

## An Unrecognized Theme in *Hamlet*: Lost Inheritance and Claudius's Marriage to Gertrude

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...now our queen,  
Th' imperial jointress to this warlike state  
(1.2.8-9)<sup>1</sup>

\* \* \*

*Grave.* 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, and to perform; argal, she drown'd her self wittingly.

*Other.* Nay, but hear you, Goodman Delver—

*Grave.* 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.

*Other.* But is this law?

*Grave.* Ay marry is't, crowner's quest law. (5.1.9-22)

\* \* \*

The Gravedigger's comic explanation of Coroner's Inquest law has been long recognized as a parody of the legal reasoning in *Hales v. Pettit*, a case decided in 1564 and reported at length in Edmund Plowden's Reports, the earliest case-book of English legal decisions. The Johnson-Steevens *Hamlet* of 1773 records the opinion of Sir John Hawkins, Samuel Johnson's lawyer, executor, and biographer, that the whole passage, and particularly that "an act hath three branches" was "a ridicule on" the Hales case, and that explanation has been accepted and invoked by editors ever since.

Until 1994, the only known report of the Hales case was Plowden's.<sup>2</sup> But in 1990 J.H. Baker published a catalogue of English legal manuscripts in the United States, including unpublished notebooks made by James Dyer, the chief judge sitting on the Hales case.<sup>3</sup> Dyer's surviving notebooks are "the earliest known continuous circuit court notes kept by a judge," and were eventually published in 1994. Included among them were both Dyer's own record of the case and an anonymous second report. The editor explains their omission from Dyer's own Reports, published in 1585/86, by saying, "Other reports seem to have been left out because there was already a better report in Plowden."<sup>4</sup> Written in law hand, a rare style of writing that was used by law clerks and few others even in Dyer's time, the notebooks were effectively inaccessible until their publication. With Dyer's notes, it is now clear why *Hales v. Pettit* was an important case in its time and particularly useful for Shakespeare to invoke in *Hamlet*. The two luminaries of English law did not record it for its entertainment value (although students may have remembered it better for that reason), but because it stated a rare but important rule by which the inheritance of real property could be defeated, or at least delayed indefinitely.

The rule of Hales, which I will discuss below, puts the relation between Hamlet and Gertrude in a new light, particularly the difficult closet scene at the center of the play. But it also draws attention to and helps to explain a feature of *Hamlet* that has so far been ignored: there is a consistent and coherent pattern of legal allusions to defeated expectations of inheritance, which applies to every major character.<sup>5</sup> The allusions run the gamut from points of common knowledge by landowners or litigants, to technical subtleties only lawyers would appreciate, but their common theme is

disinheritance and the way it can occur. It has already been suggested that the many legal allusions in the play indicate it was written with a legally sophisticated audience in mind.<sup>6</sup> Who else, after all, but lawyers and law students would appreciate the Gravedigger's parody of legal reasoning in a forty-year old decision written in the corrupted version of Norman-English known as Law French?

The references to disinheritance begin early, and provide the context out of which Hamlet's revenge story unfolds. It is therefore important to recognize what they imply before considering the significance of Shakespeare's last-act reference to *Hales v. Pettit*. We will find that the fact patterns in *Hamlet* that hint at potential inheritance problems are, with nearly perfect consistency, supplemented by a corresponding textual passage that confirms their importance and relevance to the plot. Indeed, Shakespeare's arrangement of legally significant factual details and issues is so well calculated to raise nice points of inheritance law that it can be described in the language of a law school examination: "King H, a great landowner, dies suddenly. His brother C is promptly elected king; within a month, after making a jointure with King H's widow G, he marries at the royal castle, where he is already holding court. The King's only son, H, returns from abroad, hears further news about C's complicity in his father's death and comes to you for advice. Discuss."

Shakespeare's description of Gertrude as a "jointress" is a vital and misunderstood detail. The word, a legal term generally applied to the female party to the pre-marital property settlement known as a jointure,<sup>7</sup> is likely to have been selected with careful attention to its aptness. It introduces us to Gertrude in terms of her legal status, after which she remains mute for sixty lines, a mere icon of her status as queen, wife, and jointress, while Shakespeare introduces five other characters. What we get to know of her from dialogue is deferred until after her status has been allowed to sink in. "Jointress" fits smoothly into and directs attention toward the larger pattern of legal allusions. As a group, they unfold a progression of unlikely but legally significant facts which reveal that Gertrude is in the process of destroying Hamlet's expectation of a substantial inheritance.

