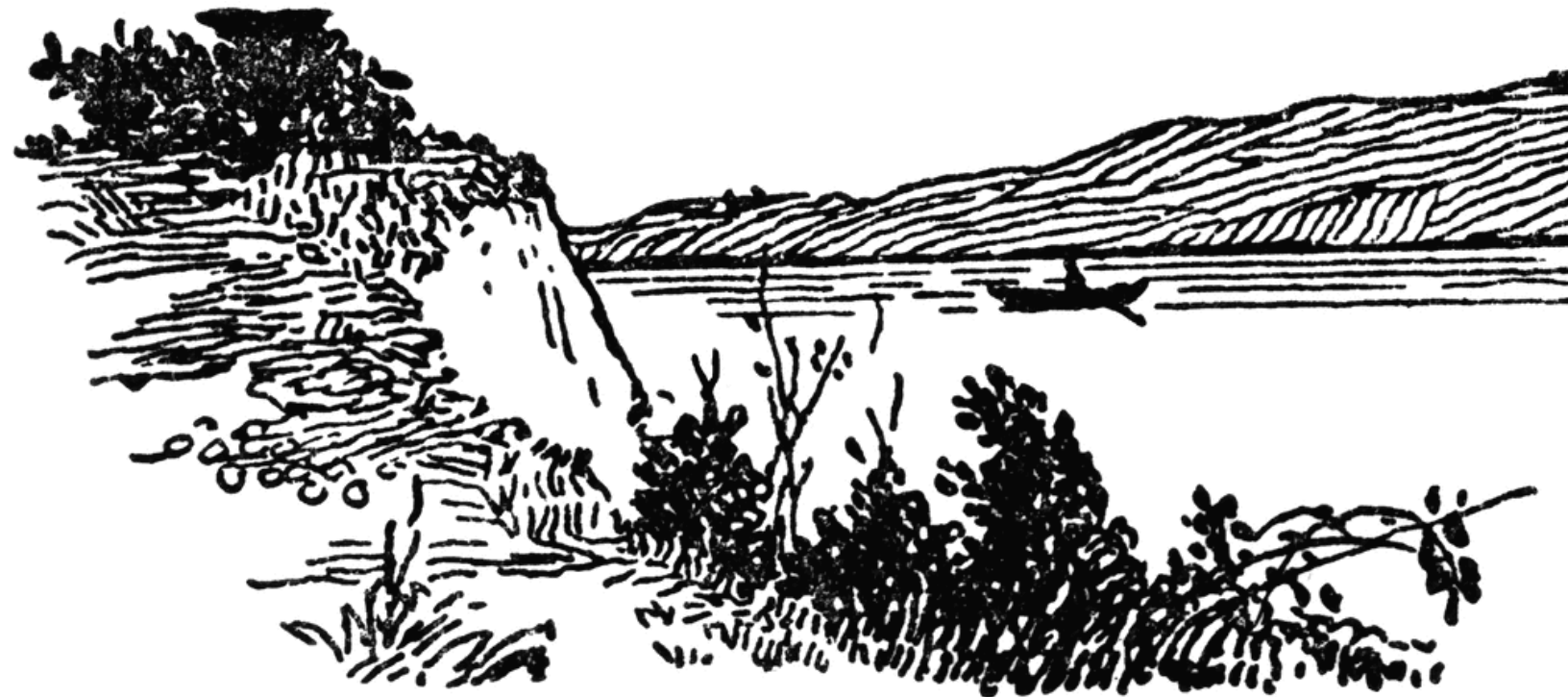


Issue Two  
September, 2016

# HOLMES ON THE HUDSON



A publication of the Hudson Valley Scientists,  
a member society of the Baker Street Irregulars.

# WELCOME!

*“Data! Data! Data!” he cried impatiently. “I can’t make bricks without clay.”*

Welcome to the second issue of our newsletter. Thanks to several helpful people (especially our Editorial Board, see below), we’ve made it this far. Whether we can survive journalistic infancy is up to you.

Please consider contributing something to this project. You don’t have to be an expert at identifying cigar ash or a repository of literary connections – a silly trivia quiz would be welcome. So would a review of a book, film, or television show that impressed you one way or another. (If it was terrible, shouldn’t you warn the rest of us?)

For artwork, we’ve been relying on clipart. Does anyone here draw? Maybe a cartoon would be within your reach.

Let’s make it easy: have you done a presentation to the Scientists, or another group, and still have the hard copy or even just your notes? We can turn it into an actual newsletter article – just ask.

