

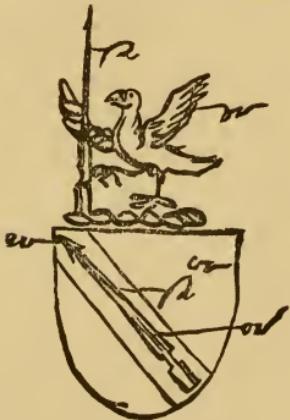
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Papers of the N. Y. Shakespeare Society, No. 1.

ECCLESIASTICAL LAW

IN

Hamlet :—THE BURIAL OF OPHELIA.

BY R. S. GUERNSEY.

READ BEFORE THE SOCIETY JUNE 9TH, 1885.

✓
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ECCLESIASTICAL LAW
IN
HAMLET :—The Burial of Ophelia.

IT would seem at this late day that all that could be said about the play of Hamlet has been said and often repeated. I now claim the honor of being the first discoverer and announcer of the fact that in Hamlet can be found allusions and statements showing the most thorough and complete knowledge of the canon and statute law of England, relating to the burial of suicides that has ever been written.

In pointing out the law in Hamlet, the dialogue in the grave-diggers' scene is always discussed by writers, but even in that they do not any of them note all the law that is in it, and I will now show that it is not confined entirely to the parallels in the famous case of *Hales v. Petit*, from which some of the arguments are unquestionably taken.

No law writer has yet stated the English law relating to suicides so completely as is done in Hamlet. I have mentioned this fact in my recently published "History of the Penal Laws against Suicides," but as all the parallels and allusions contained in the play were not there pointed out, I will now attempt to fully give them.

Shakespeare has accurately stated the laws of the Church and of the Statutes in England, at the time he wrote, and not the laws of Denmark, in Hamlet's time. .

Hamlet, King of Denmark, lived about A. D. 700, and Christianity was not introduced in Denmark until about A. D. 827, by Harold. So the laws of the Christian Church of England were referred to, and not the laws of Denmark, in the time of Shakespeare.

The established Church, in Denmark, is Lutheran, and has been such since 1536.

The plot of Hamlet is derived from "Saxo Grammaticus" History of Denmark, and was used in novels before Shakespeare's time. It was first used as a play in 1589, said to have

been written by Shakespeare and Marlowe, but no copy of it as then represented is now known. It is mentioned by contemporary writers. That which is now known as Shakespeare's Hamlet was written about 1597, and published about 1600. It was entered in Stationer's Hall for copyright by James Roberts, on July 26th, 1602, under the title of "The Revenge of Hamlett, Prince of Denmarke." The edition published in 1603, like those previously printed, is one that I particularly call attention to as *not* containing any of the fine descriptive points relating to the death and burial of Ophelia. It was little more than merely alluded to.* The grave-diggers' dialogue and the burial of Ophelia, in the 5th Act, was afterwards revised and inserted in the edition of 1604, and is the same as is now in common use.

The entire play was so revised and altered to such an extent as to make the edition of 1604 a rewritten play.

Queen Elizabeth died March 23, 1603, so

*See post, pages 13 & 47.

the Hamlet of to-day was written under the reign of King James I. In this connection it is important to note the effect that this might have had upon the forms then used by the English Church in burials, and might have caused a change in this description of the burial of Ophelia.

The three kinds of burials given suicides in the church yard are shown—one by the grave-digger, as was customary in some parts of England and Wales, where the grave was “out of the sanctuary” and not “straight,” that is, east and west, and another was by Christian burial by the priest, when it was in the parish church-yard, and the other was by the coroner when not at cross roads, marked by a stake where stones, &c., were thrown at it. Blackstone only mentions the burial of suicides at cross roads, and law students are led to believe that the law was the same over all England and Wales in that particular. It was only a legal custom and did not prevail generally.

The case of the suicide of Sir James Hales, and the legal effect thereof, is the first one

reported as adjudicated upon by the Courts, as to the question of forfeiture of the property of a suicide as a felony (*Hales v. Petit Plowden*, 253). Sir James Hales was a Judge of Common Pleas and a Protestant. In the reign of Queen Mary he was removed and imprisoned in the Fleet and other places, and was otherwise persecuted, so that he became melancholy. He attempted suicide by stabbing himself, but failed to accomplish his design. He was released from close confinement, and seeing the cruel persecutions of other Protestants by the Queen, and fearing that he was about to be again seized, he at last drowned himself. The coroner's jury (being Roman Catholic) very unjustly found that he was sane at the time, and therefore his personal estate, which was valuable, was forfeited to the Queen. The case of *Hales v. Petit* arose out of this.

The parallel between the arguments presented in that case and those given in the grave-diggers' dialogue, as to suicide by drowning, are so striking that there can be

no question that the writer was familiar with the report of the law case.