The subject of inheritance is the principal idea behind several important scenes, and explains a good deal else besides, including the nature of the disappointed "hopes" Hamlet includes, along with murder, incest, and attempted murder, in his list of justifications for killing Claudius:

He that hath kill'd my king and whor'd my mother,  
*Popp'd in between th' election and my hopes,*  
Thrown out his angle for my proper life  
And with such coz'nage — is't not perfect conscience  
To quit him with this arm?

(5.2.64-68)

The only thing Claudius did after his election to the Danish kingship that might be said to have "popp'd in" between that event and anything else was to make Gertrude his wife and jointress. Indeed, Hamlet treats the matter of kingship as less important to him than his desire to return to school at Wittenberg. Nevertheless, critics have been somewhat cavalier in their attention to the odd word "jointress" — its only use by Shakespeare. Uniformly rejecting its specific technical meanings as irrelevant, they take it to mean "joint ruler," "joint owner," or "partner." Yet there is good reason to take the technical significance of the word very seriously. A jointure agreement raised certain very real threats to the heirs of a widow's late husband, and the wider pattern of references to lost inheritance in *Hamlet* pervades the play from beginning to end. In fact the familiar revenge plot is embedded in it and arises long after the inheritance theme is well developed. And if we reconsider the facts, as well as the legal implications, of Gertrude's status as a recent widow and "jointress" with reference to the issue of inheritance, we will see how that issue is a central element of Hamlet's predicament and a partial explanation of his delay.

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The references to inheritance begin in the first scene, before any mention of either murder or revenge, through Horatio's explanation of the military threat facing Denmark. It originated because King Hamlet

Was as you know by Fortinbras of Norway,  
Thereto prick'd on by a most emulate pride,  
Dar'd to the combat; in which our valiant Hamlet  
(For so this side of our known world esteem'd him)  
Did slay this Fortinbras, who by a seal'd compact  
Well ratified by law and heraldry  
Did forfeit, with his life, all those his lands  
Which he stood seiz'd of to the conqueror;  
Against the which a moiety competent  
Was gaged by our King, which had return'd  
To the inheritance of Fortinbras,  
Had he been vanquisher; as, by the same cov'nant  
And carriage of the article design'd,  
His fell to Hamlet.

(1.1.85-98)

The tenor of this account is that King Fortinbras made a scrupulously formal but exceedingly rash wager with King Hamlet, gambling his entire estate on the outcome of a man-to-man combat. Upon his death his lands "fell" to Hamlet, who in turn has staked a "moiety competent," or fair equivalent, to be "return'd/ To the inheritance of Fortinbras." Why "return'd" and not "fall'n," "passed," or the like? A natural answer is that old Hamlet's stake consisted of lands that he had already won from Fortinbras. Moved by "a most emulate pride" to even the score, Fortinbras demanded the fool's ancient prerogative of double or nothing and, losing, left his son orphaned and disinherited.

young Fortinbras,

Of unimproved mettle, hot and full,  
Hath in the skirts of Norway here and there  
Shark'd up a list of landless resolute  
For food and diet to some enterprise  
That hath a stomach in't. . . . (1.1.98-103)<sup>8</sup>

As Philip Edwards comments, "The idea here is not of an army of criminals but of disinherited gentry and younger sons who have nothing better to do — like the Bastard in *King John*."<sup>9</sup> Flat broke, Fortinbras is cast among other indigent gentry left landless by military defeat, primogeniture, or paternal improvidence, all looking for ways to sustain themselves, for "some enterprise that hath a stomach in't." When Claudius protests to Fortinbras's impotent and bed-ridden uncle, the old king recognizes his nephew's motive as a matter of economic deprivation and acts accordingly—gives him a stern rebuke, a respectable allowance, and something to occupy his talents: "Receives rebuke from Norway . . . / three thousand crowns in annual fee/ And his commission to employ those soldiers/ So levied, as before, against the Polack" (2.2.69-75). In this light, Hamlet's otherwise odd reflection on Fortinbras's campaign for a worthless patch of ground, "th' impostume of much wealth and peace" (4.4.27), makes sense: younger sons and other landless gentry needed the proceeds of war—conquered land and ransom payments—for economic advancement. The metaphoric abscess in the body politic was its swollen pool of indigent, energetic, and unoccupied nobility, which a good wartime bleeding would cure—either by satisfying their ambitions or killing them off.

