, in Two Acts, comprising a grand Moral, Satirical, Tragical, Comical, Operatical, Melodramatical, Pantomimical, Critical, Internal, Terrestrial, Celestial, one word in all, *Gallymaufrical-olliapodridacal*, Burletta Spectacle, y'clept.<sup>53</sup>

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<sup>49</sup> Brewer, *The Pleasures of the Imagination*, p. 387.

<sup>50</sup> *The Morning Advertiser*, 24 August 1809 cited in Sprague, *A Macbeth of Few Words*, p. 81.

<sup>51</sup> *The Times*, 30 August 1809.

<sup>52</sup> William Thomas Moncrieff wrote *Giovanni in London; or, The Libertine Reclaimed* for Elliston; it was first performed at the Olympic on 26 December 1817. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 358.

<sup>53</sup> William Thomas Moncrieff, *Songs, Duets, Chorusses, &c., Serious and Comic, Sung in the ... Extravangaza Entertainment: in Two Acts, y'clept Giovanni in London; or, The Libertine Reclaimed* (London, 1817).

Katherine Newey tells us that, by the time of the Select Committee, ‘burletta’ had become ‘a catch-all term for illegitimate performance’,<sup>54</sup> a situation which this study claims owed much to Elliston’s covert campaign. Elliston led the way in all but eliminating musical accompaniment from his ‘legitimate’ productions two decades before the Committee convened, as evidenced by Watson Nicholson’s record of *Othello* performed at the Surrey in March 1814:

Othello had been performed as a burletta, which was accomplished by having a low pianoforte accompaniment, the musician striking a chord once in five minutes [...] so as to be totally inaudible ...<sup>55</sup>

Elliston’s *Othello* marks a shift from the long-experienced manager and in-coming Examiner of Plays, Colman’s definition, that to qualify as a ‘burletta’ songs must make ‘a natural part of the Piece, and not forced into an acting piece.’ Having virtually eradicated the music element of ‘burletta’, Elliston then rejected rhymed recitative as dull and insipid,<sup>56</sup> substituting prose interspersed with songs and dumb-show.<sup>57</sup> Elliston’s successful rebuttal of the patentees’ 1818 charge that he performed the ‘regular’ drama at the Olympic theatre, revolved on his questioning of ‘rhyme’ as essential to the ‘burletta’ form (see Chapter Two).<sup>58</sup> Elliston’s defeat of the patentees turned in large part on his detailed understanding of ‘burletta’’s fundamental elusiveness. Responding to the monopolists’ query as to ‘whether some of the Entertainment described [at Elliston’s Olympic] came within the meaning of the term Burletta’, the Home Secretary ruled that no specific definition had been identified by the

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<sup>54</sup> Katherine Newey, ‘The 1832 Select Committee: The Idea of a National Drama’ in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 152.

<sup>55</sup> Watson Nicholson, *The Struggle for a Free Stage in London* (London, 1906), p. 330.

<sup>56</sup> *Copy of a Memorial 1818*, p. 71.

<sup>57</sup> Murray, *Robert William Elliston Manager*, p. 58.

<sup>58</sup> *Copy of a Memorial 1818*, p.76.

Law Officers, so ‘no exact criterion existed for judging’.<sup>59</sup> Elliston’s victory in 1818 marked the beginning of the monopoly’s end.

The reasons for Elliston’s embracing melodrama, discussed below, may have owed something to his abhorrence of the yoking of ‘burletta’ to ‘rhyme’. He detested rhyme as a deadening hand on performance, insisting that the device was calculated to alienate and diminish the audience, to suppress ‘minor’ theatres, and protect the monopoly.<sup>60</sup> In the course of arguing against the Memorialists that ‘rhyme’ was not an essential component, Elliston gave as references the Italian lexicologist Alberti’s, and England’s Samuel Johnson’s definitions of ‘burletta’. These noted authorities omitted ‘rhyme’ entirely.<sup>61</sup> First, Elliston cited the third edition (1788) of Alberti’s dictionary: ‘By the definition given by Alberti I stand, as to the real quality and function of the species of drama, called “burletta”.’<sup>62</sup> He then quoted from Alberti’s entry, and providing a translation:

BURLETTA – s. f. (Voce dell’uso): Commedia, rotta e imperfetta: farsa; Comedie: Opera-bouffon.

BURLETTA – s. f. (Word of common usage): Comedy, broken and imperfect: farce; Comedy; comic Opera’.<sup>63</sup>

Elliston followed with Johnson’s definition:

... in an enlarged edition of Johnson, now publishing in parts, by the Rev. H. I. Todd, (not only an expensive work, but a work of undoubted importance and authority), the word is inserted, and stands thus: - BURLETTA – (Italian: - from

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<sup>59</sup> Lord Viscount Sidmouth’s letter dated 9 July 1818 conveying the opinion of the Law Officers of the Crown upon the subject of The Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, 1818. Garrick Petitions.

<sup>60</sup> *Copy of a Memorial* 1818, p. 71.

<sup>61</sup> *Ibid.*, pp. 73–6.

<sup>62</sup> *Ibid.*, p. 73.

<sup>63</sup> *Ibid.*, p. 74.

*burlare*, to jest): A word of late introduction into our language; meaning, generally, **a musical farce**.<sup>64</sup>

Elliston's exclusion of rhyme, and insistence on 'comic opera' or 'musical farce' as the true definition of 'burletta', brings his interpretation close to that noted on the 'patent' stage before it acquired any 'illegitimate' taint.<sup>65</sup> Adding to 'comic opera' or 'musical farce' the techniques of melodrama, enabled Elliston to extend performance options, enhance performance values and attract heterogeneous audiences.

### **Elliston blends genres to test the monopoly regime**

Elliston's first 'burletta'-ized 'legitimate' plays, *The Beggar's Opera* and *The History, Murders, Life, and Death of Macbeth* (discussed in Chapter Four), tested the regulatory system and ignited the spark that led ultimately to a revolution in theatre culture. Elliston promoted *The Beggar's Opera* as a 'New Burletta, Melo Drame'.<sup>66</sup> He introduced the new form melodrama into the performance, employing both genres to interpret the play's dramatic themes. Elliston called his *Macbeth* a 'Ballet of Music and Action',<sup>67</sup> a performance idiom with music, but without words. A narrative form of dance known in England from the early eighteenth-century, *ballet d'action* used movement and gesture to connect with the audience.<sup>68</sup> The English dance master John Weaver's 1712 essay on the history of dance explained the form's origins and purpose:

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<sup>64</sup> Ibid., p. 75.

<sup>65</sup> *Copy of a Memorial* 1818, p.63. See also Note 20.

<sup>66</sup> Surrey Theatre playbill 1810. HL-HTC: Playbills and programmes.

<sup>67</sup> Playbill for *Macbeth* at the Royal Circus 1809 in Christopher Murray, 'Elliston's Productions of Shakespeare', *Theatre Survey*, Vol. 11, Issue 02, November 1970, p. 100. Knight, *A Major London 'Minor'*, p. 10.

<sup>68</sup> Erin J. Smith, 'Dance and the Georgian Theatre' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), pp. 325–33.

... at first designed for *Imitation*; to explain Things conceiv'd in the Mind, by the *Gestures* and *Motions* of the Body [...] plainly and intelligibly representing *Actions*, *Manners* and *Passions* so that the Spectator might perfectly understand the Performer by these his *Motions*, tho' he say not a Word.<sup>69</sup>

As a language of plot and character which expanded the imaginative possibilities of dramatic storytelling without words, *ballet d'action* expressed the actions and passions of *Macbeth*, without infringing restrictions on 'the spoken word'. Did Elliston truly exclude spoken dialogue from this first production of 'illegitimate' Shakespeare, or did he publicise it as a production without words to evade prosecution, while covertly introducing speech? The question is posed because, especially on 'minor' playbills, when not intentionally deceptive, dramatic terms were frequently vague, indistinct, and arbitrary.<sup>70</sup> *The Times*' report suggests Elliston's branding was not a diversionary ploy, for the reviewer lamented the absence of the Bard's 'divine language', describing a performance in which the visual dominated:

... the action [...] was uncommonly expressive and clear; and the incantations of the witches [...] given in scenery the most appropriate [...] the whole was produced with that attention to costume, scenic splendour, decoration and embellishment.<sup>71</sup>

In practice, Elliston blurred distinctions between genres, employing a range of forms. He advertised *Antony and Cleopatra* as a 'recitative, Tragedy'<sup>72</sup>: 'popular'/'elite' cultural polar opposites. 'Recitative' signalled adherence to 'minor' forms, possibly to forestall accusations of presenting 'regular' drama, while 'Tragedy' indicated a *bona fide* 'legitimate' production. Elliston's 1809 definition of 'burletta' as 'any drama, or

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<sup>69</sup> John Weaver, *An Essay Towards an History of Dancing* (London, 1712), p. 160, cited in Smith, 'Dance and the Georgian Theatre', pp. 326–27.

<sup>70</sup> Elaine Hadley, *Melodramatic Tactics: Theatricalized Dissent in the English Marketplace, 1800–1885* (Stanford, 1995), p. 66. Moody, *Illegitimate Theatre*, p. 80.

<sup>71</sup> *The Times*, 1 September 1809.

<sup>72</sup> *The Morning Chronicle*, 25 May 1810.

*melodrama*, cast in rhymed verse cut to no more than three acts and accompanied by music',<sup>73</sup> demonstrates his early recognition of the possibilities that orchestrating forms could provide, and his initial acceptance of 'rhyme' as intrinsic to the form. Using melodrama's components of music and dumb-show, he engineered equivalence between the genres, allowing his performances more flexibility.<sup>74</sup> Two pantomimes, two 'burlettas', and three melodramas preceded *Macbeth*,<sup>75</sup> which actually incorporated distinct characteristics of melodrama. His stage directions placed importance on visual impact. Techniques included exaggerated expressions of emotion, 'such as kneeling, pressing hand to heart, striking the forehead, pointing to the ceiling, and reacting violently.'<sup>76</sup> To these bodily aesthetics, as *The Times* also reported (see note 71), Elliston added impressive scenic effects:

On Wednesday, we understand, will be produced the long-promised ballet of action, founded on SHAKESPEARE'S *Macbeth*, on which report affirms the most liberal expenditure has been made, and exertions of a superior kind bestowed to render it, in scenic splendour and decorative magnificence, worthy public approbation.<sup>77</sup>

### **Almost exactly the play of Shakespeare**

With the exception of the dialogue, the performance was almost exactly the play of SHAKESPEARE...<sup>78</sup>

So ran *The Morning Chronicle's* review of Elliston's *Macbeth* of few words.<sup>79</sup> Some called his transgressive version a 'burletta': 'During his management he caused to be

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<sup>73</sup> Murray, *Robert William Elliston Manager*, p. 58.

<sup>74</sup> Murray, 'Elliston's Productions of Shakespeare', p. 106.

<sup>75</sup> 3 April, *Albert and Adela*; 8 May, *Werter*; 31 July, *Love's Perils*. Murray, *The Great Lessee*, p. 324.

<sup>76</sup> Murray, *Robert William Elliston Manager*, p. 23.

<sup>77</sup> *The Morning Post*, 25 August 1809.

<sup>78</sup> *The Morning Chronicle*, 31 August 1809 in Murray, 'Elliston's Productions of Shakespeare', p. 102.

versified, burletta-rised, and melo-dramatised, any of our stock plays, (not omitting even Shakespeare's *Macbeth*.)<sup>80</sup> Elliston announced his *Macbeth* as a *ballet d'action*, but played the witches' scenes as a 'burletta' in rhymed recitative accompanied by musical spectacle. He introduced melodrama's recognisable features of extravagant gesture, and added the unspoken language of banners and scrolls to the performative features of expressive mime and movement, to advance the narrative or evoke atmosphere.<sup>81</sup> These written signs carried crucial messages that could not otherwise be transmitted without speech: an announcement to the audience, 'Duncan doth create Macbeth Thane of Cawdor', followed by another addressed to Macduff, 'Your Castle is surprised, and wife and babes murdered', and to *Macbeth*, 'The Queen is Dead'.<sup>82</sup> Christopher Murray tells us that, at these moments, the auditorium became a classroom in which the eager audience spelled out the most recent bulletin.<sup>83</sup> The sense of excitement and mystery created by such pronouncements as 'The wood of Birnam moves towards Dunsinane',<sup>84</sup> combined with 'The emphatic gesture, eloquence of eye / Scenes, Music, every energy we try' (see note 91 below), fixed audience interest on Elliston's stage, and Shakespeare's narrative.

Inevitably, a production of Shakespeare in which the absence of the Bard's 'divine language' is a point of note,<sup>85</sup> prompts the questions, 'What sort of play is *Macbeth* the 'burletta'? and, 'If his language can be so easily subtracted from the equation, where

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<sup>79</sup> Murray, 'Elliston's Productions of Shakespeare', p. 104.

<sup>80</sup> Edward Wedlake Brayley, *Historical and Descriptive Accounts of the Theatres of London* (London, 1826), p. 73.

<sup>81</sup> Murray, 'Elliston's Productions of Shakespeare', p. 101.

<sup>82</sup> *Ibid.*, p. 102.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> *The Times*, 1 September 1809.

does Shakespeare's genius reside?' Elliston's *Macbeth*, unlike many productions that Richard W. Schoch terms 'burlesque' Shakespeare, was not a parody. While Schoch lists John Poole's *Hamlet Travestie* (1810) under that heading,<sup>86</sup> Elliston's *Macbeth* is absent from Schoch's inventory of early nineteenth-century parodies of Shakespeare (discussed further in Chapter Four).<sup>87</sup> Unlike Poole's *Hamlet*, Elliston's version was not a work modelled on Shakespeare, but made to seem ridiculous for exaggerated or comic effect. His play does not ridicule the often pretentious productions at the 'patent' houses, nor attack with satire the monopoly's exclusive claim to the 'National Poet'. Though, necessarily, Shakespeare's language was translated into rhyme, Elliston attempted a dignified transposition that satisfied decorum and the critics. The difference can be seen between John Poole's ludicrously rhymed parody of *Hamlet* and Elliston's narrative account. *Laertes'* request to leave the court is rendered by Poole as:

I have a mighty wish to learn to dance,  
And crave your royal leave to go to France.<sup>88</sup>

By contract, Elliston's recasting served the truth of Shakespeare's meaning:

The fullness of comprehension and thorough acquaintance of Mr. Cross with the Shakespearean drama is evidenced in his rendering of the scene containing the famous soliloquy:

Is this a dagger that I see before me?  
My brains are scattered in a whirlwind stormy.<sup>89</sup>

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<sup>86</sup> *Hamlet Travestie* was performed at the New Theatre on 24 January 1811, by Elliston at the Surrey in April 1813, and as an afterpiece at Covent Garden on 17 June 1813. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 386.

<sup>87</sup> Richard W. Schoch, *Not Shakespeare: Bardolatry and Burlesque in the Nineteenth Century* (Cambridge, 2002).

<sup>88</sup> Bate, 'The Romantic Stage', p. 105.

The prologue Elliston commissioned from Dr. Busby explained his intentions; what his, in fact, hybrid ‘burletta’-ballet d’action-cum-melodrama, ‘though not indulg’d with fullest powers of speech’, would deliver.<sup>90</sup>

The poet’s object we aspire to reach:  
 The emphatic gesture, eloquence of eye,  
 Scenes, Music, every energy we try  
 To make your hearts for murdered BANQUO melt,  
 And feel for DUNCAN as brave MALCOLM Felt...<sup>91</sup>

Shaped by the restrictions imposed on speech, Elliston’s *Macbeth* nevertheless recognised play-goers’ growing preference for visual experience, and melodrama’s ability to give full expression to popular feeling. Movement and gesture enabled spectators to understand fully, in John Weaver’s words, ‘Things conceiv’d in the Mind’ by the representation of ‘*Actions, Manners and Passions*’, though the performers ‘say not a Word’.<sup>92</sup> Playing to audience appetite for spectacle, and employing melodrama’s techniques, Elliston enabled audiences to read and respond to the attitudes and gestures on stage as true representations of feeling. Elliston’s rich array of stage semiotics – gesture, song, music, costume, signs, symbols, scenery, effects and lighting – compensated for dialogue, to render the ‘visual no less potent’ than the ‘plain-speaking literalness of the word.’<sup>93</sup>

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<sup>89</sup> H. T. Hall, *Shakspeare’s [sic] Plays: The Separate Editions of with the alterations done by various hands* (Cambridge, 1873), pp. 45–6.

<sup>90</sup> Dr. Busby’s ‘Address’ reproduced in *The Morning Post*. *The Morning Post*, 6 September 1809.

<sup>91</sup> *Ibid.*

<sup>92</sup> Smith, ‘Dance and the Georgian Theatre’, pp. 326–27.

<sup>93</sup> Porter, ‘Seeing the Past’, p. 188.

If Elliston's *Macbeth* stood as a true representation of feeling and the Bard's dramatic intent, Shakespeare's genius perhaps lay in, as Busby put it, his fidelity to 'Nature and the Drama's law'.<sup>94</sup> In the eighteenth-century, the ancient Christian sense of 'genius' as 'the spirit of a person', took on a new meaning: 'an instinctive and extraordinary capacity for imaginative creation, original thought, invention or discovery.'<sup>95</sup> This notion of 'original genius', developed in the eighteenth century, dominated the nineteenth, and became widely attached to Shakespeare, Jonathan Bate says, because of his supposed 'artlessness'.<sup>96</sup> William Hazlitt spoke of Shakespeare's special ability to convey the 'local truth of imagination and character', and Dr. Johnson of his plays as 'exhibiting the real state of sublunary nature'.<sup>97</sup> Busby's address, too, recognised his genius in portraying character:

SHAKESPEARE arose! Full-orbed then Genius shone.

[.] ... [.] ...

From this GREAT SOURCE our promised scenes we draw

MACBETH, the regicide MACBETH pourtray,

His ruthless consort and her direful sway ...<sup>98</sup>

Elliston's audience did not need words to be excited by Shakespeare's imaginative creation of a wood that moves, for he supplied text, nor to be captured by the interplay of moods and range of characters, nor to respond to plays, as Leigh Hunt put it in a review of Hazlitt's *Characters of Shakespeare's Plays*, 'that deal chiefly with the

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<sup>94</sup> Dr. Busby's 'Address' reproduced in *The Morning Post*. *The Morning Post*, 6 September 1809.

<sup>95</sup> Jonathan Bate, *The Genius of Shakespeare* (London, 2016), pp. 162-63.

<sup>96</sup> *Ibid.*, p. 163.

<sup>97</sup> William Hazlitt, *Characters of Shakespeare's Plays* (1817) cited *Ibid.*, pp. 175-76.

<sup>98</sup> 'Prologue to the ballet of Macbeth, now performing at the Royal Circus: spoken by Mr. Elliston, written by Dr. Busby', *The Morning Post*, 6 September 1809.

knowledge of life.<sup>99</sup> Elliston's staging, though denied speech, still enabled audiences to recognise the material and psychological world Shakespeare created – 'the course of the world' Johnson described:

... good and evil, joy and sorrow, mingled with endless variety of proportion and innumerable modes of combination; and expressing the course of the world, in which the loss of one is the gain of another; in which, at the same time, the reveller is hasting to his wine, and the mourner burying his friend; [...] and many mischiefs and many benefits are done and hindered ...<sup>100</sup>

## Melodrama: a vehicle to free the stage?

Though it is commonly held that melodrama became the characteristic dramatic form of the nineteenth century,<sup>101</sup> no adequate history of melodrama exists. Scholars such as Iain McCalman and Matthew Buckley locate melodrama's origins in Elizabethan drama,<sup>102</sup> likewise Jacky Bratton, who also see traces of the genre's roots in the Renaissance.<sup>103</sup> Louis James identifies in melodrama those key emotions of 'pity' and 'fear' Aristotle prescribed for tragedy.<sup>104</sup> The very name, melodrama, literally 'mélodrame': music drama,<sup>105</sup> signals the genre's deployment of music to enhance the

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<sup>99</sup> Review dated 26 October 1817. L. H. and C. W. Houtchens (eds.), *Leigh Hunt's Dramatic Criticism 1808-1831*, (New York, 1949), pp. 168-69. Leigh Hunt, a friend of Keats and Byron, poet, journalist, essayist, literary critic and editor of the *Examiner* 1808-12 and 1815-21. In the missing years 1813-15 he was in prison for libel against the Prince Regent. Byron visited him in gaol in May 1813. *The Examiner* supported parliamentary reform and campaigned for an end to corruption in public life. Leigh Hunt's editorship was a high point in the history of English journalism, and his campaigning on a variety of liberal and human issues marks him out as one of the great reformers. His theatrical and literary criticism had a formative effect on British culture in the nineteenth and twentieth centuries. 'Leigh (James Henry) Hunt (1784-1859)', *ODNB*.

<sup>100</sup> Bate, *The Genius of Shakespeare*, p. 176.

<sup>101</sup> Michael Booth, *Theatre in the Victorian Age* (Cambridge, 1991), p. 153.

<sup>102</sup> McCalman, *British Culture 1776-1832*, p. 599. Matthew S. Buckley, 'The Formation of Melodrama' in Julia Swindells, and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 457.

<sup>103</sup> Bratton, *New Readings in Theatre History*, p. 12.

<sup>104</sup> James, 'Jerrold's Black Ey'd Susan', p.3. Eric Bentley, *The Life of the Drama* (London, 1965), p. 200.

<sup>105</sup> McCalman, *British Culture 1776-1832*, p. 599.

expressiveness of actors at particular moments of dramatic significance. Melodrama also proved a decidedly marketable product. In 1790 the genre did not exist: by 1830 melodrama not only dominated the stage but suffused popular culture, becoming 'mass culture's basic narrative product, its most successful commodity form.'<sup>106</sup>

Serious critics disparaged melodrama's mummery and musical dramaturgy as culturally 'low',<sup>107</sup> and the form soon became associated with the drama in decline.<sup>108</sup> Melodrama's absorption of other cultural forms such as legend, folk tales and folk song threatened to dilute élite with popular cultural values.<sup>109</sup> Plot mechanisms – coincidences, sudden revelations, unexpected inheritances, discovery of lost documents, last-minute reprieves (as experience by *William* in *Black Ey'd Susan*, discussed in Chapter Two) – comfortingly ensured that goodness and innocence always triumphed over adversity.<sup>110</sup> With an emphasis on overwrought action and emotion, and crude, naïve construction, melodrama represented the opposite of the élite's conception of drama's didactic and moral purpose.<sup>111</sup>

A caricature in the *Satirist* of 1807, carrying the title *The Monster Melo-drama*, illustrates the depth of disapproval the patentees' adoption of melodrama provoked (see Appendix 13).<sup>112</sup> The image shows a hybrid beast: a female, dog-like creature with four

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<sup>106</sup> Buckley, 'The Formation of Melodrama', p. 459.

<sup>107</sup> Moody, *Illegitimate Theatre*, p. 87.

<sup>108</sup> Moody, *Illegitimate Theatre*, pp. 49–50. Jacky Bratton, *New Readings in Theatre History* (Cambridge, 2003), p. 12.

<sup>109</sup> McCalman, *British Culture 1776–1832*, p. 599.

<sup>110</sup> Michael Slater, *Douglas Jerrold 1803-1857* (London, 2002), p. 68.

<sup>111</sup> Bratton, *New Readings in Theatre History*, p. 12; Buckley, 'The Formation of Melodrama', pp. 457–59; Louis James 'Was Jerrold's *Black Ey'd Susan* more popular than Wordsworth's *Lucy*?' in David Bradby, Louis James and Bernard Sharratt (eds.), 'Performance and politics in popular drama', *Aspects of popular entertainment in theatre, film and television 1800–1976* (Cambridge, 1980), p. 4.

<sup>112</sup> 'The Monster Melo-drama,' from the *Satirist*, 1807. HL-HTC: Theatrical caricature prints.

heads representing 'Comedy', 'Tragedy', 'Farce' and 'Pantomime', part clothed in harlequin dress. While giving nourishment to a host of contemporary dramatists, the 'monster' tramples on 'Shakespeare's Works' and upon a scroll headed 'Regular Drama', on which are listed other names associated with the English literary canon; Congreve, Beaumont and Fletcher. Lampooning the first reported melodrama performed at a 'patent' house, Holcroft's *The Tale of Mystery*, the creature's tail bears the inscription 'A Tail of Mystery'. A flock of geese in the background may represent the philistine taste of an audience unable to discriminate between the authentic and the specious.

The French Revolution has a role in the form's evolution as catalyst for the radical shift that melodrama represents in the history of the stage.<sup>113</sup> Performed in Paris in 1791, Boutet de Monvel's *Les Victimes cloitrées* is generally considered the first melodrama.<sup>114</sup> The version that arrived on the London stage at the turn of the century may have owed much to the melodrama of Revolutionary Paris in particular.<sup>115</sup> Originally, which is to say, in the period before the first recorded performance at the 'patent' Covent Garden in 1802, melodrama was associated with the 'minor' houses.<sup>116</sup> The first identified documented appearance of the term in England occurred in a letter signed by an 'H. Harris', most likely Henry Harris, proprietor of Covent Garden, who wrote from Paris in August 1802:

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<sup>113</sup> Buckley, 'The Formation of Melodrama', p. 458.

<sup>114</sup> Sally Ledger, *Dickens and the Popular Radical Imagination* (Cambridge, 2007), p. 7.

<sup>115</sup> Hadley, *Melodramatic Tactics*, p. 66.

<sup>116</sup> *Ibid.*, pp. 66–7.

At Le Port St. Martin, an entirely novel species of entertainment is performed; called melodrama—mixing, as the name implies (*mêler drame*) the drama, and ballêt of action.<sup>117</sup>

The first known review is of Covent Garden's production of Thomas Holcroft's *The Tale of Mystery* in November 1802.<sup>118</sup> An adaptation of Guilbert de Pixérécourt's *Coelina, où L'Enfant du Mystère* (1800), Holcroft's play clearly owed its genesis to French melodrama. Press reports indicate that before Covent Garden's production 'melodrama' had been unknown to serious critics in England:

*A Melo-Drame* in Two Acts, called *A Tale of Mystery*, was brought forward on Saturday evening. [...] An Entertainment [...] more decidedly sanctioned by the approbation of an audience, has never been produced on the English stage.<sup>119</sup>

On Saturday night the *Melo-Drame* made its appearance. There is certainly no affectation in giving it this name, as it is quite unlike anything that has hitherto been brought out on the English stage.<sup>120</sup>

As with 'burletta', the definition shifted over time. *The Times*' account described *A Tale of Mystery* as a *mélange* of 'fable, incident, dialogue, music, dancing and pantomime.'<sup>121</sup> *The Morning Chronicle* noted its 'mixture of every different species of theatrical representation.' Importantly for our understanding of Elliston's choices, the review observed the effect created, namely, that of 'heightening the effect of each particular part of the entertainment.'<sup>122</sup> More than a decade later, perceptions had changed: *The Theatrical Inquisitor* proclaimed the genre escapist, anodyne, insipid,

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<sup>117</sup> Letter signed H. Harris, dated 7 August 1802 in Frederick Reynolds, *The Life and Times of Frederick Reynolds*, (London, 1827), Vol. II, p. 346.

<sup>118</sup> McCalman, *British Culture 1776–1832*, p. 599. Buckley, 'The Formation of Melodrama', p. 469. H, *A History of English Drama 1660–1900* Volume IV, p. 326.

<sup>119</sup> *The Times* printed a fulsome, two-column-length review. *The Times*, 15 November 1802.

<sup>120</sup> *The Morning Chronicle*, 15 November 1802.

<sup>121</sup> *The Times*, 15 November 1802.

<sup>122</sup> *The Morning Chronicle*, 15 November 1802.

unintellectual and undemanding.<sup>123</sup> Later still, ‘melodrama’ became more broadly interpreted as ‘a form of sensational drama, in which a victimized figure of good is pitted against the forces of injustice.’<sup>124</sup> Melodrama remains a hybrid and fluid form; twenty-first century scholars offer no single definition.<sup>125</sup>

For the purpose of considering Elliston’s use of melodrama as an instrument to free the stage, two caveats concerning early nineteenth-century perceptions should be borne in mind. These are the provisos that the response of the contemporary audience cannot be recovered, and that what is now termed melodrama and what was performed at early 1800s ‘minor’ theatres may share few attributes.<sup>126</sup> Less tentatively, it can be stated that melodrama was an inexact term incorporating a range of dramatic forms, and that it was a successful hybrid watched for the first four decades of the nineteenth century by a heterogeneous audience.<sup>127</sup>

Elliston became an early adopter. Before acquiring his first London theatre, perhaps seeking to replicate Holcroft’s success, perhaps to demonstrate his alertness to trend, or his erudition, or to add ‘dramatist’ to his career portfolio, he refashioned another of Pixérécourt’s plays; *L’homme à trois masques; ou, le proscrit de Venise* (1801).<sup>128</sup> It seems, too, that status conferred by Royal association formed part of Elliston’s motive. Wishing to maintain, or re-ignite, George III’s earlier favour (see

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<sup>123</sup> *The Theatrical Inquisitor and Monthly Mirror*, ‘On melo-drama’, May 1818, pp. 158–62.

<sup>124</sup> McCalman, *British Culture 1776–1832*, p. 599.

<sup>125</sup> John Mercer and Martin Shingler (eds.), *Melodrama: Genre, Style, Sensibility* (London, 2004), p. 2.

<sup>126</sup> James, ‘Jerrold’s Black Ey’d Susan’, p. 6. Hadley, *Melodramatic Tactics*, p. 66.

<sup>127</sup> James, ‘Jerrold’s Black Ey’d Susan’, p. 11. Hadley, *Melodramatic Tactics*, p. 66.

<sup>128</sup> If Elliston’s intention had been to seem learned, he may have been disappointed, for Pixérécourt’s adapters acquired a reputation as ‘lowly, hack authors’. Moody, *Illegitimate Theatre*, p. 81.

Chapter One), Elliston prefaced the published work with a lengthy, floridly patriotic dedication to ‘His Majesty the King’ dated 15 May 1805, the beginning of which reads:

TO THE KING

SIRE,

IF in acknowledging those acts of condescension and patronage, your Majesty has showered upon me I be thought vain – I must glory in the accusation; for though the proper forms and gradations of society have placed me at that humble distance [...] can I be blamed if on such an occasion as the present, my nature seeks with an eagerness (liable to the charge of presumption) to unbosom all its feelings?

Permit me then, gracious Sir, to say in the true style of an Englishman

I thank you<sup>129</sup>

Elliston’s, *The Venetian Outlaw*, in three-act ‘illegitimate’ format, appeared on the ‘legitimate’ Drury Lane stage on 26 April 1805, with Elliston in the role of *Vivaldi*.<sup>130</sup>

The essential conservatism, commitment to order and morality found in Pixérécourt’s new form were recognised immediately.<sup>131</sup> In its earliest incarnation, melodrama was seen as a means of elevating and restoring the drama to virtue and decency.<sup>132</sup> Perhaps this was Elliston’s intention for *The Venetian Outlaw*, and for his development of melodrama at the Royal Circus/Surrey, given his aspiration to raise dramatic standards and make his ‘minor’ house worthier than ‘any similar, place of amusement’.<sup>133</sup> Elliston’s declared commitment to provide the ‘highest order of

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<sup>129</sup> Robert William Elliston, *The Venetian Outlaw, a Drama, in Three Acts. Translated and Adapted to the English Stage by R.W. Elliston* (London, 1805), p. iii.

<sup>130</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 309.

<sup>131</sup> Buckley, ‘Refugee Theatre: Melodrama and Modernity’s Loss’, p. 176.

<sup>132</sup> *Ibid.* Buckley, ‘The Formation of Melodrama’, p. 460. Hadley, *Melodramatic Tactics*, p. 3.

<sup>133</sup> Handbill printed by Lowndes and Hobbs, Printers, Marquis-Court dated 13 June 1809. HL-HTC: Elliston Papers, Box 1.

attractive entertainment and instruction'<sup>134</sup> may, in part, have directed his professional instincts to melodrama's potential. Elliston harnessed the novel dramatic effect that melodrama was seen to lend performance:

The piece does not seem made up of threads and patches; it is not a jumble of contrarities; it has one character, though that character is a little *outré* and *bizarre*.<sup>135</sup>

Elliston's eager employment of melodrama, allied to the success of his programmes, may have assisted the form's development. He exploited the genre both to evade theatre regulation and to prosper. The fluidity of the form enabled him to devise innovative and appealing entertainments; the *outré* and *bizarre* attracted audiences. Given Elliston's purpose of drawing in numbers of socially mixed patrons, his use of melodrama recognised the issue of reception; the growing preference for a visual experience,<sup>136</sup> and melodrama's power to produce an emotional engagement between the audience and events of stage.<sup>137</sup>

As an 'expressive code or mode' that appealed very directly to the sentiments, melodrama attracted 'philosopher and labourer alike'.<sup>138</sup> The genre prompted emotional responses in eager, increasingly dramatically uninitiated audiences.<sup>139</sup> Byron remarked of the climate of the period of melodrama's early flourishing, 'The great object of life is

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<sup>134</sup> *Copy of a Memorial* 1818, p. 36.

<sup>135</sup> Review of the first 'melodrama', *The Tale of Mystery*. *The Morning Chronicle*, 15 November 1802.

<sup>136</sup> McCalman, *British Culture 1776–1832*, p. 599.

<sup>137</sup> Smyth, 'Attitude and Gesture in Delaroche and Melodrama', p. 34.

<sup>138</sup> Mercer and Shingler, *Melodrama: Genre, Style, Sensibility*, p.3. James, 'Jerrold's Black Ey'd Susan', p. 4.

<sup>139</sup> Patricia Smyth, 'Representing Authenticity: Attitude and Gesture in Delaroche and Melodrama', *Oxford Art Journal* 34.1 2011 31–53, p. 35.

sensation – to feel that we exist, even though in pain.’<sup>140</sup> When he offered as remedies to relieve that hunger - gaming, battle, travel, or keenly-felt pursuits of any description - he could as well have included the power of melodrama to satisfy the craving for sensation. Melodrama engaged the public through the portrayal of strong feeling.

Melodrama’s rejection by established arbiters of taste had roots in the eighteenth century’s discourse of decorum, in the notion that in a civilized society true feelings should be concealed.<sup>141</sup> At the same time, and paradoxically, these judges privileged ‘authenticity’ and ‘truth’ in art and drama. Those believing in theories of restraint, found it inconceivable that melodrama’s exaggerated form could represent authentic feeling.<sup>142</sup> The supplanting of the hierarchical genres of ‘Tragedy’ and ‘Comedy’ by a vogue for disordered medleys of dramatic forms, foreshadowed in their minds the imminent overthrow of the moral order codified in the institutions of ‘aristocracy, property, heredity, monarchy and the Established Church.’<sup>143</sup> Jeffrey N. Cox offers a counter-proposal; that melodrama’s narratives of disruption were intended to scare audiences back into domestic conformity.<sup>144</sup>

Elliston was aware of the danger melodrama had come to be seen to pose to the cultural authority of the ‘patent’ theatres, but he recognised that the genre could provide him with a means of enhancing productions at his ‘minor’ theatre. The form enabled him gradually to abandon infantilising ‘rhyme’, as he harnessed melodrama’s strengths

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<sup>140</sup> Letter to Anne Isabella Milbanke dated 6 September 1813. R.G. Howard (ed.), *Letters of Lord Byron* (London 1962), p. 82.

<sup>141</sup> Melissa Percival, *The Appearance of Character* (MHRA Texts & Dissertations, 1999), p. 69 cited in Smyth, ‘Attitude and Gesture in Delaroche and Melodrama’, p. 35.

<sup>142</sup> Smyth, ‘Attitude and Gesture in Delaroche and Melodrama’, p. 34.

<sup>143</sup> Moody, *Illegitimate Theatre*, pp. 51–2.

<sup>144</sup> Jeffrey N. Cox, ‘The Gothic Drama: Tragedy or Comedy?’ in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 409.

to a stage forbidden speech: the power to excite by exaggeration and sensationalism, accompanied by music appropriate to the action.<sup>145</sup> Melodrama's already enthusiastic adoption at the 'patent' houses<sup>146</sup> meant Elliston's appropriation both achieved equivalence with and undermined his rivals. He deliberately employed the form as a covert means of subverting the 'patent' theatres' hold on the 'regular' drama.

### **Why did melodrama gain such influence?**

Despite melodrama's overwhelming success, it came to be considered fit only for the ignorant and illiterate.<sup>147</sup> Elaine Hadley quotes this view of consumers of popular theatre noted in 1818:

The taste then, for melo-drama, must arise from an inertness in the minds of the spectators, and a wish to be amused without the slightest exertion on their own parts, or any exercise whatever in their intellectual powers.<sup>148</sup>

Such scathing commentary on melodrama's effects begs the question, 'Why did the genre gain such influence?' Looking again at the social and political context from which melodrama emerged, may provide an answer, at least in part. In the first decade of the century, the experience of Revolutionary France, we have seen, bred fear in England of anarchy, social and political revolution. By 1810, rumours of invasion by the French were at their height; Bonaparte had gained control over much of mainland Europe, and the brutality of the conflict in Spain had become well-known in England.<sup>149</sup> Illuminations

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<sup>145</sup> Murray, *The Great Lessee*, pp. 324–31.

<sup>146</sup> McCalman, *British Culture 1776–1832*, p. 599.

<sup>147</sup> Buckley, 'Refugee Theatre: Melodrama and Modernity's Loss', pp. 176–77.

<sup>148</sup> Hadley, *Melodramatic Tactics*, pp. 2–3.

<sup>149</sup> *Ibid.*, p. 183.

exhibited at Drury Lane to celebrate Wellington's victory at Vittoria, Britain's last major battle against Napoleon in Spain, reported by Lord Byron,<sup>150</sup> attest to the theatre world's alertness to the effect of war on social expression. The civilian population endured economic and emotional rupture; those experiences of war produced not only disruptive, but cohesive social outcomes.

From the upheaval of war emerged discourses of community and identity, society and nation, and these were reflected in the storylines melodrama advanced. In early melodrama the archetypal characters came to be seen as representative of lived realities. In time, overlapping sub-genres developed. A consequence of the growth in rural migration, these plays often took the tension between town and country as a narrative base. Giving the 'lower orders' wider visibility, depicting the dispossessed - the outlaw figure, the orphan, the suffering lone woman - disrupted domestic settings, familial dispersal and reunion, the nation's encounters with war reflected in nautical themes,<sup>151</sup> melodrama recreated many spectators' own experience of 'uncertainty, dislocation, displacement, loss and fracture.'<sup>152</sup> The treatment of these themes on stage generally resolved into satisfying climaxes of retribution, redemption and restored community, and tended to endorse the audience's sense of moral and social justice.<sup>153</sup> The technical sophistication with which the staging of melodrama became associated – making the most of innovations such as the panorama and diorama, and improved

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<sup>150</sup> Byron wrote to his friend Thomas Moore, 'Drury Lane had a large M.W., which some thought was Marshal Wellington; others, that it might be translated into Manager Whitbread; while the ladies of the vicinity and the saloon conceived the last letter to be complimentary to themselves. I leave this to the commentators to illuminate.' Letter from 4 Benedictine Street, St James's to Thomas Moore, dated 8 July 1813. R.G. Howard (ed.), *Letters of Lord Byron* (London, 1962), p. 76.

<sup>151</sup> For example, Elliston's *Love's Perils* and *Black Ey'd Susan* discussed in Chapter Two.

<sup>152</sup> Hadley, *Melodramatic Tactics*, p. 3. Buckley, 'Refugee Theatre: Melodrama and Modernity's Loss', pp. 175 and 180.

<sup>153</sup> McCalman, *British Culture 1776–1832*, p. 600.

lighting techniques in ways which emphasized spectacular effect<sup>154</sup> - provided further enticement. Partly echoing and partly shaping audience response, early melodrama exerted an immense power to rouse and excite.<sup>155</sup>

That Elliston excelled at spectacular stage effects is seen in *The Times*' praise for the 'costume, scenic splendour, decoration and embellishment' of his 1809 *Macbeth*.<sup>156</sup> Outstanding scenery was a feature Elliston developed, and trumpeted in his advertisements and playbills. His announcement of 'The New Grand Melo-Drame founded on the Tale of Mystery' included a description of the backdrop to the second piece of the evening, a pantomime, 'To be, or not to be? Or, Shakespeare *versus* Harlequin [...] founded on Harlequin's Invasion written by D. Garrick, Esq.'

The last scene will present a SUPERB TEMPLE, with the Figure of SHAKESPEARE, surrounded by the Principal Characters of that immortal Bard, introduced by the Tragic and Comic Muses.<sup>157</sup>

The coupling of veneration of Shakespeare with pantomime seems incongruous, especially in light of Leigh Hunt's description of this form of entertainment in his essay 'On Pantomime'.

...a species of drama [...] that makes all parties comfortable; it enchants the holiday folks; it draws tenfold applauding thunder from the gods; it makes giggle all those who can afford to be made giggle ...<sup>158</sup>

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<sup>154</sup> Ibid. p. 599.

<sup>155</sup> Buckley, 'Refugee Theatre: Melodrama and Modernity's Loss', pp. 183 and 187.

<sup>156</sup> *The Times*, 1 September 1809.

<sup>157</sup> Surrey Theatre Playbill for 6, 8, 10 April 1812: HL-HTC: Playbills and programmes.

<sup>158</sup> Essay 'On Pantomime' dated 5 January 1817. Houtchens, *Leigh Hunt's Dramatic Criticism 1808-1831*, p. 140.

This pantomime of Elliston's was an adaptation by Thomas Dibdin of David Garrick's *Harlequin's Invasion* first performed at Drury Lane in December 1759. His version illustrates both Elliston's commitment to acquainting less sophisticated audiences with Shakespeare, though in this case, as light entertainment, and Elliston's argued assumption of Garrick's legacy discussed in Chapter Four.<sup>159</sup>

Elliston's staging of the 'petite Melodramatic Spectacle' of *Ciudad Rodrigo*, presented the Surrey audience with scenic depictions of war: 'incidents and situations appropriate to the recent gallant and glorious achievements of our victorious Army in the Peninsula.'<sup>160</sup> His production also provides evidence of melodrama as a powerful medium through which to reflect the nation's lived experience. To mark Wellington's victory at Salamanca, Elliston added to the scene, 'a correct and striking likeness in transparency of the immortal Marquis Wellington.'<sup>161</sup> Elliston redoubled his efforts to fulfil the appetite for spectacle as he progressed to the Olympic and then Drury Lane. At the Olympic his playbills advertised new scenery for W. T. Moncrieff's *Rochester; Or, King Charles the Second's Merry Days*:

Parlour of the Horns Inn, Landscape by Moonlight. Exterior of Mouldy Hall. Interior of ditto. The Dining Room of the Horns, decorated as for a House Warming. Gallery in the Horns. Romantic Landscape. Forest of Newport. Village of Newport.<sup>162</sup>

The extract below, taken from a playbill of February 1825, shows Elliston's introduction of technically sophisticated lighting and lavish and novel scenic devices at Drury Lane.

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<sup>159</sup> Murray, *The Great Lessee*, p. 327.

<sup>160</sup> Surrey Theatre Playbill, 30 April 1812, Folger Archive cited in Murray, *Robert William Elliston Manager*, p. 45 and Note 77, p. 173.

<sup>161</sup> Murray, *Robert William Elliston Manager*, p. 45.

<sup>162</sup> Playbill for the Olympic Theatre dated 9 December 1818. HL-HTC: Playbills and programmes.

Weber's Opera of *Der Freischutz* (20<sup>th</sup> time)

After which (2<sup>nd</sup> time) a Grand Comic Pantomime called *Harlequin and The Talking Bird; or, the Singing Trees and Golden Waters*

*SCENERY*: 1. Zalec's Abode and Colossal Guide-Light. – 2. Grove of Singing Trees. - 3. Enchanted Aviary. – 4. The Crystal Grotto and golden Waters. – 5. Italian Sea Port. - 6. Courtyard of an Inn. – 7. The Second Arch of Westminster bridge. - 8. A Peep at Threadneedle Street. – 9. A Short Walk to the West End. – 10. The Washington Company. – 11. Tobacconist's shop in the vicinity of London. – 12. The Firmament. – 13. Auld Reekie. - 14. Exterior of a Haunted House. – 15. Haunted Kitchen. - 16. Gipsey Haunt in ruins of an Abbey, by Moonlight. – 17. Terrestrial Temple of the Peri.<sup>163</sup>

Traces of David Garrick's influence (whom, in Chapter Four it is argued, Elliston sought to emulate), through the inventions of his designer, Philippe Jacque de Louthembourg, are apparent. De Louthembourg, a native of Alsace, landscape artist and scenic designer, arrived in England in 1771 with a letter of introduction to Garrick.<sup>164</sup> He proposed radical changes to the scenic arrangements at Drury Lane, for which Garrick consequently made him entirely responsible. De Louthembourg continued at Drury Lane under Kemble, leaving in 1781. It is possible to compare, for example, scenes 4, 5, 13 and 16 above with the description of de Louthembourg's Eidophusikon, an actor-less, miniature theatre exhibited in 1782 (see Appendix 14).<sup>165</sup>

**Does Elliston's employment of melodrama help us decide what the genre represented?**

We have noticed that in the early 1800s, melodrama functioned in that age of uncertainty, both as a vehicle of emotional displacement and of social cohesion, or at least conformity (see note 144). Suiting Elliston's struggle for equal access to the

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<sup>163</sup> HL-HTC: Playbills and programmes.

<sup>164</sup> 'Philippe Jacques de Louthembourg (1740–1812)', *ODNB*.

<sup>165</sup> Handbill dated 26 January 1782. HL-HTC: Winston Papers 1733–1871.

canon, the genre worked also, in Elaine Hadley's conception, 'as a lawbreaker, a revolutionary leveller of all hierarchies, whether based on class, genre or taste.'<sup>166</sup>

Elliston's employment of melodrama in the early 1800s tells us that he viewed the genre as an instrument of such change, the means by which he could secure critical and popular appeal for his covert 'regular' drama. The perception of melodrama on the one hand, as 'the engine of the collapse of 'legitimate' drama', yet on the other, as 'philosophical, democratic and well crafted',<sup>167</sup> may speak to Elliston's prescience in embracing the form. Melodrama's sensational elements gained more influence than earlier concerns with morality,<sup>168</sup> until, by the monopoly's fall in 1843, the initial understanding of melodrama as a conservative, didactic genre of social restoration had been superseded.<sup>169</sup> Over time, construction of melodrama's meaning moved from 'a dominantly progressive phenomenon' to 'a reactionary rejoinder to social change'.<sup>170</sup> These conflicting definitions describe a genre that constantly shifted, explaining scholarship's fractured interpretation and re-appraisals. Theatre historians speak of melodrama's formal qualities as 'irrational in structure' and then of 'the genre's profound structure',<sup>171</sup> of its 'simple and popular form' and 'refinement of theme and treatment',<sup>172</sup> of its cultural significance as worthless and valueless,<sup>173</sup> and its 'impact on ideologies of

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<sup>166</sup> Hadley, *Melodramatic Tactics*, p. 66.

<sup>167</sup> Buckley, 'The Formation of Melodrama', p. 459. James, 'Black Ey'd Susan', p. 4.

<sup>168</sup> Guilbert de Pixérécourt, *Théâtre Choisi* (1843) cited in Buckley, 'Refugee Theatre: Melodrama and Modernity's Loss', p. 181.

<sup>169</sup> Buckley, 'Refugee Theatre: Melodrama and Modernity's Loss', pp. 183 and 186.

<sup>170</sup> Hadley, *Melodramatic Tactics*, p. 3.

<sup>171</sup> Buckley, 'The Formation of Melodrama', pp. 459–60.

<sup>172</sup> James, 'Jerrold's Black Ey'd Susan', p. 14.

<sup>173</sup> Bratton, *New Readings in Theatre History*, p. 15.

nation, race, family and gender'.<sup>174</sup> In the twenty-first century, a widespread view still holds that melodrama deals with highly-charged emotions expressed in an extravagant register.<sup>175</sup> A recent reassessment which asks, 'What sort of meaning are we to attach to the historical meaning of melodrama?', while granting 'some common ground with all those who so long condemned and opposed its rise', concludes:

If we recognize in melodrama a genre responsive to the context of its production [...] we might see it as a compensatory form through which its consumers are given relief from the continual, unresolved crises of modernity.<sup>176</sup>

Tension between town and country, expressed in the melodrama of the early nineteenth-century, is replaced in the twenty-first by existential angst. These 'unresolved crises of modernity' mirror early nineteenth-century melodrama's response to experiences of 'uncertainty, dislocation, displacement, loss and fracture'.<sup>177</sup>

Melodrama nevertheless remains a contested area, and an elusive construct.

Supporting the central claim of this thesis that Elliston's pioneering activity led to the eventual abolition of 'patent' privilege, this chapter foregrounds Elliston's execution of an ingenious, covert strategy that allowed him to stage the 'legitimate' drama while avoiding sanction. His fusion of the traditional 'minor' genres of 'burletta' and *ballet d'action* and the new form, melodrama, recognised that play-going was becoming a more visual than auditory experience, while enabling him to construct unconventional, acclaimed productions that rivalled, and bettered 'patent' theatre performances. His borrowings from the canon, though mediated illegitimately, were received as classic

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<sup>174</sup> Buckley, 'The Formation of Melodrama', p. 458.

<sup>175</sup> Mercer and Shingler, *Melodrama: Genre, Style, Sensibility*, p. 114.

<sup>176</sup> Buckley, 'The Formation of Melodrama', p. 474.

<sup>177</sup> McCalman, *British Culture 1776–1832*, p. 600. Buckley, 'Refugee Theatre: Melodrama and Modernity's Loss', pp. 175 and 180.

plays with high production values previously uncharacteristic of the 'minor' theatre world.<sup>178</sup> What sources tell us of Elliston's early presentations, is that, whether named 'burletta', 'Melo-Drame' or *ballet d'action*, the audience read and responded to the attitudes and gestures on stage; movement and gesture enabled spectators to understand fully, 'Things conceiv'd in the Mind'<sup>179</sup> of the characters. Attuned to all genres from a life immersed in theatre, Elliston the manager, chose melodrama's 'extremely hybrid and fluid [and profitable] form'<sup>180</sup> as his dominant performance genre. Importantly, Elliston's willingness to experiment, to exploit melodrama's techniques, as Christopher Murray acknowledges, kept Shakespeare alive, not mummified, in early nineteenth-century popular theatre.<sup>181</sup>

The following chapter continues to interrogate the unorthodox form of Elliston's admired and popular 'legitimate' productions at the Royal Circus/Surrey, and his efforts to re-establish 'something like Shakespeare's own plays'<sup>182</sup> at Drury Lane. It asks whether the past exerted an influence on Elliston's choice of repertoire, and questions how far his practice may have been rooted in David Garrick's legacy, as the most celebrated actor of his time, and his self-created, indissoluble association with Shakespeare, the 'National Poet'.

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<sup>178</sup> Unattributed press cutting dated 23 May 1810, titled 'Summer Theatres'. HL-HTC: Elliston Papers, Box 1.

<sup>179</sup> John Weaver, *An Essay Towards an History of Dancing* (London, 1712), p. 160, in Smith, 'Dance and the Georgian Theatre', pp. 326–27.

<sup>180</sup> McCalman, *British Culture 1776–1832*, p. 599.

<sup>181</sup> Murray, 'Elliston's Productions of Shakespeare', p. 121.

<sup>182</sup> Odell, *Shakespeare from Betterton to Irving*, p. 148.

## Chapter Four: Elliston recasts the classic canon

### Introduction

At the inception of his London theatre management career in 1809, Elliston adopted strategies designed to bring him commercial success and social standing. He wished 'to cease to be the mere implement of other people's speculations.'<sup>1</sup> He looked to the past to satisfy these goals, choosing material tried and tested at the 'patent' theatres on which to base initial productions at his 'minor' establishment. At the same time, he determined to raise 'minor' theatre standards by presenting high value performances of 'regular' drama on the 'illegitimate' stage. Tensions between profit and prestige, tradition and innovation, exclusivity and diversity, attended Elliston's efforts to elevate the Royal Circus's/Surrey's reputation, and his own, with subversive productions of works from the canon of English literary drama.

This chapter argues that Elliston's transgressive productions at the Royal Circus, stock plays from the classic repertoire performed only at the 'patent' houses until 'burletta'-ized by Elliston, brought about effective homogenization of London theatre within a decade.<sup>2</sup> Boxed in by consistent rejection, Elliston determined to push the bounds of legislation. His was a ground-breaking subversive operation mounted to dislodge the monopolists' exclusive rights to 'the spoken word', Shakespeare, and the canon. The chapter examines Elliston's search for authenticity in his staging of Shakespeare, be it by stealth at the Royal Circus or openly at Drury Lane. Of his nine Shakespearean productions at the Royal Circus/Surrey (see Appendix 15) - whether

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<sup>1</sup> *Copy of a Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, 1818; with copies of two letters in reply to the contents of such Memorial by R. W. Elliston, Comedian* (London, 1818), p. i.

<sup>2</sup> Elliston renamed the Royal Circus 'The Surrey' in March 1810 to distance his theatre from its 'illegitimate' past.

'burletta'-ized *Macbeth*, cameos from David Garrick's *The Jubilee*, melodramas of *The Life and Death of King Richard III* and *King Lear*, or, in his first Season at Drury Lane, his own revisions of *Coriolanus* and *King Lear*<sup>3</sup> - Elliston sought to produce 'almost exactly the play of Shakespeare.'<sup>4</sup> Elliston's commitment to the 'national' drama (see Chapter Two) may have informed his strivings to reinstate Shakespeare: the notion that emerged the eighteenth century of his genius as representing, in part, 'a manifestation of cultural nationalism'.<sup>5</sup>

This chapter examines Elliston's endeavour in the context of Garrick's project: the 'deification' of Shakespeare and, by association, Garrick himself. The chapter contends, too, that in exciting an appetite for Shakespeare among less educated theatre-goers - supplying 'every Information to simplify the Plot'<sup>6</sup> - Elliston both re-asserted theatre's didactic purpose, an élitist proposition, and recognised the growing heterogeneity of London's theatre audience. This, in advance of the Select Committee's agenda for theatre reform, aimed at encouraging respectable conduct and self-improvement of London's increasingly mixed demographic.<sup>7</sup> In emulating Garrick, Elliston hoped to assume his prestige and, at the same time, make Shakespeare accessible to a more diverse audience.

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<sup>3</sup> David Garrick (1717–79) became the eighteenth-century's most celebrated actor/manager. He was Lessee of The Theatre Royal Drury Lane 1747–76. R. W. Elliston (ed.), *Shakespeare's Coriolanus from the prompt copy of the Theatre Royal, Drury Lane, 24 January 1820* (London, 1820). R. W. Elliston (ed.), *Shakespeare's Tragedy of King Lear, printed from Nahum Tate's Edition, with some restorations from the Original Text* (London 1820).

<sup>4</sup> *The Morning Chronicle*, 31 August 1809 in Christopher Murray, 'Elliston's Productions of Shakespeare' (1970), *Theatre Survey*, 11, p. 104.

<sup>5</sup> Jonathan Bate, *The Genius of Shakespeare* (London, 2016), p 189.

<sup>6</sup> Title page from an edition of John Cross's text in Folger Shakespeare Library in Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1971), Plate 5.

<sup>7</sup> Katherine Newey, 'Reform on the London Stage' in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780–1850* (Cambridge, 2003), p. 246.

Elliston's transgressive productions of plays hitherto performed only at the 'patent' theatres, may be seen not only as a fulfilment of his resolve to employ his own property effectively, but as the beginning of the progressive removal of any real distinction between the 'patent' and 'minor' theatres. Elliston's continuing challenge to the regime on his return to the Surrey in 1827 was taken up in 1832 by David Osbaldiston, named by Katherine Newey as a major promoter of Shakespeare as the people's dramatist.<sup>8</sup> While duly acknowledging Osbaldiston's activity in the early 1830s, Elliston's much earlier contribution to widening access to Shakespeare, and probable influence on Osbaldiston (see Chapter Two), merits true recognition in the annals of theatre history. Elliston's loosening of the 'patent' theatres' hold on Shakespeare, and releasing of his text from bowdlerization on the 'legitimate' stage, began a trend which gathered a momentum that culminated in eventual liberation of the native canon from monopoly privilege.