---

## EDITORIAL BOARD

Lou Lewis [[llewis@lewisgreer.com](mailto:llewis@lewisgreer.com)]  
William Walsh [[wmwalsh221@aol.com](mailto:wmwalsh221@aol.com)]  
Candy Lewis [[clewis1880@aol.com](mailto:clewis1880@aol.com)]  
Dana Gavin [[dana.gavin@gmail.com](mailto:dana.gavin@gmail.com)]

## EDITOR

Jo Anne Fatherly [[joanne@jafath.com](mailto:joanne@jafath.com)]

Website: [www.hudsonvalleyscientists.homestead.com](http://www.hudsonvalleyscientists.homestead.com)

---

## Table of Contents

<i>Three Legal Aspects of “The Norwood Builder”</i> by Ira Brad Matetsky	<a href="#"><u>3</u></a>
<i>Steampunk Sherlock</i> a review by Jo Anne Fatherly	<a href="#"><u>6</u></a>
<i>Doctor Mortimer’s Penang Lawyer</i> by Hartley R. Nathan	<a href="#"><u>7</u></a>
<i>The Priory School: Some Thoughts on Religion and Philosophy</i> by Lou Lewis	<a href="#"><u>11</u></a>
<i>Name Your Poison</i> by Liese Sherwood-Fabre	<a href="#"><u>13</u></a>
<i>THE USUAL SUSPECTS</i>	<a href="#"><u>14</u></a>

# THREE LEGAL ASPECTS OF “THE NORWOOD BUILDER”

Ira Brad Matetsky

Of all the cases reported in the Canon, “The Adventure of the Norwood Builder” (NORW) is one of the most interesting to lawyers and those interested in the law. The story’s protagonist, who becomes Sherlock Holmes’ client, is a solicitor; key deductions by Holmes relate to a will; and the case presents several legal issues warranting discussion. Let us give attention to three of them.

## ***The validity of Jonas Oldacre’s Will***

We are told that on the night before John Hector McFarlane visits Baker Street, he made a will for the reclusive Norwood builder, Jonas Oldacre. In this hurriedly prepared will – Oldacre had summoned McFarlane and instructed him to draft the will earlier that same day – Oldacre bequeathed all of his substantial assets, with immaterial exceptions, to McFarlane himself. McFarlane tells Holmes that “[t]he will was duly finished, signed [by testator Oldacre], and witnessed by my clerk.”

The problem, of course, is that under the Wills Act enacted by Parliament, then as now, *two* witnesses are required for a valid will. This is an oft-observed point in the scholarly literature discussing NORW. Stephen Harbottle, in “Sherlock Holmes and the Law” (1 S.H.J. 7, 1942), theorizes that “[e]ither [McFarlane] was a most unreliable solicitor who had acted in error, or he intended to defraud his client,” and ultimately comes down in favor of the latter conclusion. Michael Waxenberg, in “The Will of the Norwood Builder” (42 B.S.J. 34, 1992), disagrees with Harbottle and “presum[es] that the second witness was someone other than McFarlane, possibly his senior partner, Mr. Graham.”

If McFarlane’s account is taken as literal and complete, so that McFarlane’s clerk was the *only* witness to Oldacre’s will, then the will was invalid and ineffective. And the requirement that a will have two witnesses was hardly an abstruse point of law, but would have been well-known to any solicitor, especially one fresh from his training, as McFarlane was; it is hardly credible that McFarlane simply forgot that he needed two witnesses. Nor can the situation be saved by suggesting that McFarlane himself, who was present at the signing, served as the second witness. In addition to being the attorney-draftsman, McFarlane was the principal beneficiary under the will – but under the Wills Act, again then as now, a bequest to a witness to the will is void.

Scholars of NORW over the years have conjectured that McFarlane might have deliberately sabotaged the will that Oldacre purportedly executed in McFarlane’s favor, and have offered their theories as to why he might have done so. But this commentator inclines to the more parsimonious, if less exciting, explanation that this is just another instance of Watsonian sloppiness in relating the fine details of a narrative. Inspection of the original manuscript of NORW lends further support to the theory. This manuscript, in the neat, well-known handwriting of the Literary Agent, is located in the Berg Collection at the New York Public Library in Manhattan. Perusal of the manuscript reflects that the critical words “and witnessed by my clerk” *were not present* in Watson’s original account, but represent a belated, penciled interpolation to the inked

text of the manuscript. Perhaps Watson (or the Literary Agent) realized upon rereading the draft that Oldacre's will must have been signed and witnessed – but by this point, it was long after Watson had heard John Hector McFarlane's oral account, and the details of the signing and witnessing had faded from his mind. After all, the action of NORW takes place in 1894, shortly after Holmes's return from The Hiatus, but the case was not written up and published until 1903, nearly a decade later.

Moreover, Doctor (not Lawyer) Watson had previously displayed ignorance of the requirement that a valid will requires two independent witnesses at least once before, in "The Five Orange Pips," a case that took place between 1887 and 1889, and was published in 1891, years before NORW. This suggests that Watson may have simply mis-recalled or misreported what he regarded as a minor detail of the will's execution, rather than a potentially dispositive one, in NORW as well.

### ***Of what crime was Jonas Oldacre Guilty?***

Holmes demonstrates that Oldacre's goal was to create the false impression that McFarlane had murdered him. As Lestrade angrily berates Oldacre, "You have done your best to get an innocent man hanged. If it wasn't for this gentleman here [meaning Sherlock Holmes, of course], I am not sure that you wouldn't have succeeded." Lestrade goes on to deride Oldacre's claim that his disappearance "was only my practical joke." He tells Oldacre that "[a]nyhow, we shall have you on a charge of conspiracy, if not for attempted murder."