The inheritance motif comes full circle in the last scene, when Fortinbras reclaims his birthright: "I have some rights of memory in this kingdom,/ Which now to claim my vantage doth invite me" (5.2.394-395). Upon the extinction of Hamlet's line, title to his real property would ordinarily revert to the owner from which it was obtained. The terms of the "seal'd compact" between the old kings are unknowable, but the affective reality is clear enough: lands of inheritance passed from one king to the other and back again.

Fortinbras's claim has the authentic ring of poetic justice, and converges neatly with Hamlet's dying approval of his election. It places the story of *Hamlet* within the parentheses of two dynastic histories, opening and closing on a Denmark in disorder; first warding off an invasion and then suffering one unopposed, and all because of an ancient duel that Shakespeare describes in terms of lost property and inheritance.

2

Let us examine Hamlet's own family from the same perspective; in the absence of indications to the contrary, we can assume that English law and custom apply to inheritance, just as we assume they apply to murder, suicide, and so forth. Beginning with Claudius, the fact that his brother was king tells us that he was a younger son and, therefore, a person with no expectations of acquiring property by inheritance so long as Hamlet remained alive. Although it seems counter-intuitive to describe any king as "poor," the Claudius of the play was unlikely to have any estate of his own. Before he murdered his brother, he certainly faced the same dead-end existence as Fortinbras, or perhaps the same humiliating dependency as Orlando under the ungenerous control of Oliver in *As You Like It*; it is safe to take Hamlet's description as literal fact, and quite unsafe to ignore it: Claudius was "A king of shreds and patches" (3.4.103), who was a month earlier a prominent hanger-on, dependent on an allowance from his brother while disdainful courtiers felt free to "make mouths at him while my father lived" (2.2.360-361).

Gertrude, the wealthy widow and dowager queen, was a natural prospect for the newly-crowned Claudius to marry, barring the important disqualification that he was her late husband's brother.<sup>10</sup> There was otherwise nothing disreputable about him wanting to marry for economic advantage, as Shakespeare regularly portrayed without disapproval. Though Bassanio courted Portia in order to get out of debt, and Petruchio intended only to wive it wealthily in Padua, neither of them are villains, and we expect their marriages to work out happily. As Blackstone wrote a century and a half later without irony or disapproval, marriage was a recognized means for acquiring wealth:

[One] method of acquiring property in goods and chattels is by *marriage*; whereby those chattels which belonged formerly to the wife, are by act of law vested in the husband with the same degree of property and with the same powers, as the wife, when sole, had over them.

This depends entirely on the notion of an unity of person between the husband and wife; it being held that they are one person in law, so that the very being and existence of the woman is suspended during the coverture, or entirely merged or incorporated in that of the husband. And hence it follows, that whatever personal property belonged to the wife, before marriage, is by marriage absolutely vested in the husband.

In a *real* estate, he only gains a title to the rents and profits during coverture: for that, depending upon feudal principals, remains entire to the wife after the death of the husband, or to her heirs, if she dies before him; unless, by the birth of a child, he becomes tenant for life by the curtesy.<sup>11</sup>

The Claudius we meet at 1.2, therefore, is the recent husband of a rich widow. Hasty as the marriage was, he found time to consult with his advisors, for their "better wisdoms, which have freely gone/ With this affair along," (1.2.15-16) and to arrive at a pre-marital property settlement. We do not know its terms except that it constituted a jointure; at a minimum, it would have included a waiver of dower by Gertrude and a settlement of some sort for her benefit.

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In contrast to Claudius, Hamlet was a first and only son and, as such, presumably the heir to a large estate. Because the formal act of taking possession is an important element of establishing legal title, one should not overlook that necessary formality as one of Hamlet's reasons for returning from Wittenberg. Shakespeare encourages us to pursue that thought by taking pains to indicate the extent to which separate personal reasons motivated each of the other persons who were assembled at Claudius's court. Of them, only Horatio seems to have returned to attend King Hamlet's funeral (1.2.176). For Claudius, already well settled into royal authority, the only item of "business" for him is to deal with old Norway, for which purpose Cornelius and Voltmand are in attendance at his summons (1.2.25-42); Laertes is there to attend Claudius's coronation (1.2.53); the guests who assembled to celebrate the coronation and royal wedding have finished the "funeral bak'd meats" and are also presumably ready to disperse. Among all these currents of completed obligations, Hamlet's refusal to end his mourning is a reminder of his own unfinished business; mourning, to be sure, but he is also there as a wealthy young heir whose presence is required for him to take formal possession of his inheritance.