## **A strategic approach**

As was the case with many of Elliston's ventures, paradox and prescience characterised his transgressive productions. He sought legitimacy for his 'illegitimate' theatre by attracting a diverse audience in the face of a regime that exercised 'a check on the principles of democracy and open competition.'<sup>9</sup> Elliston used the past to attract a contemporary audience, borrowing from the traditional repertoire, but hybridizing genres to create a new experience. Keen to capitalize the respect he had earned as a celebrated 'patent' star to draw audiences, Elliston risked performing on the stage of his

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<sup>8</sup> Katherine Newey, 'Shakespeare and the Wars of the Playbills' in Gail Marshall and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), p. 23.

<sup>9</sup> Newey, 'Reform on the London Stage', p. 244.

'minor', erstwhile disreputable 'Circus'. By these means he challenged the monopoly insistently, yet stayed within the law. Elliston feared reputational damage as a consequence of his commercial decision to appear at his own theatre, a concern he articulated on the eve of his first transgressive production:

...he trusts his friends on consideration will have no doubt that he may for a short time amuse himself by riding on the outside of the coach (for so this stage may perhaps be deemed as to his profession), without in the slightest degree relinquishing his claim to his place within.<sup>10</sup>

The Royal Circus's/Surrey's list of productions reveals that Elliston appeared only in versions of traditional drama in his first Royal Circus Season.<sup>11</sup> While seeking reform of monopoly privilege, he remained mindful of the classic canon's legitimising power.

From the perspective of an entrepreneur, Elliston's selection of perennial audience favourites, John Gay's *The Beggar's Opera* and Shakespeare's major tragedies,<sup>12</sup> promised the twin benefits of income and 'legitimate' status. In choosing Gay's ballad-opera and Shakespeare's *Macbeth* as his first adaptations, Elliston looked to convention, popular appeal, and a reliable commercial record. Associating himself with Shakespeare's and Garrick's cultural standing in the national psyche, Elliston tapped into 'sign systems of former times'<sup>13</sup> to enhance profit and reputation. He might have opted for contemporary playwrights such as Sheridan and George Colman the younger, acknowledged dramatists in the classic tradition,<sup>14</sup> also stock successes, but did not.

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<sup>10</sup> Handbill issued by Elliston from his home at Stratford Place on 13 June 1809. HL-HTC: Elliston Papers, Box 1.

<sup>11</sup> Christopher Noel Murray, *The Great Lessee: The Management Career of Robert William Elliston (1774–1831)*. A Dissertation presented to the Faculty of the Graduate School of Yale University in Candidacy for the Degree of Doctor of Philosophy, 1969, pp. 324–29.

<sup>12</sup> John C. Greene, *Theatre in Dublin, 1745–1820 A History* Vols. I and II (Maryland, 2011), p. 343.

<sup>13</sup> Roy Porter, 'Seeing the Past', *Past & Present*, No. 118 (Feb. 1988), 186–205, p. 187.

<sup>14</sup> Jane Moody, *Illegitimate Theatre in London 1770–1840* (Cambridge, 2000), p. 51.

Looking back to 1728 for his first production, Elliston's 'legitimate' repertoire relied on the past much as the advocates of a Third Theatre yearned for those 'admirable performances which had been the delight of our ancestors.'<sup>15</sup>

Following *The Beggars' Opera* with *Macbeth*, Elliston again drew on the past, this time invoking Garrick's unique place in the nation's theatre history. Under Garrick's management, between 1747 and 1776, Drury Lane became the leading theatre in Britain. Until Garrick revived Shakespeare's text in January 1744, a version of *Macbeth* altered by William Davenant, second of Charles II's patentees, had been in continuous use on the stage from the mid-1660s.<sup>16</sup> Garrick's revision became immensely popular, playing a hundred and fifty times at one or other of the 'patent' theatres between 1744 and 1777.<sup>17</sup> Remarkably, during most of the eighteenth century *Macbeth* achieved an average of five to six performances a year.<sup>18</sup> Treading in Garrick's footsteps, wittingly or unwittingly, Elliston followed the maxim coined by Thomas Davies, Garrick's biographer:

... the reviving of a good play will answer his [the theatre manager's] end of profit and reputation too perhaps.<sup>19</sup>

Elliston's early subversive productions stimulated the progressive removal of any substantial distinction between the 'patent' and 'minor' theatres. Playbills made clear that his was an altered version of the 'legitimate' original, cast in 'burletta' form, and

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<sup>15</sup> T. C. Hansard *Parliamentary Debates* (London, 1812), Vol. XXII, 17 March- 4 May 1812, 20 March 1812. Kraus Reprint, p.98.

<sup>16</sup> Robert E. Moore, 'The Music to *Macbeth*', *The Musical Quarterly* Vol. 47, No. 1 (January 1961), pp. 22–40, p. 23.

<sup>17</sup> James J. Lynch, *Box, Pit and Gallery: Stage and Society in Johnson's London* (Berkeley, 1953), pp. 102–04.

<sup>18</sup> Moore, 'The Music to *Macbeth*', p. 22.

<sup>19</sup> Thomas Davies, quoted in John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997), p. 392.

reduced from the 'patent' five acts to the 'illegitimate' three. Elliston's 'New Burletta, Melo Drame, in three parts, Founded on the subject, incidents and diction, carefully compressed, of the BEGGAR'S OPERA'<sup>20</sup> received critical acclaim. Illustrating the confused relationship between conservatism and innovation that existed in early nineteenth-century London theatre, approval of Elliston's novel repertoire, contrasts with disparaging reports of entertainments at Drury Lane. As Elliston was to claim in 1818, the 'patent' houses, by encroaching on the 'minors' domain, had 'become theatres for the display of the irregular drama.'<sup>21</sup> Drury Lane's production of *Blue Beard* was a case in point. Considered far from an exhibition of 'regular' drama, the performance dismayed the critics, (but earned £21,000 in its first forty-one nights).<sup>22</sup>

"Blue Beard" was got up at this theatre with the assistance of Astley's Horses. The Equestrian troop went through their evolutions with great applause [...] but the "critical and enlightened people" deemed the performance unworthy of a theatre-royal.<sup>23</sup>

Elliston afterwards staged Drury Lane's commercially proven *Blue Beard* at the Surrey, surpassing the equestrian display with a greater novelty; a live elephant upon which the protagonist processed to claim his bride.<sup>24</sup>

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<sup>20</sup> Surrey Theatre Playbill for *The Beggar's Opera* dated 1810. HL-HTC: Playbills and programmes.

<sup>21</sup> *Copy of a Memorial* 1818, p. 24. £21,000 in 1811 = Income value of £23,800,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>22</sup> 'The costs of hiring an equestrian troop, 1811.' Donald Roy (ed.), *Theatre in Europe, a Documentary History: Romantic and Revolutionary Theatre, 1789-1860* (Cambridge, 2003), Document no. 24, pp. 40–1.

<sup>23</sup> Report of a performance at the Theatre Royal, Drury Lane on 18 February 1811 in W. C. Oulton, *A History of the Theatres of London, containing an Annual Register of New Pieces, Revivals, Pantomimes, &c. from the year 1795 to 1817 inclusive in Three volumes* (London, 1818), Vol. I, p. 271. Philip Astley (1742–1814) equestrian performer and circus proprietor established Astley's Amphitheatre south of the river in 1769 to exhibit equestrian displays. In 1806 he opened the Olympic Pavilion, situated close to Drury Lane, as a year round theatre-cum-circus.

<sup>24</sup> W. G. Knight, *A Major London 'Minor': The Surrey Theatre 1805–1865* (London, 1997), pp. 13 and 18. *The Morning Post*, 11 December 1813.

In less than a decade from Elliston's tenure at the Royal Circus/Surrey, equal access to the 'regular' drama had become a fact openly acknowledged.<sup>25</sup> Elliston's agency in this development gained full recognition in his lifetime:

During his management he caused to be versified, burletta-rised, and melo-dramatised, any of our stock plays, (not omitting even Shakespeare's *Macbeth*); and it is to him [...] that the minor theatres are indebted for the emancipation they at present enjoy from the arbitrary restraints of recitative and 'inexplicable dumb-show'.<sup>26</sup>

Posthumously, Elliston's protégé and successor at the Surrey, David Osbaldiston, broadcast the achievements of the theatre revolution in which Elliston had played so prominent a role.

Bursting from the trammels of mere 'Sound and Show', they [the 'minor' houses] have dared to emulate the reputation of the Major Houses: instead of the jingling doggerels, that so offended all ears of taste, the flowing lines of SHAKESPEARE and of MASSINGER, of OTWAY and of ROWE, have been placed in substitution, and Decorum has now firmly established her empire, where before, were Riot and Confusion.<sup>27</sup>

## Transgressive productions

Announcing Elliston's opening of the Royal Circus on 3 April 1809, *The Morning Post* revealed, unintentionally, one of the covert means by which he was to circumvent the regime:

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<sup>25</sup> The patentees declared 'Their long established patent rights [had been] DESTROYED'. *Copy of a Memorial* 1818, p. 2.

<sup>26</sup> Edward Wedlake Brayley, *Historical and Descriptive Accounts of the Theatres of London* (London, 1826), p. 73.

<sup>27</sup> Surrey Playbill dated 15 September 1832, in *Playbills and Programmes from London Theatres 1801-1900: in the Theatre Museum, London* (Cambridge, 1983), cited in Katherine Newey, 'Shakespeare and the Wars of the Playbills', p. 21.

ELLISTON intends producing at the Circus, the ensuing season, operatical ballets in addition to the ordinary amusements of that place.<sup>28</sup>

The day following, Elliston carefully publicized his commitment to acting within the law.

Necessarily, he remained silent about his intention to perform 'regular' drama:

Mr. ELLISTON has embarked in this undertaking with the view of giving to its Exhibitions all the excellence of which they may be capable, within the authorities of the Licence under which they are conducted.<sup>29</sup>

Elliston's new enterprise attracted press attention unheard of in 'minor' theatre history.<sup>30</sup>

Initially disregarding the principle 'illegitimate' genre, 'burletta', Elliston launched the Royal Circus with a melodrama, *Albert and Adela; or, the Invisible Avengers*.<sup>31</sup> *The Morning Chronicle* reported approvingly that *Albert and Adela* possessed 'much variety and interest', at the same time commending Elliston's revolutionary improvements: 'The new stage-boxes add much to the beauty as well as the convenience of the theatre' (see Appendix 9).<sup>32</sup> A pantomime and two melodramas followed before the first 'burletta', *The Beggar's Opera*, on Thursday 15 June 1809,<sup>33</sup> also Elliston's first 'legitimate' play at his 'minor' house and first production in which he performed at his own theatre.

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<sup>28</sup> *The Morning Post*, 22 March 1809.

<sup>29</sup> *The Morning Chronicle*, 23 March 1809.

<sup>30</sup> Murray, 'Elliston's Productions of Shakespeare', p. 102.

<sup>31</sup> Murray, *The Great Lessee*, p. 324.

<sup>32</sup> *The Morning Chronicle*, 4 April 1809.

<sup>33</sup> Murray, *The Great Lessee*, p. 324.

After the February fire, Elliston continued to act with the Drury Lane Company at the Lyceum,<sup>34</sup> but then judged his own enterprise required the injection of respectability ‘which may attach itself to his personal appearance.’<sup>35</sup>

Elliston made his first appearance last night at the Circus, in the New Burletta, taken from that admired production the *Beggar’s Opera*; he was the *Macheath* of the piece, and fully merited the applause he received. The house overflowed.<sup>36</sup>

*The Beggar’s Opera*, an established favourite, when initially performed at the ‘patent’ theatres disquieted the authorities.<sup>37</sup> As a subversive attack on politics, morals and the conventions of spoken drama, the play made Elliston’s choice ‘edgy’ rather than ‘respectable’. As well as mocking First Minister Sir Robert Walpole,<sup>38</sup> Gay depicted low-life London’s uncivilised rabble underbelly.<sup>39</sup> The satirical works of political playwrights such as Gay and Henry Fielding, as we know, drove Walpole to pass the Licensing Act of 1737.<sup>40</sup> Ironically, it was this legislation Elliston now circumvented by his innovative presentation of the work of one of these dissidents. To comply with the 1737 Act, Elliston had his Stage Manager John Cross re-cast in rhymed couplets Gay’s original spoken dialogue between songs.<sup>41</sup> Though strongly associated with the Surrey before Elliston became manager, and in Elliston’s first years, Cross wrote for both ‘minor’ and

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<sup>34</sup> Elliston took his farewell benefit night at the Lyceum on 22 May 1809: *The Morning Post*, 11 May 1809.

<sup>35</sup> Printed handbill dated 13 June 1809. HL-HTC: Elliston Papers, Box 1.

<sup>36</sup> *The Morning Post*, 16 June 1809.

<sup>37</sup> Brewer, *The Pleasures of the Imagination*, pp. 443–44.

<sup>38</sup> Robert Walpole, first earl of Orford (1676–1745).

<sup>39</sup> Raymond Williams, *The Country and the City* (London, 1973), p. 144.

<sup>40</sup> David Thomas, ‘The 1737 Licensing Act and its Impact’ in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737–1832* (Oxford, 2014), pp. 92–3.

<sup>41</sup> John Cartwright Cross (d.1811). Murray, *Robert William Elliston Manager*, pp. 21–22. Knight, *A Major London ‘Minor’*, p. 4.

'patent' audiences between 1790 and his death in 1811.<sup>42</sup> Cross's supply of 'minor' genre pieces to the legitimate stage was significant in volume, supporting what we have learned of the monopoly's concessions to popular culture. (Robert D. Hume calculates productions of Cross's work at the 'patent' theatres totalled 191 performances of eighteen pieces.)<sup>43</sup>

### **Subversive, but tried and tested: *The Beggar's Opera***

John Gay's 'legitimate' five-act ballad-opera reached one hundred and twenty-eight performances when produced at John Rich's Lincoln's Inn Field's in 1728.<sup>44</sup> It ran for thirty-seven Seasons at Drury Lane, and twenty-nine at Covent Garden, over more than two hundred nights.<sup>45</sup> The play was performed four hundred and ninety-one times in Dublin.<sup>46</sup> *The Beggar's Opera*, therefore, represented a trusted commodity; essential to meeting Elliston's need to generate income:

Few plays of any kind could compete with it and it is occasionally referred to by contemporaries as if it furnished a kind of measuring stick by which the popularity of new plays could be gauged.<sup>47</sup>

Mixing 'high' and 'low' music, Gay employed the inherently satiric ballad-opera genre to mock leading politicians, lampoon the criminal underworld, and ridicule opera's exclusivity. Specifically, Gay's ballad opera satirized the corrupt practices of Walpole

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<sup>42</sup> Allardyce Nicoll (ed.), *A History of the English Drama 1660-1900, Vol. III, Late Eighteenth-century Drama* (Cambridge, 1969), pp. 249 and 287.

<sup>43</sup> Robert D. Hume (ed.), *The London Theatre World 1660-1800* (Carbondale and Edwardsville, 1980), p. 355.

<sup>44</sup> Thomas 'The 1737 Licensing Act and its Impact', p.93. Proceeds from *The Beggar's Opera* enabled John Rich to fund the opening of Covent Garden in 1732.

<sup>45</sup> James J. Lynch, *Box, Pit and Gallery: Stage and Society in Johnson's London* (Berkeley, 1953), p. 38.

<sup>46</sup> Greene, *Theatre in Dublin, 1745-1820*, Vol. I, pp. 311-312, 412, 500 and 518. Dublin was on the actors' circuit. Elliston performed at the Crow Street Theatre in 1805, 1806 and 1808. In 1812 he entered negotiations, later abandoned, to purchase the Crow Street lease.

<sup>47</sup> Lynch, *Box, Pit and Gallery*, p. 38.

and his government, and the audience quickly recognised the real-life identity of characters portrayed; for example, *Macheath* as the criminal Jack Sheppard, and *Bob Booty* as Walpole.<sup>48</sup> The play's parodic nature is captured in the colloquial label it acquired - Gay's 'Newgate Pastoral'.<sup>49</sup> The 'Newgate' theme retained its appeal with an early nineteenth-century audience, but with the passing of time, the satire had less immediate relevance.

John Brewer describes the structure of Gay's play as:

A series of low-life tableaux [...] [lacking] shape and form, consisting of bits of music and song, extracts, précis and parodies of other published works.<sup>50</sup>

This fractured form was well suited to adaptation; Elliston's version comprised 'Recitatives, Songs, Duets, Chorusses, &c., &c.'. <sup>51</sup> Nevertheless, his 'burletta' discomfited some, aesthetically if not politically. *The Monthly Mirror's* account concluded that the play had been despoiled, and the dialogue 'reduced to the common standard of the Circus recitative'.<sup>52</sup> Christopher Murray records that paper's parody of the parody:

'*Terrible show*', you may well say –  
Indeed it is too bad,  
With gain, so mean, to make Cross *Gay*

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<sup>48</sup> Brewer, *The Pleasures of the Imagination*, pp. 430–431.

<sup>49</sup> Lynch, *Box, Pit and Gallery*, p. 29.

<sup>50</sup> Brewer, *The Pleasures of the Imagination*, pp. 430–431.

<sup>51</sup> Surrey Theatre Playbill for *The Beggar's Opera* dated 1810. HL-HTC: Playbills and programmes.

<sup>52</sup> *The Monthly Mirror* of June 1809 cited in A. C. Sprague, *A Macbeth of Few Words*, Robert A. Bryan, Alton C. Morris, A. A. Murphee and Aubrey L. Williams (eds.), *Essays in Honour of C. A. Robertson ... All these to Teach* (Gainsville, 1965), p. 81.

And Gay so very *sad!*<sup>53</sup>

Other reviewers proved kinder. *The Caledonian Mercury* led with this favourable report:

Thursday [22 June] the old admired piece the *Beggar's Opera* was performed in a stile of first rate excellence.<sup>54</sup>

*The Morning Post's* enthusiastic assessment followed:

The gallant *Captain* [*Macheath*/Elliston], in *The Beggar's Opera*, was as spirited and attractive as ever [...] it has been repeated already as a Burletta, thirteen nights, *sans* intermission ...<sup>55</sup>

*The Times* of the same date noted:

The *Beggar's Opera* *has done wonders*, and however we may regret its being withdrawn, the known taste and discrimination of Mr. ELLISTON will no doubt provide novelty equally fascinating.<sup>56</sup>

The play was not withdrawn, but continued throughout July and August into September.

By 22 September, it had reached its fifty-third performance; validating Elliston's commercial judgement.<sup>57</sup> Elliston achieved critical and social recognition, and financial success:

ELLISTON although no *great* singer, has made a *great* stand in *Macheath*, and the *Cashier* of the Circus says he has sung to some *tune*. [...]. The Princess of Wales honoured the Circus with her presence on Friday evening [14 July] ...<sup>58</sup>

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<sup>53</sup> Murray, *Robert William Elliston Manager*, p. 22.

<sup>54</sup> *The Caledonian Mercury*, 24 June 1809.

<sup>55</sup> *The Morning Post*, 30 June 1809.

<sup>56</sup> *The Times*, 30 June 1809.

<sup>57</sup> *The Times*, 17 July 1809. *The Morning Post*, 29 July 1809. *The Morning Chronicle*, 3 August 1809. *The Times*, 22 September 1809.

<sup>58</sup> *The Morning Post*, 17 July 1809.

As with others' productions of the play (see note 47), Elliston's *The Beggar's Opera* became a measuring stick by which the popularity of his own new plays could be gauged, notably, a newly commissioned melodrama, which he staged first in July 1809. In this production, Elliston balanced the traditional with the new, and maintained consistently high production values to sustain the interest of a 'crowded and brilliant audience'.<sup>59</sup> Early in September, signalling his now proven marketability and commitment to his new venture, Elliston produced as a double bill, *The Beggar's Opera* and *Macbeth*.

In consequence of the great demand for places for the New Ballet of Action, founded on *Macbeth*, and the continued enquiries after the representation of the *Beggar's Opera*, Mr. ELLISTON will undertake the arduous task (for the remaining week) of appearing every night in the characters of *Macbeth* and *Macheath*.<sup>60</sup>

Another unorthodox production, Elliston's *Macbeth* challenged the 'patent' houses' exclusive claim to Shakespeare.

At the close of the Royal Circus's first Season under Elliston's management, *The Morning Chronicle* commended 'the energy and good taste with which the whole of this Concern is now conducted', together with the chief performance of the evening, 'the splendid and interesting entertainment founded on *Macbeth*'.<sup>61</sup> Covent Garden's rival, conventional, production starring Sarah Siddons as *Lady Macbeth*, advertised for the re-opening of the newly built theatre on 18 September,<sup>62</sup> met with a reception of an entirely different character.

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<sup>59</sup> *The Morning Post*, 1 August 1809.

<sup>60</sup> *The Times*, 11 September 1809.

<sup>61</sup> *The Morning Chronicle*, 30 September 1809.

<sup>62</sup> Announcement of the Covent Garden programme for Monday 18 September 1809. *The Morning Post*, 11 September 1809. *The Times*, 18 September 1809.

### **‘Shakespeare’ at the ‘Circus’: Elliston’s *Macbeth* and the search for authenticity**

Elliston first staged his adaptation from the established canon, *The History, Murders, Life, and Death of Macbeth*, on 30 August 1809 with music an important component. Elliston’s publicity for this ‘Grand Ballet of Action’ promised to keep faith with Shakespeare, and Locke’s music, long-associated with productions of the play.<sup>63</sup>

This present evening will be produced a ballet of music and action founded on *Macbeth* [...] in which an anxious and industrious effort will be made to illustrate the scenes, machinery<sup>64</sup>, imagery and descriptions delivered to us in that play by the immortal Shakespeare. A greater part of the compositions of Matthew Lock will be preserved. The new Overture and other music by Doctor Busby.<sup>65</sup>

To avoid contravening legislation banning speech unaccompanied by music, and the staging of Shakespeare, Elliston produced *Macbeth* as an almost wordless *ballet d’action* with its traditional music,<sup>66</sup> and with the newly composed ‘admirable music of Dr. Busby’.<sup>67</sup> Obligated to omit Shakespeare’s text, Elliston make every effort to realise his genuine desire to interpret the immortal Bard. H. T. Hall’s commentary on the spoken, but rhymed address preceding the performance captures Elliston’s dilemma:

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<sup>63</sup> Matthew Locke (c.1622–1677) organist and composer. Lock’s music had been associated with *Macbeth* since 1672, but Robert E. Moore disputes the attribution to Locke, proposing Richard Leveridge (1670–1758) as the most likely composer. Moore, ‘The Music to *Macbeth*’, p. 28.

<sup>64</sup> The witches in Davenant’s *Macbeth* (1663–64) were provided with flying machines to maximise their effect. Gefen Bar-On Santour, ‘Shakespeare in the Georgian Theatre’ in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 214.

<sup>65</sup> *The Times*, 30 August 1809.

<sup>66</sup> Murray, ‘Elliston’s Productions of Shakespeare’, p. 102.

<sup>67</sup> *The Morning Chronicle*, 30 September 1809. Thomas Busby, composer and author. His works were rarely performed, although his oratorio, *The Prophecy* was staged at *Covent Garden* in 1799. In 1801 he received a doctorate in music from the University of Cambridge, and published his *Complete Dictionary of Music*. His biographer records that Busby wrote theatre music for several plays ‘of no great originality or merit’. His only surviving score is that for Matthew Lewis’s *Rugantino* (c.1802), now in the British Library. ‘Thomas Busby (1754–1838)’, *ODNB*.

The conclusion of the address refers to the position the manager was placed in, owing to the monopoly possessed by the two great houses.

To prove we keep our duties full in view,  
 And what we must not *say*, resolve to *do*;  
 Convinc'd that you will deem our zeal sincere,  
 Since more by *deeds* than *words* it will appear.<sup>68</sup>

Busby's prologue also signalled Elliston's desire to present a faithful interpretation of Shakespeare: 'From this GREAT SOURCE our promised scenes we draw.'<sup>69</sup>

### ***Elliston's 'Macbeth' music***

Elliston's retention of the immensely popular musical spectacle of the witch scenes<sup>70</sup> earned the accolade that the performance excelled many a 'legitimate' production.<sup>71</sup> From 1610, music had accompanied two of *Macbeth's* witches' scenes. Robert E. Moore says that, in so far as can be discovered, the Hecate scenes seem not to have appeared in Shakespeare's original play, 'but were added for a court performance of about 1610.'<sup>72</sup> At the Restoration, Davenant added music to a third, so doubling the amount of singing and dancing.<sup>73</sup> Whether presenting Davenant's version (from the mid-1660s), or Garrick's of 1774, the musical scenes remained unaltered, were rarely omitted, and advertisements usually called attention to the music,<sup>74</sup> as did

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<sup>68</sup> H. T. Hall, *Shakspeare's [sic] Plays: The Separate Editions of with the alterations done by various hands* (Cambridge, 1873), p 46.

<sup>69</sup> 'Prologue to the ballet of Macbeth, now performing at the Royal Circus: spoken by Mr. Elliston, written by Dr. Busby', *The Morning Post*, 6 September 1809.

<sup>70</sup> Moore, 'The Music to *Macbeth*', p. 23.

<sup>71</sup> *The Times*, 1 September 1809.

<sup>72</sup> Moore, 'The Music to *Macbeth*', p. 22.

<sup>73</sup> *Ibid.*, p. 25. Moore cites the second quarto of 1674 with 'all the Alterations, Amendments, Additions and New Songs ... now acted at the Duke's Theatre' [under Davenant's patent].

<sup>74</sup> *Ibid.*, p. 23.

Elliston's. To satisfy the popular taste for novelty, Elliston balanced Locke's familiar musical score with Dr. Busby's modern embellishments.

The chief performance was the splendid and interesting Entertainment founded on *Macbeth*, aided by the admirable music of Dr. BUSBY, and prefaced by the *classical and beautiful address* written by DR. BUSBY, and so ably delivered by Mr. ELLISTON.<sup>75</sup>

The witches' scenes not only contained *Macbeth's* celebrated, traditional music, but in Elliston's three-act version, Dr. Busby's enrichments, and the bulk of the play's few words (three hundred and twenty-six lines).<sup>76</sup>

... the incantations of the witches [...] (we must say) [...], boasted a more grand and imposing effect than we ever before witnessed.<sup>77</sup>

Otherwise the combined devices of mime, rhymed recitative, songs, banners and scrolls progressed the plot.<sup>78</sup>

***Since more by 'deeds' than 'words' it will appear***

Elliston's claim that 'an anxious and industrious effort will be made to illustrate the [...] descriptions delivered to us [...] by the immortal Shakespeare',<sup>79</sup> points to a genuine wish to reproduce Shakespeare's meaning. The *Morning Chronicle* indicated that is what Elliston achieved: 'the performance was almost exactly the play of SHAKESPEARE.'<sup>80</sup>

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<sup>75</sup> *The Morning Post*, 30 September 1809.

<sup>76</sup> Murray, 'Elliston's Productions of Shakespeare', p. 101.

<sup>77</sup> *The Times*, 1 September 1809.

<sup>78</sup> Ibid.

<sup>79</sup> *The Times*, 30 August 1809.

<sup>80</sup> *The Morning Chronicle*, 31 August 1809 in Murray, 'Elliston's Productions of Shakespeare', p. 104.

George Odell situates Elliston's 'burletta' *Macbeth* at the starting point of his strivings for authenticity - his genuine attempt to re-establish 'something like Shakespeare's own plays' - which he endeavoured to realise fully at Drury Lane.<sup>81</sup> Press reviews recognised the unexpected merit of this first transgressive production of Shakespeare:

... much as we might have been inclined to condemn the experiment, we were really most surprised at the event.<sup>82</sup>

Never did a performance more progressively rise in fascinating an audience [...] We never witnessed a piece upon the whole so well got up.<sup>83</sup>

H. T. Hall noted Elliston's *Macbeth* in his nineteenth-century account of Shakespeare adaptations,<sup>84</sup> but Elliston's 1809 'burletta' does not appear in Richard W. Schoch's record of unorthodox performances.<sup>85</sup> The earliest 'illegitimate' Shakespeare listed by Schoch is John Poole's *Hamlet Travestie* (1810). *Hamlet Travestie* was performed at the New Theatre on 24 January 1811, by Elliston at the Surrey in April 1813, and as an afterpiece at Covent Garden on 17 June 1813.<sup>86</sup> Of this piece, *The Morning Chronicle* wrote, 'There has seldom appeared a more ludicrous composition than the work altogether.'<sup>87</sup>

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<sup>81</sup> George C. D. Odell, *Shakespeare from Betterton to Irving*, Vol. II (New York, 1966), pp. 148–49.

<sup>82</sup> *The Times*, 1 September 1809.

<sup>83</sup> *The Morning Post*, 1 September 1809 in Sprague, *A Macbeth of Few Words*, p. 82.

<sup>84</sup> Hall, *Shakspeare's Plays*, pp. 45–6.

<sup>85</sup> Richard W. Schoch, *Not Shakespeare: Bardolatry and Burlesque in the Nineteenth Century* (Cambridge, 2002).

<sup>86</sup> Allardyce Nicoll, *A History of English Drama 1660–1900*, rev. Volume IV, *Early Nineteenth-century Drama 1800–1850* (Cambridge, 1970), p. 386.

<sup>87</sup> *The Morning Chronicle*, 30 October 1810.

Reflecting on the paradoxical ways in which clearly unorthodox productions were claimed as ‘the most genuinely Shakespeare of all’,<sup>88</sup> Ricard W. Schoch cautions generally against assumptions that ‘illegitimate’ versions were necessarily faithful. He employs the term ‘burlesque’ to describe such performances, giving the definition: ‘the ludicrous enactment of serious events’ by means of ‘doggerel, painful punning and licentiousness.’<sup>89</sup> The ‘burlesque backlash’ of the 1800s, Schoch suggests, arose in reaction to the complacent acting, or over-wrought realism of Shakespearean performances at the ‘patent’ houses, and the presumptuous claims of those theatres to an exclusive right to Shakespeare.<sup>90</sup> Parodies were also employed as a mode of comic attack upon lavish revivals of Shakespeare staged by the patentees to boost their legitimacy.<sup>91</sup>

Satirical responses to presumptuous productions had eighteenth-century antecedents such as *Hamlet, with Alterations: A Tragedy in Three Acts* (1771), the work of an anonymous author, circulated following Garrick’s alterations to *Hamlet*’s final act.<sup>92</sup> Nineteenth-century ‘burlesques’, Schoch suggests, imperilled ‘the sanctity of Shakespeare as a national icon.’<sup>93</sup> His omission of Elliston’s ‘burletta’ may recognise the features that distinguish the play from burlesques such as *Hamlet Travestie*; the absence of ‘doggerel, painful punning and licentiousness’. Textual and critical evidence

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<sup>88</sup> Ibid., p. 4.

<sup>89</sup> Schoch, *Not Shakespeare*, pp. 10–11.

<sup>90</sup> Jonathan Bate ‘The Romantic Stage’ in Jonathan Bate and Russell Jackson (eds.), *Shakespeare an Illustrated Stage History* (Oxford, 1996), p. 106.

<sup>91</sup> Richard W. Schoch, ‘Shakespeare Mad’ in Gail Marshall and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), p. 73.

<sup>92</sup> Santour, ‘Shakespeare in the Georgian Theatre’, pp. 221–22.

<sup>93</sup> Schoch, ‘Shakespeare Mad’, p. 73.

suggests Elliston was not concerned with lampooning ‘patent’ house performances, but desired to present Shakespeare’s meaning, though in ‘irregular’ form.<sup>94</sup>

Though not indulg’d with fullest powers of speech,  
The poet’s object we aspire to reach:<sup>95</sup>

By mixing genres, Elliston’s unique transgressive approach did not, this study argues, endanger the ‘National Poet’, but made him accessible to less sophisticated audiences, despite a regulatory regime that prevented Elliston from honouring Shakespeare’s text legitimately. Possibly on grounds other than artistic, Elliston’s first transgressive productions at the ‘Circus’ did not meet with universal approval. Originating at a disaffected Drury Lane, *A farewell epistle to Mr. Elliston on his secession from the Drury-Lane company* vilified his character and his decision to ‘ride outside the coach’, and ridiculed his ‘illegitimate’ productions:

Hie thee to Croydon! There in pompous state,  
Reign uncontroul’d, and labour to be great:  
There shew to wond’ring boors thy scenic skill,  
And murder Gay and Shakespeare as you will.  
Shakespeare and Gay shall curse thy barb’rous rage,  
And mourn in silence the degraded stage:  
And Drury’s Muse shall eye with just disdain,  
The man of folly, arrogant, and vain –<sup>96</sup>

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<sup>94</sup> *The Morning Chronicle*, 31 August 1809 in Murray, ‘Elliston’s Productions of Shakespeare’, p. 104.

<sup>95</sup> Dr. Busby’s Address printed in *The Morning Post*. *The Morning Post*, 6 September 1809.

<sup>96</sup> Undated printed cutting [probably 1809], *A farewell epistle to Mr. Elliston on his secession from the Drury-Lane company* signed *Druriensis*. HL-HTC: Elliston Papers, Box 1.

Elliston acquired the Croydon theatre in 1809 (see Appendix 1), and parted from the Drury Lane Company in May 1809, apparently the reason for this barbed satirical attack.

### **Elliston's assumption of Garrick's legacy**

Performing Shakespeare in a 'minor' house alone represented an act of usurpation. Producing *Macbeth* for which Garrick was celebrated, followed by *The Jubilee*, Garrick's own creation, represented a doubly-brazen attempt to put the Royal Circus/Surrey on a footing with the 'patent' guardians of the national drama. Garrick became the most admired tragedian of his own and succeeding ages, and in James Boswell's words, 'the colourist of Shakespeare's soul'.<sup>97</sup> In appropriating the Shakespeare/Garrick project, Elliston recognised the value of Garrick's legacy, attempted to exploit it, and to assume the mantle of his enduring reputation.

Elliston's publicity for *The Jubilee* annexed explicitly Garrick's and Shakespeare's eminence:

This evening will be represented an Entertainment [...] formed on the production of the late David Garrick, Esq. called the Jubilee: [...] being a fac simile of the events that occurred at Stratford-upon-Avon, in the endeavour made by that Great Actor, to commemorate and perpetuate the fame of SHAKESPEARE.<sup>98</sup>

Garrick's reputation grew apace in the half century following his death; the period in which Elliston operated as a London manager. Elliston perhaps wished to align himself with that 'congenial image of the English cultural past'.<sup>99</sup> The past was significant to

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<sup>97</sup> A Letter from James Boswell, Esq. on Shakespeare's Jubilee: *The London Magazine*, September 1769, pp. 451–54. James Boswell (1740–1795), lawyer, diarist, and Samuel Johnson's biographer.

<sup>98</sup> *The Times*, 10 August 1810.

<sup>99</sup> Michael Caines, *Lives of Shakespeare's Actors: Garrick*, Vol. I (London, 2008), p. xxvi.

Elliston, to the vision shaping his aspirations. His attachment to 'tradition' is seen in his reverence for what he believed Garrick and Shakespeare represented, and to which he held throughout his 'minor' and 'patent' careers. Elliston's attempt to elevate dramatic values, based on retrieval of these icons, aligns with Raphael Samuel's notion of the place of 'memory and myth, fantasy and desire' in dramatizing the past in the present to restore and yet refashion images for a new audience.<sup>100</sup>

Elliston seems to have believed in the existence of a privileged, personal connection with Garrick through his widow, Eva Maria.<sup>101</sup> Elliston's stock author and stage manager at the Surrey from 1810 to 1812 'at a salary of £15 per week and a benefit',<sup>102</sup> Thomas Dibdin, was Garrick's godson, and maintained contact with Mrs. Garrick in her widowhood.<sup>103</sup> More directly, Mrs. Garrick and Elliston's wife Elizabeth maintained a cordial friendship. Regarding Mrs. Garrick as a touchstone of past greatness, Elliston attempted to draw her in to his family as god-mother to the Ellistons' eighth child, Lucy Ann Theresa (b. April or May 1811). She declined:

Your children will not want the regards of a warm friend [...] I trust you will ever remember the moral well-being of your children must depend materially on the example of parents.<sup>104</sup>

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<sup>100</sup> Raphael Samuel, 'Theatres of Memory' in *Past and Present in Contemporary Culture* Vol. I (London, 1994), pp. ix-x.

<sup>101</sup> Eva Maria Garrick (née Veigel) (1724–1822), a dancer of Austrian nationality with the stage name Violette, wed David Garrick at the age of nineteen. Their marriage lasted until Garrick's death thirty years later. Mrs. Garrick lived a widow forty-three years, and died aged ninety-nine. 'Eva Maria Garrick (1724–1822)', *ODNB*.

<sup>102</sup> Thomas Dibdin, *The Reminiscences of Thomas Dibdin* (London, 1827), Vol. II, Chapter XVIII 1807–12, pp. 433–34. Thomas John Dibdin (1771–1841), playwright and actor, managed the Surrey 1816–22. Knight, *A Major London 'Minor'*, p. 21.

<sup>103</sup> Dibdin's record of a meeting with Mrs. Garrick at the Adelphi in April 1814 shows that, at the age of ninety, she retained a keen interest in the theatre world. Dibdin, *Reminiscences*, Vol. III, Chapter III 1814–15, p. 32.

<sup>104</sup> Letter from Mrs. Garrick to Elliston dated 5 May 1811. George Raymond, 'The Elliston Papers', *Ainsworth's Magazine*, Vol. V (London, 1842–44), pp. 337–38.

Mrs. Garrick's thinly veiled reproof is substantiated by the glimpse Elliston's first biographer, George Raymond, gives us into his conduct. In 1788, just two years after marriage, Elizabeth Elliston's maternal aunt described him as 'a gambler already revealed' and spoke of his 'unsteadiness', his gambling debts and his 'deceived wife'.<sup>105</sup> Recalling to us Elliston's reflection that 'few [performers] establish a very respectable character', and his perplexed 'comparison of What I am & What I might have been',<sup>106</sup> his wife wrote in a guarded tone to Rev. Dr. William Elliston, in August 1801:

... of my husband's talents I think highly (if I may venture such judgement as my own) [...] I am sure the increasing favour of personages so exalted as those I have named is greatly owing to the esteem they have for him, as a gentleman: this point I trust he will long bear in mind.<sup>107</sup>

In December 1801, Elliston's brother-in-law, his wife's brother, confronted him by letter:

... your exploits are the theme of gossip amongst the very waiters at the White Hart. You will be ruined in name and fortune. I am cut to the soul ...<sup>108</sup>

Raymond concluded, 'Elliston never abandoned a single pleasure to satisfy his wife's repose.'<sup>109</sup> The reality of his exploits, set against his unfailing desire for social prestige, illustrate, once more, Elliston's conflicted character. Elliston continued to claim an attachment with Mrs. Garrick, even at her death, immortalising the connection on a plaque commemorating his refurbishments in 1822:

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<sup>105</sup> George Raymond, *Memoirs of R W Elliston, comedian, 1774–1831*, Vol. I, (London, 1844), p. 116.

<sup>106</sup> Letter to Dr. William Elliston from Elliston at Mr. Thompson's, Black Fryers' Gate, Hull dated 25 December 1792. HL-HTC: Elliston Papers, Box 1.

<sup>107</sup> Raymond, *Memoirs of R W Elliston* Vol. I, p. 146.

<sup>108</sup> *Ibid.*, pp. 155-6.

<sup>109</sup> Raymond, *Memoirs of R W Elliston* Vol. II, p. 536.

George IV King

Theatre Royal Drury Lane

The interior of this National Theatre was entirely pulled down and rebuilt, in the space of fifty-eight days, and re-opened on the 12 October 1822, by

Robert William Elliston, Esq.

On the day of the opening of Drury Lane theatre, this season, Mrs. Garrick died.

She was dressed for attending the play, on this very evening.<sup>110</sup>

Garrick dedicated himself to improving the theatre as a place true to Shakespeare's genius, and devoted his career to becoming the Bard's foremost exponent.<sup>111</sup> He became a keen reader and authority, in the mould of the connoisseur-collector. The phenomenon of editing English literature and especially Shakespeare's works arose from an increasing interest in English antiquarianism,<sup>112</sup> and scholars working on new Shakespeare editions consulted Garrick's vast library of play texts.<sup>113</sup> Whether or not Garrick's insistence on Shakespeare's centrality as the nation's literary icon represented 'a cynical manipulation of a convenient prop',<sup>114</sup> by associating himself with the Bard, Garrick augmented his own cultural dignity and standing, and elevated the profession of acting.<sup>115</sup> In a notable bid to entwine his image with Shakespeare's,

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<sup>110</sup> Plaque installed by Elliston to mark the re-opening of Drury Lane after extensive improvements in 1822. Raymond, *Memoirs of R W Elliston* Vol. I, p. 318.

<sup>111</sup> Santour, 'Shakespeare in the Georgian Theatre', p. 216.

<sup>112</sup> Richard Landon, 'Collecting and the antiquarian book trade' in Michael F. Suarez, S.J. and Michael L. Turner (eds.), *The Cambridge History of the Book in Britain Volume V 1695–1830* (Cambridge, 2009), p. 712.

<sup>113</sup> Ibid. Peter Holland, 'The Age of Garrick' in Jonathan Bate and Russell Jackson (eds.), *Shakespeare: an Illustrated Stage History* (Oxford, 1996), p. 71.

<sup>114</sup> Holland, 'The Age of Garrick', p. 71.

<sup>115</sup> Caines, *Lives of Shakespeare's Actors*, pp. xi-xii and xxvii.

Garrick organised the Great Stratford Jubilee of September 1769 to celebrate the 200th anniversary of Shakespeare's birth.<sup>116</sup>

As the image at Appendix 16 shows, Garrick stamped his identity on the Jubilee event, quite literally, by signing and sealing the tickets of admission.<sup>117</sup> In addition to the entertainments listed— oratorio, dedication ceremony, ball and fireworks - the celebrations included a masquerade, horse races, and a procession of Shakespeare's characters.<sup>118</sup> A surprising and conspicuous omission from Garrick's programme was the performance of even one scene from any of Shakespeare's plays. Indeed, barely a word of Shakespeare was spoken, Garrick's aim being, scholars believe, as much his own gratification and self-advancement as reverencing Shakespeare.<sup>119</sup> In the event, poor weather impeded the arrangements:

The great rains [...] prevented the theatrical procession, and also Mr. Garrick from reciting his ode a second time [...] they spoiled the fireworks, the masquerade, and the race, and occasioned the procession and crowning of Shakespeare to be omitted.<sup>120</sup>

Garrick's ambition to extend his reach in relocating theatrical spectacle from the stage to the wider public sphere is seen in James Boswell's lament of the cancelled parade:

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<sup>116</sup> Since Shakespeare was born in 1564 on 21, 22, or 23 April, September 1769 was not his 200<sup>th</sup> anniversary. 'William Shakespeare (1564–1616)', *ODNB*.

<sup>117</sup> 'Shakespeare in the 18th Century': Paper ticket for Shakespeare's Jubilee. Victoria & Albert Museum website: [www.vam.ac.uk](http://www.vam.ac.uk).

<sup>118</sup> Caines, *Lives of Shakespeare's Actors*, p. xi.

<sup>119</sup> Jonathan Bate, *Shakespearean Constitutions: Politics, Theatre, Criticism 1730–1830* (Oxford, 1989), pp. 31–3.

<sup>120</sup> *Town and Country Magazine* 1769, 1:475, quoted in Bate, *Shakespearean Constitutions*, p. 32.

It was to have been a procession of allegorical beings, with the most distinguished characters of Shakespeare's plays, with their proper dresses, triumphal cars, and all other kinds of machinery ...<sup>121</sup>

Boswell went on to remark 'as no cost has been spared on this pageant, I hope Mr. Garrick will entertain us with it in the comfortable regions of Drury-lane.' Garrick complied the following month, by staging *The Jubilee* based on the parade of Shakespearean characters devised for the Stratford-on-Avon event. The production became phenomenally popular, enabling Garrick to retrieve his losses on the festival, and accrue 'significant financial gains in future years.'<sup>122</sup> Despite the *débâcle*, the enduring effects of Garrick's Stratford Jubilee were twofold: a universal acceptance of Shakespeare as *the* 'National Poet', if not a god, and Garrick as 'Shakespeare's self-proclaimed representative on earth.'<sup>123</sup> Boswell, at first-hand, witnessed Garrick's apotheosis:

Garrick [...] inspired with an awful elevation of soul, while he looked from time to time at the venerable statue of Shakespeare, appeared more than himself [...] he seemed in extacy, and gave us the idea of a mortal transformed into a demi-god.<sup>124</sup>

Perhaps unequalled as a theatrical spectacle, as an event in the history of Shakespeare production, Peter Holland insists, Garrick's *The Jubilee* performed at the 'patent' Drury Lane changed nothing.<sup>125</sup> By contrast, Elliston's 'burletta'-ized version at his 'minor' theatre, aroused interest in cultured and in less cultured patrons. Generally wary of

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<sup>121</sup> A Letter from James Boswell, Esq. on Shakespeare's Jubilee: *The London Magazine*, September 1769, pp. 451–54.

<sup>122</sup> Caines, *Lives of Shakespeare's Actors*, p. xi. Holland, 'The Age of Garrick', p. 75.

<sup>123</sup> Bate, *Shakespearean Constitutions*, p. 30.

<sup>124</sup> A Letter from James Boswell, Esq. on Shakespeare's Jubilee: *The London Magazine*, September 1769, pp. 451–54.

<sup>125</sup> Holland, 'The Age of Garrick', p. 75.

'illegitimate' Shakespeare's tendency to undermine his national-icon status, Schoch recognises the enabling potential of unorthodox productions:

In moving Shakespeare outside the matter of canonicity – the burlesque gives Shakespeare free passage throughout the zones of so-called 'high' and 'low' culture.<sup>126</sup>

Subverting the accustomed channelling of Shakespeare's texts exclusively to the educated,<sup>127</sup> Elliston brought Shakespeare within reach of a wider constituency, disrupting the 'élite' v. 'popular' divide. His recasting of Shakespeare's plays extended the opportunity to appreciate the 'National Poet' to what proved to be a receptive, more diverse audience. Elliston led this shift, although himself a product of the classical tradition of learning, which gave primacy to the written text and regarded Shakespeare as part of élite culture.

In Garrick's wake in, April 1816, as Lessee of the 'patent' Theatre Royal Birmingham, Elliston solicited the involvement of his Theatre Royal Birmingham in Stratford-upon-Avon's 1816 'celebration of the centenary of the Birth of Shakespeare'.<sup>128</sup>

I shall have at that period a very respectable Company at Birmingham &, if the performance of two or, more of his sublime tragedies would be deemed desirable to bring him more fully to the mind of those who must remember with delight that in this town, he first drew breath, I shall very cheerfully undertake to produce a company & such costume that will give satisfaction to the visitors of the Theatre.<sup>129</sup>

No material yet discovered indicates that Elliston's offer was accepted.

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<sup>126</sup> Schoch, 'Shakespeare Mad', p. 81.

<sup>127</sup> Santour, 'Shakespeare in the Georgian Theatre', p. 214.

<sup>128</sup> Letter from Elliston at Stratford Place, London, dated 9 April 1816, addressed to The Proprietors of the Theatre Stratford Upon Avon. Shakespeare Centre Library and Archive: ER1/33/13. Rather than an anniversary of Shakespeare's birth, April 1816 marked the bi-centenary of his death.

<sup>129</sup> Ibid.

## Shakespeare, ‘unlettered folk’,<sup>130</sup> and *The Jubilee*

Garrick’s *The Jubilee*, ‘burletta’-ized by Thomas Dibdin, was Elliston’s ‘one quasi-attempt at Shakespeare’ at the Surrey in 1810:<sup>131</sup>

Mr. Elliston, who was playing with great success at the Surrey theatre, asked me to put Garrick’s “Jubilee” into verse for him; he sent it in a letter, and had it back (as usual) by “return of post”.<sup>132</sup>

Elliston’s *The Jubilee*, in which he took the roles of *Hamlet* and *Mad Tom*, had its first performance at the Surrey on 6 August 1810.<sup>133</sup> The pageant, *The Jubilee*’s main attraction, comprised seventeen excerpts from Shakespeare’s plays, each, like Elliston’s *Macbeth*, performed as a ‘ballet of action’ without speech. To assist the spectators, Elliston provided:

... every Information to simplify the Plot; and enable the Visitors of the Circus, to comprehend this matchless Piece of *Pantomimic* and *Choral* Performance.<sup>134</sup>

By highlighting the features of mime and song Elliston emphasised his compliance with the letter of the law governing ‘the spoken word’. He distributed helpful explanations for each vignette of *The Jubilee*’s closing scene, in which all the characters appeared. For example, the description of the *Hamlet* cameo reads:

The solemn interview between the Shade and the Prince, who is called upon to avenge his father’s murder. The distraction of Ophelia, and earnest determination of Laertes to see her wrongs redressed.<sup>135</sup>

<sup>130</sup> *The Times*, 10 August 1810 in Murray, ‘Elliston’s Productions of Shakespeare’, p. 106.

<sup>131</sup> *Ibid.*, p. 105. *The Jubilee* formed the template for Elliston’s magnificent and highly successful *Coronation* pageant staged at Drury Lane in 1821, with Elliston in the role of George IV.

<sup>132</sup> Dibdin, *Reminiscences*, Vol. II, Chapter XVIII 1807–12, pp. 433–34.

<sup>133</sup> Murray, *The Great Lessee*, pp. 324–25.

<sup>134</sup> Title page from an edition of John Cross’s text in Folger Shakespeare Library reproduced in Murray, *Robert William Elliston Manager*, Plate 5.

Elliston had his finger on the pulse, whether aside from, or because of, his profit-led motivations and desire for acceptance as socially ‘respectable’ and artistically legitimate. Moreover, enabling ‘all ranks of society to participate in the enjoyment of the highest order of [...] entertainment and instruction’,<sup>136</sup> he became a reformer and shaper of the theatrical experience. Attuned to audience taste and demographic, Elliston’s cameo sketches whetted the appetite for Shakespeare in those described by *The Times* as ‘unlettered folk’:

The demand for pocket editions and other sets of the Poet’s works is so great, that the booksellers have of late been obliged to reprint them in all forms and sizes.<sup>137</sup>

A market for printed professional drama had developed in the seventeenth-century; *Mucedorus and Amadine* set the record between 1598 and 1639 at fifteen editions.<sup>138</sup> By the mid-eighteenth century, the establishment of libraries in private clubs and societies, and domestic libraries in the homes of the properties classes advanced, and a passion for play-reading in the setting of the family circle contributed to the popularity of playbooks.<sup>139</sup> Responding to demand, the publishing industry extended its range of popular reading to include serials, novels, instructional books, children’s books and playbooks, although prices remained high.<sup>140</sup>

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<sup>135</sup> Murray, ‘Elliston’s Productions of Shakespeare’, pp. 105-6.

<sup>136</sup> *Copy of a Memorial* 1818, p. 36.

<sup>137</sup> *The Times*, 10 August 1810 in Murray, ‘Elliston’s Productions of Shakespeare’, p. 106.

<sup>138</sup> Blaney, ‘The Alleged Popularity of Playbooks’, p. 41. The extent of this market is contested: Alan B. Farmer, and Zachary Lesser, ‘The Popularity of Playbooks Revisited’, *Shakespeare Quarterly*, Vol. 56, No. 1 (Spring, 2005), pp. 1–32. Peter W. M Blaney, ‘The Alleged Popularity of Playbooks’, *Shakespeare Quarterly*, Vol. 56, No. 1 (Spring, 2005), pp. 33–50.

<sup>139</sup> James Raven, ‘From promotion to proscription: arrangements for reading and eighteenth-century libraries’ in J. Raven, H. Small, and N. Tadmor (eds.), *The practice and representation of reading in England* (Cambridge, 1996), pp. 176 and 199.

<sup>140</sup> James Raven, ‘The book as a commodity’ in Michael F. Suarez, S.J. and Michael L. Turner (eds.), *The Cambridge History of the Book in Britain Volume V 1695–1830* (Cambridge, 2009), p. 86.

The publication of plays written for public performance could benefit authors of successful pieces. It has been suggested that John Gay earned c.£700 (£2,120,000 present value) from *The Beggar's Opera*.<sup>141</sup> After Gay's death in 1732, publishers continued to profit from sales of the text; sixty-two editions of this most popular play of the eighteenth-century were printed between 1728 and 1800.<sup>142</sup> Peter Blaney, discussing his contested study of the popularity of playbooks 1583–1642,<sup>143</sup> draws a distinction between 'plays' and 'playbooks', 'publishers' and 'printers'<sup>144</sup> helpful to us. Whereas publishers of playbooks, as other print material, sold wholesale for resale to the general public, printers printed to commission for a direct fee. *The Times* report (see note 137) shows that Elliston's *The Jubilee* at the Surrey stimulated the market for Shakespeare's works to the extent that publishers were compelled to reprint to meet public demand. At the Surrey, Elliston's publicity tended to emphasise the non-spoken features of his entertainments, as this advertisement for *The Beggar's Opera* shows:

The Beggar's Opera repeated every evening this week. Performance comprised much dance by the corps de ballet and les Giroux [the Surrey's resident lead dancers].<sup>145</sup>

William St. Clair notes that in the eighteenth and early nineteenth century, texts of a large number of new plays were published in book form immediately after the first performance, in order to catch the market.<sup>146</sup> Judith Milhous and Robert D. Hume

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<sup>141</sup> Michael F. Suarez, S.J., 'Publishing contemporary English literature, 1699–1774' in Suarez and Turner, *The Cambridge History of the Book in Britain*, p. 652. £700 in 1732 = Income value of £2,120,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>142</sup> Judith Milhous, and Robert D. Hume, *The Publication of Plays in London 1660–1800: Playwrights, Publishers and the Market* (British Library - Panizzi Lectures), (London, 2015), p. 217.

<sup>143</sup> Peter W. M Blaney, 'The Publication of Playbooks' in *A New History of Early English Drama*, John D. Cox and David Scott Kastan (eds.), (New York, 1997).

<sup>144</sup> Blaney, 'The Alleged Popularity of Playbooks', p. 34.

<sup>145</sup> *The Morning Post*, 17 July 1809.

<sup>146</sup> William St. Clair, *The Reading Nation in the Romantic Period* (Cambridge, 2004), p. 565.

suggest rather precisely, that 51.5% of new plays were published in London between 1751 and 1800.<sup>147</sup> St. Claire's statement must be qualified, nevertheless, in respect of the 'minor' theatres. It is true that in 1809 John Cross, author of many of the Royal Circus's stock-in-trade pantomimes and *ballets d'action*, as Elliston took up management, published a collection of his works under the title *Circusiana*.<sup>148</sup> The appearance of *Circusiana*, though, was a novel event; being largely composed of mime and music, pantomimes were rarely published.<sup>149</sup> Perhaps on similar grounds, as traditional dialogue was forbidden at the 'minor' houses, formally, at least, in the early 1800s, texts of 'irregular' 'regular' drama appear not to have been available in the way St. Clair describes.

Nonetheless, Elliston printed what he could – song lyrics - and sold them on the Surrey's premises, both satisfying popular demand and raising additional income. Advertisements for the Surrey's 'burletta' version of George Farquhar's 'legitimate' *The Beaux' Stratagem*<sup>150</sup> performed in May 1810, announced: 'N.B. Books of the Songs and duets to be had at the Theatre.'<sup>151</sup> Availability of the play text was not advertised, whereas in the form Farquhar wrote it, *The Beaux' Stratagem* was re-printed as a 'singleton' in forty editions between 1707 (the year of his death) and 1799,<sup>152</sup> again earning for the publisher, by copyright, after the playwright's demise. Elliston continued selling song lyrics at the Olympic: we noted the sale of W. T. Moncrieff's *Songs, Duets,*

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<sup>147</sup> Milhous and Hume, *The Publication of Plays in London 1660–1800*, p. 116.

<sup>148</sup> Murray, *Robert William Elliston Manager*, p. 20.

<sup>149</sup> Milhous and Hume, *The Publication of Plays in London 1660–1800*, pp. 217 and 115.

<sup>150</sup> *The Beaux' Stratagem* was first performed at the Theatre Royal Haymarket on 8 March 1707. *The Temple Dramatist's Farquhar's Beaux-Stratagem* (London, 1898), p. xi.

<sup>151</sup> *The Morning Chronicle*, 24 May 1810.

<sup>152</sup> Milhous and Hume, *The Publication of Plays in London 1660–1800*, p. 217.