Could such a charge, either of attempted murder or of conspiracy, against Oldacre have succeeded? Judge Albert Rosenblatt's research has located a reported American criminal case, from Indiana in 1980, whose facts parallel those of NORW, including "faking one's death to throw creditors off the track . . . coupled with the odious goal of framing an innocent person for causing the culprit's supposed death." In the words of a later court's summary of the case:

[F]irefighters discovered a dead body while extinguishing a fire in a barn owned by Clarence Roberts. The charred remains were initially thought to be those of Roberts himself. . . . Further investigation, however, suggested that the body was not Roberts. In fact, the evidence indicated that Roberts might have killed a man and then burned the body in the barn in an effort to fake his own death, with the intent of avoiding creditors and potential charges of fraud.

*Malone v. ReliaStar Life Insurance Co.*, 558 F.3d 683 (7th Cir. 2009), discussing *Roberts v. Wabash Life Insurance Co.*, 410 N.E.2d 1377 (Ind. Ct. App. 1980). Roberts was indicted for murder and kidnapping, although he was never apprehended and thus never tried. But a murder charge obviously couldn't be brought against Oldacre, who hadn't actually killed anyone other than perhaps, in Sherlock Holmes' conjecture, a dog or some rabbits.

Judge Rosenblatt has suggested that a charge against Oldacre for the attempted murder of McFarlane would be difficult to establish, given multiple issues of causation, and this conclusion seems sound. However, Lestrade's suggestion that Oldacre would be charged with conspiracy was well-founded, so long as it could be shown that Oldacre's housekeeper, Mrs. Lexington, was part of the plot. If that could not be shown, the charge of conspiracy would fail, as the elements of conspiracy include an agreement between two or more persons to do the prohibited act.

Significantly, British conspiracy law did not require that the act that the parties conspired to bring about must itself be a crime. As early as the Ordinance of Con-

spirators of 1305 (33 Edw. 1), conspiracy was defined by statute as including a “confederation or alliance for the false and malicious promotion of indictments and pleas,” thus criminalizing “combinations to indict falsely.” Peter Gillies, *The Law of Criminal Conspiracy*, p. 1 (1990); Robert Wright, *The Law of Criminal Conspiracies and Agreements*, p. 5 (1887). There is little doubt that Oldacre, presumably with Mrs. Lexington’s assistance, sought to cause McFarlane to be falsely charged with a capital crime that he did not commit.

What crime, if any, Oldacre could have been charged with had he acted alone remains an open question. Attempted fraud against his creditors seems a reasonable possibility.

### ***Did Holmes and Watson commit arson?***

To flush Jonas Oldacre from his hiding place, Sherlock Holmes asks Inspector Lestrade to have the police constables bring a pile of straw from Oldacre’s outhouse into the room, and asks Watson to strike a match and set the straw afire. The ensuing cries of “fire!” cause Oldacre to emerge, serving the interests of justice and giving Sherlock Holmes a well-earned triumph over both Oldacre and Lestrade. But did Holmes and Watson commit arson, or another serious crime, by intentionally setting fire to someone else’s property?

Arson was defined under English law, long before Victorian times, as the intentional setting afire of the house of another, whether by day or by night. Here, Watson, at Holmes’ direction, set fire not directly to Oldacre’s house, but to a pile of straw within the house, raising a nice question as to whether this would constitute arson. At common law, it would not unless the burning caused actual damage to the dwelling. Damage to personal property within the dwelling, or even to coverage such as carpeting or wallpaper, was insufficient.

In 1861, however, Parliament also criminalized, as a felony, the act of intentionally setting fire to certain specified types of personal property, primarily agricultural products, including “any stack of . . . straw.” Here, Watson reports – and indeed, admits against his penal interest – that “a quantity of straw” was intentionally set afire, and so it might seem that this was both a canonical and a Canonical instance of this statutory crime.

However, legal research discloses that at least one Victorian court took a narrow view of the statute. In *R. v. Satchwell*, [1873] 2 C.C.R. 21, an appellate court quashed the defendant’s conviction for setting fire to a stack of straw piled on a lorry. The court reasoned:

The prisoner was indicted for setting fire to a stack of straw, under the 24 & 25 Vict. c. 97 s. 17, and the question reserved was whether the facts proved support an indictment for setting fire to a stack of straw. The statute enacts that whosoever shall unlawfully and maliciously set fire to any stack of [various agricultural products including] straw . . . shall be guilty of felony. . . . Now here, what the petitioner set fire to was not a stack in the ordinary sense of the word, but a quantity of straw. The case does not say whether the straw was brought from a stack or was to be taken to a stack. We think that this was not a stack of straw when it was set fire to, though it may have been once part of one. . . .

Here, Holmes describes what was set afire as merely “two bundles” out of “a considerable quantity of straw,” but never as a “stack” of straw – perhaps with this decision in his mind. If that is a proper description, then *Satchwell*, decided 21 years be-

fore the 1894 events of NORW, acquits Holmes and Watson of the statutory felony.