Literal extracts from the reported case are as follows :

Serjeant Walsh argued that the act of suicide consisted of three parts.

(1.) The imagination, which is a reflection or meditation of the mind whether or not it is convenient for him to destroy himself, and what way it can be done.

(2.) The resolution, which is a determination of the mind to destroy himself, and to do it in that particular way.

(3.) The perfection, which is the execution of what the mind has resolved to do. And this perfection consists of two parts, viz : the beginning and the end.

Lord Brown, of the Court, said :

“Sir James Hales was dead, and how came he to his death? It may be answered by drowning—and who drowned him? Sir James Hales—and when did he drown him? In his life time. So that Sir James Hales being alive caused Sir James Hales to die! and the

act of the living man was the death of the dead man. And then for this offence it is reasonable to punish the living man who committed the offence, and not the dead man. But how can he be said to be punished alive when the punishment comes after his death."

Lord Chief Justice Dyer said among the things to be considered were :

"(1.) The quality of the offence of Sir James Hales.

"(2.) To whom the offence is committed.

"(3.) What shall he forfeit? Under this point the Court said he is adjudged none of the members of holy church if he drowned himself.

"Wherefore all the Justices agreed that the forfeiture of the goods and chattels real and personal of Sir James Hales shall have relation to the act done in his life-time, which was the cause of his death, viz : the throwing himself into the water."

The grave diggers' dialogue on suicide is as follows :

ACT 5, SCENE I.

1ST GRAVE D.—Is she to be buried in Christian burial that wilfully seeks her own salvation?

2D GRAVE D.—I tell thee she is ; therefore make her grave straight ; the crowner hath set on her, and finds it christian burial.

1ST GRAVE D.—How can that be, unless she drowned herself in her own defense ?

2D GRAVE D.—Why, 'tis found so.

1ST GRAVE D.—It must be *se offendendo* ;* it cannot be else. For here lies the point : if I drown myself wittingly, it argues an act ; and an act hath three branches ; it is, to act, to do, to perform. Argal, she drowned herself wittingly.

2D GRAVE D.—Nay, but hear you, goodman delver.

1ST GRAVE D.—Give me leave. Here lies the water ; good ; here stands the man ; good. If the man go to this water, and drown himself, it is, will he, nill he, he goes ; mark you that : but, if the water come to him, and drown him, he drowns not himself. Argal, he that is not guilty of his own death, shortens not his own life.

2D GRAVE D.—But is this law ?

1ST GRAVE D.—Ay, marry is't, crowner's 'quest law.

2D GRAVE D.—Will you ha' the truth on't ? If this had not been a gentlewoman, she

*A plea of justifiable homicide or self defence.

should have been buried out of christian burial.

This scene in the edition of 1603 is as follows :

1ST GRAVE D.—I say no, she ought not to be buried in Christian burial.

2D GRAVE D.—Why, sir.

1ST GRAVE D.—Mary,* because she's drown-ed.

2D GRAVE D.—But did she not drown her-self?[†]

1ST GRAVE D.—No, that's certain the water drown her.

2D GRAVE D.—Yea, but it was against her will.

1ST GRAVE D.—No, I deny that, for look you, sir, I stand here, if the water came to me I drown not myself. But if I go to the water I am there drowned. Ergo, I am guilty of my own death.

Y'are gone, y'are gone, sir.

2D GRAVE D.—I but see, she hath Christian burial, because she is a great woman.

1ST GRAVE D.—Mary, more's the pity, that great folks should have more authorization to hang or drown themselves, more than other people.

1ST GRAVE D.—Why, there thou say'st; and the more pity, that great folks should have

*Mary was a profane word, used in the same way that God and some other sacred names are still profanely used.

†As to the law of Denmark relating to the burial of suicides see post, p. 48, note.

countenance in this world to drown or hang themselves, more than their even Christian."

The grave was to be made "straight," that is, it was to be made East and West, for Christian burial, but in cases of those who had not Christian burial the grave was North and South, as before stated.

It is true that the burial is represented as taking place in Denmark, as the King and Queen and Courtiers were present, but still the burial was according to the laws of England and the Established Episcopal Church, and not the Roman Catholic burial rites, as they and all other dissenting church ceremonies were not allowed to be used in any parish churchyard in England after the Reformation and the establishment of the Episcopal Church.

I will now state the law of England as it existed at the time that *Hamlet* was written and revised in 1604. This was about the time of the revision of the canons of the Church of England of 1603 and before the revision of the present Book of Common Prayer and

the rubrics as they now stand. We must therefore resort to the old canons, usages and ecclesiastical and statute law of England and the Book of Common Prayer then in use.