*Chorusses, &c.*, from *Giovanni in London* in 1817 (see note 51). With full access to the classic canon at Drury Lane, Elliston self-published play-texts, apparently retaining the services of a house printer, one J. Tabey.<sup>153</sup> Evidence that Elliston sold his ‘new’ versions of Shakespeare’s plays direct to the public comes from a playbill for *Richard III*, which also reveals the emphasis Elliston placed on the ‘authenticity’ of the text:

A correct Edition of the Tragedy of *RICHARD THE THIRD*, edited by Mr. Elliston, may be had in the Saloon, and of Mr. Spring, Private Box Office, Little Russell Street.<sup>154</sup>

Priced at 1s. 4d., the play-text of Elliston’s 1820 version of *King Lear* may have been relatively affordable when compared with the cost of publishers’ playbooks (note 140 above).<sup>155</sup>

A further quasi-Shakespeare production followed at the Surrey in 1811, with the pantomime *To Be or not to Be; or, Shakespeare versus Harlequin*, Thomas Dibdin’s adaptation of Garrick’s *Harlequin’s Invasion*.<sup>156</sup> The dumb-show of pantomime, expressing meaning by gesture or mime, enabled Elliston to comply with the 1737 Act’s banning of continuous speech, but his production may also have benefitted from a feature of the genre identified by Leigh Hunt. In Hunt’s estimation, ‘there is something real in Pantomime; there is animal spirit in it’,<sup>157</sup> a quality also attached to Shakespeare. Elliston again drew on Garrick’s legacy with adaptations of *Richard III* and *King Lear* for

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<sup>153</sup> ‘R. W. Elliston, *Shakespeare’s Tragedy of King Lear*, printed from Nahum Tate’s Edition, with some restorations from the Original Text (London 1820); printed by J. Tabey, Theatre Royal Drury Lane’, reproduced in R. W. Elliston, *King Lear* (London, 1820): A facsimile published by Cornmarket Press (London 1970).

<sup>154</sup> Drury Lane playbill for 12 November 1819: HL-HTC: Playbills and programmes.

<sup>155</sup> 1s. 4d. in 1820 = three quarters of a craftsman’s daily wage in the building trade. [www.nationalarchives.gov.uk/currencyconverter](http://www.nationalarchives.gov.uk/currencyconverter).

<sup>156</sup> Elliston revived *To Be or not to Be; or, Shakespeare versus Harlequin* at Drury Lane in April 1820. Murray, *The Great Lessee*, p. 327.

<sup>157</sup> L. H. and C. W. Houtchens (eds.), *Leigh Hunt’s Dramatic Criticism 1808-1831*, (New York, 1949), p. 140.

his staging of Shakespeare in 1813; two of the three roles for which Garrick achieved greatest renown. From that point, perhaps encouraged by continuing unchallenged, Elliston discarded 'burletta' as a disguise for the introduction of dramatic dialogue.<sup>158</sup> He presented *The Life and Death of King Richard III, or The Battle of Bosworth Field*, and *King Lear* as straightforward three-act melodramas. For each he claimed authenticity, as 'carefully compiled from the Original Editions of Shakespeare',<sup>159</sup> presaging his approach to Shakespeare at Drury Lane.<sup>160</sup>

Elliston devised his transgressive productions at the 'minor' Surrey theatre to circumvent the 1737 Licensing Act, with the express intent of breaking the 'patent' monopoly of the traditional canon. In a complete *volte face*, consistent with his uncompromising self-interest, at Drury Lane he defended his 'patent' rights against those incursions of the 'minor' theatres which, paradoxically, he had initiated. The primacy of Elliston's preoccupation with profit and self-promotion acknowledged, whether at his 'minor' or 'patent' theatres, he strove sincerely to enable his audience to experience 'almost exactly the play of Shakespeare.'<sup>161</sup> Elliston's restoration of Shakespeare at Drury Lane was rooted in his desire to restore much-neglected serious drama to his 'legitimate' house. In this quest, however, lay further complexity. Elliston's production of *King Lear*, for example, struggled to balance textual accuracy with audience appetite for sophisticated spectacle; an incongruity which exercised the later Select Committee enquiry.

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<sup>158</sup> Moody, *Illegitimate Theatre*, p. 31.

<sup>159</sup> Murray, 'Elliston's Productions of Shakespeare', p. 106.

<sup>160</sup> Odell, *Shakespeare from Betterton to Irving*, pp. 148–49.

<sup>161</sup> *The Morning Chronicle*, 31 August 1809 in Murray, 'Elliston's Productions of Shakespeare', p. 104.

## At Drury Lane: ‘Something like Shakespeare’s own plays’<sup>162</sup>

As Garrick with *Macbeth* in 1774, Elliston introduced his own versions of *Coriolanus* in January 1820 and *King Lear* in April 1820.<sup>163</sup> Under Elliston’s management, Edmund Kean played the title roles of *Coriolanus* and *Lear* for the first time in his career. Whatever Elliston’s intentions, critics questioned his notion of ‘authentic’ portrayal, and maintained an ambivalence towards the authenticity of his text (see note 171 below). Even so, at Drury Lane between 1819 and 1826, Elliston has been credited with leading the movement to re-establish Shakespeare’s genuine text in performance.<sup>164</sup>

Into the eighteenth century, managers mangled Shakespeare’s original creations without qualm.<sup>165</sup> They felt no obligation to preserve Shakespeare’s text until Garrick’s promotion of Shakespeare’s image as near-divine purveyor of timeless truth.<sup>166</sup> Restoration tastes, and the gap between notions of reform and theatre practice, persisted in the Georgian theatre, but changed with a more general perception that access to valuable bodies of knowledge had been intellectually or morally debased.<sup>167</sup> The idea of ‘reform’ rather than ‘restoration’ suggests that revised texts, such as Elliston’s, nevertheless remained adaptations. Elliston, himself, claimed his *Coriolanus* as Shakespeare restored:

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<sup>162</sup> Odell, *Shakespeare from Betterton to Irving*, p. 148.

<sup>163</sup> Elliston, *Shakespeare’s Coriolanus*. Elliston, *Shakespeare’s Tragedy of King Lear*. H. T. Hall acknowledged Elliston’s *Lear* in his listing of revised versions. Hall, *Shakespeare’s Plays*, p. 67.

<sup>164</sup> Odell, *Shakespeare from Betterton to Irving*, p. 148.

<sup>165</sup> Taking *Coriolanus* as an example, H. T. Hall records 24 editions from the Restoration to 1880, naming the following adaptations: Nahum Tate 1682 and 1721, James Thomson 1748, Thomas Sheridan 1750, J. P. Kemble 1789; 1806, 1812, and 1814, ending with ‘In 1820, the tragedy underwent another alteration at the hands of R. W. Elliston’. Hall, *Shakespeare’s Plays*, pp. 50–3.

<sup>166</sup> Santour, ‘Shakespeare in the Georgian Theatre’, p. 213.

<sup>167</sup> *Ibid.*, pp. 213, 214 and 222.

In the production of this Play, it is the Manager's intention to restore the Text of Shakespeare, which has so long been superseded by a compilation, which, however excellent, may be reasonably supposed inferior to the Work of our immortal Bard.<sup>168</sup>

First produced on 24 January 1820, *Coriolanus* survived only four performances;<sup>169</sup> the Drury Lane audience was not then ready to embrace Elliston's 'authentic' production:

That which would have been most attractive at the Globe Theatre, could not, and ought not, to be tolerated at Drury-lane or Covent-garden. Mr. ELLISTON, in causing the original of SHAKESPEARE to be pruned by Mr. Soane<sup>170</sup> professes to have acted with a scrupulous regard for the sacredness of SHAKESPEARE'S text ...<sup>171</sup>

We know from a letter George Soane wrote to stage manager James Winston in 1820 that he was Elliston's stock writer for a period at Drury Lane,<sup>172</sup> but it seems unlikely that he had a hand in this version of *Coriolanus* on two counts. Firstly, Elliston is named as 'editor' in the published text, and secondly, Allardyce Nicoll's does not include *Coriolanus* in his listing of the twenty-two plays attributed to Soane between 1815 and 1847.<sup>173</sup>

It may be that Kean's performance, declining and disaffected (he left Drury Lane in September 1820), contributed to the play's failure:

*Coriolanus* towered, like a mighty mountain, above common men, and his passion [...] was vast, desolating and sublime: Mr. KEAN was sulky, fretful, bitter, and frequently in a very, very great passion, but never grand.<sup>174</sup>

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<sup>168</sup> Drury Lane playbill for 24 January 1820. HL-HTC: Playbills and programmes.

<sup>169</sup> Murray, 'Elliston's Productions of Shakespeare', p. 112.

<sup>170</sup> George Soane (1789–1860), writer: the younger son of the architect Sir John Soane (1753–1837).

<sup>171</sup> *The Theatrical Inquisitor* for January 1820, Tuesday, 25 January 1820, p. 57.

<sup>172</sup> 'It has been from time immemorial a custom for authors to be admitted behind the scenes, but this morning I have been under the pleasant necessity of standing in the hall.' Letter from George Soane addressed to Winston dated 1 December 1820. HL-HTC: Elliston Papers, Box 2.

<sup>173</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, pp. 403–04.

<sup>174</sup> *Ibid.*, p. 58.

The stage history of *King Lear* is riven by the tension between the theatrical virtues of Nahum Tate's adaptation of 1681, and the literary prestige of Shakespeare's play.<sup>175</sup> When George Colman the elder attempted to stage *Lear* at Covent Garden in 1768, minus Tate's invented love scenes between *Cordelia* and *Edgar*, he met the same reluctance to accept change as did Elliston with *Coriolanus* in 1820.<sup>176</sup> *Lear* was not performed during George III's insanity, being released only after his death on 29 January 1820. Elliston seized the opportunity to revive the play and to introduce his own version,<sup>177</sup> disparaging Tate's alterations in the preface to his *Lear*:

... the main fabric has not been touched; but some of his [Tate's] worthless weeds have been rooted up to make room for the strength and sweetness of the immortal bard.<sup>178</sup>

Perhaps as an *homage* to George III, with whom we know Elliston was a favourite in his early acting career, Elliston inserted Shakespeare's portrayal of *Lear's* recovery to sanity (Scene IV.4. 15–18) omitted by Tate. Tate's changes to *Lear* included the introduction of a love interest between *Edgar* and *Cordelia*, the omission of *the Fool*, and the contrivance of a happy ending in which *Lear*, *Gloucester*, and *Cordelia* all survive.<sup>179</sup> Elliston also restored Scenes IV.7. 14–17 and IV.7. 26–29, declarations of *Cordelia's* devotion to her father, considered one of the highlights of the play in most nineteenth-century commentaries.<sup>180</sup> Elliston's *Lear* proved more successful than his *Coriolanus*. A playbill of 30 May 1820 declared 'Kean's *King Lear* produced twenty-six

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<sup>175</sup> Nahum Tate (c.1652–1715), poet, playwright, and translator. G. K. Hunter, introduction to Elliston, *King Lear*. Cornmarket Press facsimilie, p. 1.

<sup>176</sup> Santour, 'Shakespeare in the Georgian Theatre', p. 222.

<sup>177</sup> Elliston, *Shakespeare's Tragedy of King Lear*.

<sup>178</sup> Elliston, *King Lear*. Cornmarket Press facsimilie, p. v.

<sup>179</sup> David Hopkins, 'Nahum Tate (c.1652–1715)', *ODNB*.

<sup>180</sup> G. K. Hunter, introduction to Elliston's *King Lear*. Cornmarket Press facsimile, p. 1.

times',<sup>181</sup> and retrospectively, Elliston's *Lear* earned him recognition as a contributor to the movement to reinstate Shakespeare:

The 1820 version [Elliston's *Lear*] is a late document in the process by which Tate's was gradually superseded and a Shakespearian text restored to the stage.<sup>182</sup>

Elliston's desire for authenticity intersected with the eighteenth-century zeal for antiquarianism to which he laid claim, as had his predecessor, collector-connoisseur Garrick. The antiquarian drive for authoritative, critical histories often relied on the research, ideas, data and facts compiled by earlier scholars.<sup>183</sup> In his quest for historical accuracy, Elliston promoted his production of *Richard III* at the Royal Circus as 'a thorough Exemplification of the Costume and Manners of those Days.'<sup>184</sup> Winston's record confirms that Elliston undertook extensive research for his 1819 *Richard III* at Drury Lane: 'Every means was resorted to to ascertain at the British Museum, the Tower and Herald's College, the proper costumes.'<sup>185</sup> Yet Elliston acknowledged there was 'no accurate period in Shakespeare'.<sup>186</sup> Pragmatically, he chose a point in history, researched, and adhered to it with fidelity. It is generally accepted that Shakespeare used the revised second edition of Holinshed's *Chronicles* as the source for several of his history plays. Appending Holinshed's history to further his claim to faithful representation, Elliston explained in the preface to his *Lear*:

... the costume is borrowed from an early Saxon period, in which such decorations were profusely used as may be seen by a reference to Strutt or

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<sup>181</sup> Drury Lane playbill dated 30 May 1820. HL-HTC: Playbills and programmes.

<sup>182</sup> G.K. Hunter, introduction to Elliston, *King Lear*. Cornmarket Press facsimile, p. 1.

<sup>183</sup> Brewer, *The Pleasures of the Imagination*, pp. 471–72.

<sup>184</sup> Murray, 'Elliston's Productions of Shakespeare', p. 106.

<sup>185</sup> Diary entry for 8 November 1819 in Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819–1827* (London, 1974), p. 2.

<sup>186</sup> Elliston, *Shakespeare's Tragedy of King Lear*, p. vi.

any of our celebrated antiquarians. Most of such decorations, even to the fibula, are fac-similes of engravings from the best authorities.<sup>187</sup>

Kean's costume is described in the prompt book copy as 'Richly embroidered Saxon tunic of rich, crimson velvet, ditto cap; flesh-coloured arms legs and sandals.'<sup>188</sup> Despite his commitment to such detail, Elliston was conscious of the tension arising from the desire for authenticity on one hand, and liking for sophisticated spectacle on the other, later explored by the Select Committee. Samuel Arnold,<sup>189</sup> who gave evidence to the Select Committee, responded as follows to the proposition that, originally, Shakespeare's plays had not been acted in costume:

But the taste of the public has so much improved since that time, they are not contented unless what they see is attended with perfect costume and good scenery.<sup>190</sup>

Elliston's *Lear* illustrates Arnold's observation. Attempting to balance 'authenticity' with spectacular effects, Elliston provided 'perfect' costume and original text,<sup>191</sup> then, as witnessed by James Winston and to Kean's displeasure, drowned out speech with the technical device of a 'bran-new hurricane on shore'.

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<sup>187</sup> Ibid. The first edition of *Holinshed's Chronicles of England, Scotland, and Ireland* appeared in 1577. It formed part of a deliberate movement to elevate the status of England, English letters, and English language through writing and publishing maps, histories, national epics, and theoretical works on English poetry. In 1587 a second edition was published under the Stationers' Company's licence. 'Raphael Holinshed (c.1525–1580?)', *ODNB*.

<sup>188</sup> *Shakespeare and the stage, Series two, Prompt books from the Harvard Theatre Collection (1753–1939)*, [microform Reel 14 (item 154)].

<sup>189</sup> Samuel Arnold (1774–1852), proprietor of the Lyceum/English Opera House. In 1817 the patentees objected to the extension of his Licence 'to keep a house known by the name of the Lyceum Theatre or English Opera granted by the Marquis of Hertford in May 1816 for Operas, Ballets of Action and musical entertainments from the 5<sup>th</sup> day of June-5 Oct.' *Garrick Annals*.

<sup>190</sup> Samuel Arnold's testimony: Select Committee questions 2975 to 3097 in Julia Swindells, 'Behold the Swelling Scene! 'Shakespeare and the 1832 Select Committee'' in Gail Marshall, and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), p. 34.

<sup>191</sup> Elliston's principal restoration to the text was Scene One, Act V: *Lear's* recognition of *Cordelia*. Odell, *Shakespeare from Betterton to Irving*, p. 152. Murray, 'Elliston's Productions of Shakespeare', p. 112.

... every infernal machine that was ever able to spit fire, spout rain or make thunder [...] were brought into full play behind the entrances [...] and not a word was heard through the whole of the scene ...<sup>192</sup>

The prompt book provides supporting evidence, showing a hand written amendment to Scene I line 14, page 29, in which the line '*Lear*: Rumble thy fill! fight whirlwind, rain, and ...' has been changed to '*Lear*: Rumble thy belly full! Spit, fire! Spout, rain!'<sup>193</sup>

Irrespective of incongruities such as this, Elliston is credited as a leading player in the movement to re-establish Shakespeare's genuine text on the Drury Lane stage.<sup>194</sup> He, like Garrick and his contemporaries, inherited a confused body of textual and theatrical materials associated with Shakespeare's works and image.<sup>195</sup> Gefen Bar-On Santour's remark can be applied to Elliston's endeavours to provide for his audience an 'authentic' experience of 'the Works of our Immortal Bard',<sup>196</sup> whether in Southwark, or at Drury Lane:

... the errors made while promoting Shakespeare [...] need to be understood within the context of a process that made a valuable contribution to the shaping of Shakespearean performance as a knowledge producing experience.<sup>197</sup>

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<sup>192</sup> J. Cowell, *Thirty years passed among the players in England and America* (New York, 1845), p. 143. Diary entry for 24 April 1820 in Nelson and Cross, *James Winston's diaries*, p. 8 and Note 9, p. 155.

<sup>193</sup> *Shakespeare and the stage, Series two, Prompt books from the Harvard Theatre Collection (1753–1939)*, [microform, Reel 14 (item 154)].

<sup>194</sup> Odell, *Shakespeare from Betterton to Irving*, p. 148. Hunter, introduction to Elliston's *King Lear*. Cornmarket Press facsimile, p. 1.

<sup>195</sup> Santour, 'Shakespeare in the Georgian Theatre', p. 227.

<sup>196</sup> Drury Lane playbill for 24 January 1820. HL-HTC: Playbills and programmes.

<sup>197</sup> Santour, 'Shakespeare in the Georgian Theatre', p. 227.

## Chapter Five: Unintended outcomes

### Introduction

When he acceded to Drury Lane Elliston faced the consequence of an inherent contradiction between his dual career as a ‘minor’ and ‘patent’ theatre actor and manager. He found himself appearing on stage at Drury Lane on the opening night of his ‘minor’ Olympic theatre in April 1813. At the same time, as Lessee of The Theatre Royal Birmingham between 1813 and 1818, Elliston had to work both within and without the ‘patent’ regime as part of his day-to-day management activity.<sup>1</sup> As a ‘minor’ proprietor, aiming for parity with the ‘legitimate’ houses, Elliston pioneered and then maintained a campaign of formal and covert challenges to the monopoly over a ten year period. On acquiring London’s premier ‘patent’, necessarily, Elliston changed allegiance, as the prime victim of his *volte face*, Joseph Glossop, manager of the Royal Coburg theatre, readily affirmed:<sup>2</sup>

Mr. Elliston was the first to lead the Minor Theatres into that species of representation of which he is now the first to complain.<sup>3</sup>

Covering Elliston’s prosecution of Glossop in January 1820, *The Times* also drew attention to his change of direction:

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<sup>1</sup> David Worrall, *Theatrical Revolution: Drama, Censorship and Romantic Period Subcultures 1773–1832* (Oxford, 2006), p. 43.

<sup>2</sup> The Royal Coburg Theatre (present-day ‘Old Vic’), located south of the Thames, near the Surrey theatre: Planned by James Jones; foundation stone laid 14 September 1816; licence obtained 16 October 1816; Joseph Glossop joined the enterprise in 1817; theatre opened on 11 May 1818 under the patronage of Leopold, Prince of Saxe-Coburg (1790–1865). Raymond Mander and Joe Mitcheson, *The Royal Coburg Theatre 1818 to the Old Vic 1968* (London, 1968). Leopold married Princess Charlotte, daughter of the Prince Regent in 1816, and remained in England after her death in 1817, until his inauguration as Leopold I of the Belgians in 1831. ‘Leopold I (1790–1865)’, *ODNB*.

<sup>3</sup> J. Glossop, *Theatrical Inquisitor, and monthly mirror*, January 1820–November 1820; April 1820; 16, 94.

... the point in dispute becomes more interesting when it is recollected that the present lessee of Drury-lane Theatre (Mr. Elliston) was himself the most strenuous advocate for a liberal construction for the rights of the minor theatres.<sup>4</sup>

Chapter Five claims that Elliston's conduct at Drury Lane, designed to protect his 'patent' rights and ensure commercial success, contributed inadvertently to the monopoly regime's demise, which he, as a monopolist, did not then desire. It is argued that between August 1819 and his expulsion in June 1826, Elliston 'laid the foundations of the destruction of the patent theatres [...] to a greater extent than the act of any other individual has been able to achieve.'<sup>5</sup> His zealous, defensive assault against the 'minor' theatres and breach of the 'secret' Agreement between the two 'patent' houses represent the principal causes of this unintended outcome.

At Drury Lane, Elliston's strategy centred on preserving the privileges vested in the Theatre Royal against the infringements of his chief 'minor' rivals, which is to say, The Royal Coburg Theatre (hereafter 'the Coburg') and the English Opera House. He not only competed for audience share with the 'minors', but also his fellow patentees at Covent Garden. Elliston's frequent violations of an Agreement between the 'patent' houses, established in the late 1700s by Richard Brinsley Sheridan's father Thomas,<sup>6</sup> incurred a warning in a letter from Covent Garden's John Forbes of the serious threat Elliston's fellow monopolists believed his actions posed:

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<sup>4</sup> 'Union Hall Drury Lane and Coburg Theatres –Yesterday being the day appointed for hearing the information.' *The Times*, 20 January 1820.

<sup>5</sup> Alfred Bunn, *The Stage both before and behind the curtain: from "Observations taken on the spot"* (London, 1840), Vol. I, pp. 21–2.

<sup>6</sup> Thomas Sheridan (1719–1788), father of Richard Brinsley Sheridan (1751–1816), Drury Lane's actor/manger 1776–1808.

... it is with the greatest regret I look upon the departure from a system which alone seemed to me to be the means of the two theatres defending and supporting themselves.<sup>7</sup>

Blinded by short-term self-interest, Elliston flouted the Agreement's provisions, including a ceiling on players' salaries, a ban on enticing each other's performers, encroaching on each other's programmes, or staging without permission plays to which the brother house owned the copyright. With the perspective of history, it is possible to see that the surge of reform, especially concerning exclusive privilege, a changing demographic, and the increased number of 'minor' theatres catering for a growing population, perhaps dictated the monopoly's demise as much as Elliston's infractions against the Agreement. However, his brother patentees, and observers such as James Winston, believed that Elliston's actions damaged the regime irretrievably.

The present chapter sets out two principal arguments. The first, that Elliston's fierce pursuit of 'minor' rivals intensified their opposition to the monopoly regime (a position of conflict he had himself initiated in 1809) to lend momentum to its final abolition. The second, that Elliston's contention with his co-patentees, post-Kean, proved self-defeating and ultimately led to the destruction of the patent theatres' privileged right to the 'regular' drama.<sup>8</sup> Separate sections deal with each of these issues. Preceding sections illustrate the power conferred by ownership of copyright, the consequence of infringement, the unusual phenomenon of the 'lost play', unauthorised

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<sup>7</sup> Entry for 26 August 1823, citing letter from [Captain] John Forbes, [Covent Garden shareholder] dated 17 August 1823 in Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819–1827* (London, 1974), pp. 72–3.

<sup>8</sup> The reason for full houses at Drury Lane, and empty seats at Covent Garden reported by Leigh Hunt in December 1819 relied on Kean's star quality. L. H. and C. W. Houtchens (eds.), *Leigh Hunt's Dramatic Criticism 1808–1831* (New York, 1949), p. 225.

enactments and the vulnerability of playwrights. The chapter begins with an exploration of the trajectory of Elliston's arrival at Drury Lane.

### **Lost in translation: Drury Lane; a life-long ambition achieved<sup>9</sup>**

In Elliston's flurry of acquisition and spending between 1809 and 1813 (treated in Chapter Three), alongside 'minor' theatre ownership, he gained a foothold in the 'patent' theatre world outside London, giving him access to speech unaccompanied by music and enabling him to operate summer and winter. Not satisfied with the Surrey's success alone, Elliston leased two 'legitimate' houses, The Theatre Royal Manchester in 1809 and The Theatre Royal Birmingham in 1813. In this period, he also attempted to secure Drury Lane and the Crow Street Theatre, Dublin, making an abortive bid for the restored London 'patent' in Spring 1812. Elliston expressed his keen disappointment in a letter addressed to Drury Lane's Sub-committee:

I had meant to have embarked my unqualified Responsibility [...] I felt surprised, therefore, that I did not stand, ostensibly, as a party in the offer ...<sup>10</sup>

Notwithstanding, Elliston signed a contract to perform, and earn handsomely again at Drury Lane from September 1812,<sup>11</sup> a paradoxical position he was later to acknowledge.

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<sup>9</sup> 'When Mr. Elliston was translated into what he calls the management of Drury-Lane Theatre ...'. News clipping: 'Theatricals, Drury-Lane', *Town Talk*, 6 January 1822. HL-HTC: Elliston Papers, Box 3.

<sup>10</sup> Transcribed letter to Richard Wilson from Elliston at Stratford Place, dated Tuesday 14 April 1812. V&A-TPC. RP 80/103.

<sup>11</sup> Agreement between The Theatre Royal Drury Lane Company of Proprietors dated 30 June 1812 and Robert William Elliston of Stratford Place in the Parish of Saint Marylebone Esquire ... HL-HTC: Elliston Papers, Box 1. The takings from Elliston's benefit night on 10 May 1813 were said to have amounted to over seven hundred pounds. Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 49. £700 in 1813 = Income value of £742,500 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

[I am] peculiarly situated with the Committee of Drury Lane. Currently fulfilling an engagement, at their seeking, as an actor [...] on very liberal terms.<sup>12</sup>

In the summer of 1812, Elliston entered negotiations to purchase Crow Street; an attractive proposition because the proprietor, doubling as deputy Master of the Revels, had power to license his own plays. However, on grounds unspecified, Elliston's adviser Warner Phipps counselled him 'to have nothing to do with the business.'<sup>13</sup>

Having failed to acquire Drury Lane, and abandoned Crow Street, in February 1813 Elliston settled on Lord Craven's fifty-three year lease on the Olympic Pavilion at Wych Street, the first 'minor' theatre in central London. After his initial drive to acquire a prominent 'patent' theatre, the Olympic seems a second-best choice, possibly the reason for Elliston's purchase of a five-year lease on The Theatre Royal Birmingham in March 1813. The Olympic's attraction consisted, firstly, in location. Although situated in an unwholesome area 'full of garrets, brothels, whores and thieves,'<sup>14</sup> the theatre stood within the City limits (carrying the distinction of the Lord Chamberlain's jurisdiction), and close to the great 'patent' houses with access to a diverse theatre-going public. The theatre's second major benefit, an annual Licence, though only for music, dancing, pantomime and equestrian exhibitions,<sup>15</sup> provided the opportunity of year-round income. Recognising the Olympic's potential, Elliston virtually rebuilt the theatre to draw superior audiences, as he had the Royal Circus/Surrey and, in what his 'patent' neighbour

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<sup>12</sup> *Copy of a Memorial presented to the Lord Chamberlain, by the Committee of Management of the Theatre-Royal Drury-Lane, and by the Proprietors of the Theatre-Royal Covent Garden, 1818; with copies of two letters in reply to the contents of such Memorial by R. W. Elliston, Comedian* (London, 1818), p. 136.

<sup>13</sup> John C. Greene, *Theatre in Dublin, 1745–1820*, Vol. I (Maryland, 2011), pp. 311–12.

<sup>14</sup> John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997), p. 326.

<sup>15</sup> Elliston purchased the Olympic on 8 February 1813. Murray, *Robert William Elliston Manager*, p. 48. Raymond Mander and Joe Mitcheson, *The Lost Theatres of London* (London, 1968), p. 225 and p. 260. Since its establishment in 1806 the *Olympic Pavilion* had been known variously as the *Pavilion Theatre*, *Olympic Saloon*, *Astley's Middlesex Amphitheatre*, *Astley's Theatre* and *New Pavilion Theatre*.

considered a barefaced challenge, opened as the Little Drury Lane Theatre on 19 April 1813.<sup>16</sup> Elliston kept to a strictly ‘minor’ repertoire,<sup>17</sup> but Drury Lane appealed to the Lord Chamberlain to shut down the Olympic on the grounds that Elliston exceeded his Licence.<sup>18</sup> The theatre’s subsequent closure between 11 May and 27 December resulted in seven months’ loss of income. Nevertheless, revenue from this enterprise enabled Elliston to purchase his interest in Drury Lane in 1819.<sup>19</sup> On acquiring a fourteen-year lease in August 1819, comprising ‘the use of the Patents and Licences, and Property, now in, about, or belonging to the said Theatre’,<sup>20</sup> Elliston achieved his life-long ambition.<sup>21</sup>

For reasons rooted in his ‘illegitimate’ hinterland, supporters of ‘legitimate’ drama, perhaps unfairly in light of Elliston’s attempts to re-instate the classics and commission new, serious work, disapproved his appointment at Drury Lane. His ‘irregular’ introduction of ‘versified *Macbeth*’ at the Surrey and disreputable productions at the Olympic were among the charges laid against him:

Poor Lawler was his [Elliston’s] literary protégé [at the Surrey] [...] and *inter alia*, versified *Macbeth* [...] to Mr. Elliston’s eternal disgrace be it spoken, he was a party to this double outrage. Mr. Lawler broke Shakespeare upon the wheel by versifying him, and Mr. Elliston gave him the *coup de grace* by performing his *Macbeth*.<sup>22</sup>

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<sup>16</sup> Mander and Mitcheson, *The Lost Theatres of London*, p. 261.

<sup>17</sup> *Ibid.*

<sup>18</sup> Drury Lane claimed the Olympic Licence covered equestrian performances only. Murray, *Robert William Elliston Manager*, p. 49.

<sup>19</sup> Mander and Mitcheson, *The Lost Theatres of London*, p. 263.

<sup>20</sup> *Garrick Annals*.

<sup>21</sup> Murray, *Robert William Elliston Manager*, p. 84.

<sup>22</sup> *The London Magazine*; and *Monthly Critical and Dramatic Review*, Vol. I - January to June 1820, p. 91. The journalist, essayist and critic William Hazlitt (1737–1820), contributor to *The London Magazine* and *The Morning Chronicle*, may have written the article in question. It was John Cross who ‘burletta’-ized *Macbeth* in 1809 (see Chapter Four), not Dennis Lawler. Lawler was employed by Elliston from May 1811, after Cross’s death. William G. Knight, *A Major London ‘Minor’: The Surrey Theatre 1805–1865* (London, 1997), p. 10.

When Mr. Elliston was translated into what he calls the management of Drury-Lane Theatre, he brought with him those filthy notions which he had contracted in his less reputable but more profitable establishment [the Olympic].<sup>23</sup>

During his proprietorship of the Olympic, the patentees charged Elliston unjustly, and unsuccessfully, with the ill-regarded practice of pirating plays, an undertaking that involved infringing copyright. At Drury Lane he abandoned such qualms, 'borrowing'<sup>24</sup> works unashamedly.

### **The significance of copyright law and 'patent' privilege**

Two principal pieces of legislation, in which Elliston was well-versed, featured in his defence when pursued by the monopolists and in his later skirmishes at Drury Lane with 'minor' rivals. These were The Statute of Anne 1710 and the Theatre Licensing Act 1737 (see Chapter One). The Statute figured also in disputes over copyright with his fellow patentees at Covent Garden.

The Statute of 1710 - 'an Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, During the Times therein mentioned'<sup>25</sup> - prohibited the publication of a book by any other than the author. But, case law established in 1793, which regulated the treatment of playwrights, provided no such protection for them:

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<sup>23</sup> News clipping: 'Theatricals, Drury-Lane', *Town Talk*, 6 January 1822. HL-HTC: Elliston Papers, Box 3.

<sup>24</sup> 'The Olympic in late season of 1817 borrowed from Mr. Dibdin'. *Copy of a Memorial* 1818, p. 27.

<sup>25</sup> R. Deazley, (2008) 'Commentary on the *Statute of Anne* 1710', in *Primary Sources on Copyright (1450–1900)*, L. Bently & M. Kretschmer (eds.).

The statute for the protection of copy-right only extends to prohibit the publication of the book itself by any other than the author [...]. Reporting anything from memory can never be a publication within the statute ...<sup>26</sup>

In other words, copyright did not apply to an author's 'property', if, once published, the work was adapted for the stage. Performance was taken as 'Reporting anything from memory'. Until the revision of legislation in 1833, in accord with the Select Committee's recommendation for the safeguarding of dramatic authors,<sup>27</sup> case law prevailed. Clause I of the Theatre Licensing Act 1737 provided that:

... every person who shall, for hire, gain or reward, act, represent or perform, or cause to be acted, represented or performed any interlude, tragedy, comedy, opera, play, farce or other entertainment of the stage [...] without authority by virtue of letters patent from His Majesty [...] or without licence from the Lord Chamberlain [...] shall be deemed to be a rogue and a vagabond within the intent and meaning of the said recited Act, and shall be liable and subject to all such penalties and punishments.<sup>28</sup>

The Act re-stated, and enshrined, the privileges conferred on the two 'patent' houses in 1662. The patentees relied on their exclusive rights and tended to quote their patents, rather than the Theatre Licensing Act, when appealing to the Lord Chamberlain or prosecuting 'minors' for exceeding their Licences.<sup>29</sup>

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<sup>26</sup> *Colman v. Wathen* (1793). Ronan Deazley, Martin Kretschmer and Lionel Bently (eds.), *Privilege and Property: Essays on the History of Copyright* (Cambridge, 2010), p. 324.

<sup>27</sup> Dramatic Literary Property Act, 1833 (Act of Parliament: 3 & 4 Will. IV, c.15).

<sup>28</sup> The Licensing Act 1737 reprinted in J. Raithby (ed.), *Statutes at large*, Volume 5 (London: Eyre & Strahan, 1811), pp. 266–68, Clause I, p. 266.

<sup>29</sup> *Copy of a Memorial* 1818; 'Court Of Chancery, Thursday, March 1' in *The Times*, 2 March 1821; Entry for 3 October 1822, Nelson and Cross, *James Winston's diaries*, p. 56.

### At the Olympic: a ‘Tragedy’ denied

The Lord Chamberlain reinstated Elliston’s Olympic Licence in December 1813. Having suffered this early experience of the power of patent rights to annul his Licence and damage his trade, Elliston avoided performing ‘regular’ drama at the Olympic.<sup>30</sup> On opening night, his programme featured ‘Sieur Sanches on the Slack Rope – *his almost incredible feat of walking against the ceiling with his head down-wards!*<sup>31</sup> Years later, Elliston’s Olympic productions continued to provoke derision:

Mr. Elliston was so fortunate while he held the Olympic Theatre to bring out some successful burlesque, of wit culled from the jest books [...] [people went] to laugh at buffooneries in this theatre, which they would have blushed to see upon more classic ground.<sup>32</sup>

Notwithstanding, the monopolists pursued Elliston for infringement of copyright and for performing ‘regular’ drama, their privilege (see Chapter Two). As to copyright, the publisher of a text would generally purchase copyright from the author. Once the work had been published, a rival printer could not lawfully reproduce it. However, published plays could be reproduced on stage, since once mediated through performance, they were considered adaptations rather than copies. So Elliston argued, certain that ‘the representation of a play after it had been printed was no violation of property.’<sup>33</sup>

The Examiner of Plays clearly concurred, for he issued Licences for Elliston’s *The Maid & the Magpie* and *The Italian Wife*. In November 1815, Drury Lane denounced Elliston for appropriating *The Maid & the Magpie*, a melodrama performed at

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<sup>30</sup> Christopher Noel Murray, *The Great Lessee: The Management Career of Robert William Elliston (1774–1831)*. A Dissertation presented to the Faculty of the Graduate School of Yale University in Candidacy for the Degree of Doctor of Philosophy, 1969, Appendix B: *Elliston’s Productions at the Olympic Theatre 1813–19*, pp. 332–35.

<sup>31</sup> Mander and Mitcheson, *The Lost Theatres of London*, p. 261.

<sup>32</sup> News Clipping: *Town Talk* 6 January 1822, ‘Theatricals, Drury-Lane’. HL-HTC: Elliston Papers, Box 3.

<sup>33</sup> Law Report, *The Times*, 4 May 1822.

Drury Lane as *The Magpie; Or, Maid of Palaiseau*.<sup>34</sup> Elliston insisted in a letter to his manager, James Winston, that the Olympic's was a unique production, not a copy in copyright terms:

The Maid & the Magpie is common property – my translation is entirely different from any that has appeared & if there be any robbery; it has been committed by the Winter Theatres.<sup>35</sup>

Elliston continued, 'with respect to our pieces, we are doing nothing [...] which has not met the Licenser's eye & sanction', and while refuting the charge, advised Winston to consult Mr. Mash of the Lord Chamberlain's office.<sup>36</sup> Finally, Elliston suggested, 'Arnold [at the neighbouring English Opera House] I think should give you a helping hand in this extremity.'<sup>37</sup> W. C. Oulton's register for 15 September 1815 throws light on this instruction; yet another adaptation had played at Samuel Arnold's English Opera House and, as *The Magpie; or, the Maid?*, had appeared on other stages:

#### THE MAGPIE; OR, THE MAID?

A Melo-Drama, in three acts, by I. Pockcock. It is founded on the same French piece, which furnished "The Maid and the Magpie; Or, Which is the Thief?" for the English Opera, and "The Magpie; Or, Maid of Palaiseau" for the Theatre Royal

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<sup>34</sup> W. C. Oulton, *A History of the Theatres of London, containing an Annual Register of New Pieces, Revivals, Pantomimes, &c. from the year 1795 to 1817 inclusive in Three volumes*, (London, 1818). Vol. I, Theatre Royal, Drury Lane, p. 329.

<sup>35</sup> Letter from Elliston at Shrewsbury dated 3 and 4 November 1815 addressed to James Winston at the Olympic. HL-HTC: Elliston Papers, Box 1.

<sup>36</sup> Thomas Baucott Mash had frequent dealings with Elliston. He later gave evidence to the Select Committee on Dramatic Literature 1832. *Report from the Select Committee 1832*, pp. 9-18.

<sup>37</sup> Samuel Arnold, English Opera House/Lyceum proprietor. Letter from Elliston at Shrewsbury dated 3 and 4 November 1815 addressed to James Winston at the Olympic. HL-HTC: Elliston Papers, Box 1.

Drury-Lane. This piece was not only performed at all the regular theatres in London, (the Haymarket excepted,) but at some of the minor houses.<sup>38</sup>

The play's production at 'some of the minor houses' suggests an open acceptance of melodrama as a feature of 'illegitimate' repertoire by this date.

The monopolists then attacked Elliston, again unsuccessfully, for exceeding his Licence on the occasion of his staging Henry Hart Milman's tragedy, *Fazio*.<sup>39</sup> The Olympic had been founded as an equestrian academy, and the monopolists alleged, incorrectly, that the Licence Elliston inherited from Phillip Astley (see Chapter Two) permitted only displays of horsemanship, and not the usual 'minor' Licence for music, dancing, et cetera.

His Lordship [the Lord Chamberlain] never contemplated that when he granted Mr. Astley a license for the Olympic, *to keep his horses from the time of the closing to the opening of his amphitheatre*, that he was granting a license to play such a TRAGEDY AS FAZIO.<sup>40</sup>

Thomas Dibdin succeeded Elliston at the Surrey in May 1816,<sup>41</sup> and staged his adaptation of *Fazio* on 22 December 1816, without the author's knowledge, under the title *The Italian Wife*.<sup>42</sup> It is this version, according to Elliston, that 'the Olympic in late Season of 1817 borrowed from Mr. Dibdin'.<sup>43</sup> Critically, the Licence under which Elliston

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<sup>38</sup> Oulton, *A History of the Theatres of London*, Vol. I, 'Theatre Royal, Drury Lane', p. 329. Nicoll records *The Magpie, or the Maid?* being performed at Covent Garden on 15 September 1815, based on L. C. Caigniez, *La pie voleuse; ou, la servante de Palaiseau*. Allardyce Nicoll (ed.), *A History of English Drama 1660–1900*, rev. Volume IV *Early Nineteenth-century Drama 1800–1850* (Cambridge, 1970), p. 384.

<sup>39</sup> Cleric and poet, Milman wrote in the style of Scott and Byron. His first poetical publication was a verse drama, *Fazio*, written for the stage, published in book form in 1815. 'Henry Hart Milman (1791–1868)', *ODNB*.

<sup>40</sup> *Copy of a Memorial* 1818, p. 4.

<sup>41</sup> Knight, *A Major London 'Minor'*, p. 21.

<sup>42</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 356.

<sup>43</sup> *Copy of a Memorial* 1818, p. 27.

proceeded had been issued for, *The Italian Wife*, a melodrama, not the tragedy *Fazio*.<sup>44</sup> In other words, at no time had the Lord Chamberlain granted Elliston 'a license to play such a TRAGEDY AS FAZIO' as the patentees asserted. A search of John Larpent's, the Examiner of Plays' archive supports Elliston's contention, for the file contains the following record: 'Application Nov. 28, 1817, D. Grove, *Olympic*. Prod. (as The melodramatic Romance founded on The Italian Wife) Nov. 29.' Larpent's record also notes 'extensive differences' between *Fazio* and *The Italian Wife*.<sup>45</sup>

Elliston's defence rested in both cases on his compliance with the regulatory system: the Examiner of Plays issued Licences for performances of *The Maid & the Magpie* and *The Italian Wife* in the full knowledge that competing versions existed. The lesson we are able to draw from the monopolists' unsuccessful appeals to the Lord Chamberlain is the contrast between the patentees' and Elliston's point of departure. The patentees' notion of, or preoccupation with, perpetual privilege clouded their understanding of copyright law, the licensing process, the precepts of entrepreneurship, and the reality of change in the theatre and in the wider world. By contrast, Elliston knew the law, appreciated how the Examiner of Plays functioned, understood commercial imperatives, and recognised, and acted as an agent of, change.

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<sup>44</sup> Ibid., p. 25.

<sup>45</sup> Record no: 1998: '*The Italian Wife*. Melodramatic romance, 2 acts. From Henry Hart Milman, *Fazio*.' Scope and Content Note. 'Application Nov. 28, 1817, D. Grove, *Olympic*. Prod. (as The melodramatic Romance founded on The Italian Wife) Nov. 29.' MS: title-page states, 'Three Acts. Comp. Milman's *Fazio*, a Tragedy (in five acts), 4th ed., 1818.' Larpent Plays, No. 2012, q.v.: 'extensive differences. (Milman disclaims other versions).' HLC-PJL.

### Unauthorised enactments at Drury Lane prefigure *Marino Faliero*

In point of fact, the truly unorthodox production of Milman's *Fazio* was that performed at Covent Garden on 5 February 1818,<sup>46</sup> because the proprietors had failed to obtain the playwright's permission.<sup>47</sup> At Drury Lane, Elliston similarly neglected the niceties. He produced without consent, W. T. Moncrieff's *Giovanni in London* (1817) (hereafter *Giovanni*),<sup>48</sup> John Poole's *Married and Single* (a 'Comedy' written for the 'Summer' 'patent' Haymarket theatre in 1824),<sup>49</sup> and Lord Byron's *Marino Faliero, Doge of Venice*. *Marino Faliero*, the subject of Chapter Six, set in train events that resulted eventually in legal protection for playwrights. Edward Bulwer, the Select Committee's Chairman, cited *Marino Faliero* in pleading for authors' rights, and Moncrieff and Poole gave an account of their experiences to the 1832 Committee.<sup>50</sup>

Elliston presented Moncrieff's unpublished operatic extravaganza *Giovanni* at Drury Lane without the playwright's permission in 1820. It may be that having staged the play at the Olympic in December 1817, when Moncrieff was stock writer, Elliston believed the playwright's remuneration purchased of his output.<sup>51</sup> As an unpublished dramatic work, styled a 'lost play' by Shirley Strum Kenny, *Giovanni* was an unusual

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<sup>46</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 356.

<sup>47</sup> 'Then the patents saw value of the formerly neglected piece. Piqued that they had not had proper discernment played it without consulting the author of *Fazio* or recompense.' *Copy of a Memorial* 1818, p. 28.

<sup>48</sup> William Thomas Moncrieff (1794–1857), playwright and theatre manager. *Giovanni in London; or, the Libertine Reclaimed* (1817). Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 358.

<sup>49</sup> John Poole (1785/6–1872), author of the burlesque, *Hamlet Travestie* (1810), produced by Elliston at the Surrey on 10 April 1813. Nicoll, *A History of English Drama 1660–1900* Volume IV, p.386. John Poole (1785/6–1872), playwright and writer.

<sup>50</sup> Edward Bulwer, 'The State of the Drama', *The New Monthly Magazine and Literary Journal* No. 34, February 1832, pp 131-35.

<sup>51</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 358.

phenomenon, for most plays acted in London were printed.<sup>52</sup> A 'lost play' had less protection even than printed texts; copyright law at least prohibited the publication of a book by any other than the author. In manuscript, a work had no safeguards. In 1818, the *Songs, Duets and Chorusses* accompanying the play were published, possibly by Elliston, and probably to dovetail with his 1817 production.<sup>53</sup> But, coinciding with Elliston's Drury Lane staging, a rival printer to Elliston's J. Tabey contested ownership of the music copyright. Winston recorded receipt of a 'Notice from Lowndes that he would publish *Don Giovanni*, songs being his property.'<sup>54</sup> Nevertheless, Elliston continued to assume proprietorial rights to and income from both play and music; the songs disputed by Lowndes were printed by Elliston and sold at Drury Lane:

The Printed and Spurious Editions of the Songs, &c. in GIOVANNI in LONDON now in circulation necessitate the Public being apprized, that only those Copies are genuine whose title pages announce that they are *printed at this Theatre*.<sup>55</sup>

Moncrieff later told the Select Committee that Elliston had made 'a great deal of money by it.'<sup>56</sup> *Giovanni* was performed twenty-nine times between 30 May and 8 July 1820, but Moncrieff's only reward was the ten pounds he earned per week for a forty week Season (c.£400).<sup>57</sup> He explained that the cost of taking out an injunction (eighty

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<sup>52</sup> Shirley Strum Kenny, 'The Publication of Plays' in Robert D. Hume (ed.), *The London Theatre World 1660–1800* (Carbondale and Edwardsville, 1980), p.309.

<sup>53</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 358. A publication - *Elliston's Whim, being a choice collection of popular new songs, now singing ... at Surry Theatre, &c.* Robert William ELLISTON London: Thomas Tegg - was in print in 1810.

<sup>54</sup> William T. Lowndes, bibliographer. Perhaps the Lowndes of 'Lowndes & Hobbs, printer, Marquis Court, Drury Lane' appearing at the foot of a pamphlet 'Private Subscription Theatre' dated 25 April 1811. *Garrick Annals*. Entry for 5 June 1820, Nelson and Cross, *James Winston's diaries*, p. 11.

<sup>55</sup> Drury Lane Playbill dated 3 July 1820. HL-HTC: Playbills and programmes.

<sup>56</sup> *Report from the Select Committee on Dramatic Literature: with the Minutes of Evidence*. Ordered, by the House of Commons, to be Printed, 2 August 1832, p. 175.

<sup>57</sup> Drury Lane Playbill dated 8 July 1820. HL-HTC: Playbills and programmes. *Report from the Select Committee 1832*, p. 175. John Russell Stephens, *The Profession of the Playwright: British Theatre, 1800–1900* (Cambridge, 1992) p. 85.

pounds) prevented him from suing.<sup>58</sup> Moncrieff's experience provides insight into the vulnerable position in which playwrights were placed.

In April 1822, the Duke of Montrose, then Lord Chamberlain, established the Haymarket's (the 'Summer' 'patent' theatre) Season as 15 June to 15 October, with 'no competition from July 1 to October 1, viz., the Winter theatres to close June 30 and open October 1.'<sup>59</sup> Typical of Elliston's perversity, he extended Drury Lane's Season into late July 1824, as Winston noted, in the hope that 'something would turn up'.<sup>60</sup> Winston added:

Such is the propensity of [Elliston] to keep open the theatre at even a loss that he is delighted at every chance of prolonging this season.<sup>61</sup>

John Poole's *Married and Single* supplied the 'something' that turned up. In attempting to 'borrow' the play, on whim, according to Winston, though led by commercial necessity, Elliston infringed accepted practice, and the Lord Chamberlain's will. In this instance, the playwright, though powerless in statute, outwitted Elliston by bringing his sharp practice to public attention. Poole accused Elliston of plagiarism in a ten-page preface to the printed play.<sup>62</sup>

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<sup>58</sup> Ibid. *Report from the Select Committee* 1832, p. 175.

<sup>59</sup> Entry for 9 April 1822, Nelson and Cross, *James Winston's diaries*, p. 49. James Graham, Duke of Montrose, Lord chamberlain 11 December 1821–13 April 1827. L. W. Conolly, *The Censorship of English Drama 1737–1824* (San Marino, Ca., 1976), p. 183.

<sup>60</sup> Entry for 18 July 1824, Nelson and Cross, *James Winston's diaries*, p. 93.

<sup>61</sup> Ibid.

<sup>62</sup> John Poole, *Married and Single. A comedy in three acts [and in prose]. To which is prefixed an exposure of a recent little proceeding of the great director of the Theatre Royal, at the corner of Brydges Street [viz. R. W. Elliston]* (London, 1824).

The Haymarket had obtained a Licence on 20 June to perform *Married and Single; or, Takings and Mistakings* on 16 July.<sup>63</sup> Elliston planned to stage the play at Drury Lane, also on 16 July, in direct competition. He applied for a Licence on 10 or 11 July, but the Lord Chamberlain's absence caused a delay, of which Elliston was notified, until 24 or 25 July.<sup>64</sup> Irked, Elliston declared on [Sunday] 18 July that he would play the comedy on Wednesday [21 July]<sup>65</sup> 'in spite of the £50 penalty', and extend his Season by a further three weeks [into August].<sup>66</sup> In the event, the Licence arrived on 20 July 1824,<sup>67</sup> but Nicholl's register shows no record of *Married and Single* having been performed on 21 July at Drury Lane, or at any other time.<sup>68</sup> Elliston might not have staged the play because of Poole's attack, or because his original timing had been frustrated. Between them, Poole and the Examiner of Plays, whose tardiness may have been politically inspired, scotched Elliston's pirating activity.<sup>69</sup> George Colman (1762–1836), playwright and theatre manager, owned the Haymarket Theatre 1795–1805 and was part-owner until 1817.<sup>70</sup> Even so, as with *The Maid & the Magpie* the Examiner of Plays - then Larpent, and in the case of Poole's play, George Colman - granted a

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<sup>63</sup> Original title: *Married and Single; or, Belles and Bailliffs*, itself an adaptation of the French play *L'homme à soixante ans*. Nicoll, *A History of English Drama 1660–1900* Volume IV, p.386.

<sup>64</sup> Entry for 12 July 1824, Nelson and Cross, *James Winston's diaries*, p. 92. *Report from the Select Committee 1832*, p. 29.

<sup>65</sup> Year 1824 United Kingdom: [www.timeanddate.com](http://www.timeanddate.com).

<sup>66</sup> Entry for 18 July 1824, Nelson and Cross, *James Winston's diaries*, p. 93. £50 penalty for performing an unlicensed play.

<sup>67</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p.386.

<sup>68</sup> *Ibid.*

<sup>69</sup> George Colman (1762–1836), Examiner of Plays January 1824–October 1836. John Russell Stephens, *The Censorship of English Drama 1824–1901* (Cambridge, 1980), p. 157.

<sup>70</sup> 'George Colman, the younger (1762–1836)', *ODNB*.

Licence for different versions of the same play, and case law supported Elliston in decreeing that, 'Reporting anything from memory can never be a publication.'<sup>71</sup>

Careful to avoid impinging on the monopolists' rights at the Olympic, Elliston engaged in casual, dubious practice at Drury Lane. But he adopted a sharp focus in his defensive strikes against the 'minor' houses, basing claims of infringement on assiduously-gathered evidence and sound knowledge of the regulatory system.

### **Elliston's battle with major 'minor' rivals**

On translating to Drury Lane, Elliston at once began to collect evidence to support legal action against the Surrey, the Regency and other 'minor' competitors for breach of copyright, or performing 'the spoken word' contrary to the provisions of their Licences:

The proprietors are compelled, for the protection of their establishments, to give you this notice – that, if you do not, in future, confine your performances strictly within the powers of your license, they will be under the painful necessity of having recourse to such measures as the laws have provided.<sup>72</sup>

Elliston sent informers to the East London New Theatre, Goodman's Fields on 21 February and 27 March 1820, where they witnessed performances of the 'legitimate' dramas *Jane Shore* and *Macbeth*.<sup>73</sup> Four actors - Elizabeth Steel, Richard Carruthers, John Alpe and John Vickers - received fines of fifty pound each, the statutory penalty, and each on five counts, amounting to a sum of £1,000.<sup>74</sup> Charges included,

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<sup>71</sup> Case *Colman v. Wathen* (1793), Deazley, Kretschmer and Bently, *Privilege and Property*, p. 324.

<sup>72</sup> Entry for 3 April 1920, Nelson and Cross, *James Winston's diaries*, Note 7, p. 155.

<sup>73</sup> Alexander Rae, a Drury Lane actor, witnessed the performance at the East London New Theatre on 21 February and Charles Ward, Drury Lane Sub-committee Secretary, on 27 March 1820.

<sup>74</sup> Garrick *Annals*. £1,000 in 1820 = 'Real Price' value of £71,390 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

performing the part of *Lord Hastings*, the part of *Macduff* and speaking the words 'pruthee, peace: I dare do all that may become a Man who dares do more, is none.'<sup>75</sup>

Elliston considered as his main rivals Joseph Glossop, seven-eighths owner of the Coburg,<sup>76</sup> and Samuel James Arnold, proprietor of the adjacent English Opera House. Both theatres operated with year-round Licences, Glossop's issued by the Surrey Magistrates and Arnold's by the Lord Chamberlain.<sup>77</sup> Through the aegis of the Prince and Princess of Coburg, the Coburg, a newly established theatre, was granted a Licence in October 1816. Funding difficulties delayed the theatre's opening until 11 May 1818, little more than a year before Elliston's accession to Drury Lane at the opposite end of Waterloo Bridge.<sup>78</sup> In June 1818, the following announcement issued by the Coburg offered the attractions of a Royal patron; by proxy, the victor of Waterloo; a singer from Drury Lane's Company; a new Pantomime:

Under the immediate patronage of His Royal Highness

PRINCE LEOPOLD of SAXE COBURG

By express desire of Her Grace the Duchess of Wellington [...] the Performances will commence with WALLACE; The Hero of Scotland [...]. a favourite Sea-song by Mr. G. Woolfe (from the Theatre Royal Drury-lane) [...] an entirely new Comic Harlequinade ...<sup>79</sup>

Emulating Elliston's 'minor' theatres, the Coburg modelling itself on the Surrey, provided sumptuous and elegant surroundings to attract the 'respectable', educated, middle-

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<sup>75</sup> Garrick *Annals*.

<sup>76</sup> Entry for 3 July 1820: 'Russell told me Glossop had given Dunn and Serres each £3,000 for their shares in the Coburg Theatre. N.B. he now has seven-eighths.' Nelson and Cross, *James Winston's diaries*, p. 14.

<sup>77</sup> The patentees objected unsuccessfully in 1817 to the extension of Arnold's Season. Garrick *Annals*.

<sup>78</sup> Mander and Mitcheson, *The Lost Theatres of London*, p. 4.

<sup>79</sup> *The Morning Chronicle*, 15 June 1818.

class.<sup>80</sup> Elliston recognised immediately the danger presented by the Coburg's décor, its facilities, ease of access from the City, and Royal sponsorship, possessed by no other 'minor' theatre, though attempted by Elliston for the Olympic in 1817 (see Chapter One).<sup>81</sup> Although Elliston had been author of the 'minor' theatres' rise to respectability, developments at the Coburg now threatened his livelihood.

### **'Exclusive privilege' and the Coburg campaign**

At the commencement of his Drury Lane lessee-ship, Elliston embarked on a Shakespeare Season. The programme began on 8 November 1819 with *King Richard the Third* featuring Edmund Kean as *Richard*.<sup>82</sup> Covent Garden staged *Richard III* in November, too, and the performances ran in tandem for some days. In further competition, in December, the Coburg announced its own production 'which will be called KING RICHARD THE THIRD!, or, the Battle of Bosworth Field!', with Junius Brutus Booth (1796–1852),<sup>83</sup> Kean's rival, as *Richard*.<sup>84</sup> The Coburg's enactment of this 'regular' drama contravened the 1737 Theatre Act's affirmation of the 'patent' theatres' exclusive privilege to performances of 'tragedy, comedy, opera, play, farce or other entertainment of the stage'.<sup>85</sup> Elliston had produced the same play at the Surrey in 1813 without opposition from the patentees,<sup>86</sup> but as a patentee, he immediately

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<sup>80</sup> Jane Moody, *Illegitimate Theatre in London 1770–1840* (Cambridge, 2000), p. 34.