Watson and Holmes still could, at least in theory, have been charged with a misdemeanor for the non-felonious burning of the property of another. Perhaps, again in theory, they could also be charged with the Victorian equivalent of reckless endangerment, as it was hardly certain that once the flammable straw had been set afire, “a bucket of water over the straw” would put the fire out.

But perhaps the most practical evaluation of the lawfulness of Holmes’ conduct here can be drawn from another of Watson’s accounts, “The Illustrious Client.” Watson concludes his account of that case, in which Holmes entered another man’s house without consent but for what he believed was a very good reason, by reporting that “Sherlock Holmes was threatened with a prosecution for burglary, but when an object is good and a client is sufficiently illustrious, even the rigid British law becomes human and elastic. My friend has not yet stood in the dock.” Here, although the client was not illustrious, the object again was good, and one foresees that any attempt to prosecute would have been met with a sustained justification defense.

And so, unlike some of the other cases reported within the Canon, “The Adventure of the Norwood Builder” has a reasonably happy ending. Jonas Oldacre will go to gaol, Holmes and Watson will not go to gaol, and all is right with the world.

---

## STEAMPUNK SHERLOCK

**A review by Jo Anne Fatherly**

What tipped you off that this wasn’t exactly a serious Holmes movie? Was it the dragon perched on top of Big Ben? The fact that Sherlock’s Evil Brother, who for medical reasons inhabits a robot body, is named Thorp? Or was it the clockwork-navigated balloon?

Thanks to the wonders of Netflix, this straight-to-video work (titled, oddly enough, *Sherlock Holmes*) can now be seen in the comfort of your own home. And unless you’re a simon-pure purist, it’s rather fun. Watson is a sweetie, six inches taller than Holmes (who seems to be based on portraits of Edgar Allen Poe). Lestrade is well-cast for the little we see of him – he spends the entire second half of the movie bound and gagged. The secondary characters overact enthusiastically, and the entire thing is shot in sepia tones for that “period feel”.

The plot: The Other Holmes plans to destroy London and blame it on Lestrade. Means of destruction? Mechanical monsters and lots of explosions. There’s a giant squid in the channel and a suicide bomber headed for the Queen. Obviously, only Sherlock can stop the mayhem!

On the downside, I had to keep turning the sound up to hear the dialog and then down to mute the heavy background music, and there were far too many of those typical indie-film sequences in which the characters ramble through the woods. Or the city streets, as may be.

First released in 2009, the same year as the first Downey/Law movie, and long before Cumberbatch/Freeman or *Elementary*, there is no discernible subtext or call-out to canon.

# DR. MORTIMER'S PENANG LAWYER,

## By Hartley R. Nathan

Sir Arthur Conan Doyle's idea for *The Hound of the Baskervilles* originated in March of 1901. The story was serialized in *The Strand* from August, 1901 to April, 1902. According to Dr. Watson, the adventure takes place in 1889.

Dr. James Mortimer makes a preliminary visit to Sherlock Holmes' chambers and leaves his walking stick behind.

Watson tells us:

I stood upon the hearth-rug and picked up the stick which our visitor had left behind him the night before. It was a fine, thick piece of wood, bulbous-headed, of the sort of which is known as a "Penang lawyer." Just under the head was a broad silver band which read: "To James Mortimer, M.R.C.S., from his friends of the C.C.H.," was engraved upon it, with the date "1884."

Holmes tells us "C.C.H." stands for Charing Cross Hospital and 1884 designates the year Dr. Mortimer left to go to the country. His *Medical Directory* states that Dr. Mortimer was "House-Surgeon from 1882 to 1884 at Charing Cross Hospital ..."

Dr. Mortimer returns the next day to meet with Holmes and Watson to tell them about the legend of the wicked Hugo Baskerville. He reads from an old manuscript:

"... standing over Hugo, and plucking at his throat, there stood a foul thing, a great, black beast, shaped like a hound, yet larger than any hound that ever mortal eye has rested upon. And even as they looked...it turned its blazing eyes and dripping jaws upon them ..."

Dr. Mortimer *also* came back of course, to retrieve his Penang lawyer.

In *The Hound*, we are told Sir Henry Baskerville sojourned in Toronto. In the story, Sherlock Holmes pulls Sir Henry's boot out of the Grimpen Mire and inside are inscribed the words "Meyers, Toronto."

As a former "Meyers" of the Bootmakers of Toronto, *The Hound* takes on a special significance. My BSI Investiture is "The Penang Lawyer."

Dr. Mortimer tells us in the story that in 1884:

"I married, and left the hospital, and with it all hopes of a consulting practice. It was **necessary** to make a home of my own".

I emphasize the word "*necessary*."

From this, I make the assumption this was not his choice, but that he had to leave the hospital.

But why did Dr. Mortimer really leave the prestigious Charing Cross Hospital in 1884 for the boondocks and gloom of Grimpen in Dartmoor?

There is no question in my mind, that due to the antipathy generated by Irish terrorists, culminating with the dynamite outrages in 1884, the first to lose their jobs in England were the Irish. I will attempt to prove Dr. Mortimer was shown the door at C.C.H.

