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THE JOURNAL OF LEGAL METRICS

and

ALMANAC EXCERPTS



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2020

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THE JOURNAL OF LAW

Journals & Editors

Pub. L. Misc.

James C. Ho

Law & Commentary

Ross E. Davies

Chapter One

Robert C. Berring

The Post

Anna Ivey & Tung Yin

The Journal of Legal Metrics

Joshua Cumby, Adam Aft, Craig D. Rust, Tom Cummins,
Thomas R. DeCesar & Rosanne Rust

New Voices

Suzanna Sherry, Daniel J. Hay & Christopher J. Climo

The Journal of In-Chambers Practice

Ira Brad Matetsky, Cynthia J. Rapp,
Ross E. Davies & Noah B. Peters

The Journal of Attenuated Subtleties

Robert A. James, J. David Kirkland, Jr., John J. Little,
Manley W. Roberts & Benjamin C. Zuraw

The Green Bagatelle

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Almanac Excerpts

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TABLES OF CONTENTS

Volume 10

• Number 1

• 2020

Opening Remarks: In-Chambers Pet Portraiture

by Ross E. Davies1

• JOURNAL OF LEGAL METRICS •

How Much Is Energy Subsidized?

by Robert A. James7

Appellate Review VI: October Term 2015

by Joshua Cumby31

• ALMANAC EXCERPTS •

This installment of *Almanac Excerpts* features a few items

— morsels we think might be especially appealing to readers of this journal —
from the 2020 *Baker Street Almanac*

With this short preface . . .

by Ross E. Davies42

Arthur Conan Doyle in 2019

by Alexis Barquin47

Sherlock Holmes and Science 2019

by Carlina de la Cova55

Sherlock Holmes and Law 2019

by Ira Brad Matetsky59

The Adventure of the Cardboard Box: A New Annotated Edition

by Arthur Conan Doyle, with Mary M. Alcaro, Peter E. Blau, Ross E. Davies,
Carlina de la Cova, Jenn Eaker, Jayantika Ganguly, Walter Jaffee, Robert
A. James, Roger Johnson, Alexander Katz, Robert S. Katz, Michael Kean,
Anastasia Klimchynskaya, Jennifer Kneeland, Nick Martorelli, Ira Brad
Matetsky, Scott Monty, Oscar Ross, Greg D. Ruby, Monica Schmidt,
Marina Stajić, Jean Upton, Karen Wilson, Burt Wolder, Beverly Wolov,
Tamar Zeffren, and Christopher Zordan63

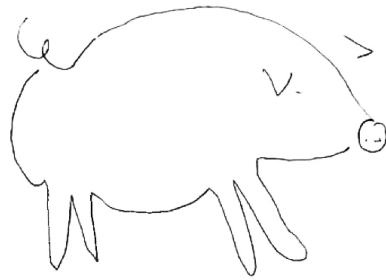
Ceramic Sherlock103

JL

IN-CHAMBERS PET PORTRAITURE

Ross E. Davies[†]

Several years ago, in the 2016 *Green Bag Almanac & Reader*, we gave readers a chance to try their hands at a parlor game that was popular in the late 19th and early 20th centuries. We invited them to close their eyes, draw a pig, sign their work, and send the results to us.¹ That project was quite a success. We heard from many folks who enjoyed the exercise. Some were even brave enough to share. We published a selection of especially fine works in the 2017 *Almanac*,² including this handsome pig profile by Prof. Maggie Wittlin of the University of Nebraska (it just happens to have a fine law school and a fine fine arts department³):



Maggie
Wittlin

Today, we are offering a variation designed for modern times.

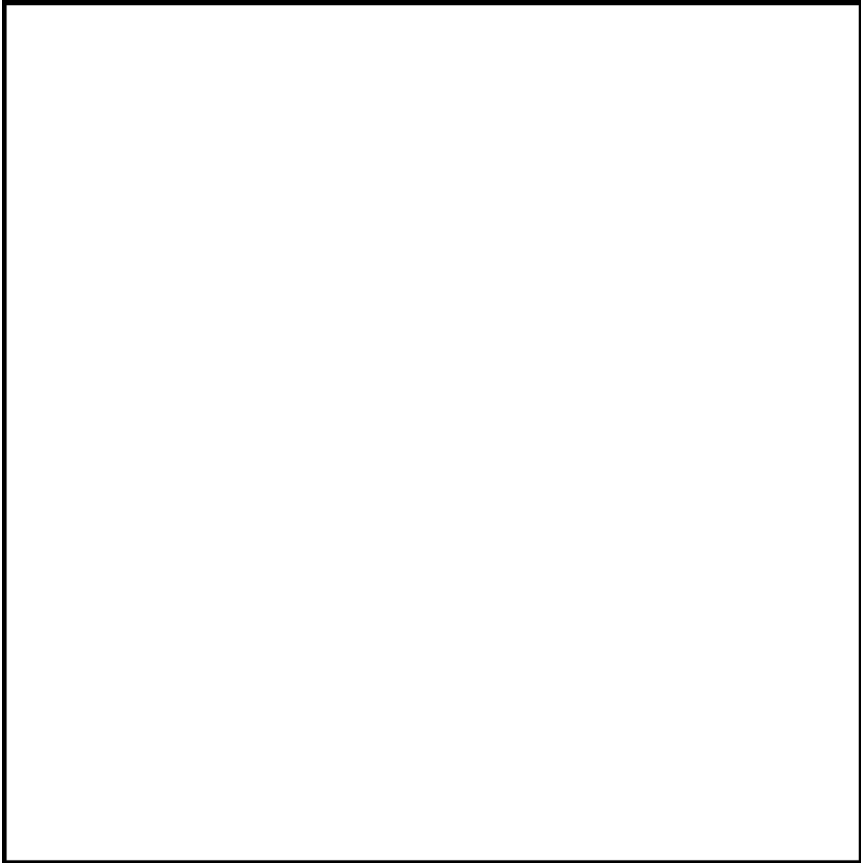
The rules for this new parlor game are spelled out on the next page. We hope you enjoy it, and that you are moved to create, and to share.

[†] Professor of law, Antonin Scalia Law School at GMU; editor-in-chief, the *Green Bag*.

¹ Ross E. Davies, Arthur Conan Doyle's Pig, and Yours: A Challenge, 2016 *Green Bag Alm.* 537.

² See, e.g., 2017 *Green Bag Alm.* 119, 151, 185, 231, 237, 297, 308, 329 & 360 (porcine pictures by Ben Baring, Ross Campbell, Timothy Delaune, Kevin Elliker, Paul Kim, Jack Metzler, Sutton Smith, Jason Steed, and Maggie Wittlin).

³ See catalog.unl.edu/law/; catalog.unl.edu/undergraduate/fine-performing-arts/.



- 1) Capture your computer screen during an online meeting in which someone's pet is visible.
- 2) Then (with your eyes open), draw — in the box above — a portrait of that pet, based on your screen capture. Add your autograph, also in the box above.
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Journal of Legal Metrics

Volume Seven, Number One
2020

Federal Courts of Appeal: Circuit-Split Standings																												
EAST				4				1				2				11				3				DC				
OT	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%
2010	6	3	9	67	6	1	7	86	6	4	10	60	5	6	11	45	7	2	9	78	1	2	3	33				
2011	7	2	9	78	2	4	6	33	4	6	10	40	5	4	9	56	4	6	10	40	3	3	6	50				
2012	4	3	7	57	4	1	5	80	7	4	11	64	4	6	10	40	4	7	11	36	2	3	5	40				
2013	6	1	7	86	5	1	6	83	6	3	9	67	4	4	8	50	4	3	7	57	1	1	2	50				
2014	5	1	6	83	2	1	3	67	3	0	3	100	3	1	4	75	3	0	3	100	0	1	1	0				
2015	5	4	9	56	2	2	4	50	5	3	8	63	2	0	2	100	0	4	4	0	4	1	5	80				
TOTALS	33	14	47	70	21	10	31	68	31	20	51	61	23	21	44	52	22	22	44	50	11	11	22	50				
# # #																												
WEST				10				7				6				8				5				9				
OT	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%	W	L	AB	%
2010	6	0	6	100	8	5	13	62	5	5	10	50	7	7	14	50	11	3	14	79	6	4	10	60				
2011	3	5	8	38	4	7	11	36	7	7	14	50	2	6	8	25	4	8	12	33	8	10	18	44				
2012	7	1	8	88	6	3	9	67	3	6	9	33	2	3	5	40	6	4	10	60	2	9	11	18				
2013	5	1	6	83	6	2	8	75	8	2	10	80	3	1	4	75	0	8	8	0	3	8	11	27				
2014	3	1	4	75	5	1	6	83	3	3	6	50	2	2	4	50	0	4	4	0	4	2	6	67				
2015	3	4	7	43	3	3	6	50	2	2	4	50	5	3	8	63	5	2	7	71	6	2	8	75				
TOTALS	27	12	39	69	32	21	53	60	28	25	53	53	21	22	43	49	26	29	55	47	29	35	64	45				

Journal of Legal Metrics

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About the cover

By Adam Aft & Joshua Cumby. We're proud to present for the first time this aggregation of the stats collected in our ongoing Appellate Review series, which tracks the parallel affirmation rate of the United States Courts of Appeals and whose sixth installment appears in this issue of the Journal of Legal Metrics. *See also* Tom Cummins & Adam Aft, *Appellate Review*, 2 Journal of Law (1 J. Legal Metrics) 59, 74 (2012); Tom Cummins & Adam Aft, *Appellate Review II – October Term 2011*, 3 Journal of Law (2 J. Legal Metrics) 37, 46 (2013); Tom Cummins, Adam Aft & Joshua Cumby, *Appellate Review III – October Term 2012 and Counting*, 4 Journal of Law (3 J. Legal Metrics) 385, 394 (2014); Joshua Cumby, *Appellate Review IV – October Term 2013 – The Prodigal Sums Return*, 8 Journal of Law (5 J. Legal Metrics) 65, 68 (2018); Joshua Cumby, *Appellate Review V – October Term 2014*, 9 Journal of Law (6 J. Legal Metrics) 54, 58-59 (2019).