Although it was after or during the reformation and under a protestant sovereign, yet the distinction between the Episcopal Church and the former Roman Catholic Church services were not marked or well defined. The Puritans (Presbyterians) were almost as hostile to many of the tenets and practices of the Episcopal Church of England as to the former Roman Catholic Church. The Church of England, in the reign of Queen Elizabeth, although called "protestant," was in fact and substance but little more in that direction than had been done in the reigns of Henry VIII and Edward VI. The changes made by statutes were marked and few in Henry's reign, and were more important and essential to the future Church of England than any of those made in the reign of Queen Elizabeth. The Articles of Religion were established by

law in the reign of Edward VI. A. D. 1553. The present form of them was settled in 1571.

The canon law up to 1604 remained in full force in England as it had been when under the Pope of Rome. The statute of 25 Henry VIII, Chapter 19, among other things, provided that all the canons, constitutions, ordinances, and synodals provincial being then already made and not repugnant to the laws of the land or the King's prerogative, should still be used and executed. This was confirmed by 1 Elizabeth, Chap. 1, A. D. 1558.

During the reign of Elizabeth there was high church and low church practiced to an extent never before allowed, and this depended upon the opinion and choice of the bishop of the dioeese and of the rector of the parish. In fact, the Episcopilians and the Catholics and others were required to attend the Parish Church or did not attend any church, for there were no other places for meetings. Seats were not placed in churches until James I reign. As an indication of the state of religious feeling on the accession of Elizabeth

to the Crown in 1559 (when Queen Mary had held it for the six preceding years, and the nation had been received into the Roman Catholic Church), of the 9,400 beneficial men in England who held under the Roman Catholic reign, all took the oath of supremacy and retained their places under Elizabeth excepting 189; of these last 14 were bishops, and 80 were priests. Most of her councillors were continued from the reign of Queen Mary. The Queen herself was more inclined to the practices of the Church of Rome than to the Reformed Churches of Calvin and Luther. She was crowned by a Roman Catholic Bishop according to the Roman Catholic ritual. All the bishops in Parliament and eight peers voted against the Book of Common Prayer adopted in her reign by Parliament, for the uniformity of worship in England. It was not approved by authority of the Church of England in convocation. It was far from the Roman Catholic ritual and required much less than that which was adopted by Parliament and the Church in 1662, and

which is still in use in England and in the United States. There was more liberty then than now left to the choice of the bishops of each diocese as to how far from the Church of Rome the ritual and practices could go. The statutes of the realm prohibited certain practices, but those that were not positively forbidden could be followed and usually were to the same extent as when England was under the Church of Rome and Popery governed the ritual. The legal ritual was such as the most ultra Puritans (Presbyterians) could use by only reading the short service while the Episcopal Church could have nearly the same service as when it was under the Church of Rome. It was a concession to the Puritans by Parliament to prevent anarchy and to restore tranquility in the nation. But all concessions by Church or State to each other and all laws from the time of Edward VI., 1549, when the first Protestant prayer book and ritual of the Church of England was adopted and approved jointly by authority of the Church in Convocation and

the state in Parliament until the adoption of the present Book of Common Prayer in 1662 by the like authority, proved unavailing until the toleration Act of 1689 by Parliament.

None other rituals or forms of worships had the joint sanction of Church and State,

The act of uniformity of worships (1 Elizabeth Ch., 2, A. D. 1558) was virtually only to affect the Puritans. It prescribed certain penalties upon ministers for not using the service according to the Book of Common Prayer, and also for using any other service in lieu thereof. No part of it could be omitted, but much more than therein required could be used according to the old practices in the Church of Rome unless positively prohibited by statute.

No less form or kind of worships than thereby prescribed was tolerated or allowed in England. The toleration act, allowing protestant dissenters certain privileges and rights as to other kinds of beliefs and forms of worships was not enacted until 1689. In Elizabeth's reign Papistry and Puritanism

were both punished as heresies. The rural districts were strong in the old faith and church rituals, while in the seaport towns the new faith taught by Calvin and Luther was stronger.

The punishment which the church meted out to suicides still prevailed as it had been for centuries before. It is true the rubric in the Book of Common Prayer against the use of the burial service in cases where the deceased had laid violent hands on himself was not inserted until the year 1662, yet it was in force under the old church canons and was in effect the same as now.

Christian burial was denied suicides in all parts of England under the canon law.

A council of Arles, about the middle of the fifth century, having pronounced suicide to be the effect of "diabolical inspiration," a council of Braga, in the following century, ordained that no religious rites should be celebrated at the tomb of a suicide, and that no masses should be said for his soul.

It was ordained in the sixth century by the

canon law that no commemoration should be made in the Eucharist for such as destroyed themselves, neither should their bodies be carried out with palms nor have the usual service read over them.

And these provisions, which were repeated by later councils, were gradually introduced with the canon law into the laws of the Barbarian and of Charlemagne. Thus they were spread all over Europe.

The part of the canon law against suicides was taken from the action of the first council of Braga, which occurred many years before the canon law noticed it.