I believe that Conan Doyle *deliberately* created the character James Mortimer to be of Irish descent. Here is the evidence:

**1.** Holmes' mortal enemy Moriarty bears a Celtic-Irish name. There is a clear link between Moriarty and Mortimer. While Mortimer is not the Professor in disguise, there is a striking similarity in appearance.

In *The Final Problem*, (1891) Moriarty is described this way:

He is extremely tall and thin ... His shoulders are rounded from much study ... He peered at me with great curiosity ... he snarled, and so turned his rounded back upon me and went peering and blinking out of the room ... He sits motionless, like a spider in the centre of its web ...

Compare this to the description of Mortimer in *The Hound*:

He was a very tall thin man ... Though young, his long back was already bowed, and he walked with a forward thrust of his head and a general air of peering benevolence ... He had long quivering fingers as agile and restless as the antennae of an insect ...

He also shares his name "James" with the Moriarty brothers. These Irish names are no coincidence, given Doyle's Irish descent on both sides of the family.

**2.** Let us look at the family history of the Mortimers. Burke's Peerage entry refers to Edmund de Mortimer, 3rd Earl of March and Ulster 1351-1381. His family was immensely important in Irish Medieval history.

The position of the young Earl, powerful on account of his possessions, was enhanced by his marriage to Philippa, the daughter of the Duke of Clarence, second son of Edward III.

Mortimer, became Marshal of England in 1369, a hereditary officeholder under the King or Queen, and was employed in various diplomatic missions.

**3.** Contemporary census records in Ireland and modern city directories in Dublin and Belfast show numerous entries for the surname "Mortimer."

**4.** We have already heard that "a great, black beast shaped like a hound" killed Hugo Baskerville. We also learn later in the story that what attacked Sir Henry Baskerville and was killed by Holmes was an "enormous coal-black hound."

This hell-hound of the Baskerville legend was likely to be of Celtic origin. Undoubtedly, that part of Dartmoor is rich in Celtic and pre-Celtic legend and tradition. In ancient Irish mythology, hounds collect the souls of the newly dead and "burry black hounds" haunted the graveyards.

There is no doubt that Doyle was aware of this legend, in describing the hound as "black."

Possibly Mortimer is a descendent of the Earl, although it would appear that by the 17th century the Mortimer name had lost its glitter. Chief Justice De Vere in the 17th century addressed the law lords on the defunct peerage of De Vere. He said in part:

Time hath his revolutions; there must be a period and an end to all things tem-



poral – *finis rerum* – and end of names and dignities ... why not of De Vere? ... Where is Mowbray? *Where is Mortimer?* ... They are entombed in the urns and sepulchres of mortality.

### **IRISH GRIEVANCES AGAINST THE BRITISH**

As far back as 1729, Jonathan Swift wrote about the British exporting Irish corn while the Irish people starved.

In the 1840's the potato famine caused massive starvation and emigration to America while the British stood idly by and collected taxes on Irish grain sold abroad.

Since 1842, there were numerous attempts to assassinate Queen Victoria.

On March 17, 1858, St. Patrick's Day, the "Irish Republican Brotherhood" was founded in Dublin, a movement dedicated to ending British rule in Ireland. Its members became known widely as the "Fenians".

Canada was also the subject of Fenian terror.

Irish-born D'Arcy McGee was an Irish Nationalist, Catholic spokesman, journalist and Father of Canadian Confederation.

He moderated his once radical Irish Nationalist views and denounced the Fenian Brotherhood in America.

On April 7, 1868, McGee was assassinated by a pistol shot. Patrick J. Whelan, a Fenian sympathizer and a Catholic, was tried, convicted, and hanged for the crime.

Mike Whelan has assured me he is not related to Patrick Whelan.

In May 1882, Fenian activists savagely murdered the new Irish Chief Secretary, Lord Cavendish, and his Under-Secretary in Phoenix Park, Dublin. 11 were tried and 5 were convicted and hanged.

### **WHAT HAPPENED OF SIGNIFICANCE IN 1884?**

The culmination of Irish grievances against the British led to dynamite outrages by the Fenians which they called "the delusions" at major buildings and monuments in London and the provinces.

Dynamite was discovered at Paddington and Ludgate Hill subway stations in London. Dynamite rocked Victoria and Charing Cross Stations. *The seriously injured were taken to Charing Cross Hospital for medical attention.*

These various acts of violence outraged the English and the distrust of Irish people Anti-Irish sentiments or Hibernophobia were brought to a boil. "No Irish Need Apply", began to appear in help wanted signs all over England. Irish or those with Irish names were dismissed in favour of English workers.

*I believe* the Fenian outrages were the cause of the dismissal of Dr. Mortimer, of Irish descent from Charing Cross Hospital.

Incidentally, a check of the names of the Council members of the C.C.H. in 1884 discloses not a *single* member had an Irish name. Being of solid, prejudiced (?), English stock, one is not surprised they were anti-Irish.

### **AFTERMATH**

I believe Conan Doyle's political leanings had a bearing on how *he* characterized James Mortimer.