We've chosen to rank the Courts of Appeals by batting average—wins (W) divided by at bats (AB)—rather than wins alone, as the first is a more representative (and thus fairer) way to gauge their relative success in games umpired by the Supreme Court of the United States. After all, the Courts of Appeals don't get to pick which games they play; the best they can do is choose the winning side. We've also divided the twelve courts we track into two conferences: East and West. And if the Appellate Review World Series were taking place today, the Fourth and Tenth Circuits would play for the championship.

CONTENTS

Volume 7 • Number 1 • 2020

How Much Is Energy Subsidized?
by Robert A. James7

Appellate Review VI: October Term 2015
by Joshua Cumby31

JL

HOW MUCH IS ENERGY SUBSIDIZED?

Robert A. James[†]

INTRODUCTION

I wrote an article on the energy numeracy problems that are encountered by a new attorney without an undergraduate degree in a technically oriented field.¹ This article is a sequel of sorts. I thought of covering subsidization in the first article, but discovered that an understanding of this concept goes far beyond numbers.

In presenting on this topic, I am accompanied by the English writer George Orwell (1903-1950). Most of us know Orwell from secondary school as the author of the dystopian novels *Animal Farm* and *1984*. He was also a perceptive critic of his contemporary society. I am unsure how he would feel about being appropriated for a paper addressing law and economics—it was said that Orwell “could not blow his nose without moralising on the state of the handkerchief industry.”² Still, he had high aspirations for all human endeavors, and offered clear and prescient insights in the 1930s and 1940s that are valuable today.

My earlier piece offered examples of numbers that people talk about without supplying a context.³ If a company tells you that it has a wind farm with a capacity of 10 megawatts, should you be impressed? If an oil

[†] Partner, Pillsbury Winthrop Shaw Pittman LLP. Based on a speech given to the Environmental Law & Policy Colloquium at Stanford Law School on January 23, 2019. These remarks are those of the author alone, and do not necessarily represent the views of his firm, its personnel, or their clients. He nonetheless thanks his colleague Irina Tsvetkova for her research assistance.

¹ Robert A. James, *Numeracy for Energy and Environmental Lawyers*, 8 JOURNAL OF LAW (5 J. LEGAL METRICS) 33 (2018) (Numeracy for Lawyers).

² Cyril Connolly, SUNDAY TIMES, Sept. 29, 1968. See generally BERNARD CRICK, GEORGE ORWELL: A LIFE (1980).

³ Numeracy for Lawyers at 51.

refinery processes 50,000 barrels of crude oil per day (bpd), is that big or not? In most cases, there is a central figure and a distribution around it. A 50,000 bpd refinery is a bit on the small side, for example; full-scale refineries are typically 200,000-400,000 bpd, with some outliers as low as 30,000 and as high as a million.⁴

I quickly found that questions about subsidy are not of that character. The reported figures were not packed around a mean. Instead, the numbers varied by fantastic orders of magnitude, showing that something entirely different was going on.

It seems like such a simple question—how much is energy subsidized? This brings me to the first Orwell quotation, from his devastating critique of colonialism, *Shooting an Elephant*: “[A] story always sounds clear enough at a distance, but the nearer you get to the scene of events the vaguer it becomes.”⁵ Anyone who has conducted due diligence reviews will know this sensation. Someone may have told you from afar exactly what the company owns and precisely how it is doing. The deeper you delve into the details, however, the less confident you tend to feel.

The source from which we mostly hear about subsidies in our daily life is the set of politicians. Independent Senator Bernie Sanders proposed legislation in 2015 aimed at eliminating “[s]ubsidies for polluters now in place [that] are projected to cost taxpayers more than \$135 billion in the coming decade.”⁶ There is no point having a subsidy of the fossil fuel industry, he stated, when we need to be moving in evolutionary terms towards a decarbonized future.⁷ Fast forward to 2019: we are living in the upswing of the progressive wing of the Democratic party, and the Green New Deal resolution evidences that Senator Sanders’s 2015 bill may be, if anything, too modest and too slow—the resolution’s proponents contend that the country needs to move to carbon-free electricity generation by the year 2050.⁸ There is no price tag in the resolution itself, but other sources speak of the trillions of dollars that would be shifted from support

⁴ *Id.*

⁵ GEORGE ORWELL, *Shooting an Elephant*, in *NEW WRITING* (Autumn 1936).

⁶ Press Release, Senator Bernie Sanders (Vt.), End Polluter Welfare Act (Apr. 22, 2015), <https://www.sanders.senate.gov/newsroom/press-releases/end-polluter-welfare-act>.

⁷ *Id.*

⁸ H.R. Res. 109, 116th Cong. (2019).

of fossil fuels towards support of renewables of one type or another.⁹ Subsidy is thus both a target and a tool of the energy policy comments from this part of the political spectrum.

Politicians on the right also care about subsidies. President Trump asked, “Who wants to have energy when you need a subsidy?”¹⁰ Behold, have we found something on which the President and Senator Sanders agree? Is it possible that they both oppose subsidies?

Unfortunately, when you look at the full picture, the politicians are talking about subsidies in different ways. First comes the common justification for many an act, namely that everybody is doing it. Secretary of Energy Rick Perry said, “We subsidize a lot of different energy sources. We subsidize wind energy, we subsidize ethanol, we subsidize solar, we subsidize oil and gas. . . . Government’s picking winners and losers every day.”¹¹ It was thus one step, from asking why have subsidies at all, to asking why not have subsidies like everyone else. The next step is that a current regime vows to end subsidies, all right—to end the subsidies created by the prior regime. “[W]e will end [electric vehicle] subsidies and others of the Obama administration,” said the director of the President’s National Economic Council, Larry Kudlow.¹²

In politics, subsidies are part of the appeal to different constituencies. The immediate reaction is “Well, what did you expect? These are politicians, each speaking to his or her base.” Can we look at more objective sources? What about government agencies and reputable think tanks—are they apolitical? Here again let us listen to Orwell: “In our age there is no such thing as ‘keeping out of politics.’ All issues are political issues.”¹³

In Part I of this article, I present the wildly disparate subsidy figures reported by these institutions. I call them “figures” and not “estimates” because “estimate” would suggest that the numbers could be averaged or

⁹ See, e.g., John Cassidy, *The Good News About a Green New Deal*, NEW YORKER, Mar. 4, 2019, <https://www.newyorker.com/news/our-columnists/the-good-news-about-a-green-new-deal>.

¹⁰ David Roberts, *Rick Perry Tells the Truth About Energy Subsidies, Contradicting His Boss*, VOX (Aug. 15, 2018), <https://www.vox.com/energy-and-environment/2018/8/15/17691822/trump-administration-hypocrisy-energy-subsidies-rick-perry>.

¹¹ *Id.* (quoting Secretary of Energy Perry’s testimony before the House Energy and Commerce Committee’s Subcommittee on Energy).

¹² Vivian Salama and Mike Colias, *Trump, Looking Beyond G.M., Seeks to End All Electric Car Tax Credits*, *Kudlow Says*, WALL ST. J., Dec. 3, 2018.

¹³ GEORGE ORWELL, *Politics and the English Language*, 13 HORIZON 252 (1946).

otherwise directly compared—and they cannot.

In Part II, I discuss the definitions of “subsidy” that have been offered. I look closely at one institution’s definition, that of the International Monetary Fund (IMF).

In Part III, I explore, in a series of questions, what people may really be talking about when they talk about subsidies. I close by introducing an Energy Policy Palette to help us get beyond the definitional debates and into the conversations of substance that we should be having.

I. WHAT IS YOUR NUMBER?

I thought that subsidies were ripe for analysis when I saw that the answers to the single, seemingly simple question posed in the title of this article ranged from *trillions of dollars annually*—perhaps a quadrillion dollars over current law students’ lives—to *zero*.

Recall that Senator Bernie Sanders spoke of ending about \$135 billion in fossil-fuel subsidies over the next decade—so \$13 billion or so annually.¹⁴ The Senator’s 2015 figure looks modest indeed compared to some of the other numbers that have been more recently reported. Fossil infrastructure critics, for example, recite a litany of ways in which we have spent and continue to spend money supporting the internal combustion engine and carbon fuel sources.

In his article *Reframing the transportation debate*, Chris Nelder points out that we have installed a base of airports and highways anchoring the use of fossil fuels at \$6 trillion in original cost, \$20 trillion in replacement cost.¹⁵ Every year, many billions more are spent just to keep up those facilities.¹⁶ Every day, we spend idle time in our individual vehicles, as opposed to public transit that is more easily capable of shifting to electric sources.¹⁷ The developed world economy depends for its oil on the Strait of Hormuz; thus, the costs of the U.S. Navy cruising the Indian Ocean, and of military bases and deployments in the Middle East, are said to be for the

¹⁴ See notes 6 and 7 above and the accompanying text.