“The first ecclesiastical rule which occur-
reth as to suicide is the 34th canon of the
first council of Braga, in the year 563, which
forbids any burial service for those *qui violen-
tan sili ipsis infernet mortem*. But in Wilkins’
councils the 5th chapter of the 2d book of
the Penitential of Egbert, Archbishop of
York, written about the year A. D. 750 (which
chapter is plainly taken from the canon of
Braga), adds this limitation, “If they do it

by the instigation of the devil." And at p. 232 the 15th of the canons published in King Edgar's time, about the year 960, adds a further limitation. "If they do it voluntarily by the instigation of the devil*." (1 Burns, Eccles. Law, 265). It will be observed that this canon law of Egbert was in the time of the Saxon Heptarchy, but it, nevertheless, applied to all of England.

The *Decretum* of Gratian inserting the canon of Braga adds to it "voluntaire." (do.)

The exact language of the canons of Edgar, as translated by Wilkins, is as follows :

"Concerning those who by any fault inflict death upon themselves, let there be no commemoration of them in the oblation, or likewise for them who are punished for their crimes, nor shall their corpses be carried unto the grave with palms."

"If any shall voluntarily kill himself by

* (1.) "Instigation of the devil" meant a frenzy and not a deliberate self destruction, "with malice afore-thought" as a deliberate crime was designated in law.

arms, or by any instigation of the devil, it is not permitted that for such a person any masses be sung, nor shall his body be put into the ground with any singing of a psalm, nor shall he be buried in pure sepulchre*."

Canons Edgar, 1 Wilk., 225, 232.

Johnson, A. D. 740, No. 96, and 963, No.

24.

1 Burns' Ecc. Law, 260.

To the rigid rule of the church there was then, as there still is, no exceptions, but the law made the decision in a coroner's inquest binding and conclusive upon the question; in a legal phrase the coroner's inquest was not traversable in any Court or place, but must be followed by all and every person.†

* (2.) Pure sepulchre referred to white garments as well as other emblems of purity. When persons were baptized in the Church of Rome, the recipient received a white garment (to be worn for a specified time) and a lighted taper placed in his hands as symbols of purity, and the light of faith. This custom in the early church of representing the faithful in white robes and palms of victory is undoubtedly referred to by St. Paul in Rev. VII, 9, 14.

† This is not so in the United States; a decision of a coroner's court is not binding or conclusive. An inquest is merely used for the purpose of obtaining evidence that may be used in a criminal proceeding

The first grave digger in Hamlet believed that if Ophelia had not been a gentle woman she would not have Christian burial. The second grave-digger promptly answers that she is, because the " crowner " (coroner) has set upon her and finds that she is to have Christian burial.

By the canon law, whether Ophelia was sane or insane, if she deliberately caused her own death, she was not entitled to the burial rites of the church, for churchmen contended then as now that in all cases of suicide the deceased should be denied the burial rites of the church, and the clergy ought not to be bound by the decision of the Coroner's jury in such cases.*

The practice was when the coroner delivered the custody of the body to the relatives and friends, that the same should be buried

* Coke says he is called coroner or coronator because he hath principally to do with pleas of the crown, or such wherein the King is more immediately concerned. The office is of equal antiquity with that of sheriff. Mention is made of him in a charter of King Athelstan, A. D. 905. Forfeiture of personal property for a felony was not introduced into the English law until the beginning of the 12th century.

by the parish priest in the manner and form his discretion and church regulations might allow, excepting so far as positive statute law compelled him to act. The statute law compelled him to attend and bury all persons in the parish churchyard, and to read or sing certain prescribed prayers and portions of the bible as prescribed in the act of uniformity of worship without regard to the religious belief or doctrine of the deceased.*

The Book of Common Prayer as we have it now was not yet settled in many particulars. It was not until 1603 that the 68th canon of the Church of England required that the minister (priest) should, when requested, under a penalty, use the forms of burial service as prescribed by the Book of Common Prayer. Until then it was left to the act of uniformity before mentioned.

Before the rubrics of 1662 they did not exclude the service for suicides, much to the dissatisfaction of churchmen and the clergy.

* Dissenters did not have their own churches and burying grounds, until long after Shakespeare's time.

Under the ancient law as well as under the 39 articles of the church, the decision of the coroner's jury, he being a magistrate, must be followed by the church as to the voluntary or involuntary act of self-destruction. If the former was found by the coroner, the body was denied the church rites of burial and was buried by the coroner according to the local custom of the parish. If the latter was found, as was the case when the subject was deemed insane, then the rites of burial must be used by the ministers, but only in the parish churchyard, under the penalty prescribed in the act of uniformity of Elizabeth and in the 68th canon of 1603.