<sup>81</sup> Petition to HRH the Prince Regent dated 17 March 1817. HL-HTC: Elliston Papers, Box 2.

<sup>82</sup> *The Morning Chronicle*, 8 November 1819.

<sup>83</sup> Following his introduction to the London stage in September 1816, when substituting for Kean at Covent Garden, Booth became a celebrated actor, though never as renowned as Kean, whom it is said he resembled in physique and style. Booth went on to join both 'patent' theatre companies by turn. 'Junius Brutus Booth (1796–1852)', *ODNB*.

<sup>84</sup> *The Morning Chronicle*, 27 and 31 December 1819.

<sup>85</sup> The Licensing Act 1737 Clause I, reprinted in Raithby, *Statutes at large*, p. 266.

<sup>86</sup> Murray, *The Great Lessee*, p. 330.

prosecuted Glossop 'for enacting at his house, contrary to his license the tragedy of *King Richard the Third*.'<sup>87</sup>

It has been mooted that Charles Kemble's practice at Covent Garden of informing on illegal performances, constituted a 'new system of dramatic espionage' in 1830.<sup>88</sup> The ensuing narrative, however, tells us that Elliston's strategy of collecting evidence, issuing warnings and threats, and litigating against the 'minor' theatres began in a concerted fashion with his incumbency at Drury Lane a decade earlier. Unrelentingly, between 1820 and 1826, Elliston used espionage as a tactic against the Coburg, English Opera House and others. On Elliston's departure, his successors continued the policy that he established, until, by the 1830s, informing on illegal performances had become so disruptive that the proprietors of the 'minor' theatres were driven to appeal to Parliament.<sup>89</sup>

On 29 December 1819, John Tovey, a Covent Garden employee, witnessed *Richard III* at the Coburg, telling the Court:

He went to the pit, and conceived the play to be similar in many parts to that which he had previously seen at Covent-garden theatre.<sup>90</sup>

Even though Covent Garden lent support, Elliston's naming as plaintiff in the case,<sup>91</sup> and Winston's diary note, show Drury Lane initiated the action:

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<sup>87</sup> *The Times*, 20 January 1820.

<sup>88</sup> 'Charles Kemble (1775–1854)'. Moody, *Illegitimate Theatre*, Note 95, p. 43.

<sup>89</sup> Bulwer, 'The State of the Drama', p.135.

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

Decided by Committee that information be laid against Glossop on Saturday next and, if that failed, against Booth.<sup>92</sup>

Glossop, convinced that Elliston was instigator of the campaign, asserted that proceedings against him had commenced with his lessee-ship of Drury Lane. Glossop addressed two letters to the Editor of *The Theatrical Inquisitor* in January 1820, published under the heading *Attempt to Suppress the Minor Drama*.<sup>93</sup> In the first, dated 12 January, Glossop expressed conciliatory sentiments towards those he called 'my opponents, the patentees [...] brother traders.'<sup>94</sup> The second, written on 20 January, accused Elliston outright of seeking the destruction of the 'minor' theatres, and, specifically, 'of putting a stop to the Coburg theatre representing any thing like a rational drama.'<sup>95</sup> Elliston's case against Glossop had commenced the previous day.<sup>96</sup> *The Times* noted: 'It is manifest that it is his interests [Elliston's] which are sought to be protected.'<sup>97</sup>

Two hearings took place at Union Hall, the Magistrates' Court for the County of Surrey (being outside the boundaries of Westminster, local magistrates, not the Lord Chamberlain licensed the Coburg). Contemporaneous reporting of the case shows a keen awareness of the monopoly regime's impact on theatre culture long before Bulwer joined the debate in 1830 (see Chapter Seven). On 20 January 1820, *The Times* stated that 'a great number of persons interested in the decision of the question attended this

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<sup>92</sup> Entry for [Thursday] 6 January 1820, Nelson and Cross, *James Winston's diaries*, p. 3.

<sup>93</sup> Letters to the Editor dated 12 and 20 January 1820. J. Glossop, *Theatrical Inquisitor, and monthly mirror*, January 1820–November 1820; February 1820; 16, 92. J. Glossop, *Theatrical Inquisitor, and monthly mirror*, January 1820–November 1820; April 1820; 16, 94.

<sup>94</sup> J. Glossop, *Theatrical Inquisitor, and monthly mirror*, Jan. 1820–Nov. 1820; February 1820; 16, 92.

<sup>95</sup> J. Glossop, *Theatrical Inquisitor, and monthly mirror*, Jan. 1820–Nov. 1820; April 1820; 16, 94.

<sup>96</sup> 'Union Hall, Drury Lane and Coburg Theatres -Yesterday being the day appointed for hearing the information.' *The Times*, 20 January 1820.

<sup>97</sup> *The Times*, 20 January 1820.

office [Union Hall]' on the previous day. On 8 February, a vast variety of persons involved in the issue gathered at the Court:

Among the more prominent of the auditors were the proprietors of the English Opera [Arnold], and of most of the other places of public entertainment recognized under the title of Minor Theatres. [...] in addition to these, Mr. Randle Jackson,<sup>98</sup> Mr. Birnie,<sup>99</sup> and many other county magistrates were in attendance.<sup>100</sup>

The magistrates found in Elliston's favour:

... under the 2<sup>nd</sup> clause of the 10<sup>th</sup> Geo. II [...] Mr. Glossop had caused a play to be enacted in defiance of the terms of this act, and he was clearly liable to the penalty.<sup>101</sup>

Glossop appealed to the Court of King's Bench, but The Lord Chief Justice confirmed his conviction in *The King v. Glossop* eighteen months later.<sup>102</sup> Winston noted the verdict in his diary the following day, 28 June 1821, as a significant victory.<sup>103</sup> Before resolution of the *Richard III* case, Elliston commenced a further prosecution, this time for 'gross infringement and plagiarism of the plaintiff's copyright.'<sup>104</sup> While the January 1820 indictment had concerned the 1737 Act, the Lord Chancellor presided over *Elliston v. Jones, Glossop, and Others* under the Statue of Anne 1710.

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<sup>98</sup> In 1810 Randle Jackson (1757–1837), a leading lawyer, had argued in the Lords on behalf of those seeking a charter for a Third London theatre. Randle Jackson, *Third Theatre, The argument of Randle Jackson, Esq., before the Lords of the Privy Council, on behalf of the trustees ... with copies of the petition to His Majesty for a charter to erect a third theatre in the metropolis ... 1810.*

<sup>99</sup> Richard Birnie (Sir Richard from 1821) was police magistrate at Union Hall, and then at Bow Street; In February 1820 he headed the police officers in the arrest of the Cato Street conspirators. 'Sir Richard Birnie, (c.1760–1832)', *ODNB*.

<sup>100</sup> *The Times*, 20 January 1820.

<sup>101</sup> *Ibid.*

<sup>102</sup> 'Court Of King's Bench, Westminster, June 27.' *The Times*, 28 June 1821.

<sup>103</sup> Entry for 28 June 1821, Nelson and Cross, *James Winston's diaries*, p. 32.

<sup>104</sup> 'Court Of Chancery, Thursday, March 1.' *The Times*, 2 March 1821.

Elliston had been granted a Licence to perform John Howard Payne's *Therese, the Orphan of Geneva* at Drury Lane from 2 February 1821.<sup>105</sup> Like any manager, it was in Elliston's general interest to purchase copyrights, both for immediate protection of the script, and the long term investment it could represent.<sup>106</sup> Accordingly, he 'bought copyright of *Therese* of Payne for £40' on 8 February 1821, the day informers, including the playwright, visited the Coburg 'to take note of *Therese*'.<sup>107</sup> Elliston was granted an injunction on 12 February preventing Glossop from performing the play.<sup>108</sup> At the subsequent trial, the defendants cited a procedural lapse: 'Mr. Elliston's [copyright] was not entered at Stationers'-hall when he filed his bill [his application for an injunction].'<sup>109</sup> Under the Statute of Anne copyright was recognised officially only if registered at Stationers' Hall, although many ignored the condition.<sup>110</sup> Registered or not, Elliston knew the importance of owning copyright to a work before going to law.<sup>111</sup>

The *Therese* case turned on the claim that 'reporting from memory'<sup>112</sup> had been far exceeded:

Mr. Glossop and Mr. Medex [a copyist: in Winston's diary written 'Meddox']<sup>113</sup> were seen in Drury-lane theatre, writing it, and it was presumed, taking notes of the performance.<sup>114</sup>

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<sup>105</sup> *Therese, the Orphan of Geneva* by John Howard Payne, licensed on 30 January 1821 for performance at Drury Lane on 2 February. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 368.

<sup>106</sup> Stephens, *The Profession of the Playwright*, p. 86.

<sup>107</sup> Entry for 8 February 1821, Nelson and Cross, *James Winston's diaries*, p. 26.

<sup>108</sup> Court of Chancery, Monday, February 12. Law Report. *The Times*, 13 February 1821.

<sup>109</sup> *Ibid.*

<sup>110</sup> James Raven, *The Business of Books: Booksellers and the English Book Trade 1450–1858* (Newhaven and London, 2007), pp. 124 and 128.

<sup>111</sup> Larpent Archive record no. 221: HLC-PJL. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 368.

<sup>112</sup> 'The statute for the protection of copy-right only extends to prohibit the publication of the book itself by any other than the author ... Reporting anything from memory can never be a publication within the statute'. *Colman v. Wathen* (1793), Deazley, Kretschmer and Bently, *Privilege and Property*, p. 324.

Actor/manager Charles Mathews reported the prevalence of this practice to the Select Committee.<sup>115</sup> He stated that most modern pirates, instead of bribing prompters, an earlier custom, stole directly by sending short-hand writers into the 'Pit'; 'it has become a kind of property among booksellers and adventurers.'<sup>116</sup> *Elliston v. Jones, Glossop, and Others* was not dismissed, as has been recorded,<sup>117</sup> but ran to three lengthy hearings on 12 February, 24 February, and 1 March, and an appeal on 27 June, at which Glossop's conviction was confirmed.<sup>118</sup> The case added to the sum of escalating prosecutions, indicative of the increasing threat posed by 'minor' theatres. The Lord Chancellor remarked:

Disputes respecting theatrical property had lately become so frequent, that it might be advisable to institute a separate Court for deciding them. The Court had travelled through almost all the theatres in the metropolis. The Circus, the Opera-house, Sadler's Wells, and Covent-garden [...] and now it had unfortunately got to Drury-lane.<sup>119</sup>

Elliston intended the Coburg prosecutions not only to deter the 'minors', but to provide a platform for rallying public support for 'patent' rights. His object, in the earlier *Richard III* case, he had declared, 'was not to recover the amount of the penalty, but to prevent the repetition of an offence which was highly injurious to the patent theatres.'<sup>120</sup> Still bent

<sup>113</sup> Entry for 24 March 1821, Nelson and Cross, *James Winston's diaries*, p. 28.

<sup>114</sup> *The Times*, 2 March 1821.

<sup>115</sup> Charles Mathews (1776–1835), an acclaimed actor in Britain and America. A friend of Elliston's boyhood, they acted in private theatricals at the Lyceum, where Elliston's talent was first recognised. George Raymond, *Memoirs of R W Elliston, comedian, 1774-1831*, 2 Vols. (London, 1844), Vol. I, p. 18.

<sup>116</sup> Select Committee Report 1832, in Stephens, *The Profession of the Playwright*, p. 86.

<sup>117</sup> Moody, *Illegitimate Theatre*, Note 91, p. 42. Stephens, *The Profession of the Playwright*, Note 12, p. 210.

<sup>118</sup> 'Court of Chancery, Monday, February 12.' Law Report. *The Times*, 13 February 1821. *Ibid.*, 26 February 1821; *Ibid.*, 2 March 1821. 'Court Of King's Bench, Westminster, June 27'. *The Times*, 28 June 1821.

<sup>119</sup> 'Court Of Chancery, March 1.' *The Times*, 2 March 1821.

<sup>120</sup> *The Times*, 10 February 1820.

on defending 'patent' privilege, Elliston attended Court for the *Therese* hearing on 1 March 1821, stating:

He had been induced to come there in order to ascertain what were the rights he possessed as proprietor of a patent theatre ...<sup>121</sup>

Having won both cases, Elliston clung to his patent as a talisman, as had his predecessors. Despite the understanding of the climate of change he demonstrated as a 'minor' proprietor, he ignored arguments for reform, framed later by Edward Bulwer in these questions: 'How far is it expedient for the public, that privileges and enactments of this monopolizing description should be continued; how far is it expedient that the minor theatres should be suppressed, and the exclusive patents of the two great theatres should be continued?'<sup>122</sup>

The points were addressed by Bulwer's Select Committee. Witnesses included many of the key players discussed in this chapter: Samuel James Arnold (proprietor of the English Opera House/Lyceum); George Colman (Examiner of Plays); Captain John Forbes (part-proprietor of Covent Garden); Edmund Kean (actor); James Kenney (playwright); Thomas Baucott Mash (Lord Chamberlain's Comptroller); Charles Mathews, (actor/manager); William Thomas Moncrieff (playwright); John Poole (playwright); James Winston (stage manager, one-eighth owner of the Haymarket theatre, antiquarian, and founding Secretary of the Garrick Club 1832–43).<sup>123</sup> William Dunn, Treasurer, and from February 1823, Secretary<sup>124</sup> and party to the 'new'

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<sup>121</sup> 'Court Of Chancery, March 1.' *The Times*, 2 March 1821.

<sup>122</sup> *Hansard*, 3<sup>rd</sup> Ser., 13 (1831): 239, in Deazley, 'Commentary on *Dramatic Literary Property Act 1833*'.

<sup>123</sup> *Report from the Select Committee 1832*, pp. 56, 59, 98, 86, 226, 9, 175, 191, and 18, respectively.

<sup>124</sup> Entry for 22 February 1823, Nelson and Cross, *James Winston's diaries*, p. 63.

Agreement, represented Drury Lane.<sup>125</sup> ‘Minor’ theatre proprietors George Bolwell Davidge, Joseph Glossop’s successor at the Royal Coburg,<sup>126</sup> and David Osbaldiston, manager of the Surrey theatre and Elliston’s protégé,<sup>127</sup> also gave evidence.

### **Arnold’s Opera House: bones of contention; Season creep and copyright**

Elliston perceived Samuel Arnold at the English Opera House as a lesser threat than Glossop at the Coburg, but the proximity of Arnold’s theatre, and year-round Licence, made him a focus of Elliston’s weather-eye.<sup>128</sup> Although at the Olympic, Elliston had enlisted Arnold’s support,<sup>129</sup> their relationship deteriorated once Elliston entered Drury Lane. In August 1820, Arnold produced an interlude, *Patent Seasons*, attacking Elliston for extending his Season, leaving the ‘Summer’ theatres only twenty-one days free of competition.<sup>130</sup> We have seen that Elliston later adopted the same tactic with the ‘Summer’ ‘patent’ Haymarket theatre. Perhaps piqued by Arnold’s criticism, Elliston confronted him on a copyright issue in September that year, as recorded in Winston’s diary:

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<sup>125</sup> *Report from the Select Committee 1832*, pp. 36 and 70.

<sup>126</sup> *Ibid.*, pp. 79 and 214.

<sup>127</sup> *Ibid.*, p. 94.

<sup>128</sup> The patent proprietors had opposed the establishment of The English Opera House. in November 1815 as ‘an act of injury’ against them. The Lord Chamberlain was not persuaded, for in May 1816 he granted Arnold a Summer/‘minor’ theatre Licence ‘to keep a house known by the name of the Lyceum Theatre or English Opera’ to perform ‘Operas, Ballets of Action and musical entertainments from the 5<sup>th</sup> day of June to the 5<sup>th</sup> of October’. The patentees objected further in 1817 to the extension of Arnold’s Season. Garrick *Annals*. The English Opera House was frequently called by its former name, the Lyceum.

<sup>129</sup> Letter from Elliston at Shrewsbury dated 3 and 4 November 1815 addressed to James Winston at the Olympic. HL-HTC: Elliston Papers, Box 1.

<sup>130</sup> Arnold obtained a Licence on 16 August for *Patent Seasons* to be performance on 21 August 1820. Entry for 16 August 1820, Nelson and Cross, *James Winston’s diaries*, p. 16.

Signed a notice to Arnold saying unless he desisted from acting *The Mountaineers* a memorial would be sent to the Lord Chamberlain.<sup>131</sup>

It is unclear how or whether Drury Lane owned the copyright to *The Mountaineers*, since George Colman had written the play for his Haymarket theatre in 1793.<sup>132</sup> The music, however, had been composed by Dr. Samuel Arnold (1740–1892),<sup>133</sup> father of the English Opera House proprietor, a feature of the dispute that endows Elliston's threat with a measure of irony. At the commencement of his lessee-ship Elliston cleared his staging of *The Devil's Bridge*, Arnold's property: 'Tomorrow (by permission of the Proprietor of the English Opera House) will be performed The Devil's Bridge.'<sup>134</sup> In 1822, when again seeking permission to present that play, Elliston remonstrated with Arnold for performing *No Song* and *Siege of Belgrade* without his, Elliston's, approval. Arnold countered:

... he had purchased all the manuscripts of Drury Lane and that Mr. Elliston ought not in law to play *The School for Scandal*, *Siege of Belgrade*, *Haunted Tower*, *No Song*, *Pirate*, etc., etc., without his permission – that he never applied for permission to play *No Song* or *Siege of Belgrade*, knowing that he had the right to act them.<sup>135</sup>

While ownership of copyright often was uncertain (hence Elliston's securing of *Therese*), *Monsieur Tonson* is an example of a definite instance of pirating by Arnold in August 1823, which Elliston justifiably pursued.<sup>136</sup> In December 1823, Elliston

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<sup>131</sup> Entry for 30 September 1820, Nelson and Cross, *James Winston's diaries*, p. 7.

<sup>132</sup> *The Mountaineers* licensed on 30 July 1793 for performance at the Haymarket on 3 August. *The Mountaineers* was pirated in Dublin in 1794. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 247.

<sup>133</sup> Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 247.

<sup>134</sup> Drury Lane Playbill dated 4 October 1819. HL-HTC: Playbills and programmes.

<sup>135</sup> Entry for 16 November 1822, Nelson and Cross, *James Winston's diaries*, p. 58.

<sup>136</sup> Entry for 18 August 1823, Nelson and Cross, *James Winston's diaries*, p. 71. *Monsieur Tonson*, a play by W. T. Moncrieff, had been licensed on 17 September 1821 for performance at Drury Lane on 20 September 1821. Nicoll, *A History of English Drama 1660–1900* Volume IV, p.359.

continued his campaign against Arnold by appealing to the Lord Chamberlain against 'licensing French plays at [Arnold's] Opera House or elsewhere.'<sup>137</sup>

Meeting at Covent Garden [...] - Agreed [...] that all engagements with singers be to prevent as much as possible singing anywhere else ....<sup>138</sup>

Such co-operation between the patentees emerged towards the close of Elliston's management; even so, his commitment often waived. Despite the existence of a 'secret' Agreement dating from the later 1700s, Elliston's prime concern, survival, embroiled him from the outset in contention with his fellow monopolists, which conflict reached a climax in the 1823–24 Season.

### **Breaking the 'old' Agreement**

The author of the 1779 pamphlet *Theatrical Monopoly*, objected to the 'scheme of union fabricated by Mr Sheridan the Elder', by which the monopolists depressed salaries, and could instruct actors to play at either theatre.<sup>139</sup> The parties to the Agreement also undertook to avoid encroaching on each other's repertoires, not to infringe each other's copyright, and not to poach each other's performers.<sup>140</sup> Intent on succeeding at Drury Lane, Elliston ignored each tenet of the 'old' Agreement. As we have seen, in November 1819, early in his first Season, Elliston staged *King Richard the Third* simultaneously with Covent Garden.<sup>141</sup> In 1823, Elliston played James Kenney's

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<sup>137</sup> Entry for 22 December 1823, Nelson and Cross, *James Winston's diaries*, p. 78.

<sup>138</sup> Entry for 21 July 1825, *ibid.*, p. 114.

<sup>139</sup> *Theatrical Monopoly: being an address to the public on the present alarming coalition of the managers of the Winter theatres* (London 1779), pp. 24–5 and 27.

<sup>140</sup> *Ibid.*, p. 32.

<sup>141</sup> *The Morning Chronicle*, 8 November 1819.

*Love, Law and Physic* without permission,<sup>142</sup> receiving a complaint from the other house recorded by Winston:

Letter from Fawcett by order of Committee of Covent Garden forbidding the performance of *Love, Law and Physic* it being their manuscript.<sup>143</sup>

Elliston knew from the author that Covent Garden owned the copyright, because Kenney had written to Elliston in August 1820, *à propos* a piece Elliston was commissioning for Drury Lane:

With respect to terms [...] Harry [Henry] Harris [...] gave me for the farce of *Love, Law, Physic* £100 Certain profits on the run and Eighty Guineas for the copyright.<sup>144</sup>

Most damagingly, Elliston lured performers from Covent Garden. The proprietors complained to the Drury Lane Sub-committee at the beginning of the 1822–23 Season, to remind them of the ‘strict limitations upon the rights to hire members of each other’s companies.’<sup>145</sup> Winston noted:

Although Elliston assured Covent Garden that he would not depart from this established principle, he has, in fact, engaged several members of the Covent Garden Theatre Company.<sup>146</sup>

Covent Garden turned to the Lord Chamberlain in February 1823, arraigning Elliston personally ‘for taking away and engaging their performers contrary to patent’.<sup>147</sup>

Regardless of what Covent Garden held to be long-standing custom and practice, the

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<sup>142</sup> James Kenney’s farce, *Love, Law and Physic* was licensed on 12 November 1812 for performance at Covent Garden on 20 November 1812. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 336.

<sup>143</sup> Entry for 19 February 1823, Nelson and Cross, *James Winston’s diaries*, p. 63.

<sup>144</sup> Manuscript letter to Elliston at Drury Lane from James Kenney in Paris dated 12 August 1820. V&A-TPC: 1973/A/83.

<sup>145</sup> Entry for 3 October 1822, Nelson and Cross, *James Winston’s diaries*, p. 56.

<sup>146</sup> *Ibid.*

<sup>147</sup> Entry for 21 February 1823, *Ibid.*, p. 63.

Lord Chamberlain, James Graham, Duke of Montrose, decreed Elliston was not bound by the Agreement, ruling it had expired with the deaths of Sheridan in 1816 and Harris in 1820.<sup>148</sup> Persisting in August 1823, John Forbes for Covent Garden sought to reinstate the pact, blaming Elliston for breaches damaging to both enterprises.<sup>149</sup> In a frantic attempt to stem their losses, in July the following year, the patentees agreed to resurrect the *entente*.

Meeting this day at two at Covent Garden Theatre [...] [all] agreed that the old agreement of Sheridan Sr., of 1788 with addition of explanation [should be adopted] ...<sup>150</sup>

This undertaking, allowing ‘no terms or forbearance towards any who shall attempt to invade upon them but by mutual agreement’, declared joint war on the ‘minor’ theatres.<sup>151</sup> There followed policies on admission prices, benefit nights, publicity, employing each other’s actors, and placing a limit on performers’ salaries - twenty pounds per week, and ten pounds per night if engaged nightly - ending with a pledge of secrecy, and the following caution:

... we know by dear-bought experience that these measures and this understanding are absolutely necessary to the preservation of our property, and the security of the great sum of others which are embarked in it ...<sup>152</sup>

Elliston adhered to this ‘new’ Agreement in one respect alone; opposing the ‘minors’.

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<sup>148</sup> Entry for 1 March 1823, *Ibid.*, p. 65.

<sup>149</sup> Entry for 26 August 1823, citing letter from John Forbes dated 17 August, 1823, *Ibid.*, pp. 72–3.

<sup>150</sup> Entry for 22 July 1824, *Ibid.*, p. 95.

<sup>151</sup> Entries 22 July–24 July 1824, *Ibid.*, pp. 95–6.

<sup>152</sup> ‘Copy of Agreement between the two theatres sent from Covent Garden July 23 1824’, *Ibid.*

**‘Star’ salaries: ‘an act of desperation’<sup>153</sup>**

‘Star’ performers customarily received generous payment, as Elliston’s high earnings and Angelica Catalini’s salary testify. The power to draw an audience made ‘stars’ absolutely necessary to the preservation of the monopoly. Seeming unmindful of any wider implications, but in an attempt to seize market share, Elliston attracted the best talent to Drury Lane by offering excessive terms:

... he took the direction of the theatre with the best possible chance of success – for a time at any rate [...] At the same time, in order to outbid his rivals, Elliston offered large salaries to starring actors ...<sup>154</sup>

In spite of securing celebrated actors, box office profits did not reach the level required to cover these high salaries. Apart from failing commercially, the ‘star’ system also attracted criticism for its undesirable impact on dramatic standards:

Kean became the rage, and drew by his popularity immense houses. [...] he, perhaps, more than any great actor fomented the illiterate and narrow-minded taste of only regarding one character in a play, thus reducing it to a mere vehicle for the exhibition of the talents of an individual.<sup>155</sup>

Elliston’s infraction of the ‘old’ and ‘new’ Agreements’ undertaking not to poach players resulted in escalating losses.

Elliston ‘discovered’ Edmund Kean (1789–1833), Drury Lane’s ‘star’ from January 1814. While proprietor of the Olympic, Elliston found Kean, an obscure, penurious actor with Henry Lee’s company in Dorchester, and contracted him on 11

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<sup>153</sup> Entry for 21 July 1824, *Ibid.*, p. 94.

<sup>154</sup> Cowell, *Thirty years passed among the players*, p. 71. Winston’s diary entry for 27 March 1820 notes: ‘Mr. Cowell accepted the engagement of £4 for the rest of the Season and for three years after: £4 - £5 - £5.’ Nelson and Cross, *James Winston’s diaries*, p. 6.

<sup>155</sup> F. G. Tomlins, *A Brief View of the English Drama* (London, 1840), p. 74.

November 1813 to ‘superintend the stage business and play all the principal parts for a salary of three guineas a week’ when the Olympic re-opened.<sup>156</sup> Kean broke the agreement on 16 November to take up an offer from Drury Lane of eight pounds per week.<sup>157</sup> After a period of dispute Elliston released Kean from his obligation. The Olympic’s forced closure between May and December 1813 deprived Elliston of the distinction of having introduced Kean to the London stage,<sup>158</sup> but brought Kean fame and fortune.

From eight pounds in 1814, Kean’s salary more than quadrupled in real terms under Elliston’s management, rising to £30 per week in the 1819-20 Season,<sup>159</sup> plus ‘an additional sum of £19 per night when he plays above 3 nights a week.’<sup>160</sup> On a payroll listing thirteen performers, the next two most highly paid received £14 per week, others ranged between £12 and £4. In the 1821–22 Season, Covent Garden paid lower amounts to its stars: of sixteen performers, Charles Mayne Young and William Macready earned £20 per week,<sup>161</sup> three had £17 and the rest £12 to £2.<sup>162</sup> The following Season, Macready re-negotiated the terms of his engagement, achieving ‘£20 per night for 30 nights’.<sup>163</sup> Several performers left Covent Garden in 1822 when Charles

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<sup>156</sup> Giles Playfair, *Kean, The Life and Paradox of the Great Actor* (London, 1950), pp. 72–3.

<sup>157</sup> Giles Playfair, *Kean, The Life and Paradox of the Great Actor* (London, 1950), pp. 77–8 and 86.

<sup>158</sup> Henry Barton Baker, *The London Stage its History and Traditions 1576–1888* (London, 1889), Vol. 2, p.12.

<sup>159</sup> £8 in 1814 = Income value of £9,033 in 2014. £30 in 1819 = Income value of £39,670 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>160</sup> Manuscript ‘List of engagements’, 1819: HL-HTC: Elliston Papers, Box 3.

<sup>161</sup> Charles Mayne Young joined Covent Garden in November 1808. ‘Charles Mayne Young (1777–1856)’, *ODNB*. William Charles Macready, actor and theatre manager, took his first role at Covent Garden in April 1817. ‘William Charles Macready (1793–1873)’, *ODNB*. £20 in 1821 = Income value of £28,460 in 2014. [www.measuringworth.com](http://www.measuringworth.com)

<sup>162</sup> Entry for 14 November 1821, Nelson and Cross, *James Winston’s diaries*, p. 39.

<sup>163</sup> Letter to Frederick Reynolds [Elliston’s then stage manager] addressed to 48 Warren Street, Fitzroy Square, London, from W. C. Macready at Carlisle, dated 8 September 1823, postmarked 11 September 1823. HL-HTC: Elliston Papers, Box 3.

Kemble, as head of a new management committee, cut actors' salaries in an attempt to reduce losses.

Kean's pending departure for America motivated Elliston's further poaching of star performers. He first engaged Junius Brutus Booth in August 1820 at '£140 for eight nights performing with Kean, and £12 per week for Winter Season till next Passion Week.'<sup>164</sup> Kean was absent for nearly nine months from October 1820, re-appearing at Drury Lane as *Richard III* on 23 July 1821 (Elliston again infringing the Season limit).<sup>165</sup> Although Kean had returned, in the 1821–22 Season, Elliston accepted defecting senior members from the Covent Garden Company, and trebled their salaries.<sup>166</sup> Regardless of Kean's insistence that 'he could not act unless he was paramount',<sup>167</sup> and that 'Hamlet, Macbeth, etc. were his characters',<sup>168</sup> dividing the lead with Kean, Young made his first appearance at Drury Lane in the role of *Hamlet* in October 1822.<sup>169</sup> Elliston engaged John Liston in August 1823, offering £50 a week, against the £17 he had at Covent Garden.<sup>170</sup> Macready joined him, making his *début* in *Virginus* on 13 October 1823.<sup>171</sup> After America, Kean grew increasingly truculent. He refused to act with Macready, performing only between December 1823 and April 1824 after Macready's

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<sup>164</sup> Entry for 13 August 1820, Nelson and Cross, *James Winston's diaries*, p. 15. £140 in 1820 = Income value of £185,800 in 2014. £12 per week in 1820 = Income value of £12,630.00 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>165</sup> 'Edmund Kean (1787–1833)', *ODNB*.

<sup>166</sup> 'William Charles Macready (1793–1873)', *ODNB*.

<sup>167</sup> Entry for 28 January 1822, Nelson and Cross, *James Winston's diaries*, p. 44.

<sup>168</sup> Entry for July 25 1823, *Ibid.*, p.70.

<sup>169</sup> 'Charles Mayne Young (1777–1856)', *ODNB*.

<sup>170</sup> Entry for 6 August 1823, Nelson and Cross, *James Winston's diaries*, p. 71. John Liston (c.1776–1846): At Covent Garden his weekly salary had never risen above £17, considerably less than the £50 he was offered to join Drury Lane in 1823. He made his Drury Lane *début* on 28 January, and stayed with the Company until 1831. 'John Liston (c.1776–1846)', *ODNB*.

<sup>171</sup> 'William Charles Macready (1793–1873)', *ODNB*.

engagement had ended.<sup>172</sup> He also made a rogue appearance at the Surrey on 7 February 1824.<sup>173</sup> Yet, Elliston offered Kean a new contract for the 1824–25 Season at £50 a night, wildly in excess of the £20 limit stipulated in the ‘new’ Agreement of July 1824.<sup>174</sup>

Elliston admitted candidly to his fellow patentees that ‘his giving such salaries as he had done was an act of desperation.’<sup>175</sup> But he continued the practice during negotiations, and following his supposed commitment to the reinstated Agreement. The day before signing, he contracted to pay Kean £1,000 for twenty-three nights over eight weeks.<sup>176</sup> Winston wrote on 24 July (the Agreement having been ratified on 22 July), ‘Kean’s imprudently preposterous and unwise engagement signed this evening.’<sup>177</sup> On 25 July Winston recorded the appointment of a Mr. Bishop and his wife at £20 a week (they had earned £14 at Covent Garden) noting, Bishop ‘tries to make Covent Garden performers break their engagements to come to Drury Lane’.<sup>178</sup>

### **A ‘new’ Agreement; joint war on the ‘minor’ theatres**

The July 1824 Agreement between Covent Garden and Drury Lane declared:

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<sup>172</sup> Murray, *Robert William Elliston Manager*, p. 146. ‘Edmund Kean (1787–1833)’, *ODNB*.

<sup>173</sup> Entry for 10 February 1824, Nelson and Cross, *James Winston’s diaries*, p.82 and Note 4, p. 158. ‘February 10: Last Saturday, February 7, Kean drove Thurtell’s gig on the Surrey stage during the performance’; supposedly the identical gig in which John Thurtell had murdered his creditor William Weare in October 1823. The Surrey’s first attempt to stage a play on the subject in November 1823 was suppressed. The performance in February 1824 links to Thurtell’s hanging on 9 January 1824.

<sup>174</sup> Entry for 24 May 1826, *Ibid.*, p. 123. Murray, *Robert William Elliston Manager*, p. 150. ‘Edmund Kean (1787–1833)’, *ODNB*.

<sup>175</sup> Entry for 21 July 1824, Nelson and Cross, *James Winston’s diaries*, p. 94.

<sup>176</sup> Entry for 21 July 1824, Nelson and Cross, *James Winston’s diaries*, p. 94. £1,000 in 1824 = Income value of £58,470 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>177</sup> Entry for 24 July 1824, *Ibid.*, p. 96.

<sup>178</sup> Entry for 25 July 1824, *Ibid.*, p. 98. ‘Mr. Bishop’ may have been Henry Bishop the foremost contemporary British theatre composer who arranged *Aladdin* as an opera for Elliston in the Spring of 1826.

We will constantly unite our efforts and act in concert to maintain the just rights which we have purchased in our patents and allow no terms or forbearance towards any who shall attempt to invade upon them but by mutual agreement ...<sup>179</sup>

In October 1824 the monopolists found it necessary to join in another appeal to the Lord Chamberlain for protection against the ‘minor’ theatres’ incursions on their rights. The invasion of their privilege, they claimed, ‘without some powerful aid, must shortly terminate their existence’.<sup>180</sup> In December, Winston reported the monopolists’ intensified resolve to destroy the ‘minors’:

Went to Covent Garden [...] about petition and minor theatres. Agreed to give Thurman [lawyer] £150 when the minor theatres were closed ...<sup>181</sup>

Agreed today with Thurman to stop minor theatres by Drury Lane and Covent Garden petition.<sup>182</sup>

The joint campaign continued after Elliston’s dismissal from Drury Lane on 3 June 1826; his lease being held forfeit for rent arrears of £5,400.<sup>183</sup> Winston described the Committees’ measure as ‘harsh’.<sup>184</sup> He had predicted Elliston’s fall in May, and regarded the non-payment of rent as a pretext for ousting him. Winston summarized the causes of Elliston’s destruction as a combination of his ‘improprieties’, his illness, and his overspending. Winston’s diary gives us many instances of Elliston’s erratic behaviour. On 20 January 1823 he recorded: ‘Elliston was [at] the Crown on Thursday

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<sup>179</sup> Entries for 22 July–24 July 1824, *Ibid.* pp. 95–6. ‘Copy of Agreement between the two theatres sent from Covent Garden July 23 1824’.

<sup>180</sup> Tracey C. Davis, *The Economics of the British Stage 1800–1914* (Cambridge, 2000), p. 31. BL Add MS29,643 f. 27, R. W. Elliston to the Duke of Montrose, 3 February 1824. BL Add MS29,643 f. 27, Elliston (for Drury Lane) and Charles Kemble (for Covent Garden), to the Duke of Montrose, 26 October 1824.

<sup>181</sup> Entry for 12 December 1823, Nelson and Cross, *James Winston’s diaries*, p. 78.

<sup>182</sup> Entry for 22 December 1823, *Ibid.*

<sup>183</sup> Murray records the debt as £5,670 16s. 8d. Murray, *Robert William Elliston Manager*, p. 116.

<sup>184</sup> Entry for 3 June 1826, Nelson and Cross, *James Winston’s diaries*, p. 124.

night very late, at [the] Nelson, Clarges Street, till seven on Saturday morning, [...] with Spring and Clarke till six on Sunday morning.<sup>185</sup> Winston's entry for 7 May 1824, reads: 'Elliston very drunk – did not keep his appointment at bankers, quarrelled in the evening with Braham in Green [Room], went away about ten with Martyn, and did not come again to the theatre till next evening.'<sup>186</sup> In light of this spoof announcement of March 1824, Elliston's habits appear to have been public knowledge, in the theatre world at least:

We print the following *jeu d'esprit* ...

On Monday, the 14<sup>th</sup> of March, 1824 will be presented ...

A New Aquatic and Spiritual Farce, called

*BRANDY AND WATER,*

In which Mr. ELLISTON will sustain the principal character,

*supported* by the Comic Strength of the Company<sup>187</sup>

Christopher Murray gives an account of Elliston's illness on 15 May 1826: 'Elliston was taken ill while playing *Falstaff*, reeling and falling face down before the footlights, and temporarily losing the power of speech.'<sup>188</sup> Taking stock of Elliston's situation, Winston wrote on 23 May: 'he will now (having come into the Drury Lane management with near £30,000) leave it without a penny in money to support him and children the rest of his life or health and strength to act for his bread.'<sup>189</sup> Elliston was declared bankrupt on 8

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<sup>185</sup> Entry for 20 January, 1823, *Ibid.*, p. 62.

<sup>186</sup> Entry for 23 May 1826, Nelson and Cross, *James Winston's diaries*, p. 86.

<sup>187</sup> Two pages, numbered 169 and 170, headed 'HISTRIONIC ANECDOTES, REMARKS &c. &c.', cut from an untitled publication. HTC-HL: Elliston papers, Box 2.

<sup>188</sup> Murray, *Robert William Elliston Manager*, p. 115.

<sup>189</sup> Entry for 23 May 1826, Nelson and Cross, *James Winston's diaries*, p. 122.

December 1826. Christopher Murray reminds us that, nevertheless, Elliston reduced the crippling debt he took on in 1819.<sup>190</sup> Two Drury Lane Sub-committee reports show that this is so, the first dated 5 July 1823:

They have first the satisfaction to state that the rent due from the lessee of the Theatre has been regularly paid [...]. They deem it necessary also to observe that by the supplies of new Stock the lessee has not only maintained the value of the Wardrobes Scenery to the equal of the estimate when delivered into his hands, but considerably increased it. Sums due to creditors in the year 1819 amounting to £92,000 have on the arrangements and regular appropriation of the Funds been reduced to £29,614 5s. 0d.<sup>191</sup>

The annual report for 1825 recorded 'rent regularly paid plus deposit of £2000 according to the covenants of the Lease towards the rent for the ensuing year', improvement in the stock of Wardrobes, and sums due to creditors reduced to £22,638 2s. 0d.<sup>192</sup>

At the point of Elliston's departure from Drury Lane in 1826, Winston, with a lifetime's experience of the theatre world, declared:

I am of the opinion that Drury Lane and Covent Garden Theatres are now worse than nothing and not worth anyone's having.<sup>193</sup>

None of Elliston's successors at Drury Lane succeeded, though granted reduced rents.<sup>194</sup> Stephen Price, an American entrepreneur, followed Elliston, like him, took a fourteen-lease, but was forced out in March 1830. Price was replaced, first by

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<sup>190</sup> Murray, *Robert William Elliston Manager*, p. 152.

<sup>191</sup> Report of the Drury Lane Sub-committee dated 5 July 1823. *Garrick Annals*.

<sup>192</sup> Report of the Drury Lane Sub-committee dated 23 July 1825. *Ibid.*

<sup>193</sup> Entry for 3 June 1826, Nelson and Cross, *James Winston's diaries*, p. 124.

<sup>194</sup> Murray, *Robert William Elliston Manager*, pp. 151–52.

Alexander Lee between 1830 and 1833, and then Alfred Bunn, who attempted to manage Covent Garden and Drury Lane jointly from 1833 to 1839.<sup>195</sup>

Elliston returned to the Surrey in 1827, and managed the theatre in his son Charles's name until his discharge from insolvency in 1828.<sup>196</sup> He managed the Surrey, and remained the Coburg's implacable adversary, until his death in July 1831.<sup>197</sup>

Elliston's resumed fight against the monopoly was assisted by the general impulse towards institutional reform and growing aversion to élite privilege. He staged from the 'legitimate' canon, in quick succession, *Macbeth*, *Henry VIII*, *Hamlet*, *Richard III* and *Othello*.<sup>198</sup>

Drury Lane's proprietors continued to implement the 'new' Agreement against the 'minor' theatres into the 1830s. They prosecuted George Bolwell Davidge, who followed Glossop at the Coburg, for unauthorised performances of *Douglas* and, again, *Richard III*.<sup>199</sup> Subsequently, Davidge set up 'The Minor Theatres' Theatrical Fund' to relieve 'the distressing condition many of the performers of the minor theatres were reduced to by illness and want.'<sup>200</sup> Jane Moody suggests, however, that the Fund's true purpose was to defray the cost of prosecutions.<sup>201</sup> The Fund's founders, besides the Coburg, were named as the Royal Pavilion, recently opened at Mile End, which may

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<sup>195</sup> F. W. H. Sheppard, *The Theatre Royal Drury Lane and the Royal Opera House Covent Garden*, Vol. XXXV of *The Survey of London* (London, 1970), p. 24. Brian Dobbs, *Drury Lane: Three Centuries of the Theatre Royal 1663–1971*, (London, 1972), pp. 143–44. Murray, *Robert William Elliston Manager*, p. 150.

<sup>196</sup> George Elwick, *The Bankrupt Directory: Being a Complete Register of all the Bankrupts; with their Residences, Trades and Dates when they appeared in the London Gazette; from December 1820 to April 1843* (London, 1843), p. 132.

<sup>197</sup> Katherine Newey, 'Shakespeare and the Wars of the Playbills' in Gail Marshall and Adrian Poole (eds.), *Victorian Shakespeare, Volume 1: Theatre, Drama and Performance* (London, 2003), p. 20.

<sup>198</sup> Knight, *A Major London 'Minor'*, p. 64.

<sup>199</sup> Moody, *Illegitimate Theatre*, p. 42.

<sup>200</sup> 'The Minor Theatres' Theatrical Fund.' *The Times*, 9 and 12 March 1829.

<sup>201</sup> Moody, *Illegitimate Theatre*, p. 42.

have been targeted to halt its advance, and the West London Theatre (an alternative name for the City Theatre/Tottenham-street Theatre).<sup>202</sup> Meanwhile, the monopolists' Agreement held. On 18 June 1830 *The Times* reported:

It is said, that on the next occasion of applying for a renewal of the licences of the metropolitan theatres, the proprietors of Covent-garden and Drury-lane Theatres have determined upon entering a strong opposition [...] on the ground that the minor theatres have departed from the terms upon which they were licensed by acting the regular drama ...<sup>203</sup>

Prosecution of the City Theatre's Thomas Melbourne on 14 June 1830 preceded *The Times*' announcement.<sup>204</sup> 'Information' (the charge) was laid against Melbourne by Drury Lane's Deputy Box Keeper, John Parsons.<sup>205</sup> When Melbourne received a fine of £400<sup>206</sup> the monopolists publicised their success to intimidate others, but the case turned the tide of public opinion further in the 'minors' favour.<sup>207</sup> Their 'winning the battle for repertoire and market share', in the face of frequent raids and fines, can be dated to this time.<sup>208</sup> It is claimed in this chapter, nevertheless, that the upsurge of protest resulted from the momentum created by Elliston's persistent campaign of prosecutions between 1819 and 1826.

In Edward Bulwer's anti-monopolist, polemic *The State of the Drama* of February 1832, he alluded to 'the late prosecutions of the minor theatres having rendered an

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<sup>202</sup> The Minor Theatres' Theatrical Fund. *The Times*, 12 March 1829. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 231 and p. 233.

<sup>203</sup> 'The Minor Theatres,' *The Times*, 18 June 1830.

<sup>204</sup> The City Theatre, also known as the Tottenham-Street Theatre, became La Scala 1904–1969.

<sup>205</sup> On 16, 24 and 26 March 1830 Parsons witnessed the following performances: *Who Rules or the Sultan and the Slave*; *Oakland Castle*; *Speculation or How to Buy a House*. Garrick *Annals*.

<sup>206</sup> Ibid. £400 in 1830 = Income value of £571,600 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>207</sup> Moody, *Illegitimate Theatre*, p. 43. Davis, *The Economics of the British Stage 1800–1914*, p. 31.

<sup>208</sup> Davis, *The Economics of the British Stage 1800–1914*, pp. 32–3.

appeal to Parliament indispensable.<sup>209</sup> After the Melbourne ruling, and amid an explosion of popular interest in political reform and antipathy to exclusive privilege,<sup>210</sup> the 'minors' channelled their campaign for reform of the theatre through Parliament.<sup>211</sup> Various 'Noblemen, Gentlemen, Merchants, Traders and others, residents of London' wishing to see 'regular' drama at theatres other than Drury Lane and Covent Garden, petitioned the Commons against the control wielded by the regime.<sup>212</sup> On 31 May 1832, residents of Westminster, St. James (Clerkenwell), the City of London and St. Mary (Lambeth) added their voices to call for:

... a repeal of all legislative enactments which tend to restrain the performance of dramatic entertainments in the metropolis.<sup>213</sup>

Bulwer responded with a motion to the House that a Select Committee be established to enquire into the state of dramatic literature.<sup>214</sup> The Select Committee first sat on 1 June.<sup>215</sup> In turn, the patentees petitioned the House of Commons on 2 June 1832:

To allow the free performance of the Drama of the Minor Theatres your Petitioners pressure to submit to your Hon. House the circumstances in which their rights are placed ...<sup>216</sup>

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<sup>209</sup> Bulwer, 'The State of the Drama', p.135.

<sup>210</sup> First proposed in March 1831, The Reform Act 1832 (2 & 3 Will. IV c.45) became law on 4 June 1832. Its purpose was to bring independent men into parliament who would 'advance the interest of the people by criticizing errant ministers and promoting good laws.' Katherine Newey, 'Reform on the London Stage' in Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780-1850* (Cambridge, 2003), p. 47.

<sup>211</sup> Moody, *Illegitimate Theatre*, pp. 44–5. Davis, *The Economics of the British Stage 1800–1914*, p. 33. Newey, 'Reform on the London Stage', pp. 238–39.

<sup>212</sup> Deazley, 'Commentary on *Dramatic Literary Property Act 1833*'.

<sup>213</sup> *Mirror of Parliament*, 31 May 1832 in Newey, 'Reform on the London Stage', p. 239.

<sup>214</sup> Bulwer framed the question as follows: "How far is it expedient for the public, that privileges and enactments of this monopolizing description should be continued; how far is it expedient that the minor theatres should be suppressed, and the exclusive patents of the two great theatres should be continued?" Hansard, 3<sup>rd</sup> Ser., 13 (1831): 239, in Deazley, 'Commentary on *Dramatic Literary Property Act 1833*'.

<sup>215</sup> *Report from the Select Committee 1832*, p. 2.

<sup>216</sup> Covent Garden and Drury Lane's' petition to Parliament dated 2 June 1832. Garrick Petitions.

Elliston's ownership of his first London theatre in 1809 having marked the commencement of the struggle for a free stage - 'the real beginning of the revolution that was to destroy the theatrical monopoly'<sup>217</sup> – this appeal by the 'minor' proprietors in 1832 represented the *de facto* culmination of the struggle, and the reaping of what Elliston had sown. Paradoxically, Elliston's fierce oppression of the 'minors' to preserve his 'patent' rights had spurred their resolve to present the 'regular' drama. By the early 1830s, infringements of the regulatory regime occurred on such a scale that a free stage operated in London in practice, if not yet in law.

Elliston's extending Seasons against the Lord Chamberlain's edict, and accepted standards, proved equally detrimental to Covent Garden, the Haymarket, the 'minor' theatres and to Elliston's own interests. Out of short-sightedness or desperation, his 'taking away and engaging their performers contrary to patent'<sup>218</sup> damaged trust and reputation. The 'star' system permitted individuals to dominate injuring the 'patent' houses commercially and artistically. Of his many infractions, Winston assigned the ultimate blame for Elliston's downfall and Drury Lane's collapse, to his paying 'star' salaries above the agreed limit:

... [the final cause of Drury Lane's failure] I believe to be Elliston, who by a false calculation gave the principal performers twice the salary they had before.<sup>219</sup>

A review that appeared in *The Atlas* of 24 September 1826 provides an alternative narrative:

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<sup>217</sup> Watson Nicholson, *The Struggle for a Free Stage in London* (London, 1906), p. 288.

<sup>218</sup> Entry for 21 February 1823, Nelson and Cross, *James Winston's diaries*, p. 63.

<sup>219</sup> Entry for 3 June 1826, *Ibid.*, pp. 124–25.

ELLISTON was the only man to manage a *national* theatre, such as our national theatres are, and had he not been hampered by duns, and driven to drink by involvements, and deafened by cries of SHAKESPEARE and legitimacy, he would have been the genuine restorer of the *national* drama.<sup>220</sup>

Although uncertainties over interpretation of copyright law persisted until the verdict in *Elliston v. Murray*, Elliston had confidence in his reading of the law. He employed his understanding with bravura to defend his conduct at the Olympic, to pirate plays at Drury Lane, and to prosecute others skilfully. The subject of the next chapter, Elliston's staging of *Marino Faliero, Doge of Venice* in April 1821 without the author, Lord Byron's, consent, and Elliston's subsequent prosecution and vindication, illustrates and rests upon his certainty that 'the representations of a play after it had been printed was no violation of property.'<sup>221</sup> The *Marino Faliero* incident resulted in a further, though longer-term, unintended outcome of Elliston's period as Drury Lane Lessee. The ruling in *Murray v. Elliston* (1822) became case law, unchallenged until the Select Committee on Dramatic Literature addressed the issue of author's rights in 1832. The outcome of the Committee's findings, the Dramatic Author's Act of 1833, protected playwrights for the first time.

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<sup>220</sup> Murray, *Robert William Elliston Manager*, p. 152.

<sup>221</sup> Law Report. *The Times*, 4 May 1822.

## Chapter Six: Elliston's bravura: *Marino Faliero*; Patent illegitimacy

### Introduction

The significance of Elliston's production of Byron's verse drama *Marino Faliero, Doge of Venice* (hereafter *Marino Faliero*)<sup>1</sup> is in establishing first, that in the early nineteenth century, even a highly-placed, celebrated author had no control over his intellectual property once in the public domain, and second, Elliston's certainty that 'the Theatres have a right to act any play that is published [...] for their own emolument.'<sup>2</sup> Elliston's adaptation of Byron's play also raises important questions about his financial position and the tension between his speculative motives, his interest in a modern dramatic canon, and the extent to which his unauthorised production affected the struggle for a free stage. The urgency apparent in Elliston's actions - obtaining the work, abridging it, censoring it to meet the Examiner of Play's approval against a highly charged political backdrop, procuring a Licence, and bringing the play to the stage just four days after publication - was commercially driven. This chapter explores that sequence of events and their consequences, examining the powers of censorship, and relations between Elliston as impresario, the censor, the publisher and the playwright.

Chapter Five examined the seeming incongruity of Elliston's over-stepping of boundaries to pirate or perform pieces without consent, set against his tireless prosecution of other proprietors for breaching copyright. The subject of Chapter Six, Elliston's staging of *Marino Faliero* in April 1821, explores Elliston's disregard of Byron's expressed wish that his play not be acted, leading to accusations that Elliston served

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<sup>1</sup> George Gordon, Lord Byron, *Marino Faliero, Doge of Venice. An Historical Tragedy, in Five Acts, With Notes* (London, 1821).

<sup>2</sup> Letter No. 143 dated 19 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 363.

the play ill, exceeded the limits of proper conduct and, some said, the law. The situation differed from Elliston's pirating of plays already in the public domain in that Lord Byron's was a closet play, crafted for reading, and never intended for performance (although this is a matter of pertinent dispute). Even when Garrick was at the height of his popularity there were those who preferred reading plays to seeing them.<sup>3</sup> This practice led to the development of the genre known as closet drama; serious plays written to be read rather than acted. Closet plays also conveniently escaped censorship. In the case of *Marino Faliero*, copyright belonged to Byron's publisher John Murray II<sup>4</sup> (hereafter 'Murray'). It was he who challenged Elliston's right to present the play. However, Elliston's certainty that adaptation for performance, as with *The Maid and the Magpie* (see Chapter Five), was not against the law proved correct.

Elliston's conviction gave him confidence to resist legal action on one hand, and to weather, or even welcome, charges of dishonourable behaviour on the other, for they attracted publicity and stimulated interest in the performance. By enacting Byron's play, Elliston achieved a literary and publicity coup, confirming Murray's perspective on the motivation for Elliston's staging: "Thy very name [Byron] is a Tower of Strength" & will bring Houses.<sup>5</sup> Murray prosecuted Elliston for presenting *Marino Faliero* and lost. The ruling in *Murray v. Elliston* became case law, unchallenged until the Select Committee on Dramatic Literature addressed the issue of author's rights in 1832. Chairman, Edward Bulwer, cited Elliston's treatment of *Marino Faliero* as an example of

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<sup>3</sup> James J. Lynch, *Box, Pit and Gallery: Stage and Society in Johnson's London* (Berkeley, 1953), p. 218.

<sup>4</sup> John Samuel Murray [John [II] Murray] (1778–1843).

<sup>5</sup> Letter No. 143 dated 19 December 1820 in Andrew Nicholson (ed.), *The Letters of John Murray to Lord Byron* (Liverpool, 2007), p. 363.

playwrights' vulnerability. Subsequent legislation gave dramatic authors the right 'to demand that the play as produced be the just reflection of his artistic conception.'<sup>6</sup>

Byron's outrage at Elliston's unauthorised presentations during April and May 1821 encapsulates much of the ensuing debate:

... it is *not* an acting play; it will not serve *their* purpose; it will destroy *yours* [Murray's book sales]; and it will distress me.<sup>7</sup>

His outburst provokes such questions as: If 'it is *not* an acting play', what determined Elliston to stage it? On what grounds were Byron's objections and Murray's prosecution based? What was the longer-term effect on the theatre world of Elliston's transgressive, though not illegal, act? Chapter Six argues that Elliston's action was income-led, though tempered by a genuine desire to promote new works of literary merit. It finds that Byron's objections concerned reputational damage, and Murray's objections commercial loss. Assessing critical and public reception, and consulting Murray's sales records, the chapter concludes that Elliston's production neither destroyed the play nor Murray's profits. Chapter Six explores the process by which Elliston brought *Marino Faliero* to the stage, examining chronology, the function of licensing, censorship and the role of the Examiner of Plays. It addresses Elliston's abridgement of the play to make it stage-worthy, and argues for his agency in censoring political allusion capable of being 'applied to the existing moment and [...] likely to be inflammatory',<sup>8</sup> in the context of the Cato Street Conspiracy of February 1820. By way of Queen Caroline's visit to Drury

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<sup>6</sup> Dewey Ganzel, 'Patent Wrongs and Patent Theatres: Drama and the Law in the Early Nineteenth Century.' *PMLA*, LXXVI (1961), 384–396, p. 394.

<sup>7</sup> Letter No. 406 dated Ravenna, 19 January 1821 in Thomas Moore, *The Works of Lord Byron: with his Letters and Journals, and his Life*, Vol. V. (London, 1829), p. 116.

<sup>8</sup> *Report from the Select Committee on Dramatic Literature: with the Minutes of Evidence*. Ordered, by the House of Commons, to be Printed, 2 August 1832, p. 66.

Lane to see Byron's play, the chapter also offers a snapshot of political unrest in the hiatus following George IV's abandoned divorce proceedings against her. The longer term outcome of *Murray v. Elliston*, meant that playwrights' inability to control their intellectual property continued until reforming legislation of 1833.

### **Political allusion?: Doge Faliero and the Cato Street Conspiracy**

Parallels can be drawn between the events in Venice and Cato Street: both were revolutionary plots uncovered before being put into effect and each carried the death penalty. Like Shelley's *Mask of Anarchy* (see note 16), Byron's play may have carried a sub-text allusive to the political moment that Elliston's production exposed to the censorship from which, in the closet, it would have been shielded.

An authentic historical figure, Byron's protagonist Marino Faliero, 'Count of Val di Marino in the march of Treviso',<sup>9</sup> was appointed fifty-fifth Doge of Venice in 1354. He plotted a coup the following year in order to declare himself Prince. Discovery resulted in Faliero's beheading and the hanging in St. Mark's Square of ten accomplices.<sup>10</sup> Byron's theme raised suspicion that he intended a deliberate political analogue between the fourteenth-century incident in Venice and London's Cato Street of 1820. Led by a prominent London radical, Arthur Thistlewood, the Cato Street conspirators meant to assassinate Lord Liverpool's entire Cabinet, but they, like Faliero, were discovered in time to frustrate the plan. Some conspirators were sentenced to transportation and

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<sup>9</sup> Byron, *Marino Faliero*, p. x.