¹⁵ Chris Nelder, *Reframing the transportation debate*, ZDNET (Oct. 19, 2011), <https://www.zdnet.com/article/reframing-the-transportation-debate/>.

¹⁶ *Id.*

¹⁷ *Id.*

account of our energy budget—billions more annually.¹⁸ The article adds to those costs the acquisition and maintenance expenses for all the fossil fuel vehicles that we use, of every shape and size, on the land, on the sea, and in the air.¹⁹ Here then is a view of trillions of dollars of subsidization of fossil fuels that embraces not just the cost of the molecules, but also the cost of creation and maintenance of the country's entire infrastructure.

In a 2015 working paper and a revised edition published in 2017,²⁰ the staff of the IMF²¹ report a slightly smaller appraisal of the subsidies for fossil fuels alone: \$5.3 trillion annually. Although the IMF tends to be portrayed as a rather conservative organization—it puts governments on austerity programs and its president was un-invited from speaking on college campuses—breathtaking headlines tumbled out when this study was released:

- *Report Shows The Oil Industry Benefits From \$5.3 Trillion in Subsidies Annually*²²
- *Big Oil's astronomical hand-out: Fossil fuels receive \$5.3 trillion in global subsidies each year*²³
- *Fossil fuels subsidised by \$10m a minute, says IMF*²⁴

As we will see shortly, these descriptions of subsidy flows to fuel producers are somewhat misleading. A more accurate story read, “Consumers

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ David Coady, Ian Parry, Louis Sears & Baoping Shang, *How Large Are Global Energy Subsidies?* (IMF Working Paper 15/105, May 2015) (IMF 2015), available at <https://www.imf.org/external/pubs/ft/wp/2015/wp15105.pdf>; David Coady, Ian Parry, Louis Sears & Baoping Shang, *How Large Are Global Fossil Fuel Subsidies?*, 91 *WORLD DEVELOPMENT* 11 (2017) (IMF 2017). There is now a more recent similar figure, but I refer to the figure in the 2015 and 2017 papers to keep to a timeframe consistent with that of the other sources. See David Coady, Ian Parry, Nghia-Piotr Le & Baoping Shang, *Global Fossil Fuel Subsidies Remain Large: An Update Based on Country-Level Estimates* (IMF Working Paper 19/89, May 2019).

²¹ Importantly, the staff of the IMF expressly disclaim speaking on behalf of the organization. For convenience, however, I will refer to the staff and the organization collectively. See IMF 2015 at 1 (“The views expressed in IMF Working Papers are those of the author(s) and do not necessarily represent the views of the IMF, its Executive Board, or IMF management.”).

²² Rmuse, *POLITICUSUSA* (June 9, 2015), <https://www.politicususa.com/2015/06/09/report-shows-oil-industry-benefits-5-3-trillion-subsidies-annually.html>.

²³ Lindsay Abrams, *SALON* (May 18, 2015), https://www.salon.com/2015/05/18/big_oils_astronomical_hand_out_fossil_fuels_receive_5_3_trillion_in_global_subsidies_each_year/.

²⁴ Damian Carrington, *THE GUARDIAN* (May 18, 2015), <https://www.theguardian.com/environment/2015/may/18/fossil-fuel-companies-getting-10m-a-minute-in-subsidies-says-imf>.

should be paying a whopping \$5 trillion more a year for energy to cover the hidden health and environmental costs of using fossil fuels.”²⁵ So coal, oil and gas users should be paying *more* to the companies or governments. That is not as exciting a headline, but it is closer to the point of the study.

For its part, the International Energy Agency (IEA) published a figure of \$640 billion in 2014, which includes almost \$500 billion for fossil fuels alone.²⁶ The IEA acknowledges that there are also renewables subsidies, but concludes that they are dwarfed by the fossil fuel subsidies.²⁷ Although the IMF and the IEA are similar institutions, note that their figures are separated by a factor of 10 (\$5.3 trillion IMF versus \$500 billion IEA).

The next annual subsidy figure is \$160 to \$200 billion for fossil fuels, limited to the twenty or so members of the Organization for Economic Cooperation Development (OECD).²⁸ The OECD includes North America, Japan, and much of Europe, and thus a large slice of the world’s energy consumption.²⁹ But the IMF, the IEA and the OECD include more or less the same member countries and have more or less the same economic data missions. How can these Ph.D. economists coming out of the same schools—Stanford, Oxford, Tokyo University, MIT, among others—reach such different conclusions? One researcher suggests that OECD economists are more likely to come from backgrounds in agricultural policy, where subsidies have long been seen as beneficial.³⁰

The wide range of subsidy figures is not unique to the various international organizations already cited. In the United States, for example, the Energy Information Administration (EIA) (the Department of Energy unit

²⁵ Ian Talley, *IMF Estimates Trillions in Hidden Fossil-Fuel Costs*, WALL ST. J., May 18, 2015. A trenchant critique of the IMF methodology is also well worth reading. See Tim Worstall, *IMF Report on \$5.3 Trillion In Energy Subsidies; Careful, It’s Not Quite What You Think*, FORBES (May 19, 2015), <https://www.forbes.com/sites/timworstall/2015/05/19/imf-report-on-5-3-trillion-in-energy-subsidies-careful-its-not-quite-what-you-think/#5f896f134bfa>.

²⁶ International Energy Agency, *WORLD ENERGY OUTLOOK 21* (2016). The IEA reported a \$325 billion subsidy figure for fossil fuels alone in 2015, without headlining an accompanying figure for the total subsidy.

²⁷ *Id.*

²⁸ Angel Gurría, Secretary General, Organization for Economic Cooperation and Development, Opening Remarks (as prepared for delivery), *OECD Inventory of Support Measures for Fossil Fuels 2015* (Sept. 21, 2015), <https://www.oecd.org/about/secretary-general/oecd-inventory-of-support-measures-for-fossil-fuels-2015.htm>.

²⁹ See <https://www.oecd.org/about/>.

³⁰ Jakob Skovgaard, *The devil lies in the definition: competing approaches to fossil fuel subsidies at the IMF and the OECD*, 17 INT’L ENVIRONMENTAL AGREEMENTS 341, 350 (2017).

that keeps track of energy statistics) says that annual subsidies for fossil fuels and renewables are about \$15 billion (divided more or less equally between the two).³¹ And the U.S.-based non-governmental organization (NGO) Oil Change International (OCI) is in the same ballpark as the EIA, with a U.S. figure of \$20 billion, although it believes the subsidy was overwhelmingly in favor of fossil fuels.³² On the other hand, the Institute for Energy Research (IER) says that almost all of the \$15 billion in U.S. energy subsidies, some 93%, go to renewable energy, *not* to fossil fuels.³³ What is more, because renewable energy output is a small fraction of total energy, if one expresses energy subsidies per unit of energy output, like a megawatt-hour, the fossil fuel subsidy is less than a dollar, whereas the wind subsidy for wind is \$35 and the solar subsidy was over \$300.

Finally, the American Petroleum Institute (API) and Her Majesty's Government agree that there are no energy subsidies furnished by their respective nations. API, a trade association that includes a number of the larger oil companies, states that federal subsidies to the oil industry are a myth—"the oil and natural gas industry currently receives not one taxpayer 'subsidy,' 'loophole' or deduction."³⁴ API adds that "[b]etween 2013 and 2017, the oil and natural gas industry paid an effective tax rate of 34 percent versus 26.7 percent for the S&P 500 industrials."³⁵ Similarly, the United Kingdom's Department of Energy and Climate Change, a signatory to the various climate treaties, replied to a 2015 inquiry asking how much the country subsidizes fuels by simply saying "[t]he UK has no fossil

³¹ U.S. Energy Information Administration, *Direct Federal Financial Interventions and Subsidies in Energy in Fiscal Year 2016* 3 (Apr. 2018), available at <https://www.eia.gov/analysis/requests/subsidy/pdf/subsidy.pdf>. Most of the American subsidy numbers were quite a bit lower in 2016 compared to 2013, when the incentives included the stimulus funding given to all types of energy following the recession of 2008-09. *Id.* at 8.

³² Janet Redman, *Dirty Energy Dominance: Dependent on Denial — How the U.S. Fossil Fuel Industry Depends on Subsidies and Climate Denial* 4, 9 (Oil Change International, Oct. 2017), available at http://priceofoil.org/content/uploads/2017/10/OCI_US-Fossil-Fuel-Subs-2015-16_Final_Oct2017.pdf.

³³ Institute for Energy Research, *Fossil Fuels Dominate U.S. Energy Production, But Receive a Small Percentage of Federal Fuel Subsidies* (Jan. 9, 2019), <https://www.instituteforenergyresearch.org/renewable/fossil-fuels-dominate-u-s-energy-production-but-receive-a-small-percentage-of-federal-fuel-subsidies/>.

³⁴ Stephen Comstock, *The Truth on Oil and Natural Gas "Subsidies"*, ENERGY TOMORROW BLOG (Jan. 19, 2014), <https://www.api.org/news-policy-and-issues/blog/2014/01/29/the-truth-on-oil-and-natural-gas-subsidi>.

³⁵ American Petroleum Institute, *Oil & Natural Gas: Supporting the Economy, Creating Jobs, Driving America Forward* (2018), https://www.api.org/~media/Files/Policy/Taxes/DM2018-086_API_Fair_Share_OnePager_FIN3.pdf.

fuel subsidies.”³⁶ Some critics dismiss these statements as spin—“a classic political strategy to simply deny that key interventions are subsidies at all.”³⁷ I would remind you of Orwell’s observation that *all* comments in the political arena should themselves be deemed to be political.³⁸

Table 1 summarizes these figures, all measured in roughly the same 2014 or 2015 timeframe.