In 1886 Charles Stewart Parnell a Protestant landlord's son from County Wicklow, Ireland was the leader of the 86 elected Irish Home Rule MPs. Gladstone was Prime Minister. His Liberal party was allied with Parnell's Irish Nationalists and defeated Lord Salisbury's government. During this administration Gladstone took time off from

helping fallen women, or as others have put it “helping himself to fallen women,” to introduce his limited Home Rule Bill for Ireland on April 26, 1886. To many, the Bill, if passed, would seriously erode British power in Ireland. Many felt their vast landholdings in Ireland would be threatened.

The issue split the Liberal Party. The Bill was thrown out on the second reading, ending Gladstone’s government and inaugurating another, headed once again by Lord Salisbury. A breakaway group of Liberals went on to create the anti-Home Rule Liberal Unionist Party.

Sir Arthur Conan Doyle was prepared to enter the political arena.

An opening came in June of 1886 with the defeat of Gladstone’s government.

Although nominally a Liberal, Doyle was strongly opposed to the Home Rule Bill. His jottings in his notebook at this time indicated the depth of his feeling:

“Ireland is a huge suppuration which will go on suppurating until it bursts.”

As Andrew Lycett stated in his biography of Doyle:

On 6 July, Sir Arthur wrote to the local *Evening News* declaring his support for the new anti Home Rule Liberal Unionists. Drawing a veil over his complex anti-Irish prejudice, he argued that the British empire, which he enthusiastically supported, was moving towards a federation, in which every country would have equal representation: he stated that “any exceptional Irish legislation of the nature proposed would hamper this just and symmetrical design.”

Sir Arthur stood unsuccessfully twice as a Liberal Unionist parliamentary candidate first in 1900 for Edinburgh Central where he was born, *just before he wrote The Hound*, and in 1906, for Hawick Boroughs.

## CONCLUSION

It is my opinion Sir Arthur’s anti-Irish views were manifested indirectly against Dr. Mortimer in his dismissal from Charing Cross Hospital. Dartmoor would be a more hospitable part of the country to a doctor of Irish descent on the run from bigotry.

James Mortimer, of the noble Irish name,  
Got booted out of C.C.H. to his everlasting shame.

I submit that the mystery has been solved at last.

Incidentally, on a recent visit to London I went into an antique shop. I spotted a dusty object in the corner of the shop. It was a Penang lawyer. The proprietor said it could be had for a bargain price since it was old and spoilt by a broad silver band bearing an odd description.

“To James Mortimer M.R.C.S., from his friends of the C.C.H. 1884.”



# “THE ADVENTURE OF THE PRIORY SCHOOL” : SOME THOUGHTS ON RELIGION AND PHILOSOPHY

**By Lou Lewis**

Arthur Conan Doyle was raised a Catholic and even attended a Jesuit School, Stoneyhurst. Although he did not practice Catholicism as an adult and, indeed, his interests turned to spiritualism, his Christian roots are very apparent in this story. The title itself is the first clue. A priory is a monastery, sometimes a subordinate branch of an abbey. Indeed a prior is the person next in charge after the abbot. A priory school then is where young lay students might attend to be instructed in doctrine by the monks, or as in this case, prepare for college. This title tells us that we will have a moral and religious lesson. It could be said, of course, that all of the canon is an account of the triumph of good over evil and is therefore, to that extent, a moral lesson.

The biblical sources for this tale of sibling rivalry are Cain and Abel, Jacob and Esau, and Joseph and his brothers. “Cain said to his brother, ‘Let us go out to the field.’ And when they were in the field, Cain rose up against his brother Abel and killed him.” And then there is that wonderful dialogue: “the Lord said, ‘Where is Abel your brother?’” He said, ‘I do not know; am I my brother’s keeper?’ And the Lord said ‘What have you done? The voice of your brother’s blood is crying to me from the ground.’” This appears to be the first reference to a murder clue in the bible. In our story blood also spoke to Holmes from “... yellow blossoms ... all dabbled with crimson” and from a “path” and “heather” with “dark stains of clotted blood.” Cain’s punishment was that he was doomed to be “a fugitive and a wanderer on the earth” and “When you till the ground, it shall no longer yield to you its strength.” And the Lord put a mark on Cain, lest any who came upon him should kill him. Then Cain went away from the presence of the Lord, and dwelt in the land of Nod, east of Eden.” This was not yet the god of an “eye for an eye”. So also was Mr. James Wilder cast out to seek his fortune in Australia.

The fraternal twins Jacob and Esau were the sons of Isaac and Rebekah. “The first came forth red, all his body like a hairy mantle; so they called his name Esau. Afterwards his brother came forth, and his hand had taken hold of Esau’s heel; so his name was called Jacob. Although they were twins Esau was the first born and would have inherited his father’s estate. We learn that Esau despised his birthright and sold it to his brother for “bread and a pottage of lentils.” Later, at his mother’s instance, Jacob disguised himself as Esau and stole his brother’s blessing. Esau plotted to kill his brother, and Jacob fled to the house of Laban, where he met Rachel and eventually became a wealthy man and the father of twelve sons, including Joseph. There was eventual rapprochement between the brothers but, again, no punishment for Jacob for his duplicity. He is in fact rewarded. James Wilder also coveted his brother’s birthright and arranged for him to be kidnapped and held for ransom. His father says, “In his view he should himself have been heir of all of my estates, and he deeply resented those social laws which made it impossible.” It is still impossible for an un-adopted illegitimate child to inherit absent a will.