This humiliation of the church authorities to the civil authorities was compensated in part by the exclusive right of the bishops to administer upon the goods and chattels real and personal of a deceased in his parish, in all cases where they were not forfeited to the Crown. When the coroner's jury decided that a suicide was sane, the personal property of the deceased was forfeited to the

Crown the same as on conviction of any other felony, and the burial of the body was by the coroner generally at cross-roads.*

This burial at the cross-roads and without religious rites, was to give as strong an impression as possible of a heathen burial, and also of a criminal act, for the heathen Teutons there executed their criminals by sacrificing them to the gods on their altars, which were mostly at the junction of the cross-roads, and the body was pinned to the earth by an iron pointed stake, and passers-by would cast a stone at it.

This mode of disposing of the body of suicides was an ancient custom brought into England by the Saxons, and did not prevail in all parts of England and Wales.

There were three kinds of places of burial of suicides that prevailed in England.

When the church officers performed the

* Coroner's juries almost always decided that the deceased was insane, and therefore there was no forfeiture. Perhaps this was influenced by the fact that suicides at that time had little or no property to forfeit to the Crown—another fact, that if property was forfeited, the coroner got no fees.

burial rites which the law compelled them to do, when the coroner's jury had decided the suicide to be an insane act, the body was entitled to be buried in the parish churchyard, but the canon and statute law allowed the place of the grave to be selected there by the parish priest, because the freehold of the church property is in the rector (priest.) This privilege was frequently exercised by priests as to the bodies of suicides and others in a peculiar manner. In some places the coroner buried suicides in the parish churchyard. When they were buried in the parish churchyard they were placed in the most obscure parts of it.

In many churchyards in the northern parts of England may be seen a row of graves on the extreme verge of the north side of the graveyard, apart from that in which the bodies of the inhabitants in general are deposited. Some of the graves do not lie east and west as do those who have Christian burial. These are occupied by the bodies of still-born infants, suicides and excommuni-

cated persons, and those who it is termed are "buried out of the sanctuary," because they are not entitled to the full church rites of burial and are not in consecrated ground.

The first grave-digger in Hamlet, when he asked if the grave should be made "straight," was evidently accustomed to that part of England where a suicide's grave was not made east and west, as the church stood, and as other graves run, but was to be made "crooked," or not parallel to them.

The canon of Edgar before mentioned shows that the carrying of palms by the clerical attendants as emblems of victory at funerals was the custom in regular burials in England.

The usual burial ceremonies for those who died in the faith in Shakespeare's time were more or less imposing or elaborate, according to the rank of the deceased.

The priest leading the funeral cortege following the corpse carried feet foremost on the way to the churchyard, the friends of deceased carrying rosemary as a token of re-

membrance, the clerks carried five or six lighted torches as an emblem of Christian faith, of triumph over death by belief in the resurrection and immortality, singing psalms of victory and peace. This was when the procession started from the house where the deceased was to be taken to the churchyard. This is also alluded to by Gay, who wrote a century after Shakespeare lived.

“To shew their love the neighbors far and near,
Followed with wistful look the damsel’s bier ;
Sprigged rosemary the lads and lasses bore,
While dismally the parson walked before.”

It was a special favor to do this for which the parson expected to be paid by the friends of deceased.

The legal ritual only required that the corpse be met by the priests and clerks in their robes at the “church style.”

In the burial of Ophelia the funeral cor-
tege is first seen by Hamlet in the rural
churchyard. I will therefore only describe
the full burial rites in the churchyard at that
time.

The priests and clerks in their robes meet

the funeral cortege at the *entrance* of the churchyard, forewarning of which is given by the church bell, and they lead the procession in the following order: The cross-bearer at the head of the corpse, the officiating priest at the feet, the person carrying the holy water a little behind the officiating priest at his right hand, and the other persons who sing are arranged on each side in the order of their church rank, so as to leave room for the officiating priest in the middle. The four or six torches of wax are lighted and given to those who are appointed to carry them. The priest going before the corpse, all followed by the relatives and friends of deceased carrying sprigs of rosemary. In this manner they proceed to the grave, singing psalms and hymns. When they arrive at the grave the bearers lay the coffin on the brink of the grave with its feet turned towards the east. (The coffin is sometimes opened for a view of deceased and then the entire top is removed.) The priest then standing before the

cross with his face turned towards the body he sprinkles the corpse (or coffin) thrice with holy water without saying anything, and then blesses it by a prayer, then an anthem or psalm is sung, after which he again sprinkles and incenses the body, and also the grave, then the friends of deceased (if the coffin is open) are allowed to look for the last time upon deceased. When the corpse is being made ready to be laid into the earth and the coffin is lowered into the grave a dirge and anthem is sung. Then the holy Eucharist is administered. Then after again sprinkling the coffin with holy water and a handful of earth is cast upon the coffin by the priest in the form of a cross, he saying the prescribed prayer, and then sprinkling it with holy water, an anthem is chanted, and then a prayer said; then the relatives and friends of the deceased come before the earth is thrown into the grave and sprinkle it with holy water supplied by the priest, and such other emblems as custom allows. They all stay until the grave has been filled up, the company con-

dole with the relatives of the deceased, and then the bell rings, all return to the church, where a requiem mass was (formerly) sung and a funeral sermon preached. Sometimes the ceremony terminated by the singing of a requiem mass at the grave after it was filled up.