Table 1. How Much Is Energy Subsidized?

Source	Figure
Nelder	<i>Trillions and trillions, for U.S. fossil fuels</i>
IMF	<i>\$5.3 trillion annually, for global fossil fuels</i>
IEA	<i>\$640 billion annually globally, ~\$500 billion for global fossil fuels</i>
OECD	<i>\$170 billion annually, for OECD country fossil fuels</i>
EIA	<i>\$15 billion annually, for U.S. federal subsidies; split between renewables and fossil fuel</i>
OCI	<i>\$20 billion annually, for U.S. federal subsidies; almost all for fossil fuel</i>
IER	<i>\$15 billion annually, for U.S. federal subsidies; almost all for renewables</i>
API	<i>Zero for federal U.S. oil subsidies</i>
UK Climate Change Dep’t	<i>Zero for UK fossil fuel subsidies</i>

There are trillions on the board, and there are zeroes on the board. I trust you will agree with me that I do not yet have a good answer to the question in the title of my article.

³⁶ U.K. Department of Energy & Climate Change, *Freedom of Information Request* (FOI 2015/15308, Aug. 17, 2015), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/455512/FOI_2015_15038_PUB.pdf.

³⁷ Doug Koplow, *Defining and Measuring Fossil Fuel Subsidies* 40 (2018).

³⁸ See note 13 above.

II. WHAT IS YOUR DEFINITION OF “SUBSIDY”?

What is going on? At root, of course, is that the answer to the question in my title depends on the meaning of the word “subsidy.” We must defer conversation about substantive issues, namely the role of energy policies and the economics and politics of energy fuel sources and energy uses, and instead engage in a discussion of how we define our terms.³⁹

A. Measuring Subsidies

There is a thriving literature on how to calculate subsidies. One approach is to identify the payments or costs you believe constitute subsidies in a given sector like energy, and stack them up. This is referred to as the inventory method.⁴⁰

Another approach is instead to confirm what a consumer pays in a given country for the energy in question, and to compare that to what the energy should have cost—either based on a cost buildup within that country, or on the price of the energy on the world market or in a comparable country. This is referred to as the price-gap method.⁴¹ There are also hybrid approaches where inventories and price-gaps are used for different types of subsidy. Subsidies granted to producers are often accounted for separately from subsidies granted to consumers.⁴²

The challenge for all these methods is establishing the baseline from which one starts calculating what an energy subsidy is. This is a bit like standing onshore, trying to measure the height of someone standing aboard a boat that is rising and falling in the waves.

In his assessment of World Trade Organization (WTO) subsidies, Alan Sykes notes that “[m]uch of what governments do—from highway construction to educational funding to the administration of the courts to direct fiscal outlays to firms—directly or indirectly promotes business activity.”⁴³ We taxpayers collectively pay for a court system allowing oil

³⁹ Cf. RICHARD A. POSNER, AN AFFAIR OF STATE: THE INVESTIGATION, IMPEACHMENT, AND TRIAL OF PRESIDENT CLINTON 55, 57 (1999) (discussing the meaning of “is”).

⁴⁰ See Koplow, note 37 above, at 24.

⁴¹ *Id.*

⁴² *Id.* at 24, 26.

⁴³ Alan O. Sykes, *The Questionable Case for Subsidies Regulation: A Comparative Perspective*, 2 J. LEGAL ANALYSIS 473 (2010).

companies as well as others to assert and defend their rights; transportation systems benefitting energy as well as non-energy shippers; military forces protecting borders for all of us; a tax collection system under which real property mortgage interest is generally deductible; and a host of other widespread benefits. Conversely, governments levy taxes and impose regulations across the population and across industries. In a world in which government actions are so intense and so pervasive, where do we draw a line and say below this line is not a subsidy at all, but above this line, we will call it an energy subsidy?

Little if any light is shed on the agency and think-tank figures for energy subsidization by looking at economic and legal authorities. That is not where the battle is being waged. Instead, there is a heavy dose of political thinking going on, inside and outside each institution. There is thus a need to appraise the political as well as the economic approach employed by each source.

B. *The Devils in the Specific Definitions*

1. *Defining the IMF Subsidy Term.* The IMF staff papers are transparent sources of information about the subsidization of energy. They explain their own definition of “subsidy” in considerable detail, and provide a data set that allows others to understand the numbers.⁴⁴ The IMF staff are quite candid that their definition is far broader than the definitions used by their peer institutions,⁴⁵ and further still beyond the dictionary⁴⁶ and WTO⁴⁷

⁴⁴ IMF 2015 at 10.

⁴⁵ *Id.* at 4-5.

⁴⁶ The MIT economics dictionary says that a subsidy is a payment made by the government (or possibly by private individuals) that forms a wedge between the price consumers pay and the costs incurred by producers, such that price is less than marginal cost. MIT DICTIONARY OF MODERN ECONOMICS (4th ed. 1992). Oxford University’s Finance and Banking Dictionary says a subsidy is a payment by a government to producers in order to induce the producers to sell at a lower price. OXFORD DICTIONARY OF FINANCE AND BANKING (6th ed. 2018). And the University’s Economics Dictionary says a subsidy is a payment by a government to either producers or consumers, and that the purpose of a subsidy was not just to induce a lower price, but to ensure that the producers receive more consideration than the consumer pays. OXFORD DICTIONARY OF ECONOMICS (5th ed. 2017) (emphasis added). Some subtle differences are readily apparent. The bonus lesson here is always to consult more than one dictionary.

⁴⁷ Pursuant to its 1947 General Agreement on Trade and Tariffs and as more specifically provided in its more recent Agreement on Subsidies and Countervailing Measures, the WTO holds that a subsidy is a financial contribution by a government in one of the following forms: (i) a direct financial

definitions of “subsidy,” which are anchored on monetary payments.⁴⁸ Possessed with these disclosures, we can understand how they produced the figure of \$5.3 trillion in subsidies per year, when other institutions report figures that are small fractions of that number.⁴⁹ Reading their work is a worthwhile exercise, even if one ultimately disagrees with the IMF’s conclusions.

The IMF staff defines both a consumer subsidy and a producer subsidy.⁵⁰ The producer subsidy is easier to explain: it is a payment or other benefit given to a producer of a commodity that is not intended to be passed along to the consumer.⁵¹ If the government confers on oil companies a capital gains tax break or a low-interest loan, the IMF reflects its value in its inventory of energy subsidies. If a national oil company does not pay dividends, so it does not have a cost of equity capital compared to its peer firms, that avoided cost is treated as a subsidy.

Now let us look at the consumer subsidy. This subsidy is expressed as the difference between what a consumer pays for energy and what that consumer should pay.⁵² What the consumer pays is a straightforward fact: the researchers take into account the net price including all taxes for units of energy, typically transportation fuel (diesel or gasoline) or electricity. That price is compared to the price that the consumer should pay, and the latter of course is a constructed number.

The constructed number has three pieces. The first is a supply price.⁵³ The IMF starts with what capital and operating expenses the producer and distributor incur to produce and deliver the energy. But the IMF research-

transfer—a payment of money; (ii) a forbearance of an obligation, like an exemption from a tax otherwise due; (iii) provision of goods and services at a price below market price; or (iv) enumerated benefits that are specific to import/export scenarios. *See* Agreement on Subsidies and Countervailing Measures art. 1, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, Multilateral Agreements on Trade in Goods—Results of the Uruguay Round (1994).

⁴⁸ The dictionary and legal definitions are narrow in the eyes of most of the investigators described above, as they focus on actual payments by government or, in the WTO’s case, a forbearance of obligations otherwise owed to government. *See* note 47 above.

⁴⁹ IMF 2015 at 5, 29.

⁵⁰ *Id.* at 4–5, 10–11. There are interesting but separate questions why both consumer subsidies and producer subsidies exist, and when a government or political system uses one rather than the other to achieve a policy goal.

⁵¹ *Id.* at 11.

⁵² *Id.* at 10.

⁵³ *Id.* at 7.

ers use a supply price “evaluated at efficient prices.”⁵⁴ That is, they examine whether the producer or distributor benefits from a subsidy, say, on steel employed in building a pipeline or refinery; if so, the researchers add the subsidy cost to the constructed supply price. The researchers similarly seek to identify anything they think inefficient in the input markets.

The second piece is taxes, often an excise tax collected per unit.⁵⁵ In the United States, this is typically a gasoline tax, or a sales tax assessed and collected on the final sale for consumption; elsewhere, it may be a value-added tax (VAT) assessed and collected at various points in the supply chain. The IMF researchers look at whether the tax on energy is lower than what is imposed on other goods, and if so, increases that energy tax in the constructed price.⁵⁶ If you are in a country in which the VAT on fuel is collectively 5%, but the VAT on purchases of other goods sums to 20%, the IMF staff might impute 15% more VAT into their constructed price. (As one of the critics of their approach said, if your country does not have a tax, one will be provided to you by the IMF.⁵⁷)

The IMF researchers thus begin with facts—the actual price the consumer pays, the actual supply price, and the actual tax. The IMF then increases the constructed supply price to reflect what is considered a more efficient allocation of resources, in terms of the input costs and equalized tax burdens.

The third piece of the constructed sales price is a Pigouvian tax addressing externalities.⁵⁸ A.C. Pigou was an advocate of taxes on products that correct for externalities created by activity of the producer or consumer.⁵⁹ I had thought that the quid pro quo of such a tax was that the money so raised was used to correct the problem, but that feature is not a part of the definition. It is enough that you increase the price of the good that causes the externality; what the government does with the money is a separate question, though often there is a connection.