One cannot be sympathetic to Joseph of the coat of many colors. First, he brought an ill report of his brothers to his father for which he was awarded a coat. Then he

had a dream in which he becomes ruler of his brothers and told them about it. Naturally they conspired to kill him. It was the brother named Reuben who decided to cast Joseph into a pit — clearly an antecedent for the murderous Reuben Hayes.

So much for the parallels from the Old Testament. There are New Testament concepts as well. Thorneycroft Huxtable is clearly a fallen angel. He literally does fall to the ground during his visit to Baker Street. He can only redeem himself by doing a good deed and righting the wrong that has befallen Lord Saltire — not unlike the character of Clarence in “It’s A Wonderful Life. (As an aside I should mention that Doyle undoubtedly knew, or knew of, Sir John Isaac Thorneycroft who had just been knighted in 1902. Sir John was a naval architect and engineer who made fundamental improvements in the design and machinery of torpedo boats and built the first torpedo boat for the British Navy.) Thorneycroft Huxtable is the author, we are told, of a treatise on Horace, that great Roman lyric poet whom Watson actually quotes in “A Study in Scarlet”: “People hiss at me but I am satisfied with myself; I stay home and contemplate the money in my strongbox.” This reference to Horace, combined with the large check that Holmes accepts from the Duke of Holderness, suggests the doctrine of good works and earthly reward that became embedded in Puritanism. We must also note the clue of the “cloven hoof” - clearly the work of the Devil who appears first in MATTHEW 4 “Then Jesus was led up by the Spirit into the wilderness to be tempted by the devil.”

Heidegger, the German mathematician, is an enigmatic figure. Christlike, a tall man fully bearded, he dies for the sins of others. Holmes turns the body over “reverently”. Strangely enough, since this story was published in 1904, it is unlikely that Doyle could have known of the German existentialist philosopher Martin Heidegger who was born in 1889 and who would have been a mere boy of 15 at the time. However, Doyle may have heard of the precocious youth from Heidegger’s teacher Edmund Husserl who was born in 1859. Husserl was the founder of Phenomenology (a new method for the description and analysis of consciousness) and the author of “Logical Investigations,” published in 1901. He accepted statements that were “a priori” and rejected the “a posteriori,” a statement the truth of which is predicated on experience. Given the well known methods of Doyle/Holmes, the death of Heidegger could almost be viewed as a metaphorical rejection of this notion. But then this is the Priory School, not the “a priori” school.

And what is the role of Holmes and his acolyte in all of this? “By Heaven, Watson, I believe that I’ve got it!” He invokes the heavens and is no less a prophet than any biblical figure. He hands down the law as if from Sinai: “I must take the view, your Grace, that when a man embarks upon a crime he is morally guilty of any other crime that may spring from it.” His powers are recognized by mortals: “You seem to have powers that are hardly human” says the Duke. Holmes passes judgment: “To humor your guilty elder son you have exposed your innocent younger son to imminent and unnecessary danger. It was a most unjustifiable action.” He proposes miracles: “I have no doubt that your Grace could make him (the about to be executed Reuben Hayes) understand that it is to his interest to remain silent.” He grants absolution: “. . .there is no reason, as long as the ends of justice are served, why I should disclose all that I know.” He performs the sacrament of marriage: “I would suggest that you make such amends as you can to the duchess, and that you try to resume those relations which have been so unhappily interrupted.” Holmes is at once omniscient, powerful, just, and prophetic. Yet we dare to speak his name and to praise him. He has indeed been Canonized.

# NAME YOUR POISON

**By Liese Sherwood Fabre**

The canon includes 263 dead bodies and 119 murders, only a percentage of them can be considered “murder mysteries,”<sup>[1]</sup> and while several such cases involve poison or medicines, only one (“The Adventure of the Veiled Lodger”) mentions a specific poison by name: prussic acid or cyanide.<sup>[2]</sup> Despite Holmes’ knowledge of poisons,<sup>[3]</sup> the lack of a precise cause in most of his cases reflects the country’s nineteenth-century fear and fascination of the intimate, and often controversial, homicide cases populating the popular media of the day.