The ceremonies at the grave occupied several hours time.

These ceremonies were customary in the Roman Catholic Church for many centuries before the reformation and were in almost general use in the time of Shakespeare, and it is still to a considerable extent the custom and practice in some of the high church dioceses in the Protestant Episcopal Church in England.

It had long been the custom in the Roman Catholic Church to have a crucifix carried by the priest before the corpse in funeral processions. In the time of Edward VI, A. D. 1548, there was a statute that forbid the use of the crucifix and images in church service; this was revived in Elizabeth's reign.

The 21st article of the Episcopal Church was also against it. But the cross could be and was used, if the priest was willing, at funerals in place of the crucifix.

I will say to our readers in England that these practices at funerals in England have never been introduced into the United States or used here by the Roman Catholic Church, or in the Protestant Episcopal Church only to the literal extent required in the book of Common Prayer or by the Roman Catholic Ritual.

The celebration of the Eucharist (the Lord's Supper) at the grave at burials was a common practice in the Roman Catholic Church as early as the 4th century, and was universal in England up to the time of the protestant reformation in Edward VI's reign. The first prayer book of Edward required it. The second book, A. D. 1552, did not require it. When Queen Elizabeth ascended the throne, and restored the protestant worship, she was not satisfied with the extent of burial service required by the act of conformity and the

Book of Common Prayer, being King Edward's second book; she desired that the Eucharist should be generally celebrated at the grave at funerals as had been the custom in the Roman Catholic Church. The Latin version of Elizabeth's Prayer Book issued in the second year of her reign required it. This was done by her command and recommendation. In her Majesty's proclamation she declares that some things peculiar at the funerals of Christians she had added and commanded to be used, the act for uniformity set forth in the first year of her reign to the contrary notwithstanding. But the English authorized version of the Book of Common Prayer adopted by Parliament did not require it, although it might properly be done in the discretion of the bishop of the diocese, or the parish priest. It, however, gradually fell into disuse, during the reigns succeeding Queen Elizabeth.

It was an ancient custom to crown the deceased with white flowers and to strew them on the corpse, and to place the crown or gar-

lands on the coffin. The Roman Catholic ritual recommends it in regard to those who die soon after baptism, in token of purity and virginity.

To carry garlands tied with white ribbons before the bier of a maiden and to hang them over her grave was an old custom, and is still the practice in many rural parishes in England. The word "crants" used by Shakespeare, is the old Dutch word for a garland or wreath, and was retained by the Saxons. A word of like sound and meaning is also found in the Lowland Scotch, and in the Danish and Swedish languages.

If the funeral occurred when natural flowers could not be had, evergreens and artificial garlands and wreaths were used for the occasion. In some places these garlands were made of bay leaves and rosemary, and were solemnly carried before the corpse next to the priest, by one or two maidens dressed in white, about the size and age of the deceased maiden. These garlands were laid upon the grave after burial.

In some parts of England and Wales, (Glamorgan in particular) it is the custom when a young couple are to be married their ways to the church are strewed with sweet scented flowers and evergreens. The bridal bed was also covered with flowers. When a young unmarried person dies the corpse is strewed with flowers, and his or her ways to the grave are also strewed with sweet flowers and evergreens, and on such occasions it is the usual phrase that these persons are going to their nuptial beds. When the coffin is opened flowers are strewed upon the deceased. After the coffin is lowered in the grave flowers are again strewed upon it and the sprigs of rosemary are thrown upon it or stuck in the newly covered grave, and after the burial the garlands are laid upon the grave or over it.

These were the "maiden strewments" mentioned by the priest, and was the scattering of flowers and herbs in the way to the grave, and was not the scattering of flowers upon the coffin of deceased. The Queen

said of them when she strewed the dead Ophelia :

“ Sweets to the sweet, farewell,
I hoped thou shouldst have been my Hamlet’s wife—
I thought thy bride bed to have decked, sweet maid,
And not to have strewed thy grave.”

This custom in England is elsewhere alluded to by Shakespeare. Queen Catherine in *Henry VIII.* (A 4, S. 2) directs :

“ When I am dead, good wench
Let me be used with honor, strew me over
With maiden flowers.”