In the United States, we see enactments of taxes on alcohol, tobacco, and sugary soda beverages in response to the health care costs and human

⁵⁴ *Id.*

⁵⁵ IMF 2015 at 9.

⁵⁶ *Id.*

⁵⁷ Worstal, note 25 above.

⁵⁸ IMF 2015 at 7.

⁵⁹ See generally ARTHUR C. PIGOU, *THE ECONOMICS OF WELFARE* (4th ed. 1932).

health risks occasioned by these substances. Some of that money makes it back into targeted health programs; some does not. Gasoline taxes are imposed, and proceeds are steered towards the construction and repair of public highways worn down by the associated vehicle traffic.

The traditional realm of Pigouvian taxes is the body of laws that are enacted by a legislative body. The IMF researchers take the concept to a different level, because they look for externalities that are *not* addressed by such an enactment.⁶⁰ The economic impact of the externality becomes what they call an “implicit subsidy.”⁶¹ Adding a value for that impact to the constructed supply price for the product, in the calculation of consumer subsidy, results in what they call an “efficient tax.”⁶² We certainly do not find these two terms defined in the MIT or Oxford dictionaries.

The differences among the definitions leading to the Table 1 figures are apparent. The IEA parts company with the IMF when the IEA states it will only recognize actual government actions that confer economic benefits on producers or consumers.⁶³ Similarly, the OECD focuses on what the government does or taxes (not what it does not do or does not tax).⁶⁴ The EIA, OCI and IER all focus on the federal budget line-items in their efforts to identify how much money the government will spend or forego; hence their agreement with a \$15 to \$20 billion approximate annual figure for subsidization, despite their profound disagreement over the relative mix of beneficiaries.⁶⁵ Finally, both the API and the UK say that a subsidy has more or less the dictionary definition: an outward financial transfer, typically by a government.⁶⁶ They hold that a subsidy is created when the United States Treasury or Her Majesty’s Treasury writes a check and gives that outlay to the producer. By this logic companies, in complying with the tax code, are simply complying with the law, even if that code has beneficial features for their particular industry.

⁶⁰ IMF 2015 at 8.

⁶¹ See, e.g., IMF 2015 at 23 (“The revenue gain is quite a lot lower than the post-tax energy subsidy, as it accounts for the price-induced reduction in energy use and implicitly assumes tax rebates are used to promote adoption of emission control technologies for coal, which lowers net revenue.”).

⁶² *Id.* at 7, 9.

⁶³ See notes 26 and 27 above and the accompanying text.

⁶⁴ See note 28 above and the accompanying text.

⁶⁵ See notes 31-33 above and the accompanying text.

⁶⁶ See notes 34-36 above and the accompanying text.

2. *Applying the IMF Definition.* Equipped with an understanding of the IMF's definition, we can now see whence the IMF's \$5.3 trillion figure comes. The predominant difference between the IMF figure and the IEA and OECD figures (\$800 billion and \$160-200 billion, respectively) is attributable to just two sources.

The first is consumer fuel subsidies, largely in the developing world. The German state agency GIZ regularly surveys prices across many countries and ranks them based on what the consumer pays at the pump.⁶⁷ At the low end of the 2016 data we find oil states and politically volatile countries. Iran, for example, had a gasoline price of 40 cents, 0.40 U.S. dollar, per liter.⁶⁸ As much as twenty percent of the Iranian gross domestic product has been earmarked to fuel subsidies; it has formed one-seventh of the global subsidies in some time periods, when the price in that country was only 10 cents per liter. Another country, Venezuela, had a gasoline price of only 0.8 cents, 0.008 U.S. dollars, per liter—even before the height of the current governmental and economic crisis.⁶⁹

The United States is in the middle of the gasoline pump prices, at 71 cents per liter.⁷⁰ On the other side of the U.S. there are countries with higher prices, especially in Europe; in Norway the price of gasoline was \$1.78 per liter.⁷¹ The European prices can fairly be said to be Pigouvian; high prices (and low prices) certainly affect behaviors on the use of energy.

Developing-world fuel subsidies are one large component of the IMF's \$5.3 trillion.⁷² This partially explains why figures for just the OECD countries, and for just the United States, are so much lower than the IMF figure. Many of the subsidies that the investigators are identifying are in oil states and emerging-economy countries, where prices are kept much lower than they would otherwise be.

⁶⁷ See Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, German Federal Ministry for Economic Cooperation and Development, *Non-alternative facts on international fuel prices in 2016*, <http://www.indiaenvironmentportal.org.in/files/file/Non-alternative%20facts%20on%20international%20fuel%20prices.pdf>. See also Benjamin K. Sovacool, *Reviewing, Reforming, and Rethinking Global Energy Subsidies: Towards a Political Economy Research Agenda*, 135 *ECOLOGICAL ECONOMICS* 150 (2017).

⁶⁸ GIZ, note 67 above.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² IMF 2015 at 29.

The second major contributor to the IMF \$5.3 trillion figure is the staff's Pigouvian efficient tax, correcting what are seen as "implicit subsidies."⁷³ This hypothetical tax addresses environmental and traffic congestion harms the IMF links to fossil fuels that are not being captured in the product price:

- Particulate emissions lead to health costs, illness and deaths, so the IMF puts price tags on those health costs, the air filters and other devices used to protect against particulates, and the decreased economic contributions and tax payments of workers lost to occupational disease and premature mortality;
- A carbon price is imputed as placeholder compensation for the climate change damage caused by carbon dioxide and methane emissions;
- The IMF includes in the gasoline and diesel price the lost time of drivers due to traffic congestion, accidents, and road damage in the pump price, apparently on the theory that public transportation powered by clean electricity could take the place of fossil-fuel powered automobiles. Of course, electric vehicles can contribute to traffic jams, but the IMF attributed traffic costs to fossil fuels.⁷⁴

In the eyes of the IMF researchers, the fact that a state failed to enact a tax is an "implicit subsidy." By including the health costs and the other impact costs of the fossil fuel, the researchers are achieving on paper the equivalent of enacting what they term an "efficient tax." The researchers do not say that they inquired whether any particular country's political system ever considered such a tax, or whether such a tax was proposed but rejected through the political processes. Neither do they say whether a rejection of such a tax in the political process could be legitimate.

These are certainly bold maneuvers to make in any heated political climate. In the IMF researchers' 2015 working paper, they wrote that a good time to reform subsidies, by withdrawing fossil fuel subsidies and raising taxes on fossil fuels, is when the underlying commodity prices are low, "as the public opposition to reform is likely to be somewhat muted."⁷⁵

⁷³ *Id.*

⁷⁴ *Id.* at 7-8, 10.

⁷⁵ *Id.* at 29.

There is something chilling about the phrase “*public opposition to reform*,” reform that is not supported by a political system. It sounds Orwellian—or even like Rousseau’s general will overriding popular sentiment.⁷⁶ Suffice it to say that this sentence does not appear in the IMF staff’s 2017 published version.

I had already begun inserting Orwell quotes in this piece when an article in the *Telegraph* came to my attention: “[T]here is something rather Orwellian about describing a failure to tax something as a subsidy . . . Re-branding externalities as subsidies might make for good headlines in the Left-wing press, but it also makes for stifled debate and woolly thinking.”⁷⁷

We indeed saw above those headlines, critiques of subsidies of Big Oil,⁷⁸ when according to the economists it is consumers who should be paying even more money, in order to drive down the demand for fossil fuels.

My first instinct was to agree with the author that the IMF researchers had done violence to the meaning of “subsidy.” But my second thought was to ask what was gained by engaging in a debate about definitions. This is not a debate on matters of substance, such as the impacts of fossil fuels or the health costs of industrial activities. It is and remains just a debate on whether one should call an externality a subsidy.

III. HOW CAN WE COMMUNICATE ABOUT SUBSIDIES?

If you are talking about subsidy, or listening to someone talk about subsidy, then a definition is in play, whether explicit or implicit. It is a good idea to recognize that, and to be aware other people may be using the same word in different ways.

But definitional disputes would not seem to explain differences as vast as a quadrillion versus zero. There is also a question of political discourse and rhetoric: *what are we really talking about when we talk about subsidies?* If we do not have a clear picture of each participant’s purpose in having the conversation, we will continue to talk past one another even when definitions are explicit.

⁷⁶ See JEAN-JACQUES ROUSSEAU, ON THE SOCIAL CONTRACT; OR, PRINCIPLES OF POLITICAL RIGHTS (1762).

⁷⁷ Sam Bowman, *IMF fuel subsidies are not what they seem*, TELEGRAPH, May 24, 2015.

⁷⁸ See note 23 above and the accompanying text.

A. Subsidies Beyond the Definitions

How many people's minds will be changed during a debate over definitions? Can we really convince someone, by arguing over definitions, that he or she should change position on an underlying environmental or energy policy?

Let us progress from the discussion of definitions, which may or may not be fruitful, to the broader question of how we can have conversations with one another about subsidies. This is not merely a matter of terminology. A difference as large as that between a quadrillion dollars and zero is also a matter of underlying motivations. Following is a series of questions designed to elicit the concerns and goals of each of those engaging in a dialogue about subsidies.

1. *In what discipline is the speaker engaging?* The EIA specifically says that it is just looking at line-items in federal budgets—grant money or research and development (R&D) money going out, less tax revenues coming in. It totals up the net money that the government spends on energy-specific activity.⁷⁹ The EIA is thus engaging in something akin to the discipline of accounting.