<sup>10</sup> John Julius Norwich, *A History of Venice* (London, 2003), pp. 223–29.

others to beheading.<sup>11</sup> Vic Gatrell recounts the fate of the executed conspirators; hanged then ritually decapitated, their heads held up to a crowd of 100,000 outside Newgate prison.<sup>12</sup> James Winston's diary note for 1 May 1820 shows the responsiveness of the 'patent' theatres to this headline event.

Thistlewood and four [others] executed, etc., for high treason. On this night in the pantomime four heads were cut off at Covent Garden and one at Drury Lane.<sup>13</sup>

The Cato Street plot arose against a background of inflation, food shortages, poverty, calls for institutional reform, and under the oppressive Combination Act of 1799. The 1799 Act prevented working men from combining to protect their interests, and was itself a response to fear of the mob, engendered by disturbances such as The Gordon Riots of 1780 discussed at Chapter Two. Cato Street occurred in the immediate aftermath of 'Peterloo', the most recent incident to cause popular outrage. On 16 August 1819, mounted, armed militia charged a peaceful assembly of sixty thousand gathered at St. Peter's Fields, Manchester petitioning for lower taxes and voting rights. The action of the troops left an unspecified number dead and several hundred people injured. The incident that became known as 'The Peterloo Massacre', provoked a degree of popular radicalism rarely matched later in the century.<sup>14</sup> Like his friend Byron, living then in Italy, Percy Bysshe Shelley produced an immediate, but unpublished,

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<sup>11</sup> Entry for 1 May 1820, Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819–1827* (London, 1974), Note 11, p. 155. 'Thistlewood, Tidd, Davidson and Ings were decapitated, but quartering was not proceeded with.'

<sup>12</sup> Vic Gatrell, *City of Laughter: Sex and Satire in Eighteenth-century London* (London, 2006), p. 575.

<sup>13</sup> Entry for 1 May 1820, Nelson and Cross, *James Winston's diaries*, p. 9.

<sup>14</sup> Sally Ledger, *Dickens and the Popular Radical Imagination* (Cambridge, 2007), pp. 10-11.

response with his poem *The Mask of Anarchy*.<sup>15</sup> The work describes the mood of injustice 'Peterloo' engendered, and reason for the state's dread of insurgency.

Men of England, heirs of Glory,  
 Heroes of unwritten story,  
 ...  
 Rise like Lions after slumber  
 In unvanquishable number  
 Shake your chains to earth like dew  
 ...  
 Ye are many – they are few.<sup>16</sup>

An aspect of Byron's objection to Elliston's staging may have been that he intended a political sub-text, but one that he wanted kept to private circles of his own choice, not exposed in the public theatre. That speculation can be supported in part by the chronology of Byron's bringing *Marino Faliero* to completion. He conceived *Marino Faliero* in 1817,<sup>17</sup> but did not begin writing until April 1820 (possibly prompted by the Cato Street incident of February 1820), and completed the script in August 1820.<sup>18</sup> The book was published only in April 1821, delayed by Murray's hesitation over the play's literary reception rather than political content.

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<sup>15</sup> Shelley left England for good on 11 March 1818. 'Percy Bysshe Shelley (1792–1822)', *ODNB*.

<sup>16</sup> Percy Bysshe Shelley, *The Mask of Anarchy* (1819), Stanzas 37 and 38. Leigh Hunt, keeper of the poem, did not publish it until 1832 (perhaps then, on the tide of Parliamentary reform).

<sup>17</sup> Postscript to Letter No. 405 dated Ravenna, 4 January 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 114.

<sup>18</sup> Hand-written note at head of script sent from Ravenna: 'Begun April 4<sup>th</sup>, 1820 – completed July 16<sup>th</sup>, 1820 – finished copying August 16<sup>th</sup>-17<sup>th</sup> 1820; the which copying makes ten times the toil of composing, considering the weather – thermometer 90 in the shade ....' Thomas Moore, *The Works of Lord Byron: with his Letters and Journals, and his Life*, Vol. XII (London, 1832), p. 43.

## Elliston's refusal 'to let the Doge alone'<sup>19</sup>

That Elliston chose to ignore Byron's wishes is testament to his desperation, determination, ability to turn a setback into a publicity coup, and his sound knowledge of copyright law.

Murray published reluctantly. When he expressed misgivings to Byron, he replied, 'You say the Doge will not be popular: did I ever write for *popularity*?'<sup>20</sup> Throughout his exchanges with Murray and others between December 1820 and the end of May 1821, concerning the play's enactment,<sup>21</sup> Byron maintained vehemently 'I write only for the *reader*'.<sup>22</sup> The contempt in which he held the general theatre audience's ability to judge a play's merit,<sup>23</sup> perhaps underpinned Byron's insistence that *Marino Faliero* should not be acted. How Elliston became aware of the play's existence is unclear. An article appeared in the press in November 1820 announcing Byron's 'shortly expected [...] new Tragic Poem' together with lengthy coverage of the plot,<sup>24</sup> but the timing appears to post-date Elliston's approach to Byron. Whatever his source, in October or November 1820 Elliston requested permission to stage the play through Thomas Moore, Byron's friend, fellow poet radical, subsequent biographer, and

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<sup>19</sup> Letter No. 406 dated Ravenna, 19 January 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 116. Letter No. 144 dated London, 29 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, pp. 366–67.

<sup>20</sup> Letter No. 412 dated Ravenna, 16 February 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 127.

<sup>21</sup> Letters Nos. 405–30, *ibid.*, pp. 114–86.

<sup>22</sup> Letter No. 409 dated Ravenna, 22 January 1821, *ibid.*, p. 121.

<sup>23</sup> Byron, *Marino Faliero*, p. xviii.

<sup>24</sup> Unattributed press cutting dated November 1820 announcing Lord Byron's 'new Tragic Poem, which is shortly expected from the press', followed by detailed narration of the plot. National Library of Scotland John Murray Archive MS43546. Cutting probably from *The Literary Gazette* No. 201 published 25 November 1820; review of 'the Plot, Characters, &c. of Lord Byron's Tragedy of Faliero' trailed in *The Morning Chronicle*, November 24 1820.

representative in England.<sup>25</sup> Moore replied on 16 November: 'I fear your hopes about his tragedy will be disappointed, for it [...] is neither fit nor intended for representation.'<sup>26</sup> On 19 December, Murray declined a request to supply 'a copy of the Tragedy before it was published',<sup>27</sup> and warned Byron that the play was likely to be staged. Byron responded with the entreaty:

... I must really and seriously request that you will beg of Messrs. Harris [Covent Garden] or Elliston to let the Doge alone ...<sup>28</sup>

Thereafter, Byron made many attempts to prevent the play being staged. In January 1821, complaining of the 'right over published poetry' assumed by theatre managers,<sup>29</sup> he informed Moore that he had petitioned the Lord Chamberlain to prohibit performance.<sup>30</sup> By March, Byron was insisting on his right to prevent what he had written from being turned into a stage-play, even though Murray had already advised him:

As the Copyright law now stands, the Theatres have a right to act any play that is published – altering – adding to &c. without any controul of the author ...<sup>31</sup>

Douglas Kinnaird also explained to Byron, the law 'is against you & your publisher'.<sup>32</sup>

Although the traffic of correspondence between Bryon and his London contacts was

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<sup>25</sup> Thomas Moore: Poet, Byron's friend and representative in England after his departure for Italy, and later his biographer. 'Thomas Moore (1779–1852)', *ODNB*.

<sup>26</sup> Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 95 and Note 33, p. 179.

<sup>27</sup> Letter No. 14 dated London, 19 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, pp. 363–64.

<sup>28</sup> Letter No. 406 dated Ravenna, 19 January 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 116. Letter No. 144 dated London, 29 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, pp. 366–67.

<sup>29</sup> Letter No. 409 dated Ravenna, 22 January 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 121.

<sup>30</sup> Letter to the Lord Chamberlain sent under cover of another addressed to Murray of 20 January 1821. Letter No. 408, dated Ravenna 20 January 1821, *ibid.*, pp.120–22.

<sup>31</sup> Letter No. 143 dated 19 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 363.

frequent, Byron learned only on 14 May 1821 that the play had been performed (*Marino Faliero* was first acted on 25 April, within four days of publication), and this from the *Milan Gazette*, not a London source. He complained to Murray on 25 May:

... I have not had a line from you [...] while all this kick-up has been going on about the play? [...] Were it not for two letters from Douglas Kinnaird I should have been as ignorant as you are negligent.<sup>33</sup>

Unless he heard it from Kinnaird, neither could Byron have known of Murray's letter to Elliston of 24 April 'requiring *Marino* not to be played because Lord Byron did not approve of its being acted', or the injunction Murray issued on 25 April in an attempt to prevent *Marino Faliero* being performed.<sup>34</sup> Writing again to Murray, and ignorant that the play had closed, Byron reaffirmed his resolve to protect his property:

So it seems they continue to act it [...] Let it by all means be brought to a plea: I am determined to try the right, and will meet the expenses.<sup>35</sup>

Byron's overriding determination to retain control of his intellectual output, knowing the law was against him, matched Elliston's to appropriate it, based on his confident interpretation of the law.

### **Written to be read; unfit for the stage?**

The regular habit of reading aloud to family, friends, colleagues or neighbours as well as silent, internal reading, developed as a recreational practice of the later

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<sup>32</sup> Letter dated 1 May 1821 from Kinnaird to Byron, *ibid.*, Note 3, p. 400. Douglas James William Kinnaird, writer and politician: his friendship with Byron began in earnest in the Winter of 1814. In May 1815 Kinnaird was elected to the management Sub-committee of Drury Lane Theatre, and drew Byron on to the Board. It was Kinnaird who introduced Byron to Edmund Kean. When Byron went into exile in 1816, Kinnaird handled his English finances and became deeply involved in the publication of all his works. 'Douglas James William Kinnaird (1788–1830)', *ODNB*.

<sup>33</sup> Letter No. 430 dated Ravenna, 25 May 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 186.

<sup>34</sup> Entries for 24 and 25 April 1821, Nelson and Cross, *James Winston's diaries*, p. 29.

<sup>35</sup> Letter No. 427 dated Ravenna, 19 May 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 180.

eighteenth-century.<sup>36</sup> James Raven suggests that ‘certain domestic library arrangements reflected the demands of performance and the library and parlour for communal, performative reading.’<sup>37</sup> The experience of reading novels and plays socially seems to have crossed class lines, however, as a study of provincial servants’ reading reveals that novels and plays were regularly purchased by staff in certain country houses in the 1770s.<sup>38</sup> Having its antecedents in the fashion for domestic reading aloud, closet drama developed also as a mode for educating and teaching, a feature especially true of biblical closet plays.<sup>39</sup> Literary closet plays of the early nineteenth-century were written for élite consumption,<sup>40</sup> and in great measure as a reaction to the neglect of literary drama in favour of spectacle, discussed in Chapter Two and illustrated by this statement of Byron’s in the preface to *Marino Faliero*:

I have had no view to the stage; in its present state it is, perhaps, not a very exalted object of ambition.<sup>41</sup>

To clarify the term, ‘closet play’ acquired two usages. One described a play fashioned for solitary reading, as Byron claimed for *Marino Faliero*, the other indicated a play written to be performed, but rejected, and subsequently gaining a readership, like Shelley’s *The Cenci* (see notes 55 and 56 below).<sup>42</sup> The genre had advantages for the

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<sup>36</sup> James Raven, ‘From promotion to proscription: arrangements for reading and eighteenth-century libraries’ in James Raven, Helen Small, and Naomi Tadmor (eds.), *The practice and representation of reading in England* (Cambridge, 1996), p. 200. Naomi Tadmor, ‘Women reading and household life’, *ibid.*, p. 165.

<sup>37</sup> Raven, ‘From promotion to proscription’, p. 199.

<sup>38</sup> For example, five plays purchased on 20 June 1770 by servants at Brockhall, Northampton. Jan Fergus, ‘Provincial servants’ reading in the eighteenth century’ in Raven, Small and Tadmor, *The practice and representation of reading in England*, pp. 219–20.

<sup>39</sup> Catherine Burroughs, ‘The Stages of Closet Drama’ in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of The Georgian Theatre 1737–1832* (Oxford, 2014), p. 446.

<sup>40</sup> Burroughs, ‘The Stages of Closet Drama’, p. 447.

<sup>41</sup> Byron, *Marino Faliero*, p. xvii.

<sup>42</sup> Burroughs, ‘The Stages of Closet Drama’, p. 444.

writer; authors could publish first, in the hope of subsequent presentation on stage.<sup>43</sup> Theatre licensing law, devised to prevent immoral or political allusion, subjected all new plays to pre-production censorship, but published in book form the closet play escaped such scrutiny, censorship of the written word having been abolished in 1695.<sup>44</sup> Closet drama attracted a sophisticated readership, enabling the author to remove himself intellectually from socially marginal, less educated groups to be found in theatre audiences. Likewise, the closet play allowed the élite reader to avoid the physical necessity of rubbing shoulders with the *hoi polloi* in the auditorium.<sup>45</sup> In this spirit, Byron invited Leigh Hunt into his private box at Drury Lane to see Kean perform:

I send you an admission to it for Kean's nights [...] in case you should like to see him quietly: it is close to the stage – the entrance by the private-box door – and you can go without the bore of crowding, jostling, or dressing.<sup>46</sup>

William Hazlitt explained his preference for reading plays, not in class terms, but for the scope the form allowed the imagination. Hazlitt declared that seeing Shakespeare's characters embodied by others, even Kean's *Othello*, 'his highest effort of genius,' destroys the sanctity of one's own conception of them.<sup>47</sup> Byron may have wished to avoid censorship, or being exposed to the judgement of the less educated, or he may have intended publication as an initial 'testing of the water' of literary opinion before considering stage performance. Initially Shelley, for example, had been unwilling to

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<sup>43</sup> Ibid.

<sup>44</sup> David Thomas, 'The 1737 Licensing Act and its Impact' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 98.

<sup>45</sup> Gillian Russell and Clara Tuite (eds.), *Romantic Sociability: Social Networks and Literary Culture in Britain, 1770–1840* (Cambridge, 2002), p. 161.

<sup>46</sup> Letter to Leigh Hunt from 13 Piccadilly Terrace dated 1 June 1815. R. G. Howard (ed.), *Letters of Lord Byron*, (London, 1936), p. 111.

<sup>47</sup> Russell and Tuite, *Romantic Sociability*, pp. 157–58.

have his name associated with *The Cenci* until it was a success.<sup>48</sup> Elliston's staging disrupted all of these possibilities. Perhaps because of closet drama's ambiguous status, scholars debate Byron's assertion that he had not intended *Marino Faliero* to be acted. Thomas Ashton believes that the intensity of Byron's objections betrayed the potency of his wish to succeed.<sup>49</sup> Celeste Langan offers the hypothesis that, consciously or otherwise, Byron drew a comparison between his own and the *Doge's* fury at the subjection of his private life to public speculation and judgement.<sup>50</sup>

As a genre, closet drama symbolised the failure of the greatest talent of the age to produce stage-worthy plays.<sup>51</sup> Byron freely admitted 'many people think my talent *essentially undramatic*, and I am not at all clear that they are not right.'<sup>52</sup> Even when writing for the stage, the likes of Coleridge, Scott, and Shelley tended to create characters and incidents unsuited to performance. Coleridge's 1812 tragedy *Remorse*, a 'literary' play written to be acted, but displaying the 'unsuitable' characteristics of closet drama, was, as reported by Crabb Robinson, a rare example of stage success (*Remorse* played twenty times at Drury Lane):<sup>53</sup>

Coleridge's great fault is that he indulges before the public in those metaphysical and philosophical speculations which are becoming only in solitude and with select minds. [...]

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<sup>48</sup> Donald Roy (ed.), *Theatre in Europe, a Documentary History: Romantic and Revolutionary Theatre, 1789-1860* (Cambridge, 2003), Document no. 88, p. 121.

<sup>49</sup> Thomas L. Ashton, 'The Censorship of Byron's *Marino Faliero*', *Huntington Library Quarterly*, 36 (1972), 27–44, p. 29.

<sup>50</sup> Celeste Langan, 'Venice, II: Marino Faliero and Household Accounts', in James Chandler and Kevin Gilmartin (eds.), *Romantic Metropolis: The Urban Scene of British Culture, 1780–1840* (Cambridge, 2005), p. 278. Scandal caused by Byron's sexual conduct peaked in December 1815, when his public and political enemies turned to pillorying him in the press. Persuaded to sign a deed of separation from his wife on 15 April 1816, Byron immediately left England, bitterly believing henceforward that he had been driven from his homeland. 'George Gordon Noel Byron, sixth Baron Byron (1788–1824)', *ODNB*.

<sup>51</sup> Murray, *Robert William Elliston Manager*, p. 85 and Note 9, p. 178.

<sup>52</sup> Postscript to Letter No. 405, dated Ravenna, 4 January 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 114.

<sup>53</sup> Burroughs, 'The Stages of Closet Drama', p. 445.

However in spite of [...] the improbability of action, the clumsy contrivance [...] the tragedy was received with great applause.<sup>54</sup>

Shelley wrote *The Cenci* to be acted, but showed an acute lack of awareness of theatre regulation, or the business of theatre, when canvassing support to stage his play:

I have taken great pains to make my play fit for representation [...] I think [incest] will form no objection, considering that the facts are a matter of history [...] and the delicacy with which I have treated it.<sup>55</sup>

As Shelley was to discover, the theme of incest made *The Cenci* unacceptable morally and socially, and its monologues, soliloquies and off-stage action incapable of representation, but in book form it ran to a second edition.<sup>56</sup>

Elliston ignored, but did not challenge Byron's insistence that he meant *Marino Faliero* only to be read. Openly admitting that the play, as written, was unfit to be acted, Elliston deliberately altered the text. Guided in his task of abridgement by a deep-rooted knowledge of stage-craft, Elliston may also have drawn on his intimate experience of the deficiencies of Coleridge's *Remorse*, in which he appeared as lead actor in January 1812:<sup>57</sup>

Its first fault, and the most easily avoided, is its unwieldy length [...] its next [...] murderers stop short with the dagger in their hands, to talk of 'roses on mountain

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<sup>54</sup> Entry for 23 January 1812, Eluned Brown (ed.), *The London Theatre 1811–66. Selections from the diary of Henry Crabb Robinson*, (London 1966), p. 52.

<sup>55</sup> Letter from Shelly to Thomas Love Peacock dated Livorno July 1819 in Roy, *Theatre in Europe*, Document no. 90, p. 121.

<sup>56</sup> Written in 1819, published in 1821, *The Cenci* ran to a second edition, but was not acted on a public stage in England until the twentieth century. Burroughs, 'The Stages of Closet Drama', p. 443. 'Percy Bysshe Shelley (1792–1822)', *ODNB*.

<sup>57</sup> 'The deficiencies of Coleridge's *Remorse* at Drury Lane', 1813, Roy, *Theatre in Europe*, Document no. 88, p. 119.

sides' [...]. This may be poetical, but it has no connexion with the plain, rapid and living truth of the Drama.<sup>58</sup>

Elliston explained the dramatic grounds on which he edited *Marino Faliero*, while remaining silent on his excisions of political content:

Those who have perused *Marino Faliero* will have anticipated the necessity of considerable curtailments, aware that conversations or soliloquies, however beautiful or interesting in the closet, will frequently tire in public recital.<sup>59</sup>

Elliston made significant cuts; Thomas Ashton records the removal of fifteen hundred lines, equal to forty-four per cent of the text.<sup>60</sup> Further study of the Larpent Archive copy indicates Elliston cut slightly less, (sixty of one hundred and sixty-seven pages), but still thirty-six per cent.<sup>61</sup> Conscious of Murray's opposition, Elliston's took pains to make clear the disparity between Byron's text and his production:

... this intimation [editing of the text] is due to the ardent admirers of LORD BYRON'S talent, and will, it is presumed, be a sufficient apology for the great freedom used in the representation of the Tragedy on the stage of the Drury Lane Theatre.<sup>62</sup>

Contessa Teresa Guiccioli, Byron's last romantic attachment, recorded the effect upon him of the play's unauthorised performance:

Every occurrence relative to the bringing *Marino Faliero* on the stage caused him excessive inquietude.<sup>63</sup>

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<sup>58</sup> *The Times*, 25 January 1812 in Roy, *Theatre in Europe*, Document no. 88, p. 120.

<sup>59</sup> Handbill dated 25 April 1821. HL-HTC: Elliston Papers.

<sup>60</sup> Ashton, 'The Censorship of Byron's *Marino Faliero*', p.35.

<sup>61</sup> Digitised copy of *Marino Faliero*. HLC-PJL: LA2224.

<sup>62</sup> Playbill dated 25 April 1821 announcing *Marino Faliero*'s first night. HL-HTC: Elliston Papers.

<sup>63</sup> Moore, *The Works of Lord Byron* (London, 1829), p. 181.

Elliston's abandonment of propriety distressed Byron on two counts: the first, disregard of his wishes and the second, the mauling of his text. Byron's anguish was compounded by what he considered Elliston's betrayal: 'I was always so civil to Elliston personally, that he ought to have been the last to attempt to injure me.'<sup>64</sup> Byron respected Elliston the actor: 'I can conceive nothing better than [...] Elliston in *gentleman's* comedy and in some parts of tragedy.'<sup>65</sup> A further sign of favour, Byron had deputed Elliston to deliver his *Monody*; the 'Address' given on Drury Lane's re-opening in 1812.<sup>66</sup> When Elliston conceived the *Marino Faliero* project, he may have relied on this cordial personal history, or counted on Byron's enduring attachment to Drury Lane.

### **Profit, prestige, audience: Elliston's motive for staging *Marino Faliero***

Elliston's acquisition of Drury Lane in August 1819 should be set in the context of the financial difficulty bedevilling that theatre's history (see Chapter Five).<sup>67</sup> Besides £10,200 per annum rental, the Lease committed Elliston to pay his proportion of all party gutters and sewers, to keep a constant supply of water in tanks and cisterns, maintain outside wood- and ironwork, machinery, scenes, and wardrobe glasses, keep in good repair private boxes, saloons, lobbies, and passages properly ornamented, gilded, painted, cleaned, white washed, and decorated.<sup>68</sup> The theatre may have

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<sup>64</sup> Letter No. 427, to Murray, dated Ravenna 19 May 1821 in Moore, *The Works of Lord Byron* (London, 1832), p. 183.

<sup>65</sup> Byron, *Marino Faliero*, p. xix.

<sup>66</sup> Byron's *Monody*, delivered by Elliston at Drury's Lane's re-opening on 9 October 1812. Garrick Scrapbook.

<sup>67</sup> Garrick *Annals*. Tracey C. Davis, *The Economics of the British Stage 1800-1914* (Cambridge 2000), p. 20.

<sup>68</sup> 'Outline of the conditions upon which the Committee of the Theatre Royal Drury Lane Company of Proprietors intend to let the said theatre, and the use of the Patents and Licences, and Property, now in, about, or belonging to the said Theatre.' Garrick *Annals*.

'overflowed in every part' on 4 October, Elliston's opening night,<sup>69</sup> but he needed consistent patronage to meet the rental and maintenance commitments, pay salaries and recoup his outlay. His probably sincere aspiration to restore the stage to literary merit (see Chapter Four) may also furnish part of the answer to the question, 'Why did Elliston stage *Marino Faliero*?'

From the outset at Drury Lane Elliston made efforts not only to restore Shakespeare, but to commission serious contemporary writers. Keats, Shelley and Leigh Hunt submitted scripts, namely, *Otho*, the already-mentioned *The Cenci*, and a tragedy on the subject of *el Cid*, respectively, but Elliston rejected them all as unsuitable.<sup>70</sup> Walter Scott and Thomas Moore refused Elliston's approaches, Scott on grounds of reputational risk.<sup>71</sup> Byron had already left England,<sup>72</sup> and in any event, wrote his first play only in exile.<sup>73</sup> Despite Kean's success in attracting audiences during Elliston's first Season, October 1819 to June 1820, (which in practice extended to September), expenditure exceeded income.<sup>74</sup> In Elliston's second Season, therefore, the prospect of a play by Byron, *the* literary celebrity and social exotic, with a glamorous but scandalous reputation, combined with Drury Lane's financial circumstances, in turn compounded by Kean's threatened departure, represented a powerful incentive. Elliston needed crowded houses equal to those drawn to Kean's farewell performances.

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<sup>69</sup> Garrick Club manuscript *History of the London Theatres* in Nelson and Cross, *James Winston's diaries*, p. 1.

<sup>70</sup> Murray, *Robert William Elliston Manager*, p. 85.

<sup>71</sup> Wishing Elliston 'every success in your new and difficult situation', Scott wrote on 3 August 1819: 'I by no means feel disposed to risk any reputation I have acquired, upon so slippery and uncertain an adventure.' Roy, *Theatre in Europe*, Document no. 89, p. 120. Scott's first work written as a serious drama, *Halidon Hill*, was published in 1822.

<sup>72</sup> Byron sailed from Dover to Ostend on 24 April 1816, remaining in exile until his death in 1824. 'George Gordon Noel Byron, sixth Baron Byron (1788–1824)', *ODNB*.

<sup>73</sup> Murray published Byron's closet play, *Manfred*, in 1817.

<sup>74</sup> Entry for 17 September 1820, Nelson and Cross, *James Winston's diaries*, p. 19.

Elliston relied heavily on Kean. To inaugurate his management, he introduced Kean anew in *King Richard the Third* in November 1819; a production expensively got up with new scenery, dresses and decorations.<sup>75</sup> Kean's Season proved a success, for in December 1819 Leigh Hunt, then publisher of *The Examiner*, reported full houses at Drury Lane, and empty seats at Covent Garden. This he attributed to Kean's performance in the role of *Sir Giles Overreach*, 'one of his most powerful and appalling characters.'<sup>76</sup> *The Monthly Critical and Dramatic Review* commented that Elliston had put together 'a constellation of talent rarely to be found concentrated' in comedy. In tragedy, however, apart from Kean, there was 'not a man in the theatre who is fit to appear in either a first, second or third rate part.'<sup>77</sup> Hazlitt, either well-informed or prophetic of Kean's intention to tour America, saw how vital Kean was to Elliston's enterprise:

Mr. Kean [...] is [...] a sturdy column supporting the tottering, tragic dome of Drury-lane! What will it be when this main, this striking pillar is taken away ...<sup>78</sup>

During the 1819–20 Season, besides *Richard III*, Kean appeared in *Venice Preserved*, *Coriolanus* and *King Lear*, following which Elliston extended Drury Lane's Season into the summer to capitalise on the period before Kean's departure (a practice he was to repeat). Between July and September 1820 Kean played *Shylock* in the *Merchant of Venice*, *King Lear*, *Brutus*, *Macbeth*, *Othello*, *Hamlet*, *Richard II*, and *Richard III* to full houses.<sup>79</sup> Giles Playfair records, however, a series of dreary failures with Kean

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<sup>75</sup> Garrick Club manuscript *History of the London Theatres* in Nelson and Cross, *James Winston's diaries*, p. 2.

<sup>76</sup> L. H. and C. W. Houtchens (eds.), *Leigh Hunt's Dramatic Criticism 1808–1831* (New York, 1949), p. 225.

<sup>77</sup> 'The Monthly Critical and Dramatic Review', in *The London Magazine; and Monthly Critical and Dramatic Review*, Vol. I. January to June 1820; January 1820, pp. 93–4.

<sup>78</sup> A. R. Waller and Arnold Glover (eds.), *The Collected Works of William Hazlitt in Twelve Volumes* (London, 1903), Vol. 8, Dramatic Essays from *The London Magazine*, p. 472.

<sup>79</sup> Giles Playfair, *Kean, The Life and Paradox of the Great Actor* (London, 1950), p. 189–90.

miserably conscious of his dwindling popularity.<sup>80</sup> By September 1820, Hazlitt, too, had noticed Kean's loss of potency.<sup>81</sup> Elliston examined the house receipts after Kean's final appearance on 16 September, to discover a deficit, despite the extended Season.

On looking at the books, it was found that, although about £2,000 had been cleared by the temporary opening of the theatre [for Kean's farewell], there was not sufficient to pay the actors on Monday.<sup>82</sup>

Having lost his one inherited asset (Kean departed for America in September 1820), Elliston faced planning the programme, and filling the void in his Company for the forthcoming Season. Murray observed to Byron in December 1820, 'they have not positively One Tragic Performer Male or Female – at Drury Lane [...] Kean is gone you know.'<sup>83</sup> In January 1821, *The Monthly Critical and Dramatic Review* reported 'nothing of merit' at Drury Lane.<sup>84</sup> The same publication noted in January, *Richard III* 'murdered, first by Richmond – then by WALLACK',<sup>85</sup> and in February, a well-received new tragedy, *Conscience*, but in March a disappointing *Therese*.

Robert Cruickshank's caricature, *The Air Balloon of the Ascention of Drury* of April 1821 (see Appendix 17) publicised Elliston's debt-beset predicament, and captures for us the context in which Elliston staged *Marino Faliero* on 25 April 1821.<sup>86</sup> The

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<sup>80</sup> Ibid., p. 190.

<sup>81</sup> Waller and Glover, *The Collected Works of William Hazlitt*, Vol. 8, pp. 472-73.

<sup>82</sup> Entry for 17 September 1820, Nelson and Cross, *James Winston's diaries*, p. 19.

<sup>83</sup> Letter No. 144 dated London, 29 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 367.

<sup>84</sup> *The London Magazine; and Monthly Critical and Dramatic Review*, Vol. I. January to June 1820; January 1820, p. 88.

<sup>85</sup> James William Wallack, actor, divided his career between England and America. He became Elliston's stage-manager in the Autumn of 1823, at the same time taking many leading roles in Comedy. He continued to portray Shakespearian characters too, and in 1827 played *Iago* to Kean's *Othello*, also supporting Kean in the roles of *Edgar*, *Malcolm*, and *Macduff*. 'James William Wallack (1795–1864)', *ODNB*.

<sup>86</sup> *The Air Balloon of the Ascention of Drury*. Pub. G. Humphrey, April, 1821. Etching; 13 ¾ x 9 7/8 Coloured. I. R. Cruickshank. HL-HTC: Theatrical caricature prints. (Isaac) Robert Cruickshank (1789–1856), caricaturist and portrait painter.

sketch depicts Elliston together with a miniature model of Drury Lane ascending in a hot-air balloon, checked by an iron weight representing the 'Weight of Debt'. Blue devils cling to a gondola marked 'Treasury', from which writs stream like pennants. Beneath, from a flaming pit labelled 'Depth of Despondency', snaky-haired creatures cry 'Stay Oh Stay' to a figure hovering in the background in the character of *Richard III*, labelled 'Deserter'. This is Kean, exclaiming in a speech bubble, 'T'was but a dream'. The 'dream' meant Kean's ambition to acquire Drury Lane, blocked by Elliston. The central motif is surrounded by clouds of steam inscribed 'Puff', 'Puff', 'Puff', denoting Elliston's penchant for over-expansive self-promotion.

Irrespective of Murray's letter of 24 April and injunction of 25 April,<sup>87</sup> both issued to prevent *Marino Faliero* being acted, Elliston proceeded, although he suspended performances between 26 and 29 April. On the evening of 25 April the following handbill was circulated in the theatre, Andrew Nicholson says, by Murray.<sup>88</sup> Nonetheless, the tone is characteristic of Elliston's register, and representative of the type of provocative device to which he often resorted:<sup>89</sup>

The Public are respectfully informed, that the representation of Lord Byron's tragedy, "The Doge of Venice," this evening, takes place in defiance of an injunction of the Lord Chancellor, which was not applied for until the remonstrance of the publisher, at the earnest desire of the Noble Author had failed in preventing this drama from its intrusion on the stage, for which it was never intended.<sup>90</sup>

Elliston's transgression prompted much press attention, as he seems to have intended.

*The Times*, reporting on the play's second performance, discerned Elliston's purpose:

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<sup>87</sup> '... a person brought a notice from a solicitor saying an injunction had been obtained against the performance of Lord Byron's tragedy.' Entry dated 25 April 1821, Nelson and Cross, *James Winston's diaries*, p. 29.

<sup>88</sup> Nicholson, *The Letters of John Murray to Lord Byron*, Note 5, p. 399.

<sup>89</sup> See Appendix 17. Robert Cruickshanks' caricature: Elliston surrounded by clouds of steam – 'Puff'. 'Puff', 'Puff' ...

<sup>90</sup> *The Bury and Norwich Post: or Suffolk, Essex, Cambridge, Norfolk, and Ely Telegraph*, 2 May 1821.

An interest excited under such circumstances cannot fail of proving beneficial to the treasury of the theatre.<sup>91</sup>

*The Theatrical Pocket Magazine* concluded that ‘avarice was at the bottom of all this’,<sup>92</sup> and Byron himself named Elliston a ‘speculating buffoon’.<sup>93</sup> On the first night, the play drew one of the most crowded and fashionable audiences of the Season, and the subsequent suspension of Murray’s injunction allowed performances to continue.<sup>94</sup> Elliston had cause to believe that *Marino Faliero* would bring financial salvation. The production’s tolerable reception and intense interest, both prurient and genuine, stimulated by the controversy, indicate that Elliston’s persistence in staging Byron’s play served his purpose of attracting audiences. Still, though the play had a run of least eight performances between 25 April and 18 May,<sup>95</sup> double the number previously calculated,<sup>96</sup> the production failed to achieve his objective of deficit reduction; receipts averaged less than £140 per night.<sup>97</sup>

Elliston’s resolve to stage *Marino Faliero* can be dated to at least October 1820,<sup>98</sup> but without prior access to the text, he was forced to wait until publication. Winston charted the events leading up to the play’s first presentation on Wednesday 25 April, and the second on Monday 30 April (see Appendix 18). Winston’s record confirms that Elliston was determined to produce the play once in the public domain.

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<sup>91</sup> *The Times*, 30 April 1821.

<sup>92</sup> *The Drama; or, Theatrical Pocket Magazine* 1.1 (May 1821): 38–40.

<sup>93</sup> Letter No. 408 to Murray, dated Ravenna 20 January 1821 in Moore, *The Works of Lord Byron* (London, 1832), p. 121.

<sup>94</sup> Entry for 28 April 1821, Nelson and Cross, *James Winston’s diaries*, p. 29.

<sup>95</sup> Playbills dated Wednesday 25 April, Monday 30 April, Tuesday 1 May, Wednesday 2 May, Thursday 3 May, Friday 4 May, Monday 14 May (seventh time) and Friday 18 May (eighth time). HL-HTC: Playbills and programmes. *The Examiner*, 13 May 1821.

<sup>96</sup> Ashton, ‘The Censorship of Byron’s *Marino Faliero*’, p. 42.

<sup>97</sup> Murray, *Robert William Elliston Manager*, p. 95.

<sup>98</sup> *Ibid.*

The Lord Chamberlain had responsibility for licensing and censorship through his Examiner of Plays (see Chapter One). John Larpent held the office of Examiner for over forty years (November 1778 – January 1824), aided unofficially by his wife.<sup>99</sup> As a single woman Anna Larpent developed an acute interest in literature and drama, and after her marriage became closely involved in her husband's work, assisting in reading and approving new plays. L. W. Connolly deduces from Anna's diary archive that John Larpent maintained a relatively tolerant and level-headed attitude towards the plays he read, but he could be petty and overzealous as a censor.<sup>100</sup>

The law required the script of any new play to be submitted to the Examiner for scrutiny. Should he permit performance, it was not obligatory for an actual Licence be issued, but it became the practice. Thomas Ashton suggests that Larpent adopted a rule of 'practical compromise with theatre management' throughout his long tenure.<sup>101</sup> Correspondence between Larpent and Elliston shows he executed his office conscientiously. For example, early in Elliston's lessee-ship Larpent reprimanded him for non-compliance with the requirement that a 'true copy' of any play be submitted to him.

I trust therefore, if any Words are introduced in the Pantomime entitled Shakespeare versus Harlequin, that you will not fail to send me a Copy of them. [...] P.S. Songs have been sometimes omitted in the Pieces you have sent me; and in a late Instance, one was introduced which was much disapproved.<sup>102</sup>

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<sup>99</sup> L. W. Connolly, *The Censorship of English Drama 1737–1824* (San Marino, Ca., 1976), Appendix: Lords Chamberlain and Examiners of Plays 1737–1824, p. 183.

<sup>100</sup> Connolly, *The Censorship of English Drama*, p. 45.

<sup>101</sup> Ashton, 'The Censorship of Byron's *Marino Faliero*', p. 27.

<sup>102</sup> Manuscript letter from John Larpent, East Sheen [Larpent's residence], dated 12 April 1820: HL-HTC: Elliston Papers, Box 2.

This proof of former ‘minor’ manager Elliston’s sharp practice resonates with the 1832 Select Committee’s finding that ‘minor’ theatres often submitted one version of a play for approval, while substituting another in performance.<sup>103</sup> Prosecutions could follow, but penalties were rarely imposed unless one theatre informed against another (see Chapter Five). George Colman the younger succeeded Larpent in January 1824, towards the end of Elliston’s time at Drury Lane, gave evidence to the Select Committee, and held office until October 1836.<sup>104</sup> When asked by the Select Committee ‘Do you ever take any measures to enforce your correction?’ Colman replied ‘I have no ulterior power [...] it is the Lord Chamberlain who must do it.’<sup>105</sup>

A letter from Larpent of 20 May 1820 shows him to have been a diligent censor. At the same time, the tone indicates the development of a more trusting relationship with Elliston:

I have the pleasure to return the Tragedy [‘*Virginius*’ pencilled at top of page] you was good enough to lend me to read. The lines which it is wish’d, should be expung’d, are scor’d with pencil Marks where the leaves are turn’d down.<sup>106</sup>

The 1737 Theatre Licensing Act stipulated that scripts be submitted for examination at least fourteen days before the planned first night. J. Payne Collier, acting Examiner for Colman in 1831, testified before the Select Committee that ‘the statute requires 14, but it is sometimes two or three days only.’<sup>107</sup> On his part, the Examiner had no obligation to reply within a set period. In the case of *Virginius*, the text went to Larpent on 8 May for

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<sup>103</sup> *Report from the Select Committee 1832*, p 69.

<sup>104</sup> John Russell Stephens, *The Censorship of English Drama 1824–1901* (Cambridge, 1980), p 157.

<sup>105</sup> *Ibid.*

<sup>106</sup> Manuscript Letter from John Larpent, St. James’, dated 20 May 1820: HL-HTC: Elliston Papers, Box 2. Larpent appears to be returning an original text, although it is known that he archived a copy of every play he authorised, and *Virginius* is listed in the Archive catalogue.

<sup>107</sup> *Report from the Select Committee 1832*, p. 29.

performance on 29 May 1820, and Larpent returned the script on 20 May.<sup>108</sup>

Demonstrating a spirit of ‘practical compromise’, Larpent issued a Licence for *Marino Faliero* within two days.

Murray’s refusal to supply an advance copy frustrated Elliston’s wish to stage *Marino Faliero* ‘before the Publication’.<sup>109</sup> On publication day, Saturday 21 April 1821, Winston obtained two copies. He ‘cut’ one and had a Drury Lane factotum, Tyson, deliver it to Larpent at his home in East Sheen the same day, four days before the planned staging. ‘Cutting a copy’ generally meant slitting the pages received uncut from the printer to enable text to be read. Thomas Ashton suggests ‘cut’ could have meant ‘edit’, but the chronology of events appears not to support that view. Larpent indicated immediately on Saturday that he ‘had not a doubt of procuring a license by Monday or Tuesday at farthest’.<sup>110</sup> Significantly, his response shows that the Examiner of Plays, like Elliston, assumed ‘a *right* over published poetry’;<sup>111</sup> the liberty to authorise a play for performance once in the public arena.<sup>112</sup> During the course of Sunday 22 April, Elliston forwarded Larpent a second, excised version, under cover of an explanatory letter.

I have been anxiously waiting for the publication of the Tragedy, which I now send to you [...] so curtailed that I believe not a single objectionable line can be said to exist.<sup>113</sup>

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<sup>108</sup> Manuscripts, mss: LA 1–2503: 2152. HLC-PJL.

<sup>109</sup> Letter No. 14 dated London, 19 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, pp. 363–64.

<sup>110</sup> Entry for 21 April 1821, Nelson and Cross, *James Winston’s diaries*, p. 29.

<sup>111</sup> Letter No. 409 dated Ravenna, 22 January 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 121.

<sup>112</sup> *Ibid.* p. 122.

<sup>113</sup> Digitised copy of manuscript letter dated 22 April 1821, filed with printed, censored text of *Marino Faliero*. HLC-PJL: LA2224.

The Licence arrived at the theatre on the afternoon of Tuesday 24 April, and despite Murray's injunction, the first performance took place on 25 April, as Elliston planned. Such exceptional speed, moving from first reading of a new play, to applying for and receiving a Licence, to rehearsal and staging within four days, signals the severity of the financial position in which Elliston was placed.

If Winston's record is accurate, the copy sent to Larpent on Saturday 21 April ('A') and the other Elliston forwarded on Sunday 22 April ('B') account for the two copies purchased by Tyson on 'Saturday morning about eleven for twenty-four shillings'. Larpent held two copies on 22 April (A and B); he confirmed possession of the Saturday copy that day; the archive record establishes his receipt of the Sunday copy. Larpent kept a copy of every play he examined and with the aid of his wife, collected, indexed and collated all plays submitted to the Lord Chamberlain since the Licensing Act 1737.<sup>114</sup> The end paper of the abridged text (B) retained in the Huntington Library John Larpent Archive is signed '[William?] Tyson, April 21<sup>st</sup>'. Elliston's letter of 22 April is filed with it, and the whole entry logged at 22 April, with a note reading 'numerous and extensive deletions'. Exploration of John Russell Stephens' suggestion that marking the text with date of publication may have cloaked the procurement of an earlier copy<sup>115</sup> prompts several speculative propositions. Elliston's biographer George Raymond maintained that an illicit copy was obtained:

On Saturday, the 21<sup>st</sup> of April, Lord Byron's tragedy, 'Marino Faliero' was published by Murray [...]. The drama, sheet by sheet from the compositor's hands, was

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<sup>114</sup> John Brewer, 'Reconstructing the reader: prescriptions, texts and strategies in Anna Larpent's reading' in Raven, Small, and Tadmor (eds.) *The practice and representation of reading in England*, p. 228.

<sup>115</sup> John Russell Stephens, *The Profession of the Playwright: British Theatre 1800–1900* (Cambridge, 1992), p. 88.

brought from the printing-office to the theatre, and the whole play, in fact, studied before publication.<sup>116</sup>

Raymond constructed his biography largely from Winston's material, but Winston, who recorded irregular matters in code, made no mention of an illicit copy. His entry 'Saturday night – read three acts of *Marino*'<sup>117</sup> suggests the day of publication was the first time he had seen the text, but also implies either the text read on Saturday was (B), allowing Elliston only the hours of Sunday morning for editing, or the existence of a third copy. Publication dates are often a complicated issue; that Elliston obtained a presentation, or review copy sent out before public sale is a possibility. The date taken as publication date (for *Marino Faliero*, 21 April) generally follows the sale to the trade. Murray's Sales Subscription Book shows 5,495 copies were sold at the first Coffee House sale on 19 April 1821.<sup>118</sup> A further option, therefore, is that Elliston acquired a trade copy.

The paper trail fails to clarify whether the archive text is the version actually performed at Drury Lane. The Archive copy appears to be that sent by Elliston on Sunday 22 April together with letter (B), rather than that delivered by Tyson on Saturday 21 April (A). A conundrum remains: 'Did Larpent keep the Sunday, expurgated version (B), and return the unedited Tyson copy (A) for use as the stage script?' 'Did he reproduce Elliston's excisions for his archive before return, and/or add his own?' The cases of *Shakespeare versus Harlequin* (note 102) and *Virginus* (note 106) above show that Larpent was in the habit of returning scripts with amendments, or communicating other stipulations on granting a Licence, but Archive copy (B) shows

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<sup>116</sup> George Raymond, *Memoirs of R W Elliston, comedian 1774–1831*, 2 Vols. (London, 1844) Vol. I, p. 293.

<sup>117</sup> Entry for 21 April 1821, Nelson and Cross, *James Winston's diaries*, p. 29.

<sup>118</sup> David McClay, John Murray Archive Curator, National Library of Scotland: Murray's sales subscription book: Reference MS.42811 (unfoliated): 6 pages. NLS-MA.

only whole passages and lines uniformly struck through. From this complex picture, one point of certainty emerges: Larpent was presented with a text edited by Elliston and issued a Licence, whether or not he introduced his own changes, altered a separate copy, or kept a duplicate.

### **Elliston's censorship of political allusion: reform, republicanism and revolution**

Of The Examiner of Plays' stance during the period of the French Revolution and Napoleonic Wars, Connolly writes:

John Larpent was remarkably successful in keeping the English stage clear of the unseemly paraphernalia of republicanism or anything which might have encouraged it.<sup>119</sup>

John Larpent's influence extended beyond his own regime. Asked by the Select Committee how he conceived his role as Examiner, Colman answered:

To take care that nothing should be introduced into plays which is profane or indecent, or morally or politically improper for the stage.<sup>120</sup>

When questioned about his definition of 'politically wrong', he replied:

... anything that may be so allusive to the times as to be applied to the existing moment, and which is likely to be inflammatory.<sup>121</sup>

Managers like Elliston usually co-operated willingly with the Examiner's decisions.<sup>122</sup> At the same time, it was not unusual for managers to forward pre-censored copies to gain time in the process. In the case of *Marino Faliero*, Elliston definitely seized the initiative,

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<sup>119</sup> Connolly, *The Censorship of English Drama*, p. 106.

<sup>120</sup> *Report from the Select Committee 1832*, p. 59.

<sup>121</sup> *Ibid.*, p. 66.

<sup>122</sup> Connolly, *The Censorship of English Drama*, p. 107.

presenting Larpent with his own pre-censoring of Byron's play. This section examines Elliston's personal intervention in the process to provide insight into what he and Larpent construed as politically wrong, the relationship established with Larpent, and Elliston's pressing need for box office success. John Larpent's speedy compliance with Elliston's extraordinary personal application for a Licence suggests he approved Elliston's excisions, and signals his own understanding that, at law, Elliston had the right to perform the play.

By custom, the stage manager, not the manager, submitted Licence requests.<sup>123</sup> The Larpent Archive catalogue confirms that Elliston's own involvement in the licensing of *Marino Faliero* was exceptional. Record 2224: *Marino Faliero* records 'Robert William Elliston, Drury Lane' alongside the submission date of 22 April 1821, yet Elliston's name appears on no other licensing application during the entire period of his lessee-ship. Even the application for his opening piece in October 1819, *The Fisherman's Hut*, was submitted by stage manager Winston.<sup>124</sup>

To render Byron's play stage-worthy, Elliston abridged diction and length for dramatic purposes, and political allusion to satisfy Larpent. He re-shaped the play to make it capable of performance, excising 'conversations or soliloquies' which 'tire in public recital'<sup>125</sup> by slashing entire pages of lyrical expression.<sup>126</sup> Elliston was careful to tone down passages 'allusive to the times', particularly to republicanism and the Cato

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<sup>123</sup> Stephens, *The Profession of the Playwright*, p. 161.

<sup>124</sup> Record no: 2118. *The Fisherman*. Opera (musical drama), 3 acts. John Tobin (?). Application Oct. 16, 1819, James Winston, D.L. Prod. (as *The Fisherman's Hut*) Oct. 20. Further examples of applications from Winston include (2152) *Virginius*, 8 May 1820; (2154) *David Rizzio*, 29 May 1820; (2222) *Mistification*, 7 April 1821; (2229) *Dirce, or the Fatal Urn*, 26 May 1821; (2232) *The Spectre Bridegroom*, 27 June 1821; (2242) *Five Hundred Pounds*, 22 August 1821. HLC-PJL.

<sup>125</sup> Handbill 25 April 1821, HL-HTC: Playbills and programmes.

<sup>126</sup> Digitised copy of Byron's *Marino Faliero*, for example, pp. 40, 41, 50 and 51. HLC-PJL: LA2224.

Street conspiracy, before sending the script to Larpent.<sup>127</sup> Knowing Larpent's policy of keeping reform, republicanism and revolution from the stage,<sup>128</sup> Elliston expunged many, but, curiously, not all passages and lines potentially allusive to Cato Street.<sup>129</sup> It is not certain that Byron intended an analogy between *Marino Faliero* and Cato Street; the strongest evidence that he may have, is the three-year dormant period following his initial proposal 'to write a tragedy on the subject'.<sup>130</sup> Perhaps Cato Street re-awakened Byron's interest in the Doge's story. The plot was discovered in February 1820, and the conspirators were sentenced in May. Byron began writing *Marino Faliero* on 4 April 1820<sup>131</sup> and completed the draft in July, telling Teresa Guiccioli 'now comes the work of revision – and I have no copyist'.<sup>132</sup> The finished work was ready in mid-August 1820.<sup>133</sup> Against the proposition, the eight-month gap between completion and publication hinged on Murray's commercial, not political reservations. Added to which, Byron's well-known radical sympathies and zeal for reform, self-declaredly, did not extend to advocacy of revolution in England.<sup>134</sup> Had Byron meant to reference 'the existing political moment', pre-censorship may have fuelled his resistance to the play's performance, but current evidence is insufficient to form a definitive view. Whether or not deliberately politically allusive, the play introduced sensitive subject matter in a climate of economic hardship, social upheaval, and the shadow of the French

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<sup>127</sup> Conolly, *The Censorship of English Drama*, p. 107.

<sup>128</sup> *Ibid.*, p. 106.

<sup>129</sup> Digitised copy of Byron's *Marino Faliero*, for example, pp. 40, 41, 50 and 51. HLC-PJL: LA2224.

<sup>130</sup> Byron wrote to Murray in February 1817 asking for a translation of the account of the Doge Valiero [*sic*]. Moore, *The Works of Lord Byron* (London, 1832), p. 59.

<sup>131</sup> *Ibid.* p. 43.

<sup>132</sup> Letter dated 17 July 1820 in Iris Origo, *The Last Attachment: the story of Byron and Teresa Guiccioli as told in their unpublished letters and other family papers* (London, 1949), pp. 194–95

<sup>133</sup> Moore, *The Works of Lord Byron* (London, 1832), p. 43.

<sup>134</sup> Correspondence with Count Alborghetti, Secretary General of the Province of Ravenna in Origo, *The Last Attachment*, p. 245.

Revolution. The King's Speech in the House of Lords on 23 January 1821, calling upon the people's 'loyalty as the best and surest safeguard of my throne [...] notwithstanding the agitations produced by temporary circumstances, and amidst the distress which still presses upon a large portion of my subjects',<sup>135</sup> illustrates the level of prevailing unease.

Elliston removed political allusion from *Marino Faliero* in order to satisfy the Examiner of Plays, hoping to hasten the issuing of a Licence and the play's appearance on stage. His intervention and appeal for haste, 'my artists will work all this night & also will be employed all Monday night [23 April]'<sup>136</sup> characterises the urgency of his letter to Larpent of Sunday 22 April 1821, and was crucial in bringing *Marino Faliero* to the stage. Elliston's eagerness to 'so curtail' the text to expunge every questionable allusion, represents a pragmatic response to the substance of the play and national mood, and, as Larpent approved the script, corresponded with the Examiner's thinking. Elliston deleted Byron's closing scene, Act V Sc. IV, entirely, oddly omitting apposite passages justifying the execution of traitors. Conversely, he cut Byron's intended *finale*, namely, the unacceptable, bloody image of a decapitated head.

The gory head rolls down the "Giant's Steps!"

[The curtain falls.<sup>137</sup>

Instead, against the 'national preference' for 'having murders and executions exhibited before us on the stage',<sup>138</sup> Elliston ended his production with the close of Sc. III, and Byron's direction:

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<sup>135</sup> *The London Magazine*, Vol. III, February 1821, p. 207.

<sup>136</sup> Digitised copy of manuscript letter dated 22 April 1821, filed with printed, censored text of *Marino Faliero*. HLC-PJL: LA2224.

<sup>137</sup> Byron, *Marino Faliero*, p. 167.

[*The DOGE* throws himself upon his knees, and as the executioner raises his sword the scene closes<sup>139</sup>

*The Literary Chronicle's* report of the curtain falling 'as the executioner raised his sword to give the fatal blow',<sup>140</sup> confirms that Drury Lane's audience was spared the *Doge's* beheading. The following exchange during his Select Committee interview shows Colman, following Larpent, maintained the prohibition of revolutionary discourse on stage:

971. There was a play of Charles the First you refused to licence? – Yes.

972. Why did you refuse to license that? - Because it amounted to every thing but cutting off the King's head upon the stage.<sup>141</sup>

Thomas Ashton suggests that Elliston removed all references to the block, blood imagery and disparagement of the nobility,<sup>142</sup> and the archive script shows such passages were excised:

They never fail who die  
 In a great cause: the block may soak their gore;  
 Their heads may sodden in the sun; ...  
 But still their spirit walks abroad. ...  
 ...  
 They but augment the deep and sweeping thoughts  
 Which o'erpower all others and conduct

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<sup>138</sup> *The Literary Chronicle and Weekly Review*, 22 May 1819–28 December 1822: 28 April 1821, 3.102.

<sup>139</sup> Byron, *Marino Faliero*, p. 165.

<sup>140</sup> *The Literary Chronicle and Weekly Review*, 22 May 1819–28 December 1822: 28 April 1821, 3.102.

<sup>141</sup> *Report from the Select Committee 1832*, p. 66.

<sup>142</sup> Ashton, 'The Censorship of Byron's *Marino Faliero*', pp. 38–9.

The world at last to freedom<sup>143</sup>

The proposition that Elliston moderated *all* such references is not supported by the archive copy. Whether due to haste, or by design, inflammatory passages remained, the following being especially relatable to Cato Street.

Act II, Sc. II, p. 85:

All the patricians flocking to the Council,/... ../Will then be gather'd in unto the harvest/

And we will reap them with the sword for sickle

Elliston also retained other instances of incitement to or justification of revolt, such as:

Act I, Sc. II, p. 19, p. 23, p. 29:

I pray you to resume what you have spurn'd [the ducal bonnet], /Till you change it haply for a crown.

I am a man. My Lord./ Why so is he who smote you./ He is called so;/ Nay, more a noble one [..]/ But since he hath forgotten that I am one./ And treats me like a brute, the brute may turn –

Nor I alone are injured and abused,/ Contemn'd and trampled on, but the whole people/Groan with the strong conception of their wrongs:

Act II, Sc. II, p. 92:

Free citizens have struck at kings ere now; ...

We cannot know which passages were actually spoken on stage, since Larpent may have instructed Elliston to present a version unavailable to us, or Elliston may have chosen to make changes in performance. *In toto*, Elliston's curtailments indicate that he recognised the national mood in an unstable political climate, taking steps to delete allusions politically improper for the stage to align with Larpent's policy. The Examiner

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<sup>143</sup> Digitised copy of Byron's *Marino Faliero*, Act II, Sc. II, p. 63. HLC-PJL.

of Plays emerges as a rigorous, diligent, sometimes petty and overzealous censor, who nonetheless adopted a rule of practical compromise with theatre management.

Press accounts of Elliston's production remained silent on the play's revolutionary politics, but one newspaper, *The Morning Post*, imposed a perverse political interpretation on Byron's text following Queen Caroline's attendance at Drury Lane to see the play. Caroline's visit achieved a dramatic effect of a different kind; George IV's highly unpopular attempt to divorce her. Byron may have intended an association between *Marino Faliero* and Cato Street, but slighting Caroline is unlikely to have been his purpose, given his 'obligation to the Queen for her kindness to me when she kept her residence at Kensington Palace.'<sup>144</sup>

### **Queen Caroline, *Marino Faliero* and a perverse association 'allusive to the times'<sup>145</sup>**

Much as Elliston courted publicity, Queen Caroline's unexpected visit to Drury Lane on 14 May 1821 for the seventh of *Marino Faliero*'s known performances, drew a response both unwelcome to Elliston, an admirer of George IV, and possibly detrimental to the run. Caroline's attendance provoked an anti-monarchist fracas indicative of the depth of public disapproval of the King's attempt to divorce her, and of general political unease. The audience clamoured for the singing of 'God Save the Queen': numerous 'perversions' of the National Anthem, circulated as handbill's and broadsides, had

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<sup>144</sup> Origo, *The Last Attachment*, p. 245.