In 1815, the case of Eliza Fenning seized the public’s attention and became an obsession as newspapers across the nation took sides in her case. The cook for the Turner family was charged and tried for attempted murder of five members of her employer’s household. Despite all the family members recovering after ingesting some presumed tainted dumplings, Mrs. Fenning was found guilty and executed. On one side, the press vilified her because of her status primarily as a member of the working class and to be less believed than those of the middle class. The other side used her case to point out the problems with current government and the justice system. Even detailed analysis of the evidence presented pointing out many flaws in the prosecution’s case and appeals for mercy did not save the woman from the gallows. Not long after her death, she was immortalized on the stage and referenced during other celebrated later cases of poisoning.<sup>[4]</sup>

The attention given to this type of murder far exceed the actual cases ever making it to court. In 1849, of 20,000 suspicious deaths in all of England and Wales, only eleven involved possible murder by poison (and not all were found guilty). Public fear, however, fueled an increase in arrests and prosecution, with the number of trials rising from seven in 1829-1838; to 23 from 1839 to 1848; to 17, 1849-1858, before dropping to seven the next decade.<sup>[5]</sup>

By far the most common poison, in about a third of the cases, was arsenic. This readily available chemical was particularly feared because it was almost tasteless and could be mixed in food or drink. In addition to being sold in pharmacies as a medicine as well as to eliminate rats, ants, and other vermin, it was a common ingredient in many household products, including paint, dye, and even soap.<sup>[6]</sup> In 1836, the highly sensitive Marsh test, named for its discoverer, provided the first reliable means for identifying the presence of arsenic, even in the stomach contents of corpses.<sup>[7]</sup>

While arsenic could be undetectable to its victim, prussic acid, or cyanide, had a very distinct odor. Named for the blue pigment Prussian blue from which it was first isolated, the acid is also found in the pits of various fruits, including bitter almonds. With a distinctive smell and taste of bitter almonds, it was rarely be used for murder.<sup>[8]</sup> Ingestion was either by accident or intentional. In 1837-1838, twenty-seven cases of prussic acid poisoning occurred in England. Of those, almost all were suicides.<sup>[9]</sup> The intent, then, of Eugenia Rounder’s plan for her own bottle of the poison in “The Adventure of the Veiled Lodger” becomes clear, and as well as her decision to mail it to Sherlock Holmes after their meeting to indicate her intention to end her life had changed.

Despite the public’s concern and fascination with murder by poisoning, such cases were very rare in the 1800s. Even Parliament’s attempt in 1851 to regulate arsenic

sales by requiring pharmacists keep a ledger of sales and ordering certain amounts of arsenic be colored with soot or indigo to prevent murder attempts had little effect because so few of poisonings were homicides. [10] Even if taken to trial, such murders were hard to prove because other than arsenic, no tests existed to indicate poison as the cause of death. That no poisons were ever identified by name in canon (other than prussic acid intended for suicide) most likely reflects even the limits of Sherlock's ability to determine the exact cause of death. As in *A Study in Scarlet*, he might be able to prove a homicide with the death of a terrier, but beyond that, even he couldn't name his poison.

#### NOTES

- [1] Steven Doyle and David Crowder, *Sherlock Holmes for Dummies* (Hoboken, NJ: Wiley Publishing, 2010), p. 15.
- [2] Doyle, Arthur Conan; Ryan, Robert (2012-12-13). *The Complete Sherlock Holmes* (Kindle Location 31379).
- [3] Doyle, Arthur Conan; Ryan, Robert (2012-12-13). *The Complete Sherlock Holmes* (Kindle Locations 552-553).
- [4] Judith Flanders, *The Invention of Murder* (London: Harper Press, 2011), pp . 183-197.
- [5] Ibid, p. 234.
- [6] Ibid, p. 232.
- [7] E. J. Wagner, *The Science of Sherlock Holmes* (Hoboken, NJ: Wiley Publishing, 2006), p. 48.
- [8] [https://en.wikipedia.org/wiki/Hydrogen\\_cyanide](https://en.wikipedia.org/wiki/Hydrogen_cyanide)
- [9] Alfred S. Taylor, *Medical Jurisprudence* (Philadelphia: Lea and Blanchard, 1845), p. 210.
- [10] [http://dujs.dartmouth.edu/2008/02/sensational-murders-a-poisonous-history-of-victorian-society/#.Vw\\_UnPkrLs1](http://dujs.dartmouth.edu/2008/02/sensational-murders-a-poisonous-history-of-victorian-society/#.Vw_UnPkrLs1)

---

## THE USUAL SUSPECTS

IRA BRAD MATETSKY is a lawyer in New York City, where he is a litigation partner at Ganfer & Shore, LLP. This article is based on remarks at the Hudson Valley Sciontists' discussion of NORW on May 26, 2015, as well as his notes to "The Adventure of the Norwood Builder: The Lawyerly Annotated Edition," contained in *The Green Bag 2015 Almanac and Reader*.

HARTLEY R. NATHAN [The Penang Lawyer] was President of the Bootmakers of Toronto on two occasions and is a member of the Sons of the Copper Beeches. He is the author of *Who Was Jack the Ripper?* and is the co-author (with Clifford S. Goldfarb) of *Investigating Sherlock Holmes; Solved & Unsolved Mysteries*. He is the author of several legal texts and has published numerous Sherlockian articles.

LOU LEWIS [William Whyte] BSI is the chief factotum of the Hudson Valley Sciontists and occasionally practices law. This article was presented to the Sciontists in 2000.

LIESE SHERWOOD-FABRE of Dallas, Texas, is a writer whose works include a YA novel about young Holmes. Information about her publications and a link to sign up for her newsletter can be found at [www.liesesherwoodfabre.com](http://www.liesesherwoodfabre.com).