The IEA and the OECD, on the other hand, are willing to take regulatory policy other than transfers of government money into account, so long as the policy prescribes a transfer of costs or benefits from one group to another group.⁸⁰ Those agencies are engaging in what might be called regulatory policy analysis.

The IMF is essentially transforming the energy economy, on paper at least, by saying that in some cases, a country's taxes should be higher and its subsidies lower than they actually are.⁸¹ The IMF is engaging in what we might call political economy or even political philosophy.

The bookend figures—and how often it is the case that extremes resemble one another—come from parties that do not purport to be part of such disciplines. The fossil fuel infrastructure reformers envision a completely transformed energy future, and the API and the UK are using the terms akin to the economics dictionary definitions limited to outlays by governments.⁸²

⁷⁹ See notes 31-33 and 65 above and the accompanying text.

⁸⁰ See notes 26-28 and 64 above and the accompanying text.

⁸¹ See Part II.B above.

⁸² See notes 15-19, 34-36, and 66 above and the accompanying text.

2. *Why does the speaker care about subsidies?* The IMF staff appears strongly motivated to encourage rational economic decision-making reflecting all impacts of each energy source. Any subsidy or tax that moves the supply and demand curves away from where they should be causes more fossil fuel to be consumed in Venezuela and less renewable energy to be used in the United States than is efficient to do so, taking externalities into account.

Another speaker may champion subsidies in order to encourage a nascent technology or business in a home country. There are many examples of this kind of stimulus: the Asian Tigers, the United States railroads, and other situations where a domestic government has favored a new industry so that it can effectively compete in broader markets.

If nurturing an industry is a goal of such speakers, it is fair to ask what they think should happen when the domestic industry successfully establishes itself. When the home force becomes viable, will they stop feeding steaks to the tiger? Or will those subsidies now be a sacred entitlement?

Are speakers concerned with subsidies because they are seeking to mitigate effects of societal change? For example, are they trying to compensate coal miners for the impacts of transitioning from a disfavored fuel source or activity? Will they be trying to compensate truck drivers (or attorneys) who will be displaced by artificial intelligence or robots? Or is a speaker merely seeking to move costs or benefits up or down the supply chain, to a place where a subsidy or tax is easier to provide or collect, assess and target?

Is the speaker seeking to treat one energy input like other energy inputs—to put them on a “level playing field”? Or is the speaker comparing one energy input to another sector entirely? For example, oil companies may contend that a depletion allowance puts them on a level playing field with industrial companies able to depreciate their physical plants. They are comparing themselves not to renewable power generators, but instead to owners of factories. The API notes that the equivalents of many petroleum deductions are available to all extractive resources companies, or to all business taxpayers.⁸³

⁸³ See note 34 above (noting that the percentage-depletion deduction “is available to all extractive industries (such as gold, iron, clay and others) in the U.S. and is in no way unique to the oil and natural gas industry.”).

3. *What do the speakers want done with subsidies?* Do they want to create one, or take one away, or take away all of them? Do they want to improve the subsidies, either by making them more efficient or by concentrating them on the people that deserve them the most? (One problem with selling gas for a penny a liter is that the rich and the poor both pay a penny; a voucher system may be more effective.)

How do the speakers intend to effect any desired change in the subsidy landscape? Will they look for opportunities when “the public opposition to reform is likely to be somewhat more muted,” as the IMF researchers suggested in their working paper?⁸⁴

David Victor reminds us that government leaders try to stay in power, and that popular subsidies help government leaders stay in power.⁸⁵ “Once a subsidy is created, regardless of its original purpose, interest groups and investments solidify around the existence of the policy and make change difficult.”⁸⁶ Those groups, who might have had nothing to do with each other before the subsidy was introduced, will tend to oppose the removal of that benefit.

Given those realities, what can an advocate of change in subsidies do about them? One should not imagine that a subsidy can be removed without some cost. Some groups likely will demand compensation over some time period. Political capital and financial capital will be needed for such a transition. Victor urges transparency in communicating why the subsidy is counter-productive, reforms so that any remaining subsidies are targeted at the right people for the right reasons, and consideration of policy tools other than subsidies that are more efficient ways of achieving a given policy goal.⁸⁷

4. *What next?* Assume that the speaker is successful in removing or reforming a subsidy. What will happen next? What will people do in response? The speaker may assume he or she knows. Here is Orwell’s cautionary note: “People can foresee the future only when it coincides with their own wishes, and the most grossly obvious facts can be ignored when they are unwelcome.”⁸⁸

⁸⁴ IMF 2015 at 29.

⁸⁵ David G. Victor, *The Politics of Fossil-Fuel Subsidies* 7, 14 (International Institute for Sustainable Development, Oct. 2009), available at https://www.iisd.org/gsi/sites/default/files/politics_ffs.pdf.

⁸⁶ *Id.* at 7.

⁸⁷ *Id.* at 8, 26.

⁸⁸ GEORGE ORWELL, *London Letter* (Dec. 1944), in *PARTISAN REVIEW* (Winter 1945).

An example of the complications of subsidy removal is the “transitional gains trap.”⁸⁹ At the moment a subsidy is introduced—say a per-liter benefit to a fuel producer—the incumbent producers clearly receive a benefit. They had already bought the business; now their returns are greater because they are receiving a subsidy. But what happens when they sell their business, or expand their facilities, or compete with others for new capital or labor? The superior rate of return will lead participants to bid up the price of those inputs. Someone investing in a business that already enjoys a subsidy will pay more and expect more.

On the other hand, a second, later owner of this same business is not getting an extraordinary rate of return. It paid fair value for a business that includes the subsidy. You can imagine how hard the second owner is going to fight to keep that subsidy in place, and how creative it will be in response to any attempt to eliminate it. Policy discussants should be humble about their ability to predict what will happen when we either institute or seek to remove a subsidy.

B. The Energy Policy Palette

The challenge with definitions, however necessary they may be for a numerical figure to have meaning, is that debate ensues on the terms and not on the policies. Instead of talking about terminology, can we finesse the definition trap and enlarge the field of debate to encompass all the possible policies?

My analogy, depicted in the chart attached as an Appendix, is to a palette. Consider an art class in which stubbornly independent students are drawing different things: a landscape, a still life, a portrait. They are not likely to agree on the common subject, or how to compare any artwork to another. One artist might select a solitary hue, while others might try out the entire rainbow. But all the artists can agree that there exist all the colors that are displayed on their common palette.

Similarly, industry trade associations will not accept that the salaries of sailors in the Fifth and Seventh Fleets should be incorporated into the price of diesel. Fossil-fuel infrastructure reformers will not accept that only checks drawn on the United States Treasury count as subsidies. Most

⁸⁹ Gordon Tullock, *The Transitional Gains Trap*, 6 BELL J. ECON. 671 (1975).

observers are somewhere in the middle; I doubt many of us would either include the cost of the military, or limit the calculation to Treasury checks. But these activities and many more in fact constitute policy tools.

If you want to talk about externalities, talk about externalities. So what if many people, perhaps almost all people, would not call an externality a subsidy? I suggest that, at least on occasion, we move beyond arguing over the limits of the word “subsidy,” and instead consider what policy tools exist, whether they are being used, how they perform, and whether they should be changed or discarded.

In my palette, I have grouped policies into eight categories. The upper left-hand column is where the dictionary definitions of “subsidy” reside—money and other direct financial transfers. Going down the column, we come to taxes and exemptions. Next, we have the international trade tools, including but not limited to the consideration of import/export costs and benefits in which the World Trade Organization is interested. After that, we encounter economic regulation more broadly, not just for imports and exports, but for other purposes. This stage might be where the OECD researchers fully join the conversation, for example.

Along the right-hand side of the palette, I have summarized a host of activities in which governments engage, whether specific to the energy industry or across the entire economy. In a continuation of the financial theme, governments can make grants, lend producers or consumers money, or provide government full faith and credit or guarantees to reduce credit costs. Following that, there are all sorts of services or products that are provided by governments for free or at a low cost: for example, grants for basic research, or the Coast Guard’s clearing harbors for everyone. I use the rather antiquated term “boon” to apply to any of these kinds of goods, services or technology that are being provided for free, or below cost, or below market. You may break them back apart as you please in your conversations.

Next are transfers of risk in an energy activity. These transfers can take risks from an individual participant and distribute them to their entire industry, so that if one person has a problem, some of it may be spread to and borne by a wider class of participants. Alternatively, such risks can be transferred to insurers, or in some cases absorbed by the government itself. The classic example is the Price-Anderson Act, where the first layer spreads certain risks from the nuclear reactor operator to private insurers,

the second layer features indemnity and insurance procured by the entire industry, and the third layer manifests itself in a government liability program.⁹⁰ All these kinds of risks can be allocated by governments and private parties in a wide variety of ways.

And finally, the palette firmly places externalities on the policy page, even if most parties do not regard them as subsidies. Some may take the cost of the impacts into account in assessing the efficient price of the product, and others may engage in a discussion about why that cost is not currently imposed. We can talk with each other about what is it in the political system that results in the current treatment of these externalities. We can ask what it would take, in a given political system, to cause more of those externalities to be borne in the product price, and what might happen if a different treatment of the externality were instituted.

CONCLUSION

Definitions are vital to understanding and communication, but they can also get in the way of substantive dialogue. If you spend all your time debating whether one can call an externality a subsidy, I am not sure you will persuade anyone on the other side. You will have simply moved the debate to the realm of semantics rather than that of energy policy. When you get locked in a definitional dispute, consider enlarging the conversation with reference to your preferred elements of a palette.