Nevertheless, his rights of inheritance were subject to his mother's behavior in various ways. For one thing, he could not be sure of exactly what property would pass directly to him until the expiration of forty days. The Magna Carta protected a widow's right to dower (by Elizabethan times it was understood in most of England to consist of a life interest in one-third of all inheritable property held by the husband at any time during marriage), and the privilege, called her quarantine, to remain for forty days in the husband's principal residence before selecting and retiring to her dower lands.

A widow, after the death of her husband, shall forthwith and without difficulty have her marriage portion and inheritance: nor shall she give anything for her dower, or for her marriage portion, or for the inheritance which her husband and she held on the day of the death of the husband; and she may remain in the house of her husband for forty days after his death, within which time her dower shall be assigned to her.<sup>12</sup>

However, there was a special rule for castles. As fortresses, and necessary for the defense of the realm, they were excluded from selection as dower in the matter of public interest, in order to have them held by a male. So whatever Gertrude elected for her dower during her quarantine, Hamlet was already at home in Elsinore.

Well, almost. His rosy picture dissolved in a nightmare of disappointment and uncertainty the moment Claudius introduced Gertrude as "our queen, / Th'imperial jointress to this warlike state" (1.2.8-9). Hamlet was confronted with the staggering fact that his mother's remarriage put the newly elected king firmly in possession before the expiration of her quarantine. Shakespeare supplies the corresponding details of her timing, which he highlights by triple repetition:

and yet *within a month* —  
Let me not think on't — Frailty, thy name is woman —  
*A little month*, or ere those shoes were old  
With which she follow'd my poor father's body. . .  
    . . . *Within a month*,  
Ere yet the salt of most unrighteous tears  
Had left the flushing in her galled eyes,  
She married — O most wicked speed! (1.2.145-148, 153-156)

4

The legal implications, or at least their diabolic complexity, were surely apparent to an even wider audience than the lawyers who might appreciate the fifth-act parody of legal analysis in *Hales v. Pettit*.<sup>13</sup> They all involve the remarkable power vested in Gertrude as a widow, either to preserve or destroy

her son's inheritance, or to deliver it wholly into the hands of Claudius. In the ordinary course, Hamlet would inherit Elsinore and the rest of his two-thirds share in forty days, or earlier if she moved to her dower share before then. Instead, Gertrude remarried immediately. Not to just any eligible nobleman but to the new king; and he, very conveniently, was already holding his court at Elsinore and therefore in possession at the moment of his marriage. As we will see, this gave Claudius legal control of whatever Gertrude possessed, *i.e.*, the still-undivided estates of the old king.

Hamlet finds himself at Elsinore, not in his own right as his father's rightful heir, but under a sort of house arrest by its new master, his uncle. Claudius's words highlight the irony: "my cousin Hamlet, and my son" (1.2.64). If ever a hopeful heir found himself "too much in the sun [Q2 *sonne*]" (1.2.67), it was Hamlet, trapped in endless expectancy, and under the watchful eyes of his enemies: "Th'observ'd of all observers." Will Claudius and Gertrude leave voluntarily? Shakespeare lets us indulge the pleasant fantasy of Claudius's good intentions for two acts before introducing textual corroboration of the bitter truth: Claudius does not intend to leave. By the time Hamlet stages *The Mousetrap*, Gertrude's quarantine has long elapsed and the royal couple are still in residence:

*Ham.* . . . my father died within's two hours.  
*Oph.* Nay, 'tis twice two months, my lord.  
(3.2.125-126)

Though remarriage ordinarily terminates a widow's quarantine, removal of a king who entered lawfully into possession is another matter entirely. Shakespeare's send-up of *Hales v. Pettit* in the Gravedigger's preposterous legal analysis of Ophelia's suicide has been long recognized as a close parody of counsel's ingeniously ludicrous reasoning. But what made this thirty-year old law report important enough for anyone in his audience under the age of fifty to recognize and appreciate his parody? And how would Shakespeare know of it unless it were still being discussed? The legal dispute in *Hales v. Pettit* arose when James Hales' widow claimed ownership of a leasehold she and her husband acquired jointly, but that had been forfeited to the crown in penalty for his suicide and then granted over to defendant Pettit.

The case raised five issues for the court: (a) the nature of suicide and against whom it was an offense; (b) the appropriate forfeiture; (c) the effective times of both the offense and forfeiture; (d) the nature of the husband's joint tenancy interest; and (e) "if the titles of the queen and the widow begin at one instant, which of them should be preferred."<sup>14</sup> The critical issue for *Hamlet* is the last, but it is unrecognizable in Plowden's summary:

And upon this the lord Dyer said that five things are to be considered in this case. First, the quality of the offence of Sir James Hales; secondly, to whom the offence is committed; thirdly, what he shall forfeit; fourthly, from what time the forfeiture shall commence; and fifthly, if the term here shall be taken from the wife.