In “ *The Maid’s Tragedy*,” by Beaumont & Fletcher, describe the capricious melancholy of a broken-hearted girl thus :

“ When she sees a bank
Stuck full of flowers she with a sigh will tell
Her servants what a pretty place it were
To bury lovers in ; and make her maids
Pluck ‘em and strew her over like a corse.”

In a plaintive ditty sung by the melancholy Ophelia for her lost Hamlet, she said :

“ White his shroud as the mountain snows,
Larded all with sweet flowers ;
Which bewept to the grave did (not)* go,
With true love showers.”

* This verse is not in edition of 1603, and the word in parentheses in third line is in all except some modern editions.

In those days it quite became the ambition of young maidens to die in spring time. A contemporary of Shakespeare, Sir Thomas Overbury, describing the "Faire and Happy Milkmaid," observes :

" Thus lives she, and all her care is that she may die in the spring time, to have store of flowers stuck upon her winding sheet."

Lighted torches and rosemary were also used at weddings. Many ceremonies and customs relating to weddings and burials that were prescribed or recommended by the various rituals and missals of the old English Church before the Reformation were continued long after, and even to this day some of them are retained. The priests and bishops who came to England while under the Pope introduced into England many wedding and burial customs and ceremonies which were common in Italy, France and Spain, where nearly all of them were educated.

The custom of strewing flowers upon the graves of departed friends is derived from an

ancient custom and usage in the Roman Catholic Church.

It was an old rule of the church, and was incorporated in the 67th canon in 1603 that after a person's death there shall be rung by the church bell no more than one short peal, and one other before the burial to call the assembly together, and one other after the burial.

The burial service required according to the laws of England in 1603-4 were very brief and simple :

1. The priest must meet the corpse at the church style when the bell rung, and need read only that part of the present service beginning with "I am the resurrection," &c.

2. He must lead the procession to the grave, and when they arrive there and the coffin is being made ready to be placed in the grave he need say only that part which begins with "Man that is born of a woman," &c.

3. Then after the coffin is in the grave and the earth is being cast upon the coffin by

some standing by, he need only say that part which begins with "Inasmuch as it hath pleased," &c., and then say "I heard a voice," &c.

The ringing of the bell again and the other parts of the service need only to be done after the grave was filled up.

The place of burial could be selected by the parish priest as well as the position of the grave in the churchyard, whether parallel to others being east and west and among them, or on the north side of the church, lying north and south in unsanctified ground. The ancient canons of the church allowed him to prohibit or allow decorations of the corpse and of the grave in the churchyard.

The law of England prohibited singing masses for the soul in all cases. It allowed but did not require the singing of psalms, nor a requiem to be sung at the grave after burial. It also then, as now, allowed incense and holy water, and prayers for the souls of the dead.

The statute law required nothing more than

this, and allowed all else that canon law and usage in the various parishes had sanctioned and used before.

Now, in the light of all that has here been said on this subject let us turn to Shakespeare's description of the burial of Ophelia and we will see his sketch of the outlines of it in a clearer and brighter light than ever before.

It should be remembered that Ophelia's funeral was in a rural district, and that high church practices prevailed there, as before stated, and that therefore the disgrace of withholding the usual church services at funerals was more keenly felt by the friends and relatives of deceased than if such omission was common.

(Hamlet and Horatio in the churchyard.
Church bell rings.)

[*Aside* :

“ Here comes the king,
The queen, the courtiers. Who is this they follow ?
And with such maiméd rites ! This doth betoken
The corse they follow did, with desperate hand,
Foredo its own life. ’Twas of some estate :
Couch we awhile, and mark.”

The funeral cortege was maimed in such manner as to show that the deceased did with violent hands undo its own life. The maiden pall bearers and the carrying of rosemary, and the strewing of flowers in the pathway by the friends of deceased, virgin crants carried before the coffin by the maidens showed it to be a deceased maiden. Thus they arrived at the entrance of the church-yard. The church bell ringing, the parish priest was there to meet the corpse as required by law. There were no torch bearers, no cross bearer, no holy water, no singing. *

The meager burial services, as required in the Book of Common Prayer, are read in a low voice, and the procession is allowed to silently proceed to the grave, the strewments of flowers in the pathway is continued to the grave, and the virgin crants are allowed there to be placed upon the grave. The coffin is placed on the brink of the grave.

* The Calvinists and Lutherans sung psalms whenever an opportunity was offered. So the absence of singing was marked on this occasion.

Again the low voice of the priest is heard for a few minutes, and all stand silently waiting for something else.

No lighted torches—No singing of psalms or hymns, no blessing, no sprinkling of holy water. No smoking censer. No holy Eucharist.

Laertes breaks the silence in a subdued voice by asking: “What ceremony else?”

No notice is taken of the inquiry by the priest. Hamlet says to the priest: “That is Laertes, a very noble youth.”

Laertes again asks in a louder tone: “What ceremony else?”