This brings me to three final points from Orwell. First, “[i]f thought corrupts language, language can also corrupt thought.”⁹¹ It is true that if our thinking is fuzzy, we are likely to use language in a fuzzy way. But Orwell observes that the converse is also true—if we use language in a fuzzy way, and use terms without making sure that other people understand how we define them, that usage will lead to fuzzy thinking.

Second, “[p]olitical language—and with variations this is true of all political parties, from Conservatives to Anarchists—is designed to make

⁹⁰ Price-Anderson Nuclear Industries Indemnity Act, Pub. L. No. 85-256, 71 Stat. 576 (1957). A paper maintains that this Act is not a “direct subsidy” of the nuclear industry. See Geoffrey S. Rothwell, *Does the US Subsidize Nuclear Power Insurance?* (Stanford Institute for Economic Policy Research, Jan. 2002), available at http://www.siepr.stanford.edu/papers/briefs/policybrief_jan02.pdf. Why not? Because the author cites the MIT Dictionary of Modern Economics definition requiring “a payment.” (He does acknowledge that “there is a potential (or expected) subsidy.”) *Id.*

⁹¹ See note 13 above.

lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind.”⁹² We should be wary and watchful of political communication. Note that Orwell indicts the left as well as the right here. I have not witnessed homicide in my journey on this particular subject, but my vessel has certainly been buffeted at times—from both port and starboard—by what feels like pure wind.

Last, use “language as an instrument for expressing and not for concealing or preventing thought.”⁹³ We should employ language, in talking about subsidies and policies, in a way that encourages the articulation of ideas and the fostering of constructive dialogue. We should avoid harboring an unstated definition that would surprise our companions, conceal our own thought, or, worse yet, prevent clear thinking by ourselves or on the part of others.

Define your terms, to be sure, but do not let your terms confine your thought or your conversations. Heeding Orwell, I offer this prescription for escaping from *Animal Farm* and moving beyond 1984.

#

⁹² *Id.*

⁹³ *Id.*

APPENDIX



The Energy Policy Palette

Rob James, Pillsbury Winthrop Shaw Pittman LLP, rob.james@pillsburylaw.com, May 2020

MONEY

ENERGY: Direct financial transfers to producers or consumers	BEYOND: fuel subsidies (Iran petrol, \$0.10/liter) grants for and purchases of biofuel crops
--	---

LOANS

ENERGY: Low-interest, low security, preferential loans and guarantees, government full faith and credit	BEYOND: DOE loans, guarantees; ARRA guaranty programs Agricultural loans and guarantees for efficiency; Einbank financing
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TAXES

ENERGY: Deductions and credits on income and excise taxes, special rates and depreciation	BEYOND: depletion, depreciation, EOR credits, ITC (solar), PTC (wind), expensing of drilling costs; MLPs foreign income and excise credits; loss carryforward; LIFO accounting practices; ethanol credits
---	--

BOONS

ENERGY: Government services and property without compensation, or below cost or world prices	BEYOND: Low royalties; data, R&D; transportation network TVA power and water improvements, highways
--	--

CUSTOMS

ENERGY: Quotas, tariffs, duties, embargoes, international market-access restrictions	BEYOND: ban on imports of fuel; tariffs on solar cells tariffs on import of ethanol, steel and aluminum
--	--

RISKS

ENERGY: Transfers of exposures to industry or public	BEYOND: Price-Anderson Act; decommissioning costs; Strategic Petroleum Reserve deduction of legal settlements and judgments
--	--

REGULATIONS

ENERGY: Price controls, rate caps, domestic market-access, local content requirements	BEYOND: coal preference, renewable portfolio standards, feed-in tariffs, eminent domain for private entities Opportunity zones, domestic manufacturing priorities, employment and relocation incentives
---	--

EXTERNALITIES

ENERGY: Incorporating, or possibly failing to incorporate, costs of pollution, health care & other impacts into the product price	BEYOND: Particulate, healthcare costs; CO ₂ and CH ₄ emission impacts; traffic, congestion, accidents same impacts for autos, power and cement plants; sprawl; national security deployments and foreign aid in Middle East
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APPELLATE REVIEW VI

OCTOBER TERM 2015

Joshua Cumby[†]

Rather than counting up the Supreme Court's explicit affirmances and reversals of the federal appellate courts' decisions—what we call the “primary review” affirmance rate—the founding editors of the Journal of Legal Metrics devised a system for counting up implicit approvals and disapprovals of those decisions in cases where the Court reviews and resolves “circuit splits.”¹

In *Campbell-Ewald Co. v. Gomez*, for example, the Court “granted certiorari to resolve a disagreement among the Courts of Appeals over whether an unaccepted [settlement] offer can moot a plaintiff's claim, thereby depriving federal courts of Article III jurisdiction.”² The Ninth Circuit below, together with the First, Second, Fifth, Seventh, and Eleventh Circuits, held “that an unaccepted offer does not render a plaintiff's claim moot.”³ The Third, Fourth, and Sixth Circuits, on the other hand, noted “that an unaccepted offer can moot an individual plaintiff's claim.”⁴ The Court affirmed the Ninth Circuit, holding “that an unaccepted settlement offer has no force” because “it creates no lasting right or obligation”; thus, “adversity between the parties persists.”⁵ In this case, the primary review affirmance rate counts only the Ninth Circuit's win. The parallel review affirmance rate, on the other hand, counts wins for all of the courts on the Ninth Circuit's side of the split (including the Ninth Circuit).

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¹ See Tom Cummins & Adam Aft, *Appellate Review*, 2 JOURNAL OF LAW (1 J. LEGAL METRICS) 59 (2012) (Appellate Review I).

² 136 S. Ct. 663, 669 (2016), as revised (Feb. 9, 2016).

³ *Id.* See also *id.* at 670 n.4.

⁴ *Id.* at 669.

⁵ *Id.* at 666. See also *id.* at 670 (holding “that Gomez's complaint was not effaced by Campbell's unaccepted offer to satisfy his individual claim.”).

We think our metric is better because it counts both winners and losers, expanding the sample size and mitigating the Supreme Court’s “decided propensity” to review lower court decisions it intends to reverse.⁶ The parallel review affirmance rate also compares appellate courts’ performance on the same legal questions with the same degree of difficulty—in each case, the players play the same game governed by the same rules—and acknowledges that not all affirmances and reversals are created equal.

THE RULES

In the course of compiling statistics for previous installments in this series,⁷ and with a little help from our friends,⁸ we’ve refined our method:

1. Because we limit the term “circuit split” to conflicts between federal appellate courts or “inter-circuit” splits, “intra-circuit” splits and disagreements between lower federal and state courts don’t count. For similar reasons, opinions reviewing state or federal district court decisions aren’t counted.⁹

⁶ See Thomas Baker, *The Eleventh Circuit’s First Decade Contribution to the Law of the Nation, 1981-1991*, 19 NOVA. L. REV. 323, 327 (1994) (“The ‘decided propensity’ of the Supreme Court, statistically speaking, is to grant a writ of certiorari in cases it intends to reverse.”).

⁷ See Appellate Review I; Tom Cummins & Adam Aft, *Appellate Review II – October Term 2011*, 3 JOURNAL OF LAW (2 J. LEGAL METRICS) 37 (2013) (Appellate Review II); Tom Cummins, Adam Aft & Joshua Cumby, *Appellate Review III – October Term 2012 and Counting*, 4 JOURNAL OF LAW (3 J. LEGAL METRICS) 385, 388-92 (2014) (Appellate Review III) (explaining the reasons for the current rules); Joshua Cumby, *Appellate Review IV – October Term 2013 – The Prodigal Sums Return*, 8 JOURNAL OF LAW (5 J. LEGAL METRICS) 65 (2018) (Appellate Review IV); Joshua Cumby, *Appellate Review V – October Term 2014*, 9 JOURNAL OF LAW (6 J. LEGAL METRICS) 54 (2019) (Appellate Review V).

⁸ See Aaron-Andrew P. Bruhl, *Measuring Circuit Splits: A Cautionary Note*, 4 JOURNAL OF LAW (3 J. LEGAL METRICS) 361 (2014).

⁹ See *Maryland v. Kulbicki*, 136 S. Ct. 2 (2015) (per curiam); *DIRECTV, Inc. v. Imburgia*, 136 S. Ct. 463 (2015); *Hurst v. Florida*, 136 S. Ct. 616 (2016); *Kansas v. Carr*, 136 S. Ct. 633 (2016); *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016); *James v. City of Boise*, 136 S. Ct. 685 (2016) (per curiam); *Wearry v. Cain*, 136 S. Ct. 1002 (2016) (per curiam); *V.L. v. E.L.*, 136 S. Ct. 1017 (2016) (per curiam); *Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016) (per curiam); *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016); *Franchise Tax Bd. of California v. Hyatt*, 136 S. Ct. 1277 (2016); *Harris v. Arizona Indep. Redistricting Comm’n*, 136 S. Ct. 1301 (2016); *Betterman v. Montana*, 136 S. Ct. 1609 (2016); *Foster v. Chatman*, 136 S. Ct. 1737 (2016); *Wittman v. Personhuballah*, 136 S. Ct. 1732 (2016); *Lynch v. Arizona*, 136 S. Ct. 1818 (2016) (per curiam); *Williams v. Pennsylvania*, 136 S. Ct. 1899 (2016); *Puerto Rico v. Sanchez Valle*, 136 S. Ct. 1863 (2016); *Utah v. Strieff*, 136 S. Ct. 2056 (2016); *Birchfield v. North Dakota*, 136 S. Ct. 2160 (2016).