The imaginative legal argument made on behalf of the widow sought to prove that a moment in time existed when her rights were perfected by lawful ownership, and before the crime of suicide was complete and punishable by forfeiture. The court rejected it and concluded sensibly enough that, whatever property right the widow acquired upon her husband's death, it arose at the same moment as the forfeiture to the crown in penalty for his suicide. The point of the court's decision, and surely the reason it was still familiar after 1600, is its holding that *in the case of simultaneous claims by the monarch and a subject, the monarch prevails*. This important holding remained unclear until the publication in 1994 of the lost notebooks of Sir James Dyer, one of the judges on the case and one of the most eminent jurists in England. The anonymous first report in Dyer's notes gave the rule of law that "When the title of the king and that of a common person begin at the same time, the king

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shall be preferred"; and, in Dyer's own report, "It seems that the queen's title shall be preferred, since it is the older, and by reason of prerogative, which is public, whereas the subject's title is particular."<sup>15</sup>

The center of attention for Shakespearean scholars has until now been on the plaintiff's argument, which parallels the gravedigger's parody. The details are laid out and discussed by Harold Jenkins in a Longer Note to his Arden edition.<sup>16</sup> It is only in the last and rhetorically unexciting part of the Plowden report that one finds the rule of law which the shorter reports express much more clearly.

As to the fifth point . . . all the justices agreed that the interest of the wife now plaintiff is taken away by the relation of the forfeiture. And Weston said that although the forfeiture should only have relation to the death, at which time the title of the wife accrued, yet in a concourse of titles the king's title by prerogative shall be preferred. . . . So that both the titles commence at one same time, but the king's shall have the preeminence.

The rule of *Hales v. Pettit* is, as lawyers would say, on all fours with the facts in *Hamlet*, all of them fully laid out in the second scene. During quarantine, Gertrude had lawful possession of Elsinore and the estate on which it lay. Gertrude's marriage to the already elected king gave Claudius legal control of all she possessed; that same marriage activated Hamlet's claim to possession as his father's heir. With the two competing claims arising at the same moment, Claudius would prevail on the basis of royal prerogative and Hamlet will be left with nothing.

In Shakespeare's day, the only reasonably efficient property actions were those in which the plaintiff could prove that his own possession was wrongfully interfered with.<sup>17</sup> But Hamlet had not been in possession and Claudius did not take anything. Gertrude was lawfully in possession all along, and when Claudius became her husband, her rights became his. Other cases involving title to property were difficult to maintain and easy to delay, especially if one had money and power; "the law's delay, the insolence of office" worked in favor of "th'oppressor's wrong, the proud man's contumely" to defeat the claims of anyone without time and money, neither of them available to a disinherited son.

From the earliest appearances of Hamlet, Claudius, and Gertrude, Shakespeare arranged the fact pattern to put *Hales v. Pettit* in the mind of anyone with legal training. His invocation of the case through the Gravedigger's fifth-act parody involved more than a casual decision to provide comic relief before the grand finale (although it certainly served that purpose) and to provoke a laugh from a few legal scholars; the parody was a sort of authorial wink at the legally sophisticated members of the audience, letting them know that if they noticed a suggestive relation between the incidental facts in *Hamlet* and the *Hales* case, it was no accident.<sup>18</sup>

### To be concluded in Winter 2000/2001, Issue #247

#### Notes

<sup>1</sup>Line references are to the Arden edition of *Hamlet*, ed. Harold Jenkins (London, 1982).

<sup>2</sup>*The Plays and Poems of William Shakespeare*, ed. Edmond Malone (London, 1821), 2:463. Malone's comment, that Shakespeare could have heard of the case only in conversation because the decision was reported in Law French and not translated into English until late in the eighteenth century, shows that Dyer's notebooks in English (discussed below) were already lost.

<sup>3</sup>*English Legal Manuscripts in the U.S.A.*, Vol II (London: Selden Society, 1990).

<sup>4</sup>*Reports from the Lost Notebooks of Sir James Dyer*, ed. J.H. Baker (London: Selden Society, 1994), xciv, xliv.