The priest replies :

“ Her obsequies have been as far enlarged
As we have warranty. Her death was doubtful.
And but that great command oversways the order,
She should in ground unsanctified have lodged
Until the last Trump ; for charitable prayers
Shards, flints and pebbles should be thrown upon her.”

The “great command” that ruled the order of priests was the statute law of England, which recognized the sovereign as

the head of the church, and the decision of the coroner binding upon the church that she be entitled to Christian burial.

The line above quoted fully describes the burial of suicides in that part of England where the ancient custom prevailed of burial at the cross-roads with an iron pointed stake driven through the body, to mark the spot, and passers by throw flints and stones upon it.

The priest proceeds to remind them of the favors he had extended, He says :

“ Yet here she is allowed her virgin crants,
Her maiden strewments and the bringing home
Of bell and burial.”

That is all the legal ceremony and those not prohibited by the church, and he had fulfilled the letter of the law, and rung the bell and had given her an honorable place of burial and a straight grave.

Then said Laertes in astonishment: “ Must there no more be done?” The priest replies : “ No more be done !” Then he again

firmly and apologetically adds to assure them that it is all over :

“ We should profane the service of the dead
To sing a requiem and such rest to her,
As to peace-parted souls.”

Then says the disconsolate Laertes :

“ Lay her in the earth ;
And from her fair and unpolluted flesh
May violets spring.”

Then he turns to the priest and says sharply :

“ I tell thee, churlish priest,
A ministering angel shall my sister be,
When thou liest howling.”

The howling meant crying for mercy.

Hamlet draws near and sees it is Ophelia, and exclaims in mortification and surprise : “ What, the fair Ophelia ? ”

Then the Queen steps forward and scatters flowers in the open coffin and tells her disappointment and grief. She says :

“ Sweets to the sweet, farewell !
I hoped thou shouldst have been my Hamlet’s wife ;
I thought thy bride bed to have decked, fair maid,
And not t’have strewed thy grave.”

Laertes says of the disgraceful death and burial :

“ Oh, treble woe,
Fall ten times treble on thou cursed head,
Whose wicked deed thy most ingenious sense
Deprived thee of.”

The priest does not scatter the earth upon the coffin after it is lowered into the grave.

Then Laertes says desperately in a paroxysm of grief and shame :

“ Hold off the earth awhile,
“ Till I have caught her once more in my arms.”

(Then he leaps into the grave). Then he says to those standing by :

“ Now pile your dust upon the quick and dead,
Till of this flat a mountain you have made,
To o'er top old Pelion or the skyish head
Of blue Olympus.”

* * * * *
In the edition of 1603 it is as follows :

HAM.—What funeral's this that all the Court attends.

It seems to be some noble parentage.
Stand by a while.

LAERTES.—What ceremony else, say, what ceremony else.

PRIEST.—My Lord, we have done all that lies in us.

And more than well the church can tolerate.
She hath had a dirge sung for her maiden soul.

And but for favor of the king and you,
She had been buried in the open fields,
Where now she is allowed Christian burial.*

LAERTES.—So I tell thee churlish priest, a ministering angel shall my sister be when thou liest howling.

HAM.—The fair Ophelia dead!

QUEEN.—Sweets to the sweet, farewell.

I had thought to adorn thy bridal bed fair maid.

And not to follow thee unto thy grave.

LAERTES.—Forbear, the earth awhile, sister, farewell.

(Leaps into the open grave.)

Now pour your earth on Olympus high,
And make a hill to o'er top old Pelion.”

* * * * *

There is still more subtle points of law

* This is in accordance with the law of Denmark, where the only penalty against suicides is that the body is not allowed to be buried in consecrated grounds or churchyards. The established church in Denmark is Lutheran since 1536, and full Christian burial rites are very nearly the same as in the Roman Catholic Church.

governing and adopting all the allusions to the laws and customs peculiar to England, in Hamlet ; it is this : the well known rule, the " *lex fori*," prevails, that is, the law of England is by law presumed to prevail in every other country or place where the case arises, unless the contrary is shown by proof. Again, the law is presumed by the forum to have always been the same as at present, unless some reason appears to the contrary. This play of Hamlet was designed to "hold the mirror up to nature," and was written for an English audience, and was to be performed in England; that was the forum and the standard for all laws and customs as they then existed in England. It was not important to the representation when or where Hamlet lived ; the forum was, that he lived then and there in England at the time the play was presented by the actors in their usual dress, " to show * * the very age and body of the time."*

There is no hidden cipher in all this that I

* Hamlet's advice to the players.

have been telling you about, it is so plain that he who runs may read.

The object of this paper has been to illustrate and to lead to a more complete knowledge and understanding of the times, places, and circumstances under which this play of Hamlet was written, and to which it refers; by doing this to increase the interest and appreciation of this wonderful dramatic delineation of human life.