<sup>145</sup> *Report from the Select Committee 1832*, p. 66.

become a tool in the campaign against the King.<sup>146</sup> One, penned by Samuel Bamford, a veteran of 'Peterloo' imprisoned for taking part in the demonstration, ran:

Those whom the people pay,  
 Daily to preach and pray;  
 Faithless have been.  
 'None for her *soul* did care,'  
 Not a lip moved in prayer  
 For the lone wanderer,  
 God help the Queen!<sup>147</sup>

Notably, Elliston did not accede to the audience's request, but attempted to quell their insistent calls, futilely in the event, with a promise of the National Anthem to be sung at the play's close.<sup>148</sup> This section examines the event as a snapshot of the national mood. The incident illustrates theatre's use as an arena for overt and coded political protest.

Princess Caroline's marriage in April 1795 to the then Prince of Wales ended in separation the following year.<sup>149</sup> The Prince excluded her from Court thereafter, and in 1814, she began a series of travels abroad. Byron described her conduct at Venice early in 1817:

The general state of morals here is much the same as in the Doges' time; a woman is virtuous [...] who limits herself to her husband and one lover [...] it is only

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<sup>146</sup> Ledger, *Dickens and the Popular Radical Imagination*, p. 32.

<sup>147</sup> Samuel Bamford, *God Save the Queen, A NEW SONG*, in *Satirical Songs and Miscellaneous Papers*, item 24, verse 5. *Ibid.*

<sup>148</sup> *The Morning Post*, 15 May 1821. Entry for 14 May 1821, Nelson and Cross, *James Winston's diaries*, p. 30.

<sup>149</sup> Princess Caroline of Brunswick-Wolfenbüttel (1768–1821).

those who are indiscriminately diffuse, and form a low connection, such as the Princess of Wales with her courier [Bartolommeo Bergami] (who, by the way, is made a Knight of Malta,) who are considered as overstepping the modesty of marriage.<sup>150</sup>

The scandal continued its spread in élite circles after Caroline's return to England.

Stendhal wrote in July 1820:

... c'est que la reine Caroline d'Angleterre faisait ici l'amour publiquement avec un palfrénier nommé Bergami, quelle a créer baron, et avec lequel elle entrait tous les soirs dans sa chambre à coucher ...<sup>151</sup>

George IV acceded to the throne in January 1820. When she returned to England in June, the King denied Caroline the right to be crowned, and put her on trial for adultery. Public outrage accompanied the divorce proceedings between June and November, with Caroline seen as the victim of political intrigue and a libertine monarch. Amid fears that a conviction would lead to rioting or revolution, the case was halted on 10 November. Byron welcomed the outcome: 'You could not have sent me better news, better for England, for it will prevent a revolution.'<sup>152</sup> During the trial and immediate aftermath, Caroline manipulated the genuine public esteem in which she was held, while radical activists harnessed pro-Queen sympathies to attack the King and Tory Government. Vic Gatrell tells us that some four hundred and forty catalogued prints featured Caroline and George in 1820, the majority supporting the Queen.<sup>153</sup> Sally Ledger gives us examples of other means by which radical publishers led a campaign against George IV. Not only songs like Bamford's, or prints, but radical, satirical texts

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<sup>150</sup> Letter to John Murray dated Venice 2 January 1817 in R. G. Howard (ed.), *Letters of Lord Byron* (London, 1962), p.151.

<sup>151</sup> Stendhal, *Correspondence inédite*, I, p.145, 12 July 1820 in Origo, *The Last Attachment*, Note 5 to Chapter 5, p. 503.

<sup>152</sup> Origo, *The Last Attachment*, p. 245.

<sup>153</sup> Gatrell, *City of Laughter*, p. 517.

flooded the market, some sold as mock toys and games. Typical of this genre was *The Queen's Matrimonial Ladder* – 'A National Toy, WITH FOURTEEN STEP SCENES; AND ILLUSTRATIONS IN VERSE.' Published as the Queen Caroline Affair reached its height, the eighteen-page pamphlet was sold with an accompanying toy ladder.<sup>154</sup>

Radical and Whig politicians rallied to Caroline, as did *The Times* and other opposition newspapers, despite her own lack of interest in or sympathy with radicalism.

Caroline's strategy included co-opting the 'minor' theatres of Southwark, the Surrey and particularly the Coburg.<sup>155</sup> By happenstance, her marshalling of the Coburg for political effect coincided with Elliston's ultimately successful prosecution of Glossop for performing Shakespeare against his Licence (see Chapter Five.) Although Chapter Five argued that commercial imperatives drove the Coburg's rival staging of *Richard III* in December 1819, David Worrall suggests that support for the Queen may have influenced the proprietors' decision to enact a play featuring 'the Assassination of the Prince of Wales and Duke of York'.<sup>156</sup> Similarly, the Coburg's August 1820 production of Moncrieff's *Giovanni in the Country! or the Rake Husband*, a sequel to *Giovanni in London* performed at Elliston's Olympic in 1817, probably alluded to George IV's philandering.<sup>157</sup> Caroline's south-bank travels, Worrall remarks, served to validate the growing political power of the Thames's working-class districts.<sup>158</sup> As the conservative newspaper *The Morning Post* was to employ Elliston's production against the Queen,

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<sup>154</sup> Ledger, *Dickens and the Popular Radical Imagination*, p. 33. Created by William Hone in partnership with George Cruickshank (harsh critics of the Regent, then King), *The Queen's Ladder* illustrated stages in the drama from the King's proposal of marriage to the eventual defeat of his campaign against Caroline.

<sup>155</sup> David Worrall, *Theatrical Revolution: Drama, Censorship and Romantic Period Subcultures 1773–1832* (Oxford, 2006), pp. 197–99. (As noted earlier, The Royal Coburg was established in 1817 under the patronage of Princess Charlotte (Caroline's daughter) and her husband Prince Leopold of Saxe-Coburg).

<sup>156</sup> *Ibid.*, p. 202.

<sup>157</sup> *Ibid.*, p. 204.

<sup>158</sup> *Ibid.*, p.363.

she used the stage to fashion her discourse as the coronation approached. In attending the Coburg's presentation of *Marguerite! Or The Deserted Mother* on 26 June, as the coronation was to take place on 19 July 1821, the Queen aligned herself with a narrative that matched her own bereavement as a mother and ill-treatment by the King.<sup>159</sup>

At his 'patent' house Elliston maintained a personal loyalty to George IV, whom he referred to as 'his friend'.<sup>160</sup> He went on to stage an elaborate and highly successful *Coronation* pageant at Drury Lane in June 1821, with himself in the role of George IV.<sup>161</sup> Elliston was unprepared for the Queen's visit to Drury Lane in May because seats had been reserved for her party in the name of 'Edgar'.<sup>162</sup> Caroline mostly avoided public appearances in early 1821,<sup>163</sup> reason perhaps, for arriving at Drury Lane unannounced. With her locus of support among the Southwark audiences, the Queen may also have been uncertain of her reception at a 'legitimate' theatre. Alternatively, knowing Elliston's loyalty to the King, she could have engineered the visit to discomfort the enemy. In the event, discovery of her presence resulted in delighted uproar:

... the house was noisy, calling for "God Save the Queen". [...] The play was for the first act got through hardly heard, the second act not at all, also the third.<sup>164</sup>

*The Morning Post* reported on the raucous cry of "Queen, Queen" from 'Pit' and 'Gallery'.<sup>165</sup> To this account *The British Stage* added:

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<sup>159</sup> Ibid., pp. 210–11. George's and Caroline's daughter Charlotte Augusta died in childbirth on 6 November 1817. 'Charlotte Augusta, Princess (1796–1817)', *ODNB*.

<sup>160</sup> J. Cowell, *Thirty years passed among the players in England and America* (New York, 1845), p. 47.

<sup>161</sup> Murray, 'Elliston's Productions of Shakespeare', p. 105. Elliston's version of Garrick's *The Jubilee* formed a template for his later *Coronation* pageant.

<sup>162</sup> Entry for 14 May 1821, Nelson and Cross, *James Winston's diaries*, p. 30.

<sup>163</sup> Worrall, *Theatric Revolution*, p. 203.

<sup>164</sup> Entry for 14 May 1821, Nelson and Cross, *James Winston's diaries*, p. 30.

... the requisitionists [...] continued their noise; adding thereto missile weapons, in the form of oranges, aimed at Mr. Wallack<sup>[166]</sup>.<sup>167</sup>

On 15 May, *The Morning Post* addressed the Queen, calling her attention to a speech delivered by ‘an injured Sovereign’ (ostensibly the *Doge*, but implicitly the King) lest noise in the theatre had prevented her noting this key passage:

1. I ask'd no remedy but from the law;
2. I sought no vengeance, but redress by law,
3. I called no judges, but those named by law –
4. As SOVEREIGN, I appealed unto my subjects. [The very subjects who had made me sovereign/ And gave me thus a double right to be so]\*
5. The right of place and choice, of birth and service, [The blood and sweat of almost eighty years]\*\*
6. Were weigh'd i' th' balance 'gainst the foulest stain,
7. The grossest insult, most contemptuous crime,
8. And were found wanting.
9. In truth it was a gross offence, and grossly
10. Left without fitting punishment.<sup>168</sup>

In the play, insult to the *Doge's* wife went unpunished.<sup>169</sup> Ventriloquizing the King, *The Morning Post* deplored Caroline's unpunished offence against him. Lines 8, 9, 10, the most barbed, may have been fabricated to intensify hurt, for they are not found in the published text. The Archive copy shows three lines excised by Elliston,

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<sup>165</sup> *The Morning Post*, 15 May 1821.

<sup>166</sup> James Wallack, Drury Lane lead actor (see note 84).

<sup>167</sup> *The British Stage and literary cabinet*, June 1821, 5, 54. Protest, clamour, and abuse of Wallack continued at the theatre on 21 May. The crowd again called for Elliston, but he had absented himself from the theatre that night. Entry for 21 May 1821, Nelson and Cross, *James Winston's diaries*, p. 30.

<sup>168</sup> *The Morning Post*, 15 May 1821. .

<sup>169</sup> ‘Michele Steno daubed the graffito – ‘others kiss her, but he keeps her.’ Moore, *The Works of Lord Byron* (London, 1832), Appendix A, p. 218.

leaving also ten lines, comprising two inserted between lines four and five (\* above), and another between lines five and six (\*\* above).<sup>170</sup> If the newspaper reproduced verbatim the words spoken on stage, the version acted was not that authorised by the Examiner of Plays.

It is unclear whether Caroline intended to harness the support of a 'legitimate' audience by her visit, as she had marshalled the 'minors' for political effect. It is clear that in the closet, the play could not have given a platform to sympathisers, such as *Marino Faliero* provided in performance. Elliston's production enabled public demonstration of partisan feeling unlikely to have been intended by Byron, or predicted by Elliston, yet reflective of the political moment. Despite performances of *Marino Faliero* ceasing from that night, pro-Queen protests continued at Drury Lane into the following week.<sup>171</sup>

### **Elliston's staging, Byron's reputation, Murray's profits**

It can be argued that denunciation of Elliston's abridgement as 'bungling' and 'injudicious' might have affected the play's wider reception. However, evidence of Murray's scepticism concerning the unperformed play's marketability, a passable reception of Elliston's abridged production, and satisfactory book sales, lead to a conclusion that Elliston's version of the play did not destroy *Marino Faliero*. Broad agreement that neither book nor performance was worthy of the author's reputation, indicates that Elliston's staging no more damaged the work's reception than the published text.

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<sup>170</sup> Digitised copy of Byron's *Marino Faliero*, Act I, Sc. II, p. 13. HLC-PJL.

<sup>171</sup> Entry for 21 May 1821, Nelson and Cross, *James Winston's diaries*, pp. 30–1.

Mindful of his reputation, whether fearing censorship or failure, between October 1820 and May 1821 Byron made every effort to prevent *Marino Faliero's* enactment, culminating in his insistence that Murray, owner of the copyright, take legal action.<sup>172</sup> The strength of Byron's resolve to prevent what he had written from being turned into a stage play matched Elliston's conviction that 'the representation of a play after it had been printed was no violation of property.'<sup>173</sup> Aware of the grounds of Murray's injunction, Elliston's first night publicity made clear that his adaptation differed markedly from Byron's published text.<sup>174</sup>

Elliston attracted comprehensive condemnation for his 'unprincipled seizure' of Byron's intellectual property.<sup>175</sup> *The Theatrical Pocket Magazine* deplored the affront to the author's fame and dignity, and *The Examiner* Elliston's 'delicate unscrupulousness'.<sup>176</sup> Added to charges of ungentlemanly conduct, Elliston suffered the accusation that his abridgement destroyed *Marino Faliero* by diminishing public appetite for the work.<sup>177</sup> *The Times* lamented Elliston's deletions: 'Fragments violently torn from that noble work were presented to the audience.'<sup>178</sup> *The London Magazine* condemned Elliston's 'bungling efforts [...] to compress the scenes', and *The Theatrical Pocket Magazine* considered his abridgement 'injudicious'.<sup>179</sup> This study, based on the

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<sup>172</sup> Letter No. 427 dated Ravenna, 19 May 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 180.

<sup>173</sup> Law Report. *The Times*, 4 May 1822.

<sup>174</sup> Playbill dated 25 April 1821 announcing *Marino Faliero's* first night. HL-HTC: Elliston Papers.

<sup>175</sup> *The British Stage and literary cabinet*, June 1821, 5, 54.

<sup>176</sup> *The Drama; or, Theatrical Pocket Magazine* 1.1 (May 1821), 38–40. *The Examiner*, 6 May 1821.

<sup>177</sup> Letter No. 155 dated 11 May 1821 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 399. Ashton, 'The Censorship of Byron's *Marino Faliero*', p. 44.

<sup>178</sup> *The Times*, 26 April 1821.

<sup>179</sup> *The London Magazine; and Monthly Critical and Dramatic Review*, Vol III, January-June 1821, May 1821, p. 523. *The Drama; or, Theatrical Pocket Magazine* 1.1 (May 1821): 38–40.

response of press, literary critics and Murray's sales records, however, disputes the claim that Elliston's version blighted Byron's play.

Fear of reputational damage - injury to his feelings and fame by a failure on the stage - underlay Byron's objection to Elliston's unauthorised production. Many reviewers considered *Marino Faliero* a failure; *The Times's* critic, for instance, declared, 'the piece was received coldly, let the play-bills say what they please.'<sup>180</sup> *The London Magazine's* review began: 'We cannot speak in terms of very enthusiastic praise of this historical play' and concluded, echoing Murray, 'The Doge of Venice [...] will hardly make a popular acting play.'<sup>181</sup> *The New Monthly Magazine and Literary Journal*<sup>182</sup> offered especially harsh criticism:

Marino Faliero is without a plot, without characters, without fluctuating interest, and without the spirit of dialogue.<sup>183</sup>

Thomas Moore remembered the play having been 'little favoured by the contemporary critics', instancing *The Quarterly Review's* conclusion, ironically Murray's own house journal: 'we cannot but regard it as a failure, both as a poem and a play.'<sup>184</sup> He was unable to recall more than one critic who spoke of *Marino Faliero* as worthy of Byron's reputation.<sup>185</sup> Even so, *The New Monthly Magazine* declared Elliston's motive for staging the play, though misplaced, derived from a 'genuine feeling of regard for the

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<sup>180</sup> *The Times*, 1 May 1821.

<sup>181</sup> 'Lord Byron's *Marino Faliero* &c.', *The London Magazine*, 1820–1824, May 1821; 3, 17, pp. 550 and 554. *The London Magazine* was a literary, liberal periodical whose editor, John Scott, stayed with Byron in Venice in 1818. They had a mutual friend in James Henry Leigh Hunt (1784–1859), poet, journalist and critic. Leigh Hunt's friendship with Byron faltered in July 1822. Origo, *The Last Attachment*, p. 321.

<sup>182</sup> *The New Monthly Magazine and Literary Journal*, edited by the poet and author Thomas Campbell (1777–1844).

<sup>183</sup> *The New Monthly Magazine and Literary Journal*, January 1821–Dec. 1836; June 1821; 3, 6, pp. 550–51.

<sup>184</sup> Moore, *The Works of Lord Byron* (London, 1832), pp. 45–6.

<sup>185</sup> *Ibid.*, p.45.

stage.’ *The Literary Chronicle and Weekly Review* praised his casting, given Kean’s absence.<sup>186</sup> In which connection, Byron’s admiration of Kean’s intuitive sensibility as an actor expressed to Coleridge, and in the preface to *Marino Faliero*, indicates, despite his denial, that he may have intended *Marino Faliero* to be performed with Kean in the title role.<sup>187</sup> Byron’s spontaneous naming of Kean in connection with the play lends the proposition some credence:

Surely *he* [Elliston] might have the grace to wait for Kean’s return before he attempted it; though, *even then*, I should be as much against the attempt as ever.<sup>188</sup>

Press reaction supports that inference. Post-production reviews in *The Times*, *The Literary Chronicle* and *The London Magazine* all recognised Kean as inimitably fitted to play the *Doge*:

We have seldom regretted the loss of Kean so much as on the present occasion, for the character of the Doge is as much in his peculiar line as if it had been written for him.<sup>189</sup>

The character is decidedly Kean’s. Had he played it [...] he would have given life, and spirit, and energy to the scene.<sup>190</sup>

In production, *Marino Faliero* was neither universally acclaimed nor unanimously reviled. Winston remarked of the opening night, ‘The tragedy went off very well.’<sup>191</sup>

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<sup>186</sup> *The Literary Chronicle and Weekly Review*, 22 May 1819–28 December 1821: 3. 102. *The Drama; or, Theatrical Pocket Magazine* 1.1 (May 1821): 38–40.

<sup>187</sup> Byron described Kean to Coleridge as ‘worthy of expressing the thoughts of the characters’: Letter to Samuel Taylor Coleridge dated 31 March 1815 in Howard (ed.), *Letters of Lord Byron*, p. 110. ‘...he is *perfect*; even his very defects [...] appear truer to nature’: Byron, *Marino Faliero*, p. xix.

<sup>188</sup> Letter No. 423, dated Ravenna, 10 May 1821 in Moore, *The Works of Lord Byron* (London, 1829), p. 153.

<sup>189</sup> *The Literary Chronicle and Weekly Review*, 22 May 1819–28 December 1821: 3. 102.

<sup>190</sup> *The Times*, 26 April 1821. *The London Magazine; and Monthly Critical and Dramatic Review*, Vol. III, January–June 1821, May 1821, p. 523.

<sup>191</sup> Entry for 25 April 1821, Nelson and Cross, *James Winston’s diaries*, p. 29.

Douglas Kinnaird admired the performances he witnessed on 30 April and 3 May.<sup>192</sup> Exceptionally, *The Examiner* described an exalted production, performed to great applause, and *The Monthly Critical and Dramatic Review* spoke of ‘the magnificent Tragedy of the ‘Doge of Venice’ [possessing] a propriety and unity of action truly remarkable.’<sup>193</sup> Otherwise, response at best was lukewarm. *The Literary Chronicle* noted ‘the Tragedy was not received with the enthusiasm we had anticipated.’<sup>194</sup> Reviews reached an audience outside London with *The Bury and Norwich Post* observing: ‘The tragedy was successful, but not to that pre-eminent degree which might have been anticipated from the fame of its author.’<sup>195</sup> *The Times* and *The London Magazine* both suggested that with more ‘incident’ and less dialogue *Marino Faliero* would have played better.<sup>196</sup> (This, despite Elliston’s ‘considerable curtailments’ of ‘conversations’ and ‘soliloquies’).<sup>197</sup> Unprejudiced by Elliston’s production, *Marino Faliero*’s audience in Paris also found the play lacked dramatic effect:

The hissing began at an early period of the play [...] it was mingled with short bursts of laughter and the curtain fell [...] before two-thirds of the performance had been completed.<sup>198</sup>

Neither on page nor stage did the play prove as popular as might have been predicted. Murray’s house journal concluded that *Marino Faliero* was a failure as a poem and a

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<sup>192</sup> Nicholson, *The Letters of John Murray to Lord Byron*, Note 3, p. 400.

<sup>193</sup> *The Examiner*, 6 May 1821. *The London Magazine; and Monthly Critical and Dramatic Review*, Vol. III, January–June 1821, April 1821, p. 498.

<sup>194</sup> *The Literary Chronicle and Weekly Review*, 22 May 1819–28 December 1821, 3.102.

<sup>195</sup> *The Bury and Norwich Post: or Suffolk, Essex, Cambridge, Norfolk, and Ely Telegraph*, 2 May 1821.

<sup>196</sup> *The Times*, 26 April 1821. *The London Magazine; and Monthly Critical and Dramatic Review*, Vol. III, January–June 1821, May 1821, p. 523.

<sup>197</sup> Playbill dated 25 April 1821, HL-HTC: Playbills and programmes.

<sup>198</sup> *The Times*, 9 October 1821.

play. In other words, the staging and publication were received with equally muted enthusiasm.

### **Did Elliston's production diminish Murray's profits?**

A remark confided by Murray to fellow publisher William Blackwood concerning his, Murray's, relationship with Byron illuminates Murray's reaction to Elliston's appropriation of *Marino Faliero*: 'I have, according to our respective situations, as much to resign in my property in his name and fame as he has.'<sup>199</sup> Murray also told Blackwood, 'you may be sure from habit, I can tell when a thing is very good',<sup>200</sup> and we know Murray's opinion of *Marino Faliero*'s merits. Protection of his reputation and, moreover, his investment in the copyright preoccupied Murray<sup>201</sup> despite Byron's assurance of recompense:

If the thing fails in publication – you are *not pinned* even to your own terms – merely print and publish *what* I desire you – and if you don't succeed – I will abate whatever you please.<sup>202</sup>

Publishers assessed likely profits against projected sales and, added to his pre-existing doubts about the play, Murray feared financial loss should the staged *Marino Faliero* affect interest in the work. Initially, Murray offered one thousand pounds for *Marino Faliero* and the *Prophecy of Dante* together, on the basis that this sum was the most

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<sup>199</sup> Note 7 to Letter No. 77 dated 2 January 1816: Nicholson, *The Letters of John Murray to Lord Byron*, p.152. William Blackwood (1776–1834), publisher founder of *The Edinburgh Magazine* and Scotland's pre-eminent publishing company William Blackwood & Sons.

<sup>200</sup> *Ibid.*

<sup>201</sup> Record of the Court of King's Bench proceedings in *Murray v. Elliston* of 3 May 1822: Law Report. *The Times*, 4 May 1822.

<sup>202</sup> Note 8 to Letter No. 147 dated 23 January 1821 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 378.

that could possibly be realized 'according to any rational Speculation'.<sup>203</sup> In the event, he paid one thousand guineas (£1,050), the equivalent of c.£80,000 in 2014.<sup>204</sup>

Data gathered by William St. Clair show Murray issued 4,040 copies in April 1821 priced at 12s. each, with some remaindered.<sup>205</sup> Study of additional material indicates a greater number: Murray's Publication Ledger notes an official print run of 7,500,<sup>206</sup> but his Stock-book documents 7,613,<sup>207</sup> and a final remainder figure of 347.<sup>208</sup> The ledger records that eleven copies were presented to Stationer's Hall, and that 7,111 copies sold in the first annual accounting period, at the standard discount of 25 copies for the price of 24 at 7s. 3d.<sup>209</sup> These figures demonstrate that sales in the first annual accounting period realised in the region of £2,610.<sup>210</sup> From this sum, costs of £604 13s. 8d. plus printing, must be deducted before calculating profit. Nevertheless, income exceeded Murray's copyright payment.<sup>211</sup> Although the archive evidence consulted suggests the play-text generated higher sales than believed previously, *Marino Faliero* was far less successful than *Childe Harold's Pilgrimage*. Published by Murray first in

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<sup>203</sup> Letter No. 147 dated 23 January 1821, *Ibid.*, p. 374.

<sup>204</sup> Publication Ledger B (Reference: Ms.42725), p. 167. Copyright payment reference in the Copies Day Book (Reference Ms.42890), p. 34. NLS-MA. £1,000 in 1820 = Purchasing power of £79,940 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>205</sup> William St. Clair, *The Reading Nation in the Romantic Period* (Cambridge, 2004), Appendix 9, p. 588.

<sup>206</sup> Publication Ledger B (Reference: Ms.42725). NLS-MA.

<sup>207</sup> Davidson printed 3,573, 3,530 (2<sup>nd</sup> edition) and 510 (fine paper) copies, a total of 7,613. NLS-MA Stock-book (Ms.42783), p.41.

<sup>208</sup> Stock-book (Ms.42784) p.68; Stock-books (Ms.42783), p.41 and (Ms.42784), p.68; Publication Ledger B (NLS reference: Ms.42725), p. 167. NLS-MA.

<sup>209</sup> Publication Ledger B (NLS reference: Ms.42725), p. 167. NLS-MA.

<sup>210</sup> Four copies cost 29s.; 120 copies = 870s.; 7111 divided by 120 = 60; 870s x 60 = 52,200s.; 52,200s divided by 20 = £2610.

<sup>211</sup> The costs of printing are detailed in Ms.42890, pp.53, 63–4, 154 and 206; Paper (£226 16s, £37 16s and £204 15s) and Advertising (£66.18s.) MS.42890, pp.37, 61, 70 and 234; Law expenses (£68 8s 8d.) Ms.42890, p.188. NLS-MA.

1812, and reprinted five times between 1812 and 1814, *Childe Harold's* print run totaled 13,000 copies.<sup>212</sup>

In making a run of c.7,600 available to the market, Murray's judgement of *Marino Faliero's* relative saleability proved accurate. Perhaps Edward Bulwer's later comment that, 'scarcely any modern drama, however successful on the stage, will pay the expense of publication', shows the direction towards which play-text publishing was already tending in the early 1820s.<sup>213</sup> The question of why Murray then prosecuted Elliston is raised in Chapter Seven, to argue for *Marino Faliero's* status as a landmark case validating the legality, if not propriety, of Elliston's action.

Chapter Six argues that Elliston's piracy, and curtailment of Byron's text resulted in an unwitting, but significant contribution to reform of theatre legislation, finally allowing dramatic authors the right 'to demand that the play as produced be the just reflection of his artistic conception.'<sup>214</sup> Chapter Seven explores the conundrum of Murray's prosecution of Elliston, firstly, given that a major portion of the print run of 7,613 had been sold to the trade on 19 April,<sup>215</sup> secondly, in the light of the Lord Chancellor's lifting of Murray's Injunction,<sup>216</sup> thirdly, having published, fully aware of Elliston's resolve to stage the play and, fourthly, in the knowledge that 'the Theatres have a right to act any play that is published [...] for their own emolument.'<sup>217</sup> It also

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<sup>212</sup> St. Clair, *The Reading Nation in the Romantic Period*, Appendix 9, p. 586. Stock- book of 1812, Ms.42778, entries 358 and 402. NLS-MA.

<sup>213</sup> Edward Bulwer, 'The State of the Drama', *The New Monthly Magazine and Literary Journal*, no. 34, 131–135, February 1832.

<sup>214</sup> Ganzel, 'Patent Wrongs and Patent Theatres', p. 394.

<sup>215</sup> David McClay, John Murray Archive Curator, National Library of Scotland: Murray's sales subscription book: Reference MS.42811 (unfoliated): 6 pages. NLS-MA. Davidson printed 3,573, 3,530 (2<sup>nd</sup> edition) and 510 (fine paper) copies, a total of 7,613. Stock-book (Ms.42783), p.41. NLS-MA.

<sup>216</sup> Entry for 28 April 1821, Nelson and Cross, *James Winston's diaries*, p. 29.

<sup>217</sup> Letter No. 143 dated 19 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 363.

examines in detail the 'unfortunate oversight' in copyright law that denied playwrights the protection afforded other authors.<sup>218</sup>

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<sup>218</sup> *Ibid.*

## Chapter Seven: Legacies

### Introduction

This chapter examines the significance for the theatre world of two legacies: the place in copyright history of the legal contest *Murray v. Elliston* which arose from Elliston's staging of *Marino Faliero*; and Elliston's resumption of his struggle from 1827 to 1831 to free the London stage. Nineteenth-century dramatic copyright was regulated as much through case law as by Acts of Parliament, serving to complicate an already confused scenario.<sup>1</sup> Elliston's victory in *Murray v. Elliston* clarified, yet perpetuated, the 'unfortunate oversight in the Law'<sup>2</sup> that denied playwrights the protection afforded other authors. *Murray v. Elliston* became a landmark case that remained unchallenged until the 1830s.<sup>3</sup> The case formed a plank in the establishment of Edward Bulwer's Select Committee on Dramatic Literature of 1832. The Committee's findings, in turn, led to legislation in 1833 that conferred protection on playwrights equal to that of other writers, and paved the way to achieving the eventual extinction of the monopoly regime in 1843.<sup>4</sup>

Copyright history informed many nineteenth-century legal cases concerning literary property, authors' rights, publishers' rights and copyright law.<sup>5</sup> Copyright law bears closely on Byron and Murray's relationship. The chapter explores the association

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<sup>1</sup> John Russell Stephens, *The Profession of the Playwright: British Theatre, 1800-1900* (Cambridge, 1992), p. 84.

<sup>2</sup> Letter No. 143 dated 19 December 1820 in Andrew Nicholson (ed.), *The Letters of John Murray to Lord Byron* (Liverpool, 2007), p. 364.

<sup>3</sup> Ronan Deazley, 'Commentary on Dramatic Literary Property Act 1833', in Lionel Bently and Martin Kretschmer (eds.), *Primary Sources on Copyright (1450-1900)*, p. 10. [www.copy.law.cam.ac.uk](http://www.copy.law.cam.ac.uk).

<sup>4</sup> The Dramatic Copyright Act 1833 (Act of Parliament: 3 & 4 Will. IV, c.15). The Theatres Act 1843 (6 & 7 Vict., c.68), also known as the Theatre Regulation Act.

<sup>5</sup> Ronan Deazley, Martin Kretschmer and Lionel Bently (eds.), *Privilege and Property: Essays on the History of Copyright* (Cambridge, 2010), pp. 2-3.

between this author and this publisher, to argue that the tension created by copyright settlements informed the course of *Murray v. Elliston*. With perhaps feigned puzzlement, the day following Murray's injunction of 25 April 1821, Elliston announced the suspension of further performances of *Marino Faliero*

... on grounds at present incapable of being understood, and which remain to be explained and justified.<sup>6</sup>

This chapter raises the question, 'Why did Murray pursue the case?' Murray's prosecution of Elliston is perplexing, not least because he well knew that 'the Theatres have a right to act any play that is published [...] for their own emolument.'<sup>7</sup> Added to which, Elliston's successful petition to have the injunction dissolved, resulting in performances recommencing on Monday (30 April), suggests a weight of opinion in Elliston's favour.<sup>8</sup> Elliston's legacy, in so far as *de facto* liberation of the 'regular' drama is concerned, we have seen, was fully recognised by 1826:

It is to him [Elliston], combined with the awakened spirit of the public, and the vast increase of population, that the minor theatres are indebted for the emancipation they at present enjoy from the arbitrary restraints of recitative and 'inexplicable dumb-show'.<sup>9</sup>

His second tenure at the Surrey finds Elliston continuing his push for theatre reform, though less concerned in 1827 than in 1809 with the monopoly's ostensibly privileged hold on 'Tragedy' and 'Comedy'. Elliston sought, instead, to address the decline into which the 'patent' theatres had fallen, by attracting to his 'minor' house writers of merit,

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<sup>6</sup> Handbill headed 'Theatre Royal, Drury-lane' dated Thursday 26 April 1821. HL-HTC: Elliston Papers.

<sup>7</sup> Letter No. 143 dated 19 December 1820 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 363.

<sup>8</sup> Entry for 28 April 1821, in Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819-1827* (London, 1974), p. 29.

<sup>9</sup> Edward Wedlake Brayley, *Historical and Descriptive Accounts of the Theatres of London* (London, 1826), p. 73.

providing entertainment fit for 'rational men and women',<sup>10</sup> and advocating legislative change.

### ***Murray v. Elliston*: antecedents and legacy**

Byron's friend Douglas Kinnaird, responding to Byron's objections against *Marino Faliero*'s enactment, warned him that the law protecting authors' rights extended only to the printed book:

Authors were not known before the art of printing – I mean as being property, transferable, saleable – the Statute recognises their property in their works – [...] the words of the Statute [...] speak alone of Printing &c – not of reciting [performing]...<sup>11</sup>

The statute to which Kinnaird referred, namely, the first copyright law, The Statute of Anne 1710, dated 1709 old calendar,<sup>12</sup> was the first copyright legislation to recognise authors' rights, as well as those of printers and publishers. (The Statute did not, however, recognise the rights of dramatic authors.) The Statute, its antecedents, amendments, and subsequent case law, all bear on *Murray v. Elliston* and its outcome. Designed to protect authors of printed works, this first copyright Act failed to define 'copy', 'property', or 'rights',<sup>13</sup> indicating that no clear concept of property in books may have then existed,<sup>14</sup> and leading to confused and competing interpretations of the law by plaintiffs, defendants and the judiciary for the next hundred years,<sup>15</sup> as we shall see illustrated in the course of *Murray v. Elliston*. Copyright privileges and exclusive patents

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<sup>10</sup> Edward Bulwer, 'The State of the Drama', *The New Monthly Magazine and Literary Journal*, no. 34, 131–135, February 1832.

<sup>11</sup> Nicholson, *The Letters of John Murray to Lord Byron*, p. 400.

<sup>12</sup> Stephens, *The Profession of the Playwright*, p.84.

<sup>13</sup> Deazley, 'Commentary on the *Statute of Anne 1710*'.

<sup>14</sup> Ibid.

<sup>15</sup> John Russell Stephens, *The Profession of the Playwright*, p. 84.

pre-dated the eighteenth century, the book trade having been regulated by various means before 1710.

At the Restoration, the Treason Act of 1660, or powers of the Crown acknowledged in common law, dealt with printers and publishers of seditious material. Charles II introduced new regulations known as the Licensing Act (14 Charles II, c.33) in 1662 to prevent the printing of 'seditious, treasonable and unlicensed books and pamphlets, and for regulating of printing and printing presses.' Following the creation of the post of official surveyor and licenser of the press in 1663,<sup>16</sup> the 1662 Act was successively refreshed, being renewed in 1664 and 1665, lapsing in 1679, and revived in 1685.<sup>17</sup> Sir Roger L'Estrange (1616–1704), the first State Licenser, was removed from office with the overthrow of James II in the Revolution of 1688,<sup>18</sup> and the last in the series of Licensing Acts expired in 1695. These Acts had regulated the book trade by conferring on the Stationers' Company a *de facto* monopoly of the right to publish.<sup>19</sup> A Stationer acquired ownership by entering the title of a work as his 'copy' in the Guild's register (the Guild being the body controlling the economic organization of book production),<sup>20</sup> and that right was held in perpetuity. The Stationer's 'perpetual copy' could be sold, handed down or split into shares, but only among Guild members.<sup>21</sup>

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<sup>16</sup> 'Sir Roger L'Estrange (1616–1704)', *ODNB*.

<sup>17</sup> Andrew Murphy, 'The History of the Book in Britain, c. 1475–1800' in Michael F. Suarez, S. J. and H. R. Woudhuysen (eds.), *The Book A Global History* (Oxford, 2013), p. 294.

<sup>18</sup> 'Sir Roger L'Estrange (1616–1704)', *ODNB*.

<sup>19</sup> The Stationers' Company incorporated by Royal Charter in 1557 had legal status and the right to self-regulation. Alexis Weedon, 'The Economics of Print' in Michael F. Suarez, S. J. and Michael L. Turner, *The Cambridge History of the Book in Britain Volume V 1695–1830* (Cambridge, 2009), pp. 154–55. Mark Rose, 'Copyright, authors and censorship' in Suarez and Turner, *The Cambridge History of the Book in Britain*, p. 119.

<sup>20</sup> Weedon, 'The Economics of Print', p. 154.

<sup>21</sup> Rose, 'Copyright, authors and censorship', p. 119.

After the final Licensing Act lapsed, the Statute of 1710 was framed to give wider rights, and may have been constituted to prevent the re-emergence of the virtual monopoly created by the Stationers' Company's vested commercial interest. The Statute limited the duration of copyright and, importantly, recognized authors as the first owners of their works. The legislation came into being following a complaint brought to the House of Commons in December 1709 by a group of prominent London stationers:

Divers Persons have of late invaded the Properties of others, by reprinting several Books, without the Consent, and to the great Injury, of the Proprietors, even to their utter Ruin, and the Discouragement of all Writers.<sup>22</sup>

In seeking to ensure 'a continued production of intelligible literature',<sup>23</sup> the Statute offered copyright protection for fourteen years, in the case of authors of books not yet printed or published, and for a further fourteen years if the author survived the first period. For books already in print, the legislation conferred rights of twenty-one years' duration on authors and owners (frequently the publishing bookseller) alike.<sup>24</sup> The initial supposition behind the legislation, namely that the 'copy of a book' was as recognisably a form of property as any other good or asset, turned into a law for the prevention of unauthorised printing and encouragement of learned writing. The concept of perpetual rights, formerly enshrined in the Licensing Acts, was abandoned in 1710, but the notion of and trade in 'perpetual copyright' persisted.<sup>25</sup> In practice, the Statute was often ignored, for the exertion of the booksellers' commercial authority by and large trumped

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<sup>22</sup> Ronan Deazley, (2008) 'Commentary on the *Statute of Anne 1710*', in *Primary Sources on Copyright (1450–1900)*, eds., Lionel Bently & Martin Kretschmer. [www.copyrighthistory.org](http://www.copyrighthistory.org).

<sup>23</sup> Deazley, 'Commentary on the *Statute of Anne 1710*'

<sup>24</sup> Ibid.

<sup>25</sup> James Raven, *The Business of Books: Booksellers and the English Book Trade 1450–1858* (New Haven and London, 2007), pp. 123 and 128.

the necessity of going to law.<sup>26</sup> Whereas, before the Statute, print property disputes had been settled by and within the Stationers' Guild, a significant change brought about by the 1710 legislation enabled complainants like Byron and Murray to seek redress in a public court of law.<sup>27</sup>

Diverse forms of bookselling had proliferated from the mid-eighteenth century. James Raven uses the term 'publishing bookseller', adopted here, to identify that combined function. The term applies to the publisher who chose which books he would publish, and also became retailer of those particular works. 'Publishing bookseller', therefore, distinguishes that type of venture from the separate, individual roles of bookselling, publishing and printing. Publishing booksellers might execute all the necessary measures to bring a book to market: purchasing a manuscript from the author; claiming the copyright officially by registering it at Stationers' Hall; arranging the printing; selling the book from their own and others' premises. Although technically inadmissible, many leading London booksellers ignored the requirement to register copyright at Stationers' Hall, often keeping their own record of titles and transactions at the Chapter Coffee House, so relying on their standing alone as adequate copyright protection.<sup>28</sup> For most of the eighteenth century, rather than one individual bearing the sole responsibility of bringing a book to market, booksellers collaborated to lessen risk and help preserve high prices. However, by late century, the separate specialisations of publishing, wholesale and retail developed because, for many, operating as a sole trader had become a more lucrative proposition. Still, some collaborative relationships continued with the old purpose of minimising risk.

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<sup>26</sup> Ibid., p. 128.

<sup>27</sup> Rose, 'Copyright, authors and censorship', p. 120.

<sup>28</sup> Raven, *The Business of Books*, pp. 124 and 128.

Firms of publishing booksellers of a character recognisable today began to appear. Transitional figures such as Thomas Longman II (1730–1797) and John Murray I (1737–1793) acted autonomously in establishing relationships with other publishers and authors (as later, John Murray II with Byron).<sup>29</sup> Thomas Longman founded the House of Longman in c.1730, establishing a publishing empire that lasted two hundred and seventy years, through seven generations.<sup>30</sup> John Murray I founded the Murray publishing dynasty in the late eighteenth century. His son, John Murray II took over the business in 1803. The scale of the trade grew from four hundred bookselling outlets in two hundred towns in 1740, to near one thousand firms in more than three hundred locations by the 1790s.<sup>31</sup> Samuel Richardson's instant commercial success, *Pamela*, printed in 1740 and running to five editions in its first year, illustrates this rapid growth in publishing to serve an expanding reading audience, and the symbiotic relationship developing between author and publisher.<sup>32</sup> At first, Richardson published *Pamela* anonymously, but named himself as author, and credited booksellers Rivington and Osborne in the December 1741 edition.<sup>33</sup>

By the middle of the eighteenth century, copyright had become a valuable commodity operated by a protectionist group of London booksellers, among whom a cartel of no more than two dozen controlled the most valuable titles. They traded principally in established copyrights such as religious works and reference books

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<sup>29</sup> Ibid., p. 236. Rose, 'Copyright, authors and censorship', p. 124.

<sup>30</sup> Asa Briggs, 'The Longmans and the book trade, c.1730–1830' in Michael F. Suarez, S. J. and Michael L. Turner (eds.), *The Cambridge History of the Book in Britain*, Volume V 1695–1830 (Cambridge, 2009), pp. 387 and 403.

<sup>31</sup> John Brewer and Iain McCalman, 'Publishing', in Iain McCalman (ed.), *An Oxford Companion to the Romantic Age: British Culture 1776–1832* (Oxford, 1999), p. 198.

<sup>32</sup> Samuel Richardson, printer and author (bap.1689, d.1761). 'Samuel Richardson (bap.1689, d.1761)', *ODNB*.

<sup>33</sup> Ibid.

already in print.<sup>34</sup> Towards the end of the century, the decision in *Donaldson v. Becket* (1774) that clarified the terms of the 1710 Statute (see Appendix 19), was to make trade in copyright more unstable. This volatility meant publishing booksellers could no longer rely to such an extent on income derived from protected older copyrights, so they diversified. Copyrights in new literary production became more important, and for a while publishing booksellers lost on old titles. Eminent bookseller James Dodsley (1724–1797), for example, closed his retail business, ‘a centre point of high nobility and famed authors’ in the late 1780s, but continued active copyright trading.<sup>35</sup> James Raven estimates the 1785 worth of all British booksellers’ copyrights at £200,000,<sup>36</sup> with a quarter of that sum owned by just two: the London bookseller Thomas Cadell and printer Andrew Strahan.<sup>37</sup> Even though less secure, more competitive and more specialised, the bookselling trade remained profitable and still in the hands of a few.

A group of individual publishing booksellers emerged towards the end of the eighteenth century concerned solely with the commercial aspects of the book trade. They capitalised on the expanding market, and benefitted from purchasing copyrights from the authors they published. In the case of popular authors, those rights became a valuable property. John Murray II gained prominence for launching the Tory journal the *Quarterly Review* in February 1809, publishing the works of Byron, beginning with *Childe Harold* in 1812, and Charles Darwin's *Origin of Species* in 1859. Murray had become sufficiently successful by June 1812 to join the major commercial publishers who occupied a cluster of premises in and around Piccadilly. Pledging two valuable

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<sup>34</sup> Rose, ‘Copyright, authors and censorship’, p. 120.

<sup>35</sup> Raven, *The Business of Books*, p. 236.

<sup>36</sup> £200,000 in 1780 = Income value of £433,200,000 in 2014. [www.measuringworth.com](http://www.measuringworth.com).

<sup>37</sup> Raven, *The Business of Books*, p. 230.

copyrights, Mrs. Rundell's *A New System of Domestic Cookery* and Walter Scott's *Marmion*, both published in 1808, Murray financed the purchase of 50 Albermarle Street. His new showroom and what was to become a literary 'salon', cost £4,000.<sup>38</sup>

### **The author/publishing bookseller relationship**

Not every author participated in the trade in copyrights. Maria Rundell, a Murray family friend, originally gave him the rights to *Domestic Cookery*.<sup>39</sup> Byron, from aristocratic fastidiousness, resisted profiting from his literary output, even when faced with a dire financial position at the end of 1815.<sup>40</sup> At that time bailiffs occupied Byron's estate and he possessed little realisable capital.<sup>41</sup> In January 1816, Byron still refused to take money, rejecting Murray's offer of a draft for £1,050, or cash equivalent, for *The Siege of Corinth* and *Parisina*.<sup>42</sup> Reporting the incident to his Edinburgh agent, William Blackwood, Murray said, 'He gave me the copyright of his two new poems [...] saying I was perfectly welcome to both poems to print [...] without cost or expectation.'<sup>43</sup> However, leading up to his departure for Italy in April 1816, economic necessity forced Byron into 'accepting a sum of money for copyright, from his publisher, which he had for

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<sup>38</sup> Byron and Walter Scott were first introduced at Murray's Albermarle Street premises in April 1815. 'Murray family (per. 1768–1967)', *ODNB*.

<sup>39</sup> *Ibid.*

<sup>40</sup> Thomas Moore, *The Works of Lord Byron: with his Letters and Journals, and his Life* (London, 1829) Vol. V October 1820–November 1822, pp. 48–9.

<sup>41</sup> Letter No. 76 dated 28 and 29 December 1815 in Nicholson, *The Letters of John Murray to Lord Byron*, Note 3, p. 150. Celeste Langan, 'Venice, II: Marino Faliero and Household Accounts', in James Chandler and Kevin Gilmartin (eds.), *Romantic Metropolis: The Urban Scene of British Culture, 1780–1840* (Cambridge, 2005), Note 51, p. 284.

<sup>42</sup> Letter No. 77 dated 2 January 1816 in Nicholson, *The Letters of John Murray to Lord Byron*, Note 7, p. 152.

<sup>43</sup> Letter dated 5 January 1816 from John Murray to William Blackwood, Nicholson, *The Letters of John Murray to Lord Byron*, Note 7, p. 152. William Blackwood, publisher and founder of *Blackwood's Edinburgh Magazine*, was appointed as Murray's Edinburgh agent in 1811, becoming an important link in the distribution of the latest works from London. 'William Blackwood (1776–1834)', *ODNB*.

some time persisted in refusing.<sup>44</sup> By an indenture dated 27 March, Byron assigned to Murray, for the sum of £3,925, all those works already published by him.<sup>45</sup>

Byron's immense literary fame and Murray's reputation were consolidated in March 1812 on publication of *Childe Harold's Pilgrimage* Cantos I and II. Originally, in July 1811, Byron had given the Cantos to writer Robert Charles Dallas in recognition of his role as early editor of Byron's poetry. Dallas subsequently sold the copyright to Murray for £500.<sup>46</sup> From March 1816, and for the next six years, Byron's and Murray's became a mutually dependent commercial relationship, articulated by Murray in these words: 'I have [...] as much to resign in my property in his name and fame [Byron's] as he has.'<sup>47</sup> However, Murray subordinated Byron's artistic interest to his own commercial benefit when expedience dictated. This he declare openly when explaining his censorship of Byron's *Collected Poems*:

I did this purely for my own interest – these passages picked out by malicious people would have damped my first sale ...<sup>48</sup>

It was a relationship, therefore, which bred suspicion and in which Byron believed himself to be the disadvantaged party. Celeste Langan goes as far as to speak of Murray's financial transactions with Byron as 'monetary infidelity',<sup>49</sup> and evidence follows that Murray consistently underbid for work Byron offered for sale. Mrs Rundell's *Domestic Cookery* is an instance of Murray's less-than-honourable behaviour. A gift to

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<sup>44</sup> Moore, *The Works of Lord Byron* (London, 1829), Vol. V October 1820–November 1822, pp. 48–9.

<sup>45</sup> Letter No. 82 dated 29 March 1816 in Nicholson, *The Letters of John Murray to Lord Byron*, Note 3, p. 158.

<sup>46</sup> 'Robert Charles Dallas (1754–1824)', *ODNB*.

<sup>47</sup> Letter dated 5 January 1816 from John Murray to William Blackwood, Nicholson, *The Letters of John Murray to Lord Byron*, Note 7, p. 152.

<sup>48</sup> Letter No. 92 dated 22 January 1817, *Ibid.*, p. 187.

<sup>49</sup> Langan, 'Venice, II: Marino Faliero and Household Accounts', p. 279.

Murray before the publication's great success, the copyright thereafter became a matter of dispute, resolved only when Murray made a retrospective payment of £2,000 in 1823.<sup>50</sup>

From delicacy, Byron avoided haggling with Murray directly, and appointed Douglas Kinnaird as intermediary in copyright negotiations. In August 1816, Murray proposed a payment of two thousand guineas for *Sardanapalus* and a further one thousand guineas for Cantos III, IV and V of *Don Juan*. Byron reported indignantly to Kinnaird that 'Murray's offer falls short by *one half* of the fair proposal.'<sup>51</sup> Next, Murray offered one thousand two hundred guineas (£1,260) for *Childe Harold* Canto III, but was persuaded to concede more by Kinnaird, together with, on this occasion, Shelley, deliverer, by hand, of the manuscript. Shelley wrote sardonically of Murray's 'trifling mistake' in making a low offer.<sup>52</sup> Almost double the sum, £2,100, was agreed in September 1816, but with the stipulation that Murray took possession of 'All the MSS Original, Copies or Scraps.'<sup>53</sup> In all, Murray paid more than £15,000 for Byron's copyrights, and still prospered from the sale of his works.<sup>54</sup>

With the grant of copyright an author surrendered all control, as Byron's correspondence with Murray in November 1820 demonstrates:

As the poems are your property by purchase, right, and justice, all matters of publication &c. &c. are for you to decide upon.<sup>55</sup>

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<sup>50</sup> 'Murray family (per. 1768–1967)', *ODNB*.

<sup>51</sup> Letter No. 92 dated 22 January 1817 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 187.

<sup>52</sup> Letter from Kinnaird to Byron dated 13 September 1816, *Ibid.*, Note 1, p. 179

<sup>53</sup> Letter No. 90 dated 20 September 1816, *Ibid.*, p. 177.

<sup>54</sup> 'Murray family (per. 1768–1967)', *ODNB*.

<sup>55</sup> Letter to Murray dated Ravenna, 4 November 1820 in Moore, *The Works of Lord Byron* (London, 1829), Vol. V October 1820–November 1822, pp. 25–6.

However, that Byron regretted his ceding of power to Murray is evident in his reaction to what he saw as Elliston's pirating of *Marino Faliero* in April 1821, and in his insistence that Murray retaliate:

Let it [Elliston's staging] by all means be brought to a plea: I am determined to try the right, and will meet the expenses.<sup>56</sup>

Byron composed *To Mr. Murray*, a reproachful verse to his publisher (see Appendix 20), in August 1821 after what proved to be *Marino Faliero's* unpreventable staging. The quotation below, a note Byron appended to the verse, both summarises his view of Murray's specious excuses, and illustrates his irritation with Murray's handling of the situation. At the same time, the list catalogues factors that could affect the market and the understanding between the publisher and author:

'heavy season' – 'flat public' – 'don't go off' – 'lordship: writes too much' – 'won't take advice' – 'declining popularity' – 'deduction for the trade' – 'make very little' – 'generally lose by him' – 'pirated edition' – 'foreign edition' – 'severe criticisms'.<sup>57</sup>

Byron blamed Murray for failing to stop *Marino Faliero* being acted. He reasoned that Murray ought to have shown Elliston the text prior to publication to demonstrate its unfitness for the stage. Had Elliston still insisted on going ahead, Byron stated, 'we would not have published it at all. But this is too late.'<sup>58</sup> Byron grew increasingly fractious at what he considered Murray's cavalier treatment of his work,<sup>59</sup> and Murray sought to protect his own reputation as Byron became more heedless of propriety. Murray told Byron in a letter of 8 November 1822, that he found the new Cantos (VI, VII,

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<sup>56</sup> Letter No. 427 dated Ravenna, 19 May 1821, *Ibid.*, p. 180.

<sup>57</sup> Letter to Murray dated 23 August 1821, *Ibid.*, p. 323.

<sup>58</sup> Letter No. 425 to Murray dated 14 May 1821, *Ibid.*, p. 176.

<sup>59</sup> Nicholson, *the Letters of John Murray to Lord Byron*, pp. 462–63.

VIII and IX)<sup>60</sup> from *Don Juan* 'so outrageously shocking that I would not publish them [...] my name is connected with your fame – and I beseech you to take care of it.'<sup>61</sup> This was Murray's last recorded letter to Byron.<sup>62</sup> In any event, it appears Byron had already made other arrangements for the Cantos' publication, writing to Murray on 25 October:

Mr J. Hunt is most likely the publisher of the new Cantos; with what prospects of success I know not, nor does it very much matter, as far as I am concerned ...<sup>63</sup>

Alerted to Murray's interest in a rumour that Byron had completed further Cantos of *Childe Harold*, Byron issued this final verdict on their relationship in March 1823: 'I would *not* write - at all – and least of all for such as him'.<sup>64</sup> Murray's handling of *Marino Faliero* caused this rupture.

The history of dramatic copyright is bound up with the history of theatrical monopoly privilege, in which Elliston's career was entwined. Although the concept of perpetual rights, formerly enshrined in the Licensing Acts, was abandoned in 1710, booksellers, having established a virtual monopoly, frequently continued to argue that the notion of trade in 'perpetual copyright' endured in Common Law.<sup>65</sup> The course of *Murray v. Elliston* shows that dramatic copyright was regulated essentially by case law, to which annals *Murray v. Elliston* contributed. Even though, *Murray v. Elliston* (1822)

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<sup>60</sup> Note 10 to Letter No. 168 dated 11 October 1822, *Ibid.*, p. 454.

<sup>61</sup> Letter No. 169 from Murray to Byron dated 29 October 1822, *Ibid.*, pp. 455–56.

<sup>62</sup> Note 5 to Letter No. 171 from Murray to Byron dated 8 November 1822, *Ibid.*, p. 466.

<sup>63</sup> Letter No. 506 from Byron to Murray dated 25 October 1822, Moore, *The Works of Lord Byron*, Vol. V, p. 374. John Hunt, printer, publisher, and brother of Byron's friend Leigh Hunt, founded the pro-reform *The Examiner* at the beginning of 1808. He took a leading role in the paper's publication, with his brother as editor, until 1819. John went on to publish *The Liberal* between October 1822 and July 1823, to which Byron, the Shelleys, and William Hazlitt contributed, again with Leigh Hunt as editor. 'John Hunt (1775–1848)', *ODNB*.

<sup>64</sup> Note 5 to Letter No. 171 from Murray to Byron dated 8 November 1822, Nicholson, *The Letters of John Murray to Lord Byron*, p. 467.

<sup>65</sup> James Raven, *The Business of Books: Booksellers and the English Book Trade 1450-1858* (New Haven and London, 2007), pp. 123 and 128.

became established case law for the next decade,<sup>66</sup> the ruling in the case itself was decided in accordance with the 1710 Statute.<sup>67</sup>

### ***Murray v. Elliston: copyright law; the root of confusion?***

Appendix 19, 'Booksellers and copyright law', outlines the history of copyright law. In April 1821, Murray feared the value of his copyright in *Marino Faliero* might be diminished on two counts: if the play in performance were disparaged; and if the play's exposure to a diverse audience, irrespective of Elliston's production being well- or ill-received, were to decrease private readership. He was also pressed by Byron who, while undertaking to cover any loss if the performance weakened sales, insisted that an action be brought against the play's enactment.

Byron knew the protection the law afforded printed text. In 1816 he had sued the Cheapside printer James Johnston in the Court of Chancery 'to restrain the Defendant from publishing a spurious edition of his works.'<sup>68</sup> Johnston claimed to have paid five hundred guineas for the copyright to a work Byron denied writing, named by Johnston as *The Right Honourable Lord Byron's Pilgrimage to the Holy Land*.<sup>69</sup> Murray held the exclusive right to print Byron's works, but as Byron was not the author, not to the *Pilgrimage*. The case *Lord Byron v. James Johnston*, therefore, came before the Lord Chancellor on 28 November 1816 in Byron's name, although Murray later took credit for

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<sup>66</sup> Ronan Deazley (2008), School of Law, University of Birmingham, UK 'Commentary on Dramatic Literary Property Act 1833', in *Primary Sources on Copyright (1450-1900)* eds. L. Bently & M. Kretschmer, www.copy.law.cam.ac.uk, p. 9.

<sup>67</sup> Law Report, *The Examiner*, 23 June, 1822; 755; British Periodicals, pg. 399: *19<sup>th</sup> Century British Library Newspapers, Part II*.

<sup>68</sup> Nicholson, *The Letters of John Murray to Lord Byron*, Note 13, p. 184

<sup>69</sup> Ibid.