<sup>5</sup>C.L. Barber reached the conclusion that "*Hamlet* is a play about disinheritance," but on very different grounds (Barber and Richard P. Wheeler, *The Whole Journey: Shakespeare's Power of Development* [Berkeley, 1986], 255). There are many other legal issues raised in *Hamlet*, many of them relating to homicide, and they add to the sense of a general preoccupation with legal matters.

<sup>6</sup>Thomas Glyn Watkin, "Hamlet and the Law of Homicide," *Law Quarterly Review*, 100 (1984): 282-310.

<sup>7</sup>The word "jointure" can refer loosely to any form of joint ownership, and is the meaning most editors adopt on the supposition that there are no indications to clarify Shakespeare's intention. A jointure for the protection of a woman during her widowhood can also be made at any time after marriage; nevertheless, the principal association of the word "jointure" is with arrangements in connection with marriage, and the 1535 statute cited at note 18, *infra*, applied only to pre-marital agreements.

<sup>8</sup>My interpretation leads me to adopt the Folio "landless," and reject the Q2 "lawless" of the Arden edition. So do Philip Edwards' New Cambridge edition (Cambridge, 1985) and G. R. Hibbard's Oxford edition (Oxford, 1987). Hibbard explains in his line note that Fortinbras "is also, one assumes, *landless* after his father's defeat and death."

<sup>9</sup>New Cambridge edition, p.79.

<sup>10</sup>The statute of 32 Hen. 8, c. 38 formally enacted the Levitical rules of affinity and consanguinity into English law; it prohibited, on the man's part, marriage with a brother's wife and, on the woman's part, marriage with her husband's brother.

<sup>11</sup>William Blackstone, *Commentaries on the Laws of England* (Philadelphia, 1864), Book II, Ch. viii, p. 433.

<sup>12</sup>Magna Carta, Ch. 7, *Introduction to Contemporary Civilization in the West* (New York, 1946), 7-8. I point out with pleasure that the cited text was required in the bad old days of the core curriculum, and familiarity with its contents was not restricted to specialists. Elizabethan playgoers would know its provisions at least as well, or as badly, as we now know that the First Amendment protects "freedom of speech," even if we cannot explain why slander, incitement to riot, or disclosure of national secrets are unprotected.

<sup>13</sup>That forty-year old case was reported in Law French by Edmund Plowden in his collection of reported cases. Although the suicide of James Hales was a celebrated event recorded in Foxe's hugely popular *Book of Martyrs*, the legal argument parodied by Shakespeare was not accessible to the public at large. See note 15, below. However, the theological debate whether suicide was sinful in all circumstances remained a lively one, and justified the Gravedigger's comic exploration of the topic. The subject has been studied at length from the second point of view in a paper submitted by Lee Rappold for the seminar on Shakespeare and intertextuality at the 1996 World Shakespeare Congress, "*Hamlet* and Edmund Plowden's *Commentaries: Ophelia's Death and Hales v. Pettit*."

<sup>14</sup>From Dyer's own report, p. 76. See note 4 above.

<sup>15</sup>*Lost Notebooks*, 76, 72-75. The first quotation is from a short anonymous report of the case, the second from Dyer's own summary. Neither contains the material parodied by the Gravedigger, which appears only in Plowden (*1 Plowden's Reports* 253, at 264) and, until the nineteenth century, only in Law French (see Luke Wilson, *infra* n.39). Dyer's manuscript notes, however, were apparently well known. Catherine Drinker Bowen describes "Chief Justice Dyer of Common Pleas, whose court reports, in manuscript, were circulated, borrowed, copied, queried until the pages scarcely held together" (*The Lion and the Throne* [Boston, 1956], 66). For Chief Justice James Dyer, a Reader at Middle Temple and author of the standard treatise on wills, to have preserved a second summary of the case in addition to his own is strong evidence for the continuing pedagogical importance of the case. Unfortunately, Dyer wrote in a then already rare, specialized handwriting employed by law clerks known as "law hand," which there was little need to learn once printed reports became available.

<sup>16</sup>P. 547.

<sup>17</sup>The advantages of possession are reflected in the familiar expression "Possession is nine tenths of the law," meaning that a person in possession can be ousted only by one whose claim is nine times better.

<sup>18</sup>Luke Wilson, writing in "*Hamlet, Hales v. Pettit*, and the Hysteresis of Action," *ELH* 60 (1993): 17-55, is one of the few to see more than parody in Shakespeare's reference to the case; however, his interest is in the Gravedigger's "nutty" reasoning, which he considers an important clue to Hamlet's purposes in staging *The Murder of Gonzago*. The Dyer notebooks were not published by the Selden Society until the next year.

