

SHAKESPEARE AS A LAWYER.

at a cross-road, with a stake thrust through it, and all his goods and chattels were to be confiscated to the crown.

At this time Sir James Hales was holding a long lease of a large estate in Kent, which, at his death, was seized by the crown and handed over to Cyriac Petit. Upon Cyriac Petit taking possession, Lady Margaret, the widow of Sir James, brought an action to recover the estate; and then arose the odd question whether Sir James could be said to have committed suicide while he was alive. For if the confiscation did not take place in his lifetime, the widow was entitled to the estate.

The plaintiff's counsel argued that suicide was the killing of oneself, and, being the *killing*, it could not possibly be completed in one's lifetime; for while a man was alive he was not *killed*, and the moment he was dead the estate vested in his widow. "The felony of the husband shall not take away her title by survivorship, for in this manner of felony two things are to be considered—first, the cause of the death; secondly, the death ensuing the cause; and these two make the felony, and without both of them the felony is not consummate. And the cause of the death is the act done in the party's lifetime, which makes the death to follow. And the act which brought on the death was the throwing himself voluntary into the water, for this was the cause of his death. And if a man kills himself by a wound which he gives himself with a knife, or if he hangs himself, as the wound or the hanging, which is the act done in the party's life-time which is the cause of his death, so is the throwing himself into the water here. Forasmuch as he cannot be attainted of his own death, because he is dead before there is any time to attain him, the finding of his death by the coroner is by necessity of law equivalent to an attainer in fact coming after his death. He cannot be *felo de se* till the death is fully consummate, and the death precedes the felony and the forfeiture."

The counsel on the other hand argued that the felony was inherent in the act which caused the death.

"The act consists of three parts: the first is the imagination, which is a reflection or meditation of a man's mind, whether or not it is convenient for him to destroy him-

self, and which way it can best be done; the second is the resolution, which is a determination of the mind to destroy himself; the third is the perfection, which is the execution of what the mind has resolved to do. And of all the parts, the *doing of the act* is the greatest in the judgment of our law, and it is in effect the whole. Then here the act done by Sir James Hales, which is evil, and the cause of his death, is the throwing himself into the water, and the death is but a sequel thereof."

Finally the court gave judgment for Cyriac Petit, the defendant. It held that although Sir James Hales could not have killed himself in his lifetime, yet "the forfeiture shall have relation to *the act done* by Sir James Hales in his lifetime which was the cause of his death, viz., the throwing himself into the water." "Sir James Hales was dead, and how came he to his death?—by drowning; and who drowned him?—Sir James Hales; and when did he drown him?—in his lifetime. 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. He therefore committed felony, although there was no possibility of the forfeiture being found in his lifetime, for until his death there was no cause of forfeiture."

Richer comedy than this can hardly be imagined, even in a law court; and it will thus be seen that, in this instance, Shakespeare has merely adapted this trial to the case of Ophelia, and its learned discussion to the intelligence of his gravediggers. Such a statement may perhaps pluck a growing feather from Shakespeare's wing; but in other cases we shall have to trace his legal lore beyond the trials of his day, and even deeper than the records of Plowden.—*Pump Court.*