

**PAPERS OF THE SHAKESPEARE N.  
Y. SOCIETY, NO. 1.  
ECCLESIASTICAL LAW IN  
HAMLET: THE BURIAL OF  
OPHELIA**

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Papers of the Shakespeare N. Y. society, No. 1. Ecclesiastical Law in Hamlet: The Burial of Ophelia by R. S. Guernsey

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

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ECCLESIASTICAL LAW

IN

**Hamlet**:—THE BURIAL OF OPHELIA.

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By R. S. GUERNSEY.

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READ BEFORE THE SOCIETY JUNE 9TH, 1885.

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ECCLESIASTICAL LAW  
IN  
HAMLET :—The Burial of Ophelia.

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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 gravedigger, 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