‘my legal success’ against ‘the rogue in Cheapside.’<sup>70</sup> It appears that Byron was ignorant of the law affecting dramatic writers until Murray informed him in December 1820,<sup>71</sup> but it is clear from Byron’s diary note of 19 January 1821 that he then understood that Elliston’s ‘piece of usurpation’ was legal.<sup>72</sup>

As owner of the copyright to *Marino Faliero*, Murray brought the action against Elliston. He may have wished simply to appease Byron, but, irrespective, he seems to have been encouraged by the tenor of the ensuing debate. Even though the Lord Chancellor both granted Murray an injunction and then dissolved it, Murray believed he had support in high places. He wrote to Byron in May 1821 of his preparations for the case:

I have determined to have a decision – and then having felt the Sense of so many members of parliament to be in our favour I hope to get a clause to this effect inserted in the new Copyright Act ...<sup>73</sup>

A campaign for perpetual rights for authors conducted from 1819 by the poets William Wordsworth and Robert Southey,<sup>74</sup> may explain Murray’s allusion to a new Copyright Act. Murray’s optimism proved ill-founded, however, for the Court of King’s Bench reached its decision in May 1822; no change in the law occurred until 1833.

The case went to the Court of Chancery on 27 April 1821. Having examined the arguments, the Lord Chancellor directed, firstly, that Elliston be allowed to continue performances as *The Times* reported, ‘until the question raised as to the right of

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<sup>70</sup> Letter No. 92 dated 22 January 1817, *Ibid.*, p. 187.

<sup>71</sup> Letter No. 143 dated 19 December 1820, *Ibid.*, p. 364.

<sup>72</sup> Byron’s diary entry for 19 January 1821, Moore, *The Works of Lord Byron*, Vol. V, p. 71.

<sup>73</sup> Letter No. 156 dated 29 May 1821 in Nicholson, *The Letters of John Murray to Lord Byron*, p. 401.

<sup>74</sup> Rose, ‘Copyright, authors and censorship’, p. 127. Briggs, ‘The Longmans and the book trade c.1730-1830’, pp. 410–11.

property is decided by a court of law<sup>75</sup> and secondly, that *Murray v. Elliston* be sent for adjudication to the Court of King's Bench, Westminster. The King's Bench hearing took place before Justices Bayley, Abbott and Holroyd a year later,<sup>76</sup> by which time Murray knew that 7,111 of the print run of 7,613 copies of *Marino Faliero* had been sold; in other words, that he had not made a loss.<sup>77</sup> The following outline of the case is based on proceedings reported in *The Times* published on 4 May 1822.<sup>78</sup> The Lord Chancellor instructed the Court to consider the following issue:

... whether any action could be sustained by the proprietor of a printed drama, for the representation of that drama in any abridged form on the stage, for profit, without his permission.<sup>79</sup>

Proceedings opened with the plaintiff, Murray's, case. In an illustration of the confusion over the interpretation of copyright law that persisted, Mr. Scarlett, acting for Murray, ignored case law established in 1774 and 1793. He relied instead on the bookseller's mantra that the law protected intellectual property as any other species of property. Scarlett claimed unauthorised enactment had caused damage to the author's reputation, reduced Murray's value in the copyright, and affected sales. Judge Bayley's interruption indicates disagreement:

Should I not do the author as much mischief by giving notice that I would read his play at my house this evening to anyone who would come?

Demonstrating Elliston's understanding of case law, his representative, Mr. Adolphus, drew upon *Donaldson v. Beckett* to argue that the common law notion of perpetual

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<sup>75</sup> *The Times*, 30 April 1821.

<sup>76</sup> Deazley, Kretschmer and Bently, *Privilege and Property*, p. 324.

<sup>77</sup> Publication Ledger B (NLS reference: Ms.42725), p. 167. NLS-MA.

<sup>78</sup> *The Times*, 4 May 1822.

<sup>79</sup> *Ibid.*

rights had been supplanted, and upon the *Colman v. Wathen* ruling that ‘the representations of a play after it had been printed was no violation of property.’<sup>80</sup> He denied his production, being well-received, had caused reputational damage. Furthermore, he stated, plays were regularly ‘curtailed’, even those of Shakespeare, implying that if the ‘National Poet’ survived abridgement, so Byron could. Adolphus rejected the proposition that the staging had reduced book sales, declaring that readers of ‘parodies’ of acclaimed authors ‘turned to the originals with a keener sense of their beauties.’ The framing of the charge was imprecise: Murray claimed injury to reputation and sales at one point, and at another, infringement of copyright. Addressing the question of copyright, Adolphus argued ‘as well might it be said that it was a violation of copyright to play a new sonata, or air, or overture in a theatre.’

Elliston’s case closed with his appeal for wider public access to works of literary merit; for a release from their confinement to a privileged circle of ‘closet’ readers. The Court found for Elliston:

COURT OF CHANCERY, THURSDAY MAY 9 [1822]

The Court of King’s Bench have certified their opinion, that an action cannot be maintained by the plaintiff against the defendant, for the representation of Lord Byron’s tragedy of “The Doge of Venice,” at Drury-lane theatre.<sup>81</sup>

Winston made this note in his diary on 11 May 1822: ‘A day or two back the decision [went] against Murray and *Marino Faliero*.’<sup>82</sup> Deazley comments that it is uncertain from the judges’ report whether they ruled for Elliston on grounds that his version was an

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<sup>80</sup> *The Times*, 4 May 1822. Deazley, ‘Commentary on Dramatic Literary Property Act 1833’, p. 6.

<sup>81</sup> *The Times*, 10 May 1822.

<sup>82</sup> Entry for 11 May 1822, Nelson and Cross, *James Winston’s diaries*, p. 50.

acceptable abridgement, or because copyright law had not been violated.<sup>83</sup> However, the Court of Chancery's further announcement on 20 June clearly identified copyright law as the grounds on which judgement was based.

The defendant had not infringed the plaintiff's copyright by the performance of Lord Byron's tragedy *Marino Faliero* at Drury-lane Theatre [...] the Court [...] ordered Mr. Murray to pay the costs.<sup>84</sup>

The ruling specifically invoked the Statute's provision that the plaintiff became liable for full costs should the defendant win, or should the plaintiff discontinue his action.<sup>85</sup> Importantly for theatre history, the finding formalised the freedom Elliston and other managers exercised in producing plays without reference to the writer, and in altering the author's artistic intention, but it also provided a platform for eventual change.

... perhaps most significantly, the decision in *Murray* [*Murray v. Elliston*] neither gave rise to any further litigation along the same lines, nor did it preclude the subsequent demands and recognition of the need for a statutory protection for the same.<sup>86</sup>

## Dramatic authors' copyright reformed

Although for a full eight years following *Murray v. Elliston* the cause of dramatic authors lay dormant, this chapter argues that a direct link can be made between Elliston's success in defending his enactment of *Marino Faliero*, the establishment of the Select Committee in 1832, and passing of the Dramatic Literary Property Act, 1833. Playwright James Planché was the first to revive the matter of dramatic authors' rights in February 1830, prompted by an incident involving the unauthorised and

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<sup>83</sup> Deazley, Kretschmer and Bently, *Privilege and Property*, pp. 324–25.

<sup>84</sup> Law Report, *The Examiner*, 23 June 1822.

<sup>85</sup> Deazley, 'Commentary on the *Statute of Anne 1710*'.

<sup>86</sup> Deazley, 'Commentary on Dramatic Literary Property Act 1833', p. 9.

unremunerated presentation of his drama *Charles XIIth* at the Theatre Royal Edinburgh. Supported by George Lamb, M.P. and member of the Drury Lane Committee, Planché put forward a Dramatic Writings Bill to safeguard the performance rights of any work published after the proposed Act came into force, and to include a penalty for performing work without the author's consent.<sup>87</sup> Lamb appears already to have been involved in the issue of dramatic authors' rights, perhaps in Wordsworth's and Southey's action (note 74), for as early as March 1819 he had been addressee of a letter proposing:

... the legislative protection of new pieces; so that they might be produced [...] with an adequate reward, independent of the caprice of arbitrary judges [managers].<sup>88</sup>

Adjourned to the next Parliamentary Session, Planché's 1830 Bill did not resurface.<sup>89</sup>

Edward Bulwer then became the catalyst in the endeavour to protect playwrights' intellectual property. Bulwer was known as one of England's greatest writers from the publication of his novel *Pelham, or, The Adventures of a Gentleman* in May 1828. Following the performance of *Richelieu* at Covent Garden in 1839, Bulwer went on to become the most successful playwright of the late 1830s.<sup>90</sup> Into the first decade of the twentieth century his sales, including political writings, outstripped those of Dickens.<sup>91</sup> Bulwer's political inclinations were radical. He supported the Reform Bill in his maiden speech on 5 July 1831, and his engagement in the 'state of the drama' debate led him to propose reform of theatre's regulatory regime. Bulwer laid the ground for his

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<sup>87</sup> Ibid., p. 10.

<sup>88</sup> *Letter to Hon. George Lamb, ... on the decay and degradation of English Dramatic Literature, etc.* (London 1819), p. 5.

<sup>89</sup> Bulwer, 'The State of the Drama', p. 133. Deazley, 'Commentary on Dramatic Literary Property Act 1833', p. 10.

<sup>90</sup> Stephens, *The Profession of the Playwright*, p.47.

<sup>91</sup> Leslie Mitchell, *Bulwer-Lytton: The Rise and Fall of a Victorian Man of Letters* (Cambridge, 2003), p. xv.

campaign in a lengthy article, *The State of the Drama*, published in February 1832 in *The New Monthly Magazine and Literary Journal*, of which he was editor November 1831 to August 1833. Addressing an élite literary audience, Bulwer's article attributed 'the extinction of the English Drama' to 'the unparalleled injustice of the law relative to dramatic copyright.'<sup>92</sup> He cited Elliston's staging of *Marino Faliero* expressly to expose the law's unjust treatment of playwrights:

It [a play] may be performed, like the *Marino Faliero* of Lord Byron, against the most urgent remonstrance of the author [...] still its author would not be entitled, by law, to the smallest compensation ...<sup>93</sup>

Bulwer's naming of *Marino Faliero* implies an expectation of his readers' familiarity with the affair. Whether because of Byron's celebrity, or because the *Murray v. Elliston* ruling was seen as definitive, Bulwer's reference to Elliston's dishonorable, but legal production a decade on signals its status as a landmark case.

Despite the prohibition on performing the 'regular' drama imposed on non-'patent' theatres, the 'minor' houses flouted the licensing laws with impunity. Watson Nicolson recorded in 1906, that the Surrey and the Adelphi led the 'minors' breach of the regulations established to govern the theatre, courting the penalties of the law to perform 'tragedy, comedy, opera, farce, and melodrama' at will.<sup>94</sup> Bulwer argued that the law was mocked by such defiance, and was in any event unreasonable. Why, he asked, should these theatres not be lawful?

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<sup>92</sup> Bulwer, 'The State of the Drama', p. 131.

<sup>93</sup> Ibid.

<sup>94</sup> Watson Nicholson, *The Struggle for a Free Stage in London* (London, 1906), p. 308.

Laws that were iniquitous should be altered; and so also should laws that were impracticable.<sup>95</sup>

Bulwer spoke of the formerly disreputable 'minor' houses, as respectable, 'decorous and orderly', but omitted to credit, and may have been unaware of Elliston's pioneering role in revolutionising the status of these theatres. Bulwer noted the contrast with the state of the 'patent' theatres, stating that in the last twenty years they had not produced a single play 'worthy of attention, and fit for the rational amusement of men and women.'<sup>96</sup> This decline Bulwer attributed to the injustice of copyright law, which deterred the best talent from writing for the stage.

Bulwer's relationship with the 'minor' theatres appears more ambivalent than suggested by his rhetoric. His claim to have visited 'minor' houses 'by accident' belies his assertions concerning their 'respectability'. The very month that Bulwer's *The State of the Drama* appeared, his 'Newgate' novel *Eugene Aram*, also published in 1832, adapted by W. T. Moncrieff, was performed as a melodrama on the Surrey stage.<sup>97</sup> Although the novel achieved commercial success, perhaps to Bulwer's disquiet, it aroused moral indignation for featuring a notorious-murderer hero. The play's staging at a 'minor' theatre, if without Bulwer's consent, may have fuelled his indignation at a dramatic writer's lack of authority over his work.<sup>98</sup>

Bulwer moved for legislative reform, presenting a Motion in the House of Commons on 31 May 1832 for the establishment of 'a Select Committee for the purpose

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<sup>95</sup> *State of the Drama* 31 May 1832, T. C. Hansard *Parliamentary Debates* (London, 1833), Vol. XIII 24 May 1832–3 July 1832. Kraus Reprint Co. (New York 1970), p. 242.

<sup>96</sup> Bulwer, 'The State of the Drama', p. 135.

<sup>97</sup> Marcus Risdell, Garrick Club Librarian. Allardyce Nicoll records *Eugene Aram; or, St. Robert's Cave* having been performed at the Surrey on 2 February 1832. Allardyce Nicoll (ed.), *A History of English Drama 1660–1900*, rev. Volume IV *Early Nineteenth-Century Drama 1800–1850* (Cambridge, 1970), p. 360.

<sup>98</sup> Allardyce Nicoll notes five plays of Bulwer's performed at the 'legitimate' theatres between 1837 and 1839; three at Covent Garden and two at the Haymarket. Nicoll, *A History of English Drama 1660–1900* Volume IV, p. 349.

of inquiring into the State of the Laws affecting Dramatic Literature, and the performance of the Drama.<sup>99</sup> Daniel O’Connell, M.P. for Dublin City, lawyer and Irish nationalist leader, who during his parliamentary career campaigned on general liberal or radical issues, seconded the Motion.<sup>100</sup> We see from Hansard that several participants in the debate were committed law reformers, many of a Whig persuasion. John Campbell, M.P. for Perthshire, asserted that ‘the principle of free trade should be extended to theatrical representations.’<sup>101</sup> As Elliston had proposed in 1818; ‘The small dealer, my lord, is as well entitled to assistance and favour, as the wholesale speculator.’<sup>102</sup> Richard Lalor Sheil,<sup>103</sup> successful playwright and political confrère of O’Connell, urged the diffusion of ‘regular’ drama across ‘minor’ and ‘patent’ theatres to improve ‘the national mind’. Sheil’s stance reflected the subsequent Select Committee’s aim of encouraging respectable conduct and self-improvement of the capital’s increasingly mixed audience.<sup>104</sup> William Brougham, law reformer and M.P. for Southwark, home of the two major ‘minor’ theatres, the Coburg and the Surrey, spoke in favour of the Motion.<sup>105</sup> George Lamb, writer, Whig M.P., and champion of Planché’s 1830 Bill, desired to see the theatres of the metropolis put ‘on a proper footing’, with the proviso that ‘the connection between monarchy and the drama should not be

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<sup>99</sup> *State of the Drama* 31 May 1832 in Hansard, Vol. XIII 24 May 1832–3 July 1832. Kraus Reprint, p. 239.

<sup>100</sup> ‘Daniel O’Connell (1775–1847)’, *ODNB*.

<sup>101</sup> *State of the Drama* 31 May 1832 in Hansard, Vol. XIII 24 May 1832–3 July 1832. Kraus Reprint, p. 255.

<sup>102</sup> *Copy of a Memorial presented to the Lord Chamberlain by the Committee of Management of the Theatre-Royal Drury-Lane and by the Proprietors of the Theatre-Royal Covent-Garden, 1818; with copies of two letters of reply to the contents of such Memorial, addressed to the Lord Chamberlain by Robert William Elliston, Comedian* (London, 1818), pp. 13–14.

<sup>103</sup> ‘Richard Lalor Sheil (1791–1851)’, *ODNB*. John Murray published Sheil’s tragedy *Adelaide* in 1817. Nicholson, *The Letters of John Murray to Lord Byron*, p. 191.

<sup>104</sup> Katherine Newey, ‘Reform on the London Stage’ in Arthur Burns, and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780–1850* (Cambridge, 2003), p. 246.

<sup>105</sup> ‘William Brougham, second Baron Brougham and Vaux (1795–1886)’, *ODNB*: M.P. in the Whig interest for Southwark 1831–35.

severed.<sup>106</sup> The ‘connection’: the Royal authority of the 1662 patents by which ‘legitimate’ theatre claimed to operate. As a member of the Drury Lane Committee, Lamb perhaps had an interest in preservation of the Royal theatres’ privileges. Just two speakers, both Tories and lawyers, opposed the Motion outright, also on grounds of preserving the Royal connection:

The House had Reform enough upon its hands without also reforming the prerogatives of the Crown and all the theatres.<sup>107</sup>

The Select Committee took evidence in June and July 1832 and reported in August. The two issues that came under most scrutiny were the ‘patent’ monopoly, and the lack of copyright protection for dramatic authors.<sup>108</sup> Following through on the first of the Committee’s recommendations (see Appendix 3), Bulwer immediately brought forward a Bill for the abolition of the ‘patent’ monopoly.<sup>109</sup> When that miscarried, he pursued the second; that the dramatic author should possess the same rights and legal protection as other writers and that his work should not be performed without his formal consent.<sup>110</sup> This Bill was passed, resulting in the first copyright legislation to recognise both the concept of dramatic property, and the distinction between a published and performed literary work.<sup>111</sup> The Dramatic Author’s Act of 1833 gave the playwright the

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<sup>106</sup> *State of the Drama* 31 May 1832 in Hansard, Vol. XIII 24 May 1832–3 July 1832. Kraus Reprint, p. 253.

<sup>107</sup> Sir Charles Wetherell, lawyer and conviction contrarian, quoted in Hansard Vol. XIII 24 May 1832–3 July 1832. Kraus Reprint, p. 248.

<sup>108</sup> Stephens, *The Profession of the Playwright*, p. 84.

<sup>109</sup> *Ibid.*, p. 90.

<sup>110</sup> *Report from the Select Committee 1832*, p. 5.

<sup>111</sup> Stephens, *The Profession of the Playwright*, p. 91.

right 'to demand that the play as produced be the just reflection of his artistic conception.'<sup>112</sup>

## Elliston's influence and legacy

*Among the most active of the conductors of the minor Theatres in this warfare is the manager of the Surrey. But it is not with actors and stock-pieces of the regular drama alone that he is content to deal [...] when an orthodox Hamlet has "fretted his hour upon the stage," he takes up with the first tragedy he can meet, which is at all calculated to excite public attention.*<sup>113</sup>

### Return to the Surrey 1827–31: 'respectability', 'regular' drama and encouragement for playwrights

Obligated to challenge the monopoly covertly between 1809 and 1816, on his return to the Surrey in May 1827, Elliston presented works from the classic canon overtly, as well as newly commissioned pieces.<sup>114</sup> He reinstated the tradition of performing Shakespeare, established during his first tenure. In his first Season Elliston produced *Hamlet*, *Othello*, *Mercutio* and *Falstaff*, a role he had developed with success at Drury Lane. Elliston's first appearance in the part at Drury Lane in May 1826, attracted audiences, his intention, presumably, when re-creating the role at the Surrey:

We had looked forward with considerable anxiety to this Thespian event; first of all, like every selfish person, for individual gratification, and after this, in the hope that the curiosity of seeing so fine an actor as ELLISTON in a part so apparently opposed to his general line of performance, and the expectation of meeting in him an adequate representative of the character, would create an interest; and consequently, an attraction at his theatre.<sup>115</sup>

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<sup>112</sup> Dewey Ganzel, 'Patent Wrongs and Patent Theatres': *Drama and the Law in the Early Nineteenth Century.* PMLA, LXXVI (1961), 384–96, p. 394.

<sup>113</sup> *The Morning Post*, 9 November 1829.

<sup>114</sup> As an undischarged bankrupt in 1827, Elliston managed the Surrey in the name of his son Charles Robert. On his discharge in 1828, Elliston was granted a Licence in his own name.

<sup>115</sup> Unattributed press cutting dated 14 May 1826. HL-HTC: Elliston Papers, Box 3.

Elliston's Drury Lane *Falstaff* was received with great acclaim as 'more nearly allied to our conception of the author's matchless character, than the combined efforts of all the other persons we ever saw undertake it.'

The eye, "that tell-tale of the mind", seems to speak before he opens his mouth: his voice, one both of power and melody, is well calculated to express the merriment and wit conveyed in the language, and the assumption of that heartiness and "chuckle" with which it should be accompanied, as fortunate in the extreme.<sup>116</sup>

For his Surrey performance Elliston received equal praise for his 'intellectual' and 'true' interpretation of *Falstaff*; 'the most Shakespearean comic personation we ever beheld.'<sup>117</sup> The contrast between Elliston's early covert productions, using hybrid genres to cloak 'regular' performances, and the later undisguised, 'spoken word', 'legitimate' drama, illustrates the marked success of his campaign against the monopoly. Early in 1828, David Osbaldiston joined Elliston's Company as lead actor and stage manager, helping to sustain the 'legitimate' repertoire in the characters of *Richard III*, *Lear*, *Jacques*, *Macbeth*, *Hotspur*, *Shylock* and *Othello*.<sup>118</sup> Of the one hundred and ten pieces Elliston produced in the year to 21 December 1829,<sup>119</sup> more than a quarter were 'legitimate' plays, and ten of those Shakespeare's.<sup>120</sup>

Not every minor theatre earned the accolade 'decorous and orderly'. The Olympic, David Worrall tells us, catered for a 'courtly audience', but those of élite views found the rougher south-bank playhouses unsavoury.<sup>121</sup> The Coburg's patrons were

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<sup>116</sup> Ibid.

<sup>117</sup> *The Weekly Dramatic Register* in Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 120.

<sup>118</sup> Ibid., pp. 118–19 and 124–25.

<sup>119</sup> Ibid., p. 134.

<sup>120</sup> *Othello*, *Macbeth*, *Richard III*, *Hamlet*, *Romeo and Juliet*, *Merchant of Venice*, *King Lear*, *Henry IV*, *Henry VIII* and *Coriolanus*. Ibid., p. 184.

<sup>121</sup> David Worrall, *Theatrical Revolution: Drama, Censorship and Romantic Period Subcultures 1773-1832* (Oxford, 2006), p. 222.

considered 'of the lowest kind'; the auditorium was filled with 'vile odours arising from gin and tobacco, and bad ventilation.'<sup>122</sup> By December 1828, Elliston's Surrey was spoken of as 'the most flourishing theatrical establishment about London.'<sup>123</sup> *The Examiner* declared Elliston's Surrey audiences 'orderly, silent and attentive', engrossed in the 'rational entertainment' he provided.<sup>124</sup> Elliston's house writer, Douglas Jerrold, whom Elliston brought in from the Coburg, said:

Under his guidance the Surrey has emerged from an almost hopeless condition, to its present 'high and palmy' state of respectability.<sup>125</sup>

The Surrey achieved a national reputation.<sup>126</sup> Elliston led rather than following public taste, accomplishing this advance by presenting a varied, high quality programme, including serious drama in 'legitimate', full five-act format, in defiance of 'patent' rights. To extend his 'legitimate' repertoire, Elliston introduced Continental operas to the Surrey stage, adapting Weber, Rossini and Mozart alongside traditional English ballad-operas.<sup>127</sup>

Due to a general inability of literary writers to produce stage-worthy plays, or, as in the case of Walter Scott, unwillingness to risk reputation, even though he appropriated *Marino Faliero*, Elliston did stage the literary talent of the age at Drury Lane. At the Surrey in November 1829, he again seized a new literary work; Scott's

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<sup>122</sup> Ibid.

<sup>123</sup> Murray, *Robert William Elliston Manager*, p. 125.

<sup>124</sup> *The Weekly Dramatic Register* in Murray, *Robert William Elliston Manager*, p. 125.

<sup>125</sup> Michael Slater, *Douglas Jerrold 1803–1857* (London, 2002), p. 71.

<sup>126</sup> Christopher Noel Murray, *The Great Lessee: The Management Career of Robert William Elliston (1774–1831)*. A Dissertation presented to the Faculty of the Graduate School of Yale University in Candidacy for the Degree of Doctor of Philosophy, 1969, p. 301.

<sup>127</sup> 'There is no indication that managers of the Surrey before 1827 gave any consideration to through-composed operas.' William G. Knight, *A Major London 'Minor': The Surrey Theatre 1805-1865* (London, 1997), pp. 67-71.

'legitimate' five-act tragedy, *The House of Aspen*.<sup>128</sup> Elliston's announcement of 'an entirely new romantic drama written by Sir Walter Scott' suggested Scott's involvement, but Elliston produced *The House of Aspen* without the author's permission.<sup>129</sup> As with *Marino Faliero*, Elliston was careful to publicise the 'curtailments' and 'transpositions' made to the original, while insisting 'nothing has been attempted that will injure any effect the 'Poet' intended to convey.'<sup>130</sup> *The Morning Post* declared: 'we must confess that [...] the work of reduction and interpolation has been very creditably performed.'<sup>131</sup>

Having *de facto* demolished the monopoly's exclusive right to the classic canon, Elliston began to employ accomplished new writers. He encouraged the development of a national, native-themed drama, commissioning new plays from such as Douglas Jerrold, William Thomas Moncrieff, George Soane and Edward Fitzball. Immediately following *The House of Aspen*, Elliston brought out a new 'legitimate' piece, Jerrold's tragedy *Thomas à Becket*, 'an original historical drama in 5 acts',<sup>132</sup> the prologue to which declared: 'We offer here - no masque or gaudy dream - / A native Drama on a native theme!'<sup>133</sup> *The Times*, *The Morning Post*, *The Morning Chronicle* and *The Standard* reviewed the play's first performance on 30 November 1829, recognising it as a serious tragedy in 'legitimate' mould.<sup>134</sup> Without songs, and written in prose, Christopher Murray's contends that *Becket* was the first such full-length original play to

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<sup>128</sup> Sir Walter Scott, *The House of Aspen, a Tragedy* (London, 1829).

<sup>129</sup> *The Times*, 17 November 1829. Murray, *Robert William Elliston Manager*, p. 132. Knight, *A Major London 'Minor'*, p. 87.

<sup>130</sup> Playbill dated 19 November 1829 in Murray, *Robert William Elliston Manager*, p. 132.

<sup>131</sup> *The Morning Post*, 19 November 1829.

<sup>132</sup> *The Times*, 1 December 1829.

<sup>133</sup> Slater, *Douglas Jerrold 1803–1857*, p. 73.

<sup>134</sup> *The Times*, 1 December 1829; *The Morning Chronicle*, 1 December 1829; *The Standard*, 1 December 1829; *The Morning Post*, 2 December 1829.

be staged at a 'minor' theatre. 'Founded on the life of that sturdy English champion of the Church,' *The Morning Chronicle* wrote, 'the play was in every way a curiosity at a minor theatre.'<sup>135</sup> '*The Morning Post* announced *Becket* as the new offering 'from the pen of Mr. W. D. Jerrold', the author of Elliston's long-running patriotic, nautical success *Black-Ey'd Susan; or, All in the Downs*.<sup>136</sup> The melodrama *Black-Ey'd Susan*, a loose adaptation of John Gay's ballad-opera of the same name, premiered on 8 June 1829, and made Elliston rich.<sup>137</sup> *The Times* recorded:

The proprietor of the Surrey Theatre is said to have cleared upwards of 6,000l. [£6,000] by the run of the popular entertainment of *Black-eyed Susan*.<sup>138</sup>

Walter Jerrold, the playwright's biographer, recorded:

The receipts now averaged five hundred pounds per week, out of which one hundred and fifty pounds clear fell on the profit side of the manager.<sup>139</sup>

James Winston said Elliston realized over £70,000, presumably meaning for the total run.<sup>140</sup>

While Elliston re-made his fortune, Douglas Jerrold became famous, though earned nothing beyond the initial £60 he had been paid.<sup>141</sup> T. P. Cooke won renown as the protagonist *William*, a role he played more than eight hundred times.<sup>142</sup> On *Becket's*

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<sup>135</sup> Murray, *Robert William Elliston Manager*, p. 133. *The Morning Chronicle*, 1 December 1829.

<sup>136</sup> *The Morning Post*, 2 December 1829.

<sup>137</sup> *Black-Ey'd Susan* played for over three hundred nights at the Surrey, commencing June 1829. Slater, *Douglas Jerrold 1803–1857*, p. 70. Nelson and Cross, *James Winston's diaries*, p. 152.

<sup>138</sup> *The Times*, 10 December 1829. £6,000 in 1829 = Purchasing power of £471,600 in 2014, or Income value of £8,980,000. [www.measuringworth.com](http://www.measuringworth.com).

<sup>139</sup> Walter Jerrold, *Douglas Jerrold Dramatist and Wit* (London, 1914) Vol. I, p. 127.

<sup>140</sup> Nelson and Cross, *James Winston's diaries*, p. 152. £70,000 in 1830 = Purchasing power of £5,598,000 in 2014, or Income value of £101,400,000. [www.measuringworth.com](http://www.measuringworth.com).

<sup>141</sup> Slater, *Douglas Jerrold 1803–1857*, p. 70. Winston says Jerrold received £70. Nelson and Cross, *James Winston's diaries*, p. 152.

<sup>142</sup> Murray, *Robert William Elliston Manager*, p. 129.

opening night, incongruously, or to detract from Elliston's premiere, Covent Garden drew a large and appreciative audience with their own staging of *Black-Eye'd Susan*, with Cooke playing the first of six nights in his accustomed starring role.<sup>143</sup> This inversion gives cause for us to note Michael Slater's proposition that more dramatic life resided in *Black-Eye'd Susan* than was to be found in the 'legitimate' theatre, and his recognition of the play as a worthier heir to the English dramatic tradition than Shakespearean revivals of the day (see Chapter Four).<sup>144</sup>

### A free stage in London

In December 1830, Elliston took further measures to surpass the 'patent' theatres, remodelling the Surrey's interior, and adding the provision of Family Boxes that he had introduced first at Drury Lane in 1822.<sup>145</sup> Elliston died six months later, on 8 July 1831. He did not, therefore, give evidence to the Select Committee before which many of his associates appeared. He was, nonetheless, a presence in the mouths of witnesses. Their evidence gives weight to Elliston's significance in challenging the monopoly. Thomas Baucott Mash, the Lord Chamberlain's Comptroller, recalled him 'beating the regular theatres' with his transgressive productions.<sup>146</sup> John Payne Collier, author of *A History of English Dramatic Poetry and Annals of the Stage* published by John Murray in 1831, declared Surrey pieces 'as much legitimate dramas as anything originally represented at the large ['patent'] theatres.'<sup>147</sup> Charles Kemble, proprietor of

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<sup>143</sup> *The Standard*, 1 December 1829.

<sup>144</sup> Slater, *Douglas Jerrold 1803–1857*, p. 72.

<sup>145</sup> Murray, *Robert William Elliston Manager*, p. 136. New Theatre Royal, Drury-Lane, 1822: 'The additional Comforts in the opening of several Commodious Family Boxes.' Garrick Scrapbook.

<sup>146</sup> *Report from the Select Committee on Dramatic Literature: with the Minutes of Evidence*. Ordered, by the House of Commons, to be Printed, 2 August 1832, p. 13.

<sup>147</sup> John Payne Collier (1789–1883). *Report from the Select Committee 1832*, p. 26.

Covent Garden, disclosed that his theatre suffered disadvantage from the Surrey's productions of Shakespeare.<sup>148</sup>

Elliston did not know of the House of Lord's rejection in 1833 of the Dramatic Performance Bill, recommending the freeing of the theatres from the monopoly regime.<sup>149</sup> Nor did he live to see the passing of The Theatres Act on 26 July 1843 (named also the Theatre Regulation Act), which finally implemented the 1832 Select Committee's proposal. In permitting any licensed theatre to perform licensed works of any kind, the Act broke the monopoly privileges of the 'patent houses', fully liberating the stage. Despite his absence from the scene, it is possible to trace this one individual's, Elliston's, influence in this achievement. He was first to establish a 'minor' theatre as a reputable haven for talented actors and authors, an achievement recognised in the serious press in 1832.

... go to the Adelphi, the Olympic, or to the Surrey, and see clever pieces admirably acted in all their parts, nothing neglected, nothing slurred, and each performer seeming to feel an ambition to give the best effect to the character allotted to him [...]. The Minors too, are the nurseries of histrionic talent [...]. In the Minors, merit finds its way to distinction [...] in the Majors, the distinction is arbitrary.<sup>150</sup>

In his second tenure at the Surrey, Elliston responded to and shaped the taste of a heterogeneous, 'respectable' audience seeking 'rational' entertainment:

People who wish to see what a minor theatre *can* be should visit the Surrey [...]. We are especially struck by the absence of vulgarism in the performance at the

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<sup>148</sup> Charles Kemble (1775–1854), actor, theatre manager, and playwright son of John Philip Kemble. *Report from the Select Committee* 1832, p. 45.

<sup>149</sup> Murray, *The Great Lessee*, p. 320.

<sup>150</sup> *The Examiner*, 1 January 1832.

Surrey. In no theatre in London have we observed less sacrifice to the worst taste of a mixed audience.<sup>151</sup>

Playwrights received higher pay at the ‘minor’ theatres, and Elliston at the Surrey consistently offered the best terms; generally fifty pounds for a piece, whereas the rival Coburg more often paid twenty pounds.<sup>152</sup> Elliston gave Jerrold a more generous sixty or seventy pounds for *Black-Ey'd Susan*,<sup>153</sup> but it remained the case that Elliston’s authors, in common with others, received one, outright payment only. This one-off arrangement entitled the manager to perform the play innumerable times without further remuneration and, assuming he had purchased the copyright, to print and sell the work for his own profit. At the Surrey Elliston continued his practice of paying unprecedented sums to actors. Ruinous at Drury Lane, Elliston’s enticing rates drew talent to the Surrey. It was Elliston who demonstrated that high artistic standards could be reached and sustained at ‘minor’ houses, and who contributed to the monopoly question becoming central to the future of English drama.

We have seen that, from 1809, rather than breaking theatre regulation in any way ‘capable of proof’,<sup>154</sup> Elliston employed his knowledge and ingenuity, as Christopher Murray observes, ‘to drive a coach-and-four through the law.’<sup>155</sup> In the vanguard, in 1829, pre-empting Bulwer’s *The State of the Drama* and his Select Committee’s recommendations, Elliston set out his vision of a deregulated theatre world:

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<sup>151</sup> *The Examiner*, 10 July 1831.

<sup>152</sup> Stephens, *The Profession of the Playwright*, p. 41.

<sup>153</sup> Walter Jerrold, *Douglas Jerrold Dramatist and Wit* (London, 1914) Vol. I, p. 127. Stephens, *The Profession of the Playwright*, p. 42.

<sup>154</sup> Press cutting of letter addressed to the Editor, unnamed newspaper 10 May 1813. HL-HTC: Elliston Papers, Box 1.

<sup>155</sup> Murray, *The Great Lessee*, p. 320.

No one can wish more ardently than I do, that the whole state of the drama should be revised by the legislature; by such a review must the stage be benefited – authors would be better paid – actors would have greater excitement for their ambition – more men of real literary reputation would then turn their thoughts to what would be deemed a worthy arena for their talent, – pretenders of every sort would sink to their proper level, while merit, which is now often obscured either by intrigue, ignorance, or pseudo patronage, would then find a proper haven to shelter in.<sup>156</sup>

Elliston's 'manifesto' appeared in the preface to Douglas Jerrold's *The Flying Dutchman*, commissioned by Elliston and staged at the Surrey on 15 October 1829.<sup>157</sup> The original play by Edward Fitzball *The Flying Dutchman; or, the Spectral Ship* (1827), became the subject of a further copyright dispute, this time between Elliston and the Adelphi proprietors; another victory for Elliston in which the injunction against him was overturned.<sup>158</sup> Elliston's address pre-dates the upsurge in public discussion of the monopoly that arose in 1831 and 1832, then reflected in press debate:

But then it is said the drama in England has declined. To be sure it has; and it is for that reason more than any other that the absurd monopoly of theatres which now exists should be put an end to.<sup>159</sup>

We hope that the law respecting public amusements will soon be brought under the notice of the Legislature. The attempt to crush the Minor Theatres will end, like most persecutions, in a Reformation.<sup>160</sup>

Elliston operated in a period of transition and liberalization, when, as Jim Davis suggests, the demand for theatrical reform ran alongside wider unrest.<sup>161</sup> With the

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<sup>156</sup> D. W. Jerrold, *The Flying Dutchman; or The Spectral Ship: a Drama. With the preface by R.W. Elliston* (London, 1829?). Preface pp. xiii-xiv. Murray, *The Great Lessee*, p. 321.

<sup>157</sup> Douglas Jerrold, *The Flying Dutchman; or, the Phantom Ship* (1829) was first staged at the Surrey on 15 October 1829. Nicholl, *A History of English Drama 1660-1900* Volume IV, p. 332.

<sup>158</sup> Edward Fitzball, *The Flying Dutchman; or, the Spectral Ship* (1827). Knight, *A Major London 'Minor'*, pp. 62-3. Nicholl, *A history of English Drama 1660-1900* Volume IV, p. 313.

<sup>159</sup> *The Times*, 31 January 1831.

<sup>160</sup> *The Examiner*, 1 January 1832.

<sup>161</sup> Jim Davis, 'Looking Towards 1843 and the End of the Monopoly' in Julia Swindells and David Francis Taylor (eds.), *The Oxford Handbook of the Georgian Theatre 1737–1832* (Oxford, 2014), p. 157.

passing of the first Reform Bill, 1832 marked a new era of reform initiatives affecting national life and international trade. 1833 saw legislation to improve conditions for children working in factories, to aid school building, to reform the Irish church, to lower the price of newspapers, to modify the powers of the Bank of England, to abolish slavery in the British West Indies and Canada, and to open up the China trade. 1834 brought the new poor law, and 1835 municipal corporation reform. Though efforts to abolish capital punishment were unsuccessful, the number of crimes liable to the penalty was reduced through the 1830s.<sup>162</sup> The House of Lords' rejection of Bulwer's 1833 Bill was influenced, as were other reform programmes, by the implications of reform for the sanctity of the Royal prerogative, or the preservation of privilege. The strain of thought articulated in the Bulwer debates of 1832, persisted:

The House had Reform enough upon its hands without also reforming the prerogatives of the Crown and all the theatres.<sup>163</sup>

As the impetus to wider reform accelerated, the Select Committee's first recommendation, that the theatrical monopoly be abolished, was quashed, despite a recognised reverse in the situations of the 'patent' and 'minor' theatres; the former considered inadequate for dramatic purposes, and the latter, producing serious plays in decorous surroundings before respectable audiences. The Select Committee's second finding concluded that:

The author of a Play should possess the same legal rights, and enjoy the same legal protection, as the Author of any other literary production; and that his

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<sup>162</sup> Arthur Burns and Joanna Innes (eds.), *Rethinking the Age of Reform: Britain 1780–1850* (Cambridge, 2003), p. 47.

<sup>163</sup> *The State of the Drama* 31 May 1832 in Hansard, Vol. XIII 24 May 1832–3 July 1832. Kraus Reprint, p. 248.

Performance should not be legally exhibited at any Theatre, Metropolitan or Provincial, without his express and formal consent.<sup>164</sup>

We have seen demonstrated in the account of Byron's relationship with John Murray, the consequence of surrender of intellectual property once copyright was sold. Murray's unfair dealing, in what Byron came to view as a one-sided business relationship, framed and eventually soured their association.

As Ronan Deazley has commented, the main significance of the decision in *Murray v. Elliston* was that, while it defined dramatic author's rights for the next decade, it did not preclude the subsequent demands and recognition of the need for a statutory protection.<sup>165</sup> The passing of the 1833 Act, the first copyright legislation to recognise the concept of dramatic property, and the distinction between a published and performed literary work,<sup>166</sup> secured *Murray v. Elliston's* place in copyright history. *Murray v. Elliston's* legacy, and by association, Elliston's, is the Act of 1833.

Elliston's absolute legacy, full reformation of the theatre by extinction of the 'patent' theatre monopoly, this chapter argues, resides in The Theatres Act 1843. The long-delayed Theatres Regulation Act of 1843 put a formal stamp on what this thesis argues had been a *de facto* free market economy in theatrical entertainment for over two decades. At the same time, the Act defined the drama according to an élite agenda, and exercised firmer control over licensing of theatres (for which managers were charged a fee of £500), and the plays performed.<sup>167</sup> Even so, managers' commercial decisions were led by popular taste rather than the Select Committee's high

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<sup>164</sup> *Report from the Select Committee 1832*, Recommendation 7, p. 5.

<sup>165</sup> Deazley, 'Commentary on Dramatic Literary Property Act 1833', p. 9.

<sup>166</sup> Stephens, *The Profession of the Playwright*, p. 91.

<sup>167</sup> Davis, 'Looking Towards 1843', pp. 158–59.

cultural values,<sup>168</sup> and theatres remained vulnerable enterprises. It is notable, in light of our discussions of Elliston's 'liberation' of Shakespeare at the Surrey and 'restoration' at Drury Lane, that the 1843 Act reclaimed and placed restrictions on Shakespeare's canonical image, and re-validated the 'patent' theatres' traditional role as the rightful home of the 'National Poet'. The plays of Shakespeare allowed on stage were restricted to those published in 'Reed's edition of Johnson's and Steevens' [*sic*] Shakespeare' of 1803, and performances, including adaptations, were disallowed at any new theatre established within five miles of one of the 'patent' theatres.<sup>169</sup>

To enable 'minor' theatres to act the 'regular' drama with impunity, Elliston persevered at the Surrey in breaking down distinctions between the 'patent' and 'minor' realms, arguably elevating the 'illegitimate' above the 'legitimate'. Often excelling the ideal which the 'patent' theatres in practice failed to match, Elliston reintroduced traditional performances of Shakespeare, introduced nationally-themed, serious, new 'legitimate' plays, and presented mainland European opera never before seen on a 'minor' stage. Added to which, he attracted contemporary writers and actors of merit to shape and satisfy the taste of a diverse audience seeking 'rational' entertainment. In a period of social transition and upheaval, Elliston proved that 'minor' houses could achieve the highest artistic standards while meeting the expectations of a heterogeneous spectatorship. Throughout this process Elliston stimulated and contributed to the debate about the English theatre's ills, at the heart of which lay the monopoly regime. That formal reformation of the theatre was not accomplished until a dozen years after Elliston's death does not diminish the criticality of his place in the movement to free the London stage. Vested interests in the all-but-dismantled

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<sup>168</sup> Ibid., p. 169.

<sup>169</sup> Ibid., p. 159.

exclusive privilege of the Letters Patent, succeeded in holding back the tide of legislative reform.

The reach of Elliston's influence, had he lived, is unknowable, but evidence is offered in this study that he made a major, now little-recognised contribution to the monopoly's demise, and thereby to the theatre world's direction of travel in the first half of the nineteenth century. Though he did not live to see it, Elliston laid the groundwork for a free stage. Viewing the scene from his position at the Surrey in 1829, Elliston saw his advocacy of theatrical reform as a life-long struggle.

Following the statement of his vision for a free stage at note 156 above, he wrote:

These are no idle vapourings of an enthusiast, or of a man unaccustomed to all the revolutions of the modern stage, but of one who has expended a princely fortune in the practical adoptions of some of these observations [...] should this be his last testament, he here declares, that in these sentiments he has lived, in these sentiments he will die.

I am  
 With great respect,  
 The Public's  
 Most Grateful,  
 Most obedient, and,  
 Very humble Servant,  
 R. W. ELLISTON.

*84 Great Surrey Street*<sup>170</sup>

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<sup>170</sup> Jerrold, *The Flying Dutchman*, p. xiv.

## Conclusion

This research uncovers evidence to show the intensity of the distrust of the ability of the monopoly regime, by which theatre had been governed since 1662, to safeguard what should have been a national ornament, and the significance of actor/manager Robert William Elliston's role in achieving the system's eventual downfall. Elliston commenced his anti-monopoly campaign in 1809 and, with a lapsed interval of seven years, continued the struggle until his death in 1831.

By the beginning of the 1830s Elliston's Surrey playhouse had won a national reputation as a haven for accomplished authors and actors; a theatre where 'merit finds its way to distinction'.<sup>1</sup> During this second term of Elliston's at the Surrey, he commissioned native drama by native writers, and the principal 'minor' theatre proprietors, Elliston prominent among them, assumed direct responsibility for the 'national' drama's preservation. Intent on regenerating the drama, in effect, they wrested custody from the 'patent' theatres.<sup>2</sup> The classic canon was redefined as a legacy to the English nation, rather than a right conferred and limited by exclusive privilege. Guardianship of the 'national' drama, in practice, transferred to the bourgeoisie - the 'respectable', 'minor' theatre-going audience, and, this study claims, Elliston drove that change.

George Raymond's biography offers an account of the context of Elliston's resurgence at the Surrey from his return in 1827. On his acquittal from bankruptcy in 1828, Elliston acquired an 'excellent family house' at 84 Great Surrey Street, Blackfriars

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<sup>1</sup> *The Examiner*, 1 January 1832.

<sup>2</sup> *The Morning Post*, 5 January 1832.

Road for £500, resumed the purchase of a landau (suspended in 1826), and took on the theatre in his own name, paying £870 for the lease. He held a grand parting dinner for his eldest and youngest sons, William and Edmund, as they left England for a new life in Hobart, and spent £700 to equip them for emigration.<sup>3</sup> Elliston's ability to fund these outgoings, put together with James Winston's estimation that Elliston realized more than £70,000 from *Black Ey'd Susan*,<sup>4</sup> shows his position, financial and reputational, was as secure as at any time.

Elliston's career, though disrupted by bankruptcy, was one of successful entrepreneurship. Even his management of Drury Lane, marred by his breaking of the 'old' Agreement between the 'patent' houses and paying star salaries, is balanced by the reduction he made in the theatre's massive debt, within four years, from c.£92,000 to c.£29,600.<sup>5</sup> We know from Tracey C. Davis, that to run Drury Lane as a going concern after 1812 was all but impossible because of obligatory payments to 'New Renters',<sup>6</sup> and that Elliston's replacement Lessees also failed commercially, and in quick succession.

Elliston died at his home in Great Surrey Street on 8 July 1831, following an apoplectic fit two days before.<sup>7</sup> In compliance with his wishes, and in accord with his design, Elliston's was a traditional walking funeral, attended by family and friends in

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<sup>3</sup> George Raymond, *Memoirs of R W Elliston, comedian, 1774-1831*, 2 Vols. (London, 1844) Vol. II, pp. 495-508. William Gore (1798-1872) remained in Australia, Edmund (1813-1869) returned the following year, married in 1838, and died in Liverpool.

<sup>4</sup> Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819-1827* (London, 1974), p. 152.

<sup>5</sup> Theatre Royal Drury Lane Sub-committee report dated 5 July 1823. *Garrick Annals*.

<sup>6</sup> Tracey C. Davis *The Economics of the British Stage 1800-1914* (Cambridge, 2000), p. 257.

<sup>7</sup> Raymond, *Memoirs of R W Elliston*, Vol. II, p. 526. The child to whom Mrs. Garrick had refused to become a godparent, Lucy Ann Theresa, died just months before, on 20 January 1831, aged twenty years.

procession, and ‘many in the theatrical profession’. Four pages bore a simple coffin of oak with black nails and a brass plate inscribed:

ROBERTUS GULIELMUS ELLISTON

Natus septimo die aprilis 1774

Obit octavo die Julii 1831

Elliston’s body was placed behind iron gates in a vault under St John’s Church, Waterloo.<sup>8</sup> The dignity of the affair reflects Elliston’s concern with status, mirrored by his portrayal in Harlow’s portrait, and articulated early in his career – ‘performers are too oft held in a despicable light & [...] few establish a very respectable character.’<sup>9</sup> The choreography of restraint combined with utter theatricality illustrates well the complexity of Elliston’s character signalled throughout this study. Whatever conflicting imperatives he faced, however, Elliston’s opportunistic instincts and powerfully driven self-interest dominated. The nature of the regime led Elliston to take up irreconcilable stances towards theatre regulation. When Lessee of The Theatre Royal Birmingham, Elliston acquired the Olympic in London in 1813, and had then to operate as an owner working both within and without the ‘patent’ licensing system as part of his management function.<sup>10</sup> When he became solely a ‘patent’ theatre manager, he pursued every measure against ‘minor’ houses to protect his exclusive rights.

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<sup>8</sup> Ibid., p. 545.

<sup>9</sup> Letter to Rev. Dr. William Elliston dated 25 December 1792. HL-HTC: Elliston Papers, Box 1.

<sup>10</sup> David Worrall, *Theatric Revolution: Drama, Censorship and Romantic Period Subcultures 1773–1832* (Oxford, 2006), p. 43.

Vic Gatrell describes the Gordon Riots of 1780 as having changed ‘all manner of assumptions in London and in England too’<sup>11</sup>: assumptions about social stability which gave way to the frightening realization of popular lawlessness. In the early years of the nineteenth century few Britons either escaped the effects of war. A mood of unease, and a heightened sense of nationhood and nationality, spilled into the theatre world to influence audience response, genres of performance, and ideas of the values a ‘national’ theatre ought to represent. National identity, in an England at war, was defined against a perception of contaminating, ‘foreign’ cultural influences. The preferred nature of a reformed theatre, too, was discussed in terms of English values and ideologies: the ‘national’ drama came to stand as a cultural cipher. In the words of a contemporary radical activist involved in the ‘Old Price Riots’ of 1809, theatre became ‘a great national concern, connected even with the liberties of the people.’<sup>12</sup> These features, together with a swelling current of liberal, reformist opinion, set the context in which Elliston’s challenges to the theatre regime played out.

Widespread dismay at the ‘state of the drama’ caused by the ‘patent’ theatres’ neglect of the English literary canon in favour of slight offerings appealing to popular taste, led to the monopoly’s demise. However, the notion that ‘minor’ entertainment *alone* made ‘patent’ theatres unsustainable is nuanced by the recovered knowledge of Elliston’s reversal of the patentees’ adoption of the ‘minor’ repertoire, in a concerted, deliberate anti-monopoly campaign begun in 1809. His ‘burletta’ *Macbeth* pierced the armour of the ‘legitimate’ cabal, and his understanding of ‘how to act about it’ encouraged other ‘minor’ proprietors to follow his example. Elliston set about redefining

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<sup>11</sup> Vic Gatrell, *The First Bohemians: Life and Art in London's Golden Age* (London, 2013), pp. 341-42 and 352. Vic Gatrell, *City of Laughter: Sex and Satire in Eighteenth-Century London* (London, 2007), pp. 27 and 73.

<sup>12</sup> Alexander Stephens, *Memoirs of John Horne Tooke* (2 Vols., 1813), ii. 373, in Marc Baer, *Theatre and Disorder in Late Georgian London* (Oxford, 1992), p. 114.

the traditional canon. He refused to accept the limiting of the 'regular' drama to the 'legitimate' stage, which in any event the patentees had abandoned, and from which much new writing was excluded.

### **Tools of regulation**

Theatre regulation required a Licence to be issued for any new play, or existing work to which alterations had been made. In practice, both the Examiner of Plays and theatre managers ignored the strict letter of the law to make the system work at all efficiently. It was not unknown for new material to be introduced into a performance that had not passed before the Examiners' eyes. The study's exploration of the regulatory regime's tools of licensing and censorship demonstrates the success of the founding purpose of Charles II's Letters Patent - to keep the stage free from profanity and scurrility - and The Theatre Licensing Act of 1737 to abolish political allusion. In the period of the French Revolution and Napoleonic Wars, the Examiner of Plays' approach to censorship kept from the English stage 'the unseemly paraphernalia of republicanism or anything which might have encouraged it.'<sup>13</sup>

The role of the law in re-introducing pre-censorship of play-texts, nevertheless, had unintended consequences for the drama, both negative and positive. Edward Bulwer attributed the decline of the drama to the injustice of copyright law, which deterred the best talent from writing for the stage. The cost and effort involved in seeking a Licence for a new play deterred managers from commissioning work. Opportunities, therefore, were lost to invigorate the canon with new works of merit. As Leonard Connolly says, censorship sapped the 'patent' repertory of 'currency and

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<sup>13</sup> L. W. Conolly, *The Censorship of English Drama 1773-1824* (San Marino, Ca., 1976), p. 106.

vitality'.<sup>14</sup> The ability of literary writers of the age to produce stage-worthy dramas also comes under scrutiny. At Drury Lane, Elliston solicited, but rejected scripts from Keats, Shelley and Leigh Hunt as unsuited to performance.

Elliston skilfully skirted the law to produce 'irregular' versions of works from the classic English canon without penalty, but the law preventing playhouses other than the 'patent' theatres from performing 'regular' drama was rarely invoked in any event. This circumstance appears to have owed more to successive Lords Chamberlain's lack of will to enforce The Theatres Act of 1737, than weakness in its drafting. Elliston employed The Statute of Anne 1710, the first copyright law, and the Act of 1737 most effectively against 'minor' rivals' infringements once he became a patentee. Elliston's, and later, others' innovations to circumvent the law banning 'the spoken word' at 'minor' establishments illustrate Jane Moody's proposition that the law's restrictions fostered theatrical invention.<sup>15</sup> In the battle over who should control theatre culture, the 'minor' houses regenerated the drama with a vibrant repertoire, reinvigorating the experience of London theatre-goers.

### **Culture change**

Elliston's elevation of his 'minor' London theatres to a status that attracted the 'respectable' and the nobility was atypical, confirming Peter Burke's assertion that the elite tended not to participate in the 'little tradition' of popular culture. Elliston made Shakespeare's works and image, formerly associated with 'high' culture, available to his 'minor' audiences. In Southwark, prevented from speaking Shakespeare's language, Elliston disrupted the regime's hold on the 'National Poet' by employing 'irregular'

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<sup>14</sup> Ibid., p. 109.

<sup>15</sup> J. Moody, *Illegitimate Theatre in London (1770-1840)* (Cambridge, 2000), p. 4.

performance genres. His productions drove change, creating an appetite for Shakespeare on and off stage among less educated folk. In both 'minor' and 'patent' incarnations, through his re-working of inherited texts and materials, Elliston strove to enable audiences 'high', 'low' and of the middling kind to experience almost exactly the play of Shakespeare.

The study recognises the elusiveness of the term 'popular' culture. Increased growth and the growing heterogeneity of London's population, changed taste and audience mix, in which 'high' and 'low' cultural expectations both separated and merged. More nuanced characterizations are uncovered than the class-based conventions of 'Box', 'Pit' and 'Gallery' appear to convey. David Worrall's and Frederick Burwick's findings prompt a questioning of notions of precise oppositions between 'polite' and popular behaviour in the public sphere. They suggest that individuals thought and acted differently depending on the social context. Studies by Worrall and Burwick show that popular theatre in general attracted homogeneous audiences with a taste for amusement and spectacle. Conversely, much evidence exists to suggest that the 'patent' theatres were rare secular indoor spaces in a rapidly urbanizing London where a broad cross-section of the populace met.<sup>16</sup>

Gillian Russell draws attention to soldiers and sailors as theatre-goers. For the sailor especially, playhouses became a place of self-definition.<sup>17</sup> This study has uncovered evidence of a midshipman's participation during the 1809 Riot at Covent Garden which supports Russell's assertion that seeds of political disaffection within the

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<sup>16</sup> Elaine Hadley, *Melodramatic Tactics: Theatricalized Dissent in the English Marketplace, 1800-1885* (Stanford, 1995), p. 37.

<sup>17</sup> Gillian Russell, *The Theatres of War: Performance, Politics and Society, 1793-1815* (Oxford, 1995), pp. 98 and 100.

ranks caused superior officers to be wary of the loyalty of subordinates. Although the patriotic figure 'Jack Tar' has a long history on the English stage, it was the endlessly appropriable figure for the common people, 'John Bull', whom the Rioters adopted as their trope. This 'John Bull' looked to a mythical past in which the 'national' drama remained unsullied by foreign imports and managers bowed to 'the corrective Rod of Public Censure.'<sup>18</sup> Theatre became a national metaphor for constitutional rights and political freedom, maintained against oppressive regimes at home or elsewhere. When Caroline visited Elliston's Drury Lane in April 1821, the theatre space became an arena for the display of loyalty to the Queen. The Queen herself recruited South Bank proprietors to her cause in the conduct her campaign against George IV.

### **Elliston's agency in freeing the London stage**

Elliston advocated legislative reform. Only after his efforts to bring this about failed, did he continue his opposition to the regulatory regime by transgressive means alone. This study argues for Elliston's agency in freeing theatre governance from a system based on exclusive privilege. The staging of 'regular' drama at all theatres, in practice by 1826, if not earlier, was recognised and credited to Elliston in his life-time, in advance of the Select Committee's recommending 'fair competition amongst all theatres.'<sup>19</sup> The study does not make the argument that without Elliston's intervention the monopoly would have survived. Though heavily resisted and long-awaited, the demise was assisted by a surge of reform, especially for the elimination of exclusive privilege, a changing demographic, and an increasing number of 'minor' theatres

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<sup>18</sup> *Theatrical Monopoly: being an address to the public on the present alarming coalition of the managers of the winter theatres* (London, 1779), Clause ii.

<sup>19</sup> *Report from the Select Committee on Dramatic Literature: with the Minutes of Evidence*. Ordered, by the House of Commons, to be Printed, 2 August 1832, Recommendation 1, p. 4.

catering for a growing population. It is asserted, nevertheless, that Elliston alone challenged the regime by mounting intensive programmes of opposition throughout fifteen of his twenty-two years as an actor/manager.

Ernest Bradlee Watson's endorsement of Elliston's contribution raises the notion of a divide between tradition and innovation explored in the thesis.

[Elliston] lived for and with the people and acted himself into their favor, both on and off the stage [..]. Certain it is that in the stage developments that Elliston set in motion, rather than in those that Kemble brought to an end, was to be found the beginning of distinctly new things for the English drama.<sup>20</sup>

Taken together with a range of sources consulted for this study, Watson's contention supports this representation of Elliston as a pioneering, reforming figure in the London theatre world of the first decades of the nineteenth century. John Philip Kemble and Elliston each pursued their own interests with vigour, and each held the view that the fate of the drama was in his keeping. However, Kemble, tyrannical, haughty, and disdainful of the 'natural rights' of Englishmen, presided as an autocrat. Even though, or perhaps because Elliston, like Kemble, was driven by commercial imperatives, he, by contrast, identified the need for a new style of theatre. This study recovers Watson's neglected claim that Elliston brought the drama to the level of the people.<sup>21</sup> Evidence for this assertion is found especially in his 'illegitimate' productions of Shakespeare; in his innovative provision of 'information to simplify the Plot'<sup>22</sup> and character vignettes. Elliston adopted an inventive and progressive approach to

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<sup>20</sup> Ernest Bradlee Watson, *Sheridan to Robertson: A Study of the Nineteenth Century London Stage* (Cambridge, Mass., 1926), pp.174-75.

<sup>21</sup> Ibid.

<sup>22</sup> Title page from an edition of John Cross's text in the Folger Shakespeare Library: Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), Plate 5.

production, but he held a conservative view of the 'regular' drama's didactic function and the prestige its 'legitimacy' conferred, at the same time believing in spanning the cultural divide. As a 'minor' theatre proprietor Elliston fought both for a free market, and to please the market, finding new ways of widening access for all types of theatre-goer.

The account of Elliston's concerted struggle against 'patent' privilege must not omit his seven-year tenure as lessee of Drury Lane. From 1819 Elliston fought to protect the perpetual and exclusive rights supposedly conferred by Killigrew's patent, with a force equal to that of his anti-monopoly strivings of the previous decade. The thesis suggests that, by harassing his 'minor' rivals and antagonizing his fellow patentees at Covent Garden, Elliston inadvertently hastened his own and the monopoly regime's downfall. Even then, in advance of his audience's readiness to accept such reform, Elliston brought innovation to the Drury Lane stage with his reinstatement of Shakespeare's text. At the same time, he recognised authenticity to be illusory, and understood that balancing textual accuracy with innovative technical effects was essential to gratify the prevailing thirst for spectacle. Despite these compromises, Elliston has been credited with leading the movement to restore Shakespeare's unadulterated words to the stage.

### **Hybridized genres: cultural signifiers?**

Elliston's strategy of blending genres forms a crucial intersection with a culture dedicated to 'sensation'. Elliston demonstrated his alertness to the shift towards theatre as a visual experience, and acuity in understanding the capacity of melodrama to articulate popular feeling. After its initial introduction at the 'patent' theatres, 'burletta' became purely a popular theatre genre. Alongside 'burletta', melodrama acquired an elusive and contested character. This study shows how Elliston's blending of genres

developed, and reveals ‘burletta’ and melodrama as having special significance to his project. As genres of gesture and movement, they affronted élite values of restraint, and consequently were received as vulgar by some, but as dramatically powerful by others. Elliston’s employment of expressive genres as a device to challenge the monopoly regime signalled a revolution in theatre culture. By the time of the 1832 Select Committee ‘burletta’ had become ‘a catch-all term for ‘illegitimate’ performance’.<sup>23</sup> On emancipation of the ‘minor’ theatres in 1843, the term ‘burletta’ disappeared from play-bills.<sup>24</sup> Melodrama’s meaning today remains fluid, and subject to constant re-appraisal.<sup>25</sup>

### **Survival against the odds**

When James Lawrence declared, ‘all monopolies are against the natural and constitutional Rights of the people’,<sup>26</sup> he tapped into a prevailing attitude; one acknowledged by Richard Brinsley Sheridan’s admission of the justice of the odium in which the theatrical monopoly was held. Scholars offer explanations for the regime’s longevity in the face of public antipathy and the Select Committee’s recommendation that all proprietors and managers be allowed to exhibit the ‘legitimate’ drama and all types of plays. Each conjecture carries weight: to protect the sanctity of the Royal prerogative and the established order; to safeguard the drama (a demonstrably spurious claim); to secure monies invested, despite evidence that the patents had ceased to

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<sup>23</sup> Katherine Newey, ‘The 1832 Select Committee: The Idea of a National Drama’ in Julia Swindells and David Francis Taylor (eds), *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 152.

<sup>24</sup> J. R. Planché, *The Extravaganzas of J.R. Planché, esq.*, (London, 1879), Vol. I, p. 13.

<sup>25</sup> Matthew S. Buckley, ‘The Formation of Melodrama’ in Julia Swindells and David Francis Taylor, *The Oxford Handbook of the Georgian Theatre 1737-1832* (Oxford, 2014), p. 459.

<sup>26</sup> James Lawrence, *Dramatic Emancipation, or Strictures on the State of the Theatres, and the consequent degeneration of the Drama; on the partiality and injustice of the London managers; on many theatrical regulations; and on the regulations on the continent for the security of literary and dramatic property, particularly deserving the attention of the subscribers for a third theatre.* James Lawrence, Knight of Malta, *The Pamphleteer*, Vol. 2 No. IV December, 1813, pp. 369-95.

guarantee profit; to enable income to be derived from nefarious sources; to obtain or retain social privilege. Even when the monopoly was abolished, notions of a privileged canon persisted: The Theatres Regulation Act 1843 re-validated the established theatres' traditional 'right' to Shakespeare.

***Marino Faliero: a study of authors' rights, copyright, and censorship***

Exploring the process by which Elliston brought *Marino Faliero* to the stage tells us something of the law on licensing and censorship and the relationship between the Examiner of Plays and theatre manager. It was an interaction based on power in which the manager was entirely dependent. Copyright settlements also created an interdependent relationship between author and publisher, which in Byron's and Murray's association became antagonistic, and which Byron believed existed also on an unequal footing.

That Elliston followed the formal procedure for licensing and censoring *Marino Faliero*, and that the Examiner of Plays approved performance, confirms the legality of Elliston's action. John Murray's prosecution of Elliston, despite exposing the law's injustice, served only to endorse Elliston's conviction that the moment of publication conferred the right of performance. The ruling in *Murray v. Elliston* (1822) condemned dramatic authors to suffer this prejudicial state for a further decade. The case, however, led to eventual reform. Edward Bulwer's Dramatic Literary Property Act 1833 gave playwrights protection equal to that of other authors, with the qualifying purpose of restoring the 'national' drama by encouraging new writing and raising dramatic standards.

The benefits of this delayed legislation owed something to the disapproval aroused by Elliston's exploitation of the former law. The thesis provides evidence, however, of Elliston's later active encouragement of playwrights. From 1827, Elliston deliberately sought out writers of merit. In 1829 he issued an appeal for legal intervention to secure higher pay for playwrights, with the aim of attracting authors of talent and literary reputation to write for the stage.<sup>27</sup> Elliston made this call in advance of Bulwer's advocacy and his Select Committee's recommendation.

### Summary

Viewing the London theatre world of the first decades of the nineteenth century through the lens of Robert William Elliston's career reveals that the regulatory system was enmeshed in a series of paradoxes and complexities. Tensions inherent in the actor/manager function are illustrated, not least, in Elliston's lived experience. Elliston instigated a new era for English drama from his tenure of the Royal Circus in 1809. By the end of his career he had laid the groundwork for and lived to see a free stage in practice, though not in law. The evidence offered in this study makes clear that Elliston's anti-monopoly campaign had succeeded before the 1832 Select Committee deliberated, and well before formal abolition. *The Morning Post's* report of 1829 supports the contention that Elliston had already seized custody of the 'regular' drama from the patentees.

Among the most active of the conductors of the minor Theatres in this warfare is the manager of the Surrey [...] when an orthodox *Hamlet* has "fretted his hour upon the stage," he takes up with the first tragedy he can meet ...<sup>28</sup>

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<sup>27</sup> D. W. Jerrold, *The Flying Dutchman; or The Spectral Ship: a drama. With the preface by R.W. Elliston* (London, 1829?), pp. v-xiv.

<sup>28</sup> *The Morning Post*, 19 November 1829.

He had also fulfilled the Select Committees decree, before it was issued, that every form of entertainment should be available to all.

### **The contribution of this thesis**

This study brings to light new and rarely consulted material to augment extant primary and secondary sources. The process of analysis builds a consistent narrative of the history of the monopoly. Scholars may find the chronological account of patents and Licences issued between 1662 and 1816, incorporating the history of the Killigrew patent's dormancy, and consequent questioning of the validity of Charles II's Letters Patent, a helpful point of reference.

The performance of Lord Byron's *Marino Faliero, Doge of Venice* has not been examined either as a case study, or to illustrate that the history of dramatic copyright was bound up with the history of theatrical monopoly privilege. Treating the episode in this way helps unpick the web of tensions inherent in the regulatory framework: ways in which one, other, or both The Statute of Anne 1710, the Theatre Licensing Act 1737, and ensuing copyright case law, shaped the relationship between author and publisher, and relations between playwright, theatre manager, and the licenser and censor - the Examiner of Plays.

The principal contribution of this thesis, however, is the retrieval of the understanding of Elliston's formal and covert activities as crucial to the struggle for theatre de-regulation. The study argues that, from 1809, decades ahead of the groundswell of support for institutional reform of the 1830s, Elliston spearheaded a campaign for a free stage in London, and that the measures he adopted contributed substantially to the monopoly's end. The study rescues Elliston from obscurity.

Recovery of this lost knowledge enables his place in the freeing of the London stage to be recognised, and consequently the history of the monopoly's demise to be re-assessed. No previous work has tracked systematically the course of Elliston's career-long, innovative, anti-monopoly campaign to identify him as a pioneering, persistent and successful challenger of the regime.

## Appendices

**Appendix 1****Theatres managed, owned or leased by Robert William Elliston**

1802	Haymarket (Acting Manager)
1802	Wells (pigmy theatre)
1809–10	Manchester Theatre Royal (leased)
1809–14	Royal Circus (owned). Renamed the Surrey in 1810 after complete refurbishment
1809-26	Croydon (owned – purchased for £940) seized by creditors 1826
1813–18	Birmingham Theatre Royal (leased)
1813–25	Olympic Pavilion (owned). Theatre plus house purchased for £2,800. Opened as Little Drury Lane 19 April 1813. Renamed Olympic Theatre in December 1813. Directly managed by Elliston until 1819. Continued in his ownership until February 1825.
1815	Shrewsbury *
1815	Worcester *
1815	Shepton Mallet (pigmy theatre)
1817	King's Lynn (leased)
1817–26	Leamington (owned: continued in his ownership until at least 1826), including Assembly Rooms, shop, and Library
1818	Leicester
1818	Northampton
1819–26	Drury Lane (leased)
1821	Coventry (owned)
1827–31	Surrey (leased at £1,300 per annum). Opened June 1827 under son Charles Robert's management; Winter Licence granted in Robert William's name in 1828

\* Hand-written note: 'Elliston has taken the Worcester and Shrewsbury theatres Nov 2 1815'. HL-HTC: Elliston Papers, Box 1.

**Appendix 2****Lord Chamberlain Appointments 1783-1827**

James Cecil, Marquis of Salisbury	1783-1804
George Legge, Earl of Dartmouth	1804-1810
Office vacant	1810-1812
Francis Ingram Seymour, Marquis of Hertford	1812-1821
James Graham, Duke of Montrose	1821-1827
William George Spencer Cavendish, 6 <sup>th</sup> Duke of Devonshire	1827-1828
James Graham, Duke of Montrose	1828-1830
George Child-Villiers, 5 <sup>th</sup> Earl of Jersey	1830
William George Spencer Cavendish, 6 <sup>th</sup> Duke of Devonshire	1830-1834

L. W. Conolly, *The Censorship of English Drama 1737-1824*, p. 183. John Russell Stephens, *The Censorship of English Drama 1824-1901* (Cambridge, 1980), p. 157.

## Appendix 3

### Summary of Recommendations and Observations of the 1832 Select Committee appointed to enquire into the laws affecting Dramatic Literature.<sup>1</sup>

#### 1: Recommendation

- Fair competition amongst all theatres.
- Sole authority for licensing all theatres to reside in the Lord Chamberlain.
- All proprietors and managers to be allowed to exhibit the 'Legitimate Drama' and all types of plays, subject to the Censor.

#### 2: Recommendation

- The Public to have a voice in the number of theatres allowed in London.
- The Lord Chamberlain to comply with requests to license new theatres, if petitioned by a majority of 'Resident Householders' in a particular district or parish.
- The Lord Chamberlain to exercise his power to suppress any theatre contravening the licence conditions, inside and outside Westminster.

#### 3: Recommendation

- The Lord Chamberlain to have the power to suppress any theatre acting without his licence. [Which he already held under the 1737 Act].

#### 4: Recommendation

- The 'office of the Censor' to be supervised by the Lord Chamberlain to ensure effectiveness. [That was the case already in theory; the Examiner of Plays was appointed by the Lord Chamberlain.]
- Revision of and reduction in fees paid to the Censor. [By custom, the charge paid to the Examiner of Plays for each play/entertainment submitted for censorship stood at two guineas.]

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<sup>1</sup> *Report from the Select Committee 1832*, pp. 1-6.

## 5: Observation

- Expression of the belief that the two patent theatres would not suffer more, commercially, if deprived of their 'exclusive privileges', than they did at present with them:

It appears manifest that such privileges have neither preserved the dignity of the Drama, nor, by the present Administration of the Laws, been of much advantage to the Proprietors of the Theatres themselves.<sup>2</sup>

## 6: Recommendation

- The author of a play to possess the same legal rights and protections as the author of any other literary product.
- No play to be produced without the author's express consent.

## 7. Observation

- Abolition of the monopoly would legalise the staging of 'regular drama' at all theatres and thereby benefit actors in providing 'new schools and opportunities for their art'.<sup>3</sup>
- The enhancement of authors' rights and widened scope for production of their plays would encourage new writing and raise standards.
- 'The ordinary consequences of Competition', combined with robust censorship would provide the public with good, accessible, respectable and affordable entertainment.

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<sup>2</sup> Ibid., p. 5.

<sup>3</sup> Ibid.

Appendix 4

By special Desire of  
HIS IMPERIAL MAJESTY

Income		Expence			
Season	1812-13	80615	14 8	62121	5 7
—	1813-14	71269	18 1	73126	5 2
—	1814-15	70621	4 —	77343	18 5
	1815-16	61496	6 —	62963	4 6
	1816-17	43926	10 9	54477	18 7
	1817-18	43068	13 —	53050	8 3

Houghton Library. Reference only. Do not duplicate.

cm 1 2 3 4 5 6 7 8 9 10 11

Profit		Loss	
12494	9 1		
		1856	7 1
		6722	4 5
		1486	18 6
		10551	7 10
		9990	15 3
12494	9 1	30587	13 1
		12494	9 1
		18093	4 0
Dividends paid in cash		18691	3 -
		36784	7 -

accumulated Debt in  
consequence of the Def<sup>ts</sup>  
below stated —

Bond Holders 5000 —  
R Rents — 12812 —  
Tradesmen 17639 —  
D Dead — 1333 —  
£ 36784

N.B. the rest of the amt due  
to Tradesmen belong the  
Actuaries and they will  
form any part of the balance  
of any particular Season

Theatre Royal Drury Lane Ledger showing Income, Expenditure, Profit and Loss for the six Seasons 1812 to 1818. HL-HTC: Elliston Papers, Box 2.

## Appendix 5



Cruikshank Sculpt.

London Pub. by T. Fairburn 146 Minories Oct. 1809

*The stage of public opinion. King John and John Bull, engraved by Isaac and George (?) Cruikshank, published October 1809. (BLC No. 11419). Courtesy The British Library.*

Speech bubbles:

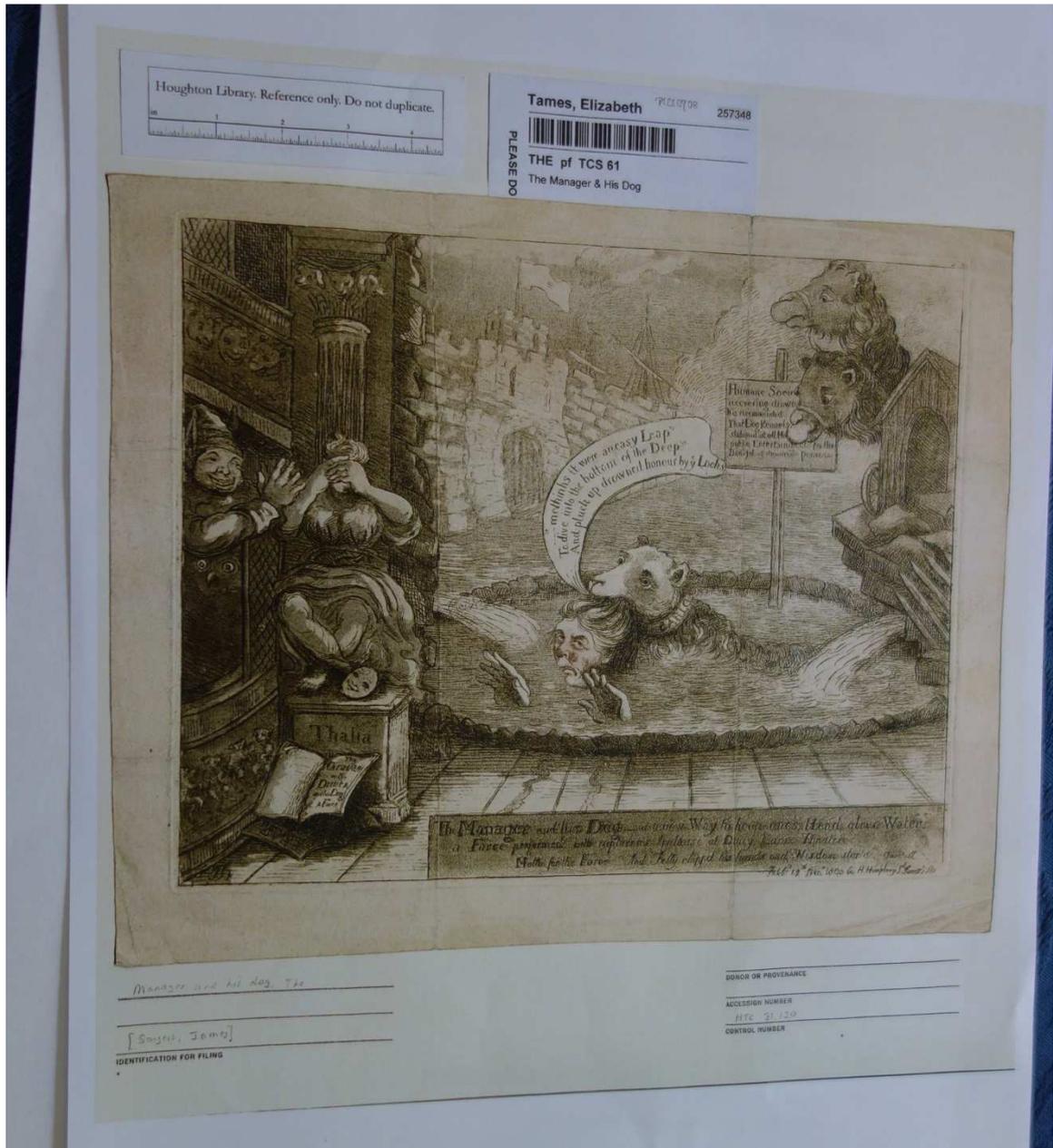
Kemble: 'Ladies & Gentlemen. Here I am, ever ready to obey your commands – Have I not turn'd a deaf ear to your wishes. Have I not order'd the Performers to go on with their Business, & pay no more attention to your disapprobation then you were not in the House. Have I not heard the public voice unequivocally expressed in this house, & in the public prints, & with all this on my mind do I not now, finding that neither Fire, Water, Thief-takers, nor the Riot act, will silence you, most respectfully appear before you to ask What is it you want?'

John Bull: 'What – After twenty-five years experience to know no better than to insult your old Friend John Bull by asking him such a question- Can't you read old Prices, &c that stare you full in the face? - How dare you order Traps, Squallini, or Engine-Pipes into my presence. Be it known unto you (Black Jack) that the Mighty and Magnanimous John Bull will by means of his Horns &c, compel you to bow your stiff neck and acknowledge him your Lord & Master.'

Kemble stands on a paper reading 'VEGRENT ACT'.

John Bull's handbill reads: 'OLD PRICES/No Italian private boxes/No Pigeon Holes/NO CATALINI'

Appendix 6



'The Manager & His Dog – or a new Way to keep one's Head above Water, a Farce performed with rapturous Applause at Drury Lane Theatre'. Pub. H. Humphrey, 17 December 1803. Aquatint and etching; 9 3/4 x 12 1/4.

HL-HTC: Theatrical caricature prints.

Appendix 7

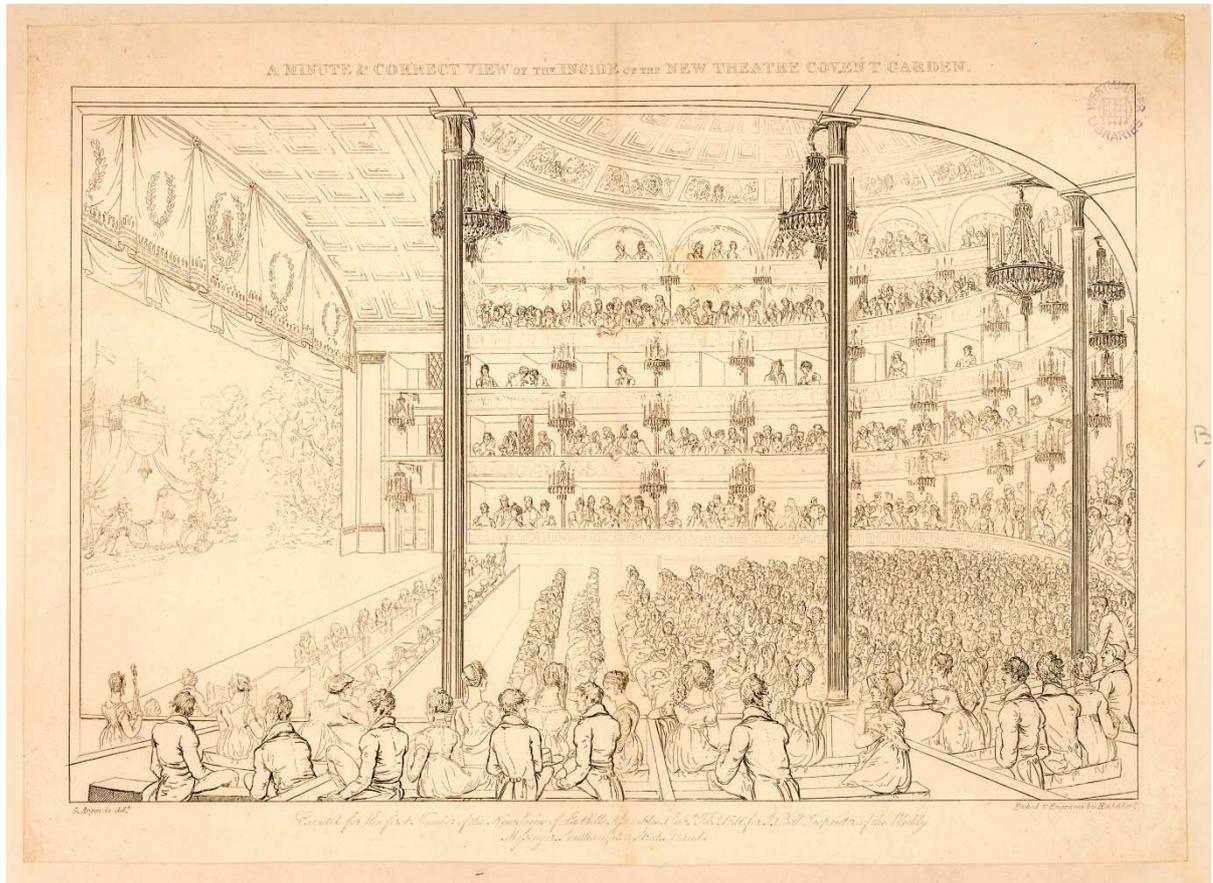


*The Centaur-ian Manager*: Plate in *The Satirist*, 1 October 1811. Aquatint and etching; 6 3/4 x 13.

HL-HTC: Theatrical caricature prints.

Speech bubble: 'I will engage you all for the present Season and methinks I shall do well to engage the Devil to play Lewis's Wood Daemon.'

## Appendix 8



*A Minute & Correct View of the Inside of the New Theatre Covent Garden.*

'Executed for the First Number of the New Series of *La Belle Assemblée*. Pub. Feb. 1 1810 for J. Bell, Proprietor of *The Weekly Messenger*, Southampton Street, Strand. G. Argenzio, delt. Etched and Engraved by Heideidorf.'

Courtesy Westminster City Archive (A09A3722).

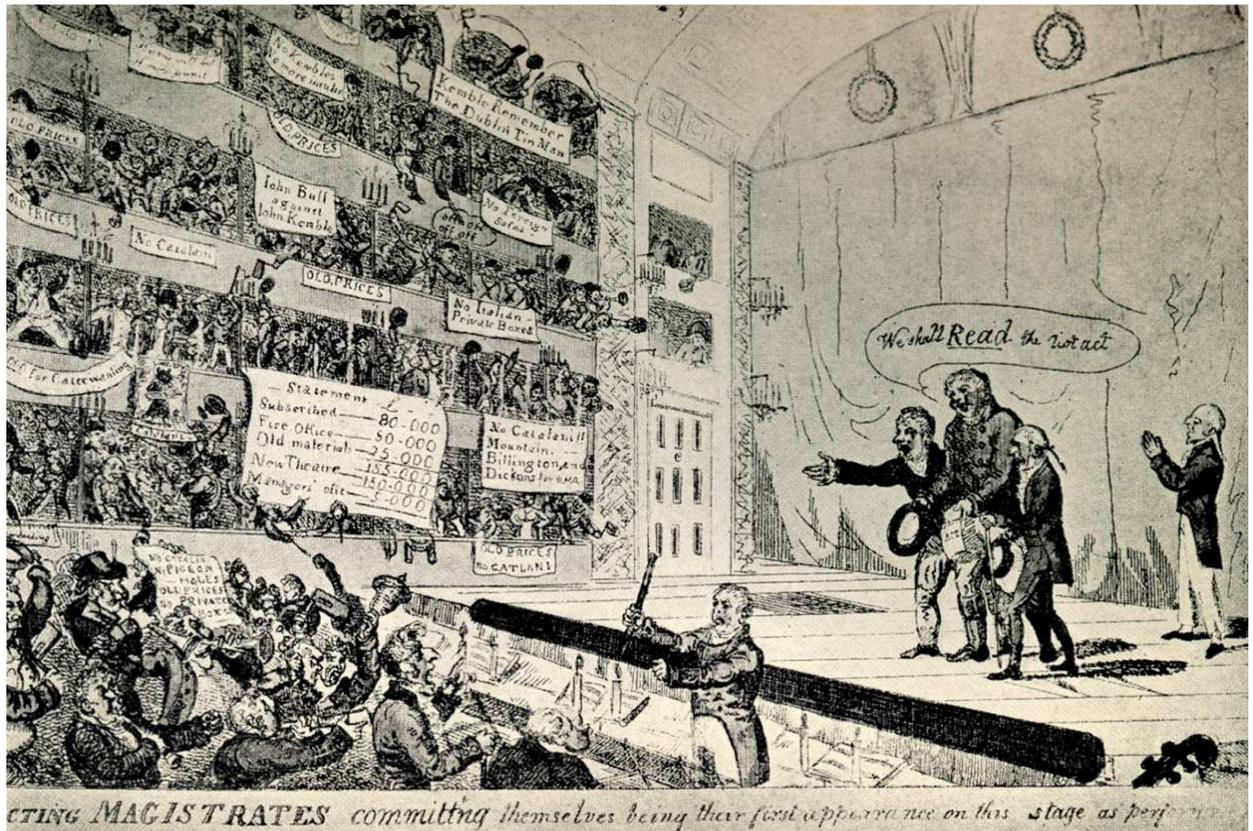
Appendix 9



Plate III. Royal Circus [pantomime scene] by Rowlandson and Pugin, delt. et sculpt. Ackermann's *Microcosm of London*, 1808–11, (1904 Edition).

Courtesy The London Library

## Appendix 10

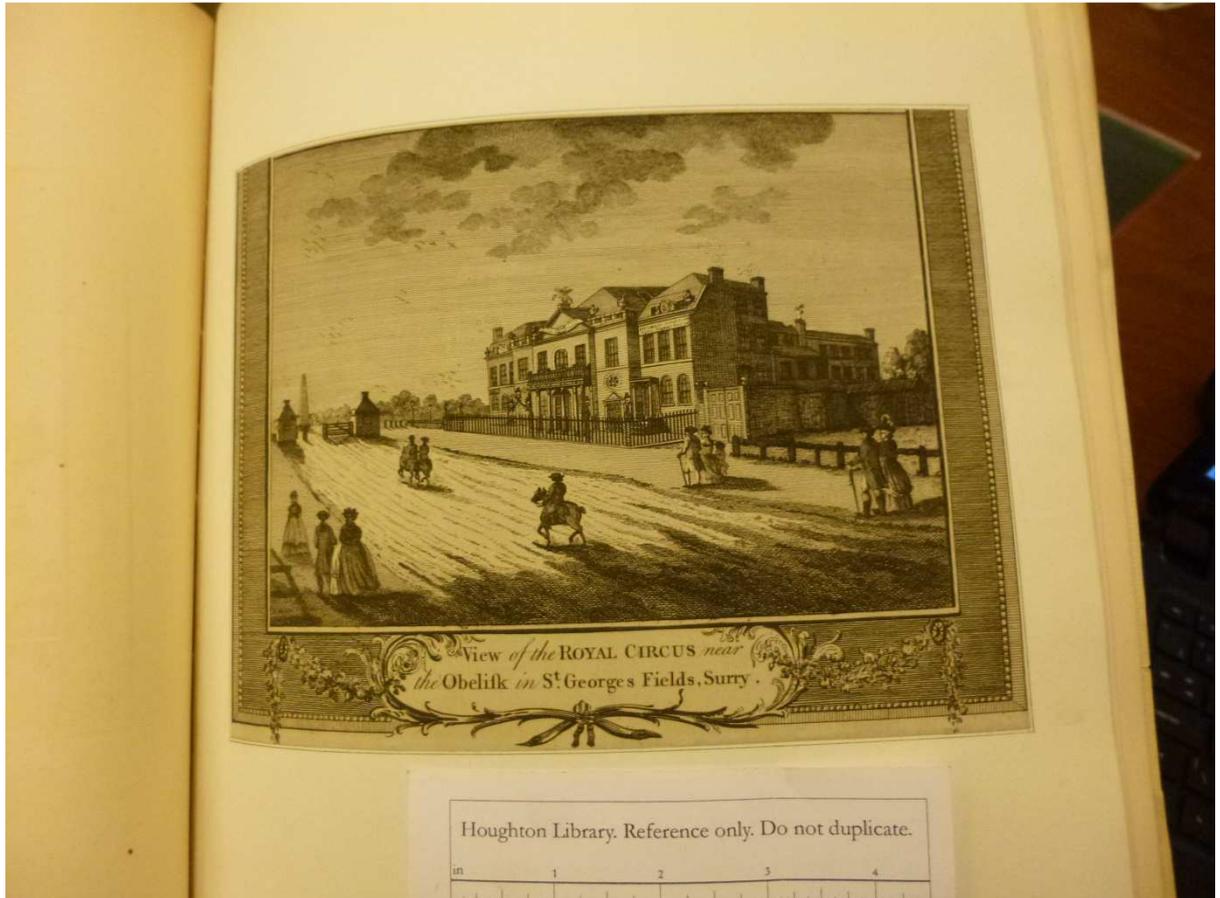


*Magistrates reading the Riot Act at Covent Garden 1809. '[A]cting Magistrates committing themselves being their first appearance on this stage as performers.'*

Courtesy Westminster City Archive (A09A3835)

Legible placards: 'Old Prices'; 'No Pigeon Holes'; 'No Foreign Sofas'; 'No Italian Private Boxes'; 'No Catalini'; 'No Catalini ... Billington and Dickons for [Ever?]'; 'John Bull against John Kemble'; 'Kemble Remember The Dublin Tin Man'; 'Statement: Subscribed - £80,000/ Fire Office - £50,000/ Old materials - £25,000/ [total] - £155,000/ New Theatre - £150,000/ Manager's profit - £5,000.'

## Appendix 11



View of the Royal Circus, St. George's Fields. (Illustration between pages 164 and 165: Brander Matthews and Laurence Hutton, (eds.), *Actors and Actresses of Great Britain and the United States: Robert William Elliston*, Vol. 2, No. 7 (New York, 1896). HL-HTC.

## Places of Summer Amusement <sup>4</sup>

Music featured as the principal attraction at Marylebone Gardens (1737–1776) (see note 67), one of three principal commercial pleasure gardens in mid-eighteenth-century London, the others being Ranelagh Rotunda and Gardens (1742–1803) and Vauxhall Gardens (1785–1859). Besides music, the programme of entertainments included masquerades, displays of tightrope walking, fireworks and hot air balloon ascents,<sup>5</sup> vying in some respects with indoor ‘minor’/‘Summer’ theatre programmes.

In the 1790s pleasure gardens were public spaces demarcated for the genteel,<sup>6</sup> by the early 1800s the gardens appealed to a clientele of a similar character to that of theatre-goers, both comprising large and heterogeneous bodies of spectators. The gardens were said to attract ‘duchesses and whores, princes and shop-boys’,<sup>7</sup> and the theatre, ‘anyone from His Majesty to the Gentry of *Wapping* and *Rag-Fair* [low life]’.<sup>8</sup> However, by the beginning of the nineteenth century, with Vauxhall the only major remaining pleasure garden, the ‘minor’ theatres had gained an exclusively vulgar reputation, which trend Elliston took pains to reverse at the Royal Circus/Surrey.

Owing to the shared ‘illegitimate’ nature of repertoires, a level of competition existed among places of summer entertainment, to which *The Morning Post* drew attention in May 1810:

It was with pleasure in a former number we had to announce to our Readers the spirit of emulation which prevails amongst the Managers of our places of public amusement. Sadler’s Wells, Astley’s and the Surrey Theatre have all undergone considerable alterations and improvements during the Winter recess; but [...] none seems to approach to those at present effecting at Vauxhall ...<sup>9</sup>

*The Morning Post*’s article praised Vauxhall’s new ‘superb vaulted colonnade’, ‘grand octagon temple in the Chinese costume’, and other elegant features. It seems that Elliston at the Surrey, in close geographic proximity, recognised Vauxhall pleasure gardens as a competitor, for, either in 1813 or 1815, he was ‘on the point of becoming manager’ of, or narrowly failed to secure Vauxhall Gardens.<sup>10</sup>

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<sup>4</sup> *The Morning Post*, 4 May 1810.

<sup>5</sup> John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997), pp. 377–78.

<sup>6</sup> Gillian Russell, *The Theatres of War: Performance, Politics and Society 1793-1815* (Oxford, 1995), p. 112.

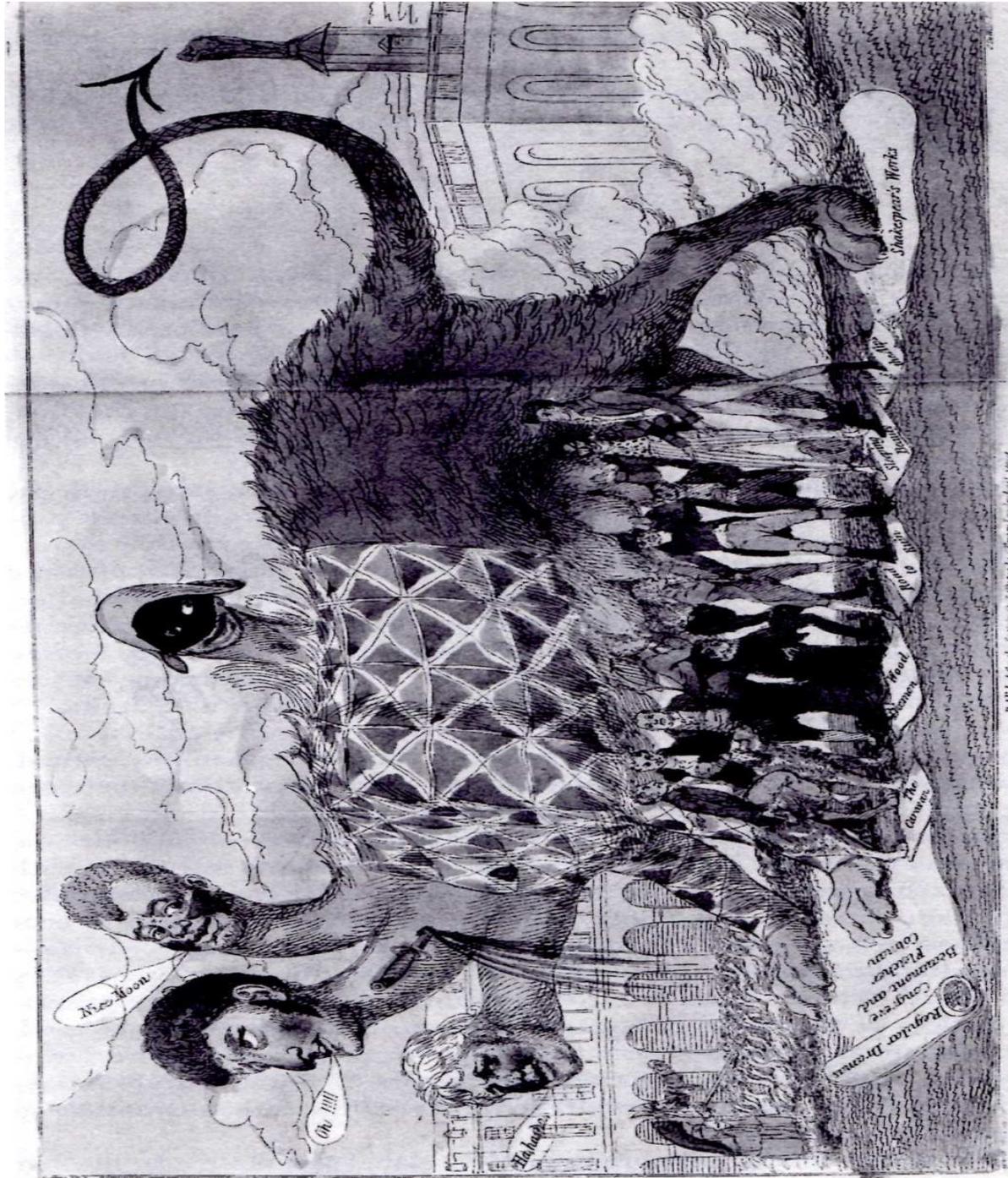
<sup>7</sup> Iain McCalman, (ed.), *An Oxford Companion to the Romantic Age: British Culture 1776–1832* (Oxford, 1999), p. 650.

<sup>8</sup> James J. Lynch, *Box, Pit and Gallery: Stage and Society in Johnson’s London* (Berkeley, 1953), p. 201.

<sup>9</sup> *The Morning Post*, 4 May 1810.

<sup>10</sup> Brander Matthews and Laurence Hutton (eds.), *Actors and Actresses of Great Britain and the United States: Robert William Elliston* Vol. 2, No. 7 (New York, 1896), p. 164. Christopher Murray, *Robert William Elliston Manager: A Theatrical Biography* (London, 1975), p. 47.

Appendix 13



'The Monster Melo-drama' from *The Satirist*, 1807. HL-HTC: Theatrical caricature prints.

Courtesy, Harvard Library, Houghton Theatre Collection.

## Appendix 14

At the Large House, fronting Leicester-street, Leicester-square

This and EVERY EVENING will be exhibited,

E I D O P H U S I K O N:

An entire New Set of MOVING PICTURES, representing the following PHENOMENA of NATURE:

Invented and Painted by

Mr. DE LOUTHERBOURG,

The Performance divided into Two Acts:

1<sup>st</sup> The SUN-RISING in the FOG, and Italian Sea-Port.

2<sup>nd</sup> The CATARACT of NIAGARA in North America

3<sup>rd</sup> *And* (by particular desire) the Favourite Scene (exhibited 60 Nights last Season) of the  
STORM and SHIPWRECK.

ACT the SECOND

1<sup>st</sup> The SETTING of the SUN after a RAINY DAY, with a View of the Castle, Town, and Cliffs of  
Dover.

2<sup>nd</sup> The RISING of the MOON, with a WATER-SPOUT, exhibiting the Effects of three different Lights,  
with a View of a Rocky Shore on the Coast of-Japan

The conclusive Scene,

3<sup>RD</sup> SATAN arraying his TROOPS on the BANKS of the FIERY LAKE, with the Raising of the PLACE  
of PANDEMONIUM, from Milton

The Musi/ [*sic*] for the Scenes composed and performed

By MR. B U R N E Y,

(Who will play a Sonata before the last Scene, on the Harpsichord)

And SACRED SONGS by

Mrs. B A D D E L Y.

The Doors to be opened at Seven, and the Performance to begin precisely at Half past Seven.

Hand bill dated 26 January 1782. HL-HTC: Winston Papers 1733–1871.

**Elliston's 'Shakespeare' productions at the  
Royal Circus/Surrey 1809–1814<sup>11</sup>**

***Royal Circus***

- 1809 August: *The History, Murders, Life, and Death of Macbeth* adapted by John Cross (ballet of action: Elliston as *Macbeth*). [Afterpiece *The Beggar's Opera* (burletta: Elliston as *Macheath*)].<sup>12</sup>

***Surrey***

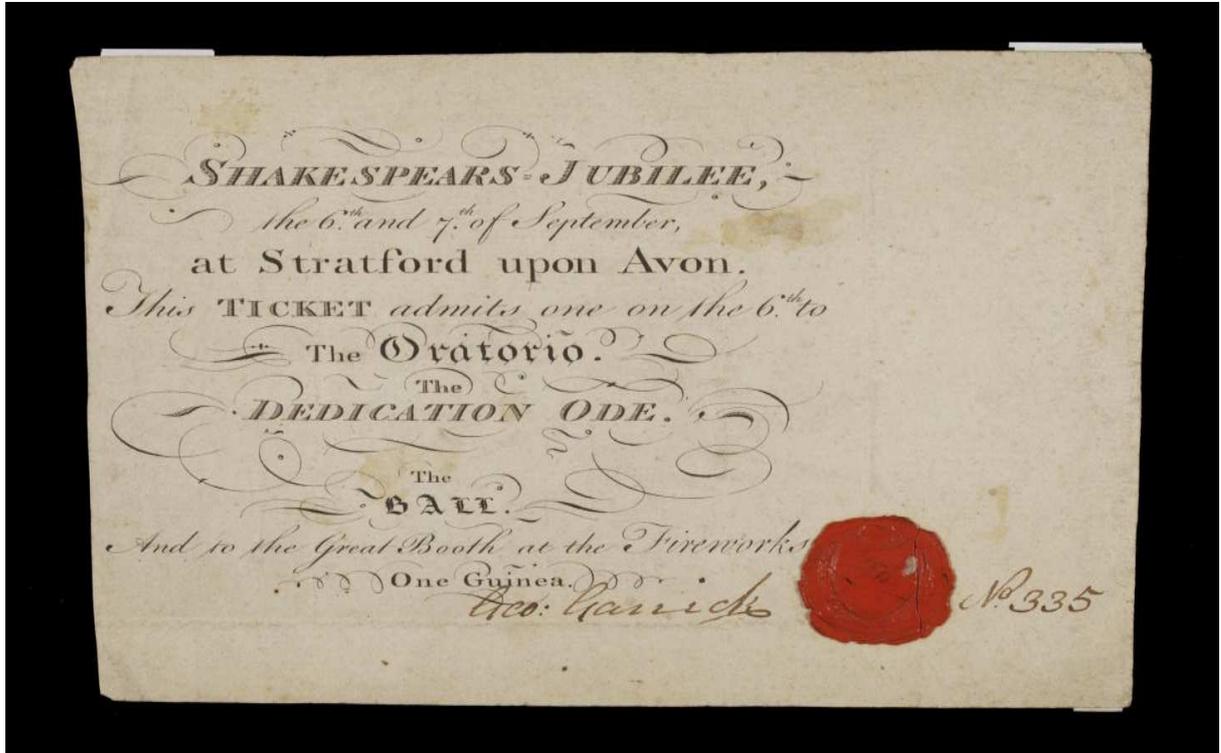
- 1810 May: *Antony and Cleopatra* (burlesque: one act only).
- August: *The Jubilee* (burletta: adaptation by Thomas Dibdin of David Garrick's interlude (Drury Lane, October 1769). (Elliston as *Hamlet* and *Mad Tom*).
- 1811 December: *To Be or not to Be; or, Shakespeare versus Harlequin* (pantomime: adaptation by Thomas Dibdin of David Garrick's *Harlequin's Invasion* (Drury Lane, December 1759). [Revived by Elliston at Drury Lane in April 1820].
- 1813 February: *The Life and Death of King Richard III, or The Battle of Bosworth Field* (melodrama).
- April: *Hamlet Travestie* author John Poole (burlesque: originally at the New Theatre, Tottenham Street, January 1811).
- May: *Romeo and Juliet* (melodrama: adaptation in 3 acts).
- October: *King Lear* (melodrama: adaptation in 3 acts).
- 1814 March: *Othello* [Last night of Elliston's Company's performance].

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<sup>11</sup> Christopher, Noel Murray, *The Great Lessee: The Management Career of Robert William Elliston (1774-1831)*. A Dissertation presented to the Faculty of the Graduate School of Yale University in Candidacy for the Degree of Doctor of Philosophy, 1969, pp. 324–31.

<sup>12</sup> Playbill for *Macbeth* at the Royal Circus 1809 in Christopher Murray, 'Elliston's Productions of Shakespeare', *Theatre Survey*, 11, p. 100.

## Appendix 16



'Shakespeare in the 18th Century': Paper ticket for Shakespeare's Jubilee.

Victoria & Albert Museum website: [www.vam.ac.uk](http://www.vam.ac.uk).

## Appendix 17



*The Air Balloon of the Ascention of Drury.* R.W. Elliston and a miniature model of Drury Lane Theatre ascending in a balloon, partly retarded by an iron weight, the "Weight of Debt". Pub. G. Humphrey, April, 1821.

Etching; 13  $\frac{3}{4}$  x 9  $\frac{7}{8}$  Coloured. I. R. Cruickshank. HL-HTC: Theatrical caricature prints.

## Appendix 18

**James Winston's Diary Entries for April 1821 and May 1822 Relating to the Staging of *Marino Faliero*<sup>13</sup>**

**April 21:** [*Saturday*] *Marino Faliero*, published. Cut a copy and sent it by Tyson [*Drury Lane servant*] to East Sheen [*home of John Larpent, Examiner of Plays*] about three. Saw Larpent and he said he would send the answer, but he had not a doubt of procuring a license by Monday or Tuesday at farthest. Tyson bought two copies of *Marino* Saturday morning about eleven for twenty-four shillings.

Saturday night – read three acts of *Marino*.

**April 24:** [*Tuesday*] License of *Marino* came in the afternoon, but the servants neglected to apprise us of it.

At eight a letter came from Murray requiring *Marino* not to be played because Lord Byron did not approve of its being acted.

**April 25:** [*Wednesday*] Between one and two, a person brought a notice from a solicitor saying an injunction had been obtained against the performance of Lord Byron's tragedy. Mr. Calcraft [*John Calcraft, Drury Lane Sub-committee Chairman*] and self went to Fladgate ... Saw him at ten minutes before four. He would not give an opinion but called Mr. Elliston back to say he would attend tomorrow at Lincoln's Inn to hear anything he had to say against the injunction if he [Elliston] wished it.

The tragedy went off very well. Over by twenty after ten ...

**April 27:** [*Friday*] Hearing in Court of Chancery.

**April 28:** [*Saturday*] About three o'clock Robinson arrived with Chancellor's decision, and the matter rested with [Lancelot] Shadwell [a junior in *the Court of Chancery*<sup>14</sup>], Murray having stated he should be guided by him. At eight in the evening, he brought word Shadwell had agreed and the tragedy might be played on Monday [*30 April*]. Bills were out to that effect by ten o'clock.

**May 11[1822]:** A day or two back the decision [went] against Murray and *Marino Faliero*.

Note: [*italics*] = writer's insertions.

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<sup>13</sup> Alfred L. Nelson and Gilbert B. Cross, *Drury Lane Journal: selections from James Winston's diaries, 1819-1827* (London, 1974), pp. 29 and 50.

<sup>14</sup> Shadwell was regarded as the best junior counsel of his time. 'Sir Lancelot Shadwell (1779–1850)', *ODNB*.

## Booksellers and copyright law

Into the 1760s the major London booksellers, organizing themselves under the umbrella of the Stationers' Company, established a virtual monopoly in the trade of copyrights through closed auctions at the Chapter Coffee House, a principal business and social meeting place for the trade.<sup>15</sup> On those occasions when the London booksellers contested the 1710 legislation they argued, often successfully, that the labour of writing conferred a 'natural right' of property on the author (the term 'intellectual property' not then employed) in English common law, just as ownership of land or buildings, and that amounted to a perpetual right.<sup>16</sup> For a time they were able to cite statutory law, with the finding in *Millar v. Taylor* (1769) (a challenge brought by Scottish and Irish booksellers) that common law rights in literary property took precedence. However, the booksellers' monopoly was further tested with Thomas Carnan's challenge to the notion of perpetual copyright. Carnan, a maverick bookseller who had been refused entry to the Stationers' Company in 1755, took out an injunction in 1773 against the Company's exclusive right to publish almanacs. Almanacs were a lucrative commodity, priced to suit every pocket. They sold in great quantities to both targeted interest groups and a universal audience of gentry, professionals, merchants, farmers, mariners, and less literate folk. Until Thomas Carnan and Francis Newberry registered their copyright in *The ladies complete pocket book* at Stationer's Hall in 1770, the Company had largely ignored infringements by established booksellers, and an agreement with Oxford and Cambridge ensured the universities respected the Company's almanac patent on payment of an annual sum of £200. Carnan, however, refused to be bought off by the Company, represented by the printer Andrew Strahan, who offered him £10,000 to withdraw.<sup>17</sup> The case, known as *Carnan v. Strahan*, was still unresolved when the ruling in *Donaldson v. Becket* (1774) re-established the primacy of the Statute, by ruling that intellectual property, unlike other assets, could not be enjoyed in perpetuity by the author or holder of the copyright.<sup>18</sup> The outcome in *Donaldson v. Becket* led the Court to find in Carnan's favour in 1775, ruling that the right to publish almanacs could not be exclusive.<sup>19</sup>

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<sup>15</sup> James Raven, *The Business of Books: Booksellers and the English Book Trade 1450-1850* (New Haven and London, 2007), p. 230.

<sup>16</sup> *Ibid.*, p. 231. Mark Rose, 'Copyright, authors and censorship' in Michael F. Saurez S. J. and Michael, L. Turner, (eds.), *The Cambridge History of the Book in Britain, Volume V 1695-1830* (Cambridge, 2009), p. 121.

<sup>17</sup> Robin Myers, 'The Stationers' Company and the almanac trade', in Michael F. Saurez S. J. and Michael, L. Turner (eds.), *The Cambridge History of the Book in Britain, Volume V 1695-1830* (Cambridge, 2009), p. 733.

<sup>18</sup> *Donaldson v. Becket*, London (1774), *Primary Sources on Copyright (1450-1900)*, Lionel Bently and Martin Kretschmer (eds.). [www.copyrighthistory.org](http://www.copyrighthistory.org).

<sup>19</sup> Myers, 'The Stationers' Company and the almanac trade', p. 734.

*Donaldson v. Beckett* was significant in being the first decision of the House of Lords to address the question of copyright. Scots booksellers Alexander and John Donaldson, determined to break the London booksellers' hold on the trade, challenged an injunction taken out against them by Thomas Beckett and others for reprinting James Thomson's *Seasons*.<sup>20</sup> (Published four decades earlier, the work lay outside the 1710 Act's period of copyright protection.) The Donaldsons' victory re-affirmed that the Statute supplanted the common law notion of perpetual rights. Subsequently, and most pertinently for Elliston and his production of *Marino Faliero*, *Colman v. Wathen* (1793) established that the Statute applied only to print books and therefore no infringement of copyright occurred if a play, once printed, were acted. The case concerned the unauthorised performance by Captain Wathen, proprietor of the Theatre Royal Richmond, of John O'Keeffe's play *The Agreeable Surprise* (1781) to which George Colman the elder of the Haymarket theatre owned the copyright. Colman claimed £4,000 damages but was awarded a nominal 5s.<sup>21</sup> The Court of King's Bench, finding for Wathen, confirmed that:

copy-right [...] only extends to prohibit the publication of the book itself by any other than the author [...] Reporting anything from memory can never be a publication within the statute ...<sup>22</sup>

Finally, the Copyright Act, 1814, (54 Geo. III, c.156) increased the term of living authors' ownership of their property to twenty-eight years, or life, should life be the longer period,<sup>23</sup> and re-affirmed the key contention of *Donaldson v. Becket*; intellectual property could not be owned in perpetuity.<sup>24</sup>

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<sup>20</sup> Rose, 'Copyright, authors and censorship', p. 122.

<sup>21</sup> *The Times*, 25 February 1793. Ibid. 23 April 1793.

<sup>22</sup> *Colman v. Wathen* (1793): Ronan Deazley, Martin Kretschmer and Lionel Bently (eds.), *Privilege and Property: Essays on the History of Copyright* (Cambridge, 2010), p. 324.

<sup>23</sup> John Russell Stephens, *The Profession of the Playwright: British Theatre, 1800-1900* (Cambridge, 1992), p. 84.

<sup>24</sup> Ibid.

## Appendix 20

TO MR. MURRAY<sup>25</sup>

For Orford [1] and for Waldegrave<sup>26</sup> [2]  
 You give much more than me you gave;  
 Which is not fairly to behave,  
 My Murray

Because if a live dog, 'tis said,  
 Be worth a lion fairly sped,  
 A *live lord* must be worth *two* dead,  
 My Murray

And if, as the opinion goes,  
 Verse hath a better sale than prose –  
 Certes, I should have more than those,  
 My Murray

But now this sheet is nearly cramm'd,  
 So, if *you will*, I shan't be shamm'd,  
 And if you *won't*, *you* may be damn'd,  
 My Murray.

[1] Author of *Horace Walpole's Memoirs of the last nine Years of the Reign of George II.*

[2] Memoirs by James Earl Waldegrave, Governor of George III when Prince of Wales.

Penned beneath the verse: 'Can't accept your courteous offer. These matters must be arranged with Mr. Douglas Kinnaird. He is my trustee, and a man of honour. To him you can state all your mercantile reasons, which you might not like to state to me personally, such as 'heavy season' – 'flat public' – 'don't go off' – 'lordship: writes too much' – 'won't take advice' – 'declining popularity' – 'deduction for the trade' – 'make very little' – 'generally lose by him' – 'pirated edition' – 'foreign edition' – 'severe criticisms,' &c. with other hints and howls for an oration, which I leave Douglas, who is an orator, to answer.'

<sup>25</sup> Letter to Murray dated 23 August 1821, in Thomas Moore, *The Works of Lord Byron: with his Letters and Journals, and his Life*, Vol. XII (London, 1832), p. 323.

<sup>26</sup> 'Waldegrave' printed by Murray in April 1821 (same date as *Marino Faliero*) and 'Orford' in March 1822. Nicholson, *The Letters of John Murray to Lord Byron*, Note 14, p. 370.

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