2. Because its jurisdiction is statutorily distinct, opinions reviewing decisions by the U.S. Court of Appeals for the Federal Circuit also aren't counted.¹⁰

3. To be counted, the circuit split must be identified within the four corners of an opinion (including majority opinions, concurrences, and dissents),¹¹ which must also resolve the circuit split so that we can confidently count winners and losers.¹²

¹⁰ See *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S. Ct. 1923 (2016); *Kingdomware Techs., Inc. v. United States*, 136 S. Ct. 1969 (2016); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131 (2016).

¹¹ Cert petitions violate our four-corners rule in part because they are susceptible to advocacy bias. A circuit split is one of only a few “compelling” reasons for granting review. See SUP. CT. R. 10(A). But we can’t assume that a split identified in a petition is the reason the Court grants cert, or that the Court’s opinion necessarily resolves that split.

¹² This rule—and our conservative approach overall—means that our sample size is likely underinclusive. For example, the Court decided eight cases in the October 2015 term that involved circuit splits, but we don’t count them because we aren’t confident about who the winners and losers are. See *Montanile v. Bd. of Trustees of Nat. Elevator Indus. Health Benefit Plan*, 136 S. Ct. 651, 656-57 (2016) (granting cert “to resolve a conflict among the Courts of Appeals over whether an ERISA fiduciary can enforce an equitable lien against a defendant’s general assets,” holding “that it cannot,” reversing the Eleventh Circuit, and comparing decisions from the First, Second, Third, Sixth, and Seventh Circuits (on the one hand) and the Eighth and Ninth Circuits (on the other) without indicating who (mistakenly) agreed with the lower court); *Americold Realty Tr. v. Conagra Foods, Inc.*, 136 S. Ct. 1012, 1015-16 (2016) (granting cert “to resolve confusion among the Courts of Appeals regarding the citizenship of unincorporated entities” and acknowledging that “confusion regarding the citizenship of a trust is understandable and widely shared,” but failing to identify which circuits are confused); *Husky Int’l Elecs., Inc. v. Ritz*, 136 S. Ct. 1581, 1585 (2016) (granting cert to resolve “an existing split among the Circuits over whether ‘actual fraud’ [under 11 U.S.C. § 523(a)(2)(A)] requires a false representation” without identifying the circuits on each side of the split); *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Manning*, 136 S. Ct. 1562, 1567 (2016) (granting cert “[b]ecause of a Circuit split about” the meaning of Section 27 of the Securities Exchange Act of 1934 and siding with the Third Circuit, but telling us only that the Second Circuit construes that provision “more narrowly” and the Fifth and Ninth Circuits construe it “more broadly”); *Simmons v. Himmelreich*, 136 S. Ct. 1843, 1846 (2016) (granting cert “to resolve a Circuit split on whether the judgment bar provision applies to suits that . . . are dismissed as falling within an ‘Exceptio[n]’” to the Federal Tort Claims Act, affirming the Sixth Circuit, and citing decisions from the Second, Seventh, and Ninth Circuits without more); *Dietz v. Bouldin*, 136 S. Ct. 1885, 1891 (2016) (granting cert “to resolve confusion in the Courts of Appeals on whether and when a federal district court has the authority to recall a jury after discharging it,” affirming the Ninth Circuit, and citing decisions from the Second, Third, Fourth, Seventh, and Eighth Circuits without more); *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2124 (2016) (granting cert to resolve a conflict between the Ninth Circuit’s decision below and “cases from a number of other courts” including the Fourth and Fifth Circuits but omitting any indication of how those courts ruled on the question(s) presented); *RJR Nabisco, Inc. v. European Cmty.*, 136 S. Ct. 2090, 2099, 2101 (2016) (granting cert because “[t]he lower courts have come to different conclusions regarding [the] extraterritorial application” of the Racketeer Influenced and Corrupt Organizations Act (RI-

THE RESULTS

Applying our rules to the Supreme Court’s work in the October 2015 term, we count 18 circuit splits:

October Term 2015 Circuit Splits		
Cite	Winners	Losers
Shapiro v. McManus, 136 S. Ct. 450, 454 (2015)	5, DC	4
Bruce v. Samuels, 136 S. Ct. 627, 629 (2016)	5, 7, 8, 10, DC	2, 3, 4
Campbell-Ewald Co. v. Gomez, 136 S. Ct. 663, 669-70 (2016), as revised (Feb. 9, 2016)	1, 2, 5, 7, 9, 11	3, 4, 6
Musacchio v. United States, 136 S. Ct. 709, 712-15 (2016)	2, 5	1, 10
Menominee Indian Tribe of Wisconsin v. United States, 136 S. Ct. 750, 755 (2016)	DC	N/A ¹³
Lockhart v. United States, 136 S. Ct. 958, 961 (2016)	2 ¹⁴	8
Nichols v. United States, 136 S. Ct. 1113, 1117 (2016)	8	10
Molina-Martinez v. United States, 136 S. Ct. 1338, 1341-42 (2016)	6, 9, 10 ¹⁵	5

CO); reversing the Second Circuit, which held that RICO *may* apply extraterritorially; citing a Ninth Circuit decision holding that RICO does *not* apply extraterritorially (United States v. Chao Fan Xu, 706 F.3d 965 (9th Cir. 2013)); and ultimately finding “that the presumption against extraterritoriality has been rebutted—but only with respect to certain applications of the statute.”).

¹³ “The Court of Appeals’ decision created a split with the Federal Circuit . . .” 136 S. Ct. 750, 755 (2016). *See also* note 10 above and the accompanying text.

¹⁴ There are other winners here but the Court does not tell us who they are. *See* 136 S. Ct. at 961 (“The question before us is whether the phrase ‘involving a minor or ward’ modifies all items in the list of predicate crimes (‘aggravated sexual abuse,’ ‘sexual abuse,’ and ‘abusive sexual conduct’) or only the one item that immediately precedes it (‘abusive sexual conduct’). Below, the Court of Appeals for the Second Circuit *joined several other Courts of Appeals* in holding that it modifies only ‘abusive sexual conduct.’ The Eighth Circuit has reached the contrary result. We granted certiorari to resolve that split. [] We affirm the Second Circuit’s holding.”) (emphasis added).

¹⁵ Likely many more unidentified winners here, as “the Fifth Circuit stands generally apart from other Courts of Appeals with respect to its consideration of unpreserved [Sentencing] Guidelines errors” and “its approach is incorrect.” 136 S. Ct. at 1345; *see also id.* at 1348 (noting that the Court’s “holding is consistent with the approach taken by most Courts of Appeals.”).

October Term 2015 Circuit Splits		
Cite	Winners	Losers
Heffernan v. City of Paterson, 136 S. Ct. 1412, 1416-17 (2016)	6	3
CRST Van Expedited, Inc. v. E.E.O.C., 136 S. Ct. 1642, 1651-53 (2016)	4, 9, 11 ¹⁶	8
Torres v. Lynch, 136 S. Ct. 1619, 1624 (2016)	2, 4, 5, 7, 8, 9	3
Green v. Brennan, 136 S. Ct. 1769, 1775 (2016)	2, 4, 8, 9	7, 10, DC
United States v. Bryant, 136 S. Ct. 1954, 1964 (2016), as revised (July 7, 2016)	8, 10	9
Universal Health Servs., Inc. v. United States, 136 S. Ct. 1989, 1995-99 (2016)	DC	1, 2, 7
Kirtsaeng v. John Wiley & Sons, Inc., 136 S. Ct. 1979, 1983-84 (2016)	N/A ¹⁷	4, 5
Taylor v. United States, 136 S. Ct. 2074, 2079-80 (2016)	4	2, 7
Mathis v. United States, 136 S. Ct. 2243, 2251 (2016)	4, 9	6, 8, 10
Voisine v. United States, 136 S. Ct. 2272, 2277-78 (2016)	1	9

¹⁶ There may be more winners here, too. The Court held that that “a defendant need not obtain a favorable judgment on the merits in order to be a ‘prevailing party’” and recover attorney’s fees, and cited the Petitioner’s brief for a collection of “Courts of Appeals cases in which the defendant received attorney’s fees and the District Court’s judgment was not on the merits.” 136 S. Ct. at 1653.

¹⁷ The Second Circuit—the court below—is both a winner and a loser here and, like a walk in baseball, this decision does not count as an at bat. The Second Circuit was correct that courts exercising their discretion to award attorney’s fees under the Copyright Act should “give substantial weight to the objective reasonableness of the losing party’s position”; however, “the Court of Appeals’ language at times suggests that a finding of reasonableness raises a presumption against granting fees . . . and that goes too far in cabinining how a district court must structure its analysis and what it may conclude from its review of relevant factors.” 136 S. Ct. at 1983, 1989.

This year's winner is the Eleventh Circuit with two wins, no losses, and a 100% parallel review affirmance rate. The DC Circuit comes in second place with an 80% affirmance rate, and the Ninth Circuit takes third with a 75% affirmance rate.

October Term 2015 Parallel Review Affirmance Rates				
Circuit	Wins	Losses	AB	Rate
11th	2	0	2	100%
DC	4	1	5	80%
9th	6	2	8	75%
5th	5	2	7	71%
2nd	5	3	8	63%
8th	5	3	8	63%
4th	5	4	9	56%
1st	2	2	4	50%
6th	2	2	4	50%
7th	3	3	6	50%
10th	3	4	7	43%
3rd	0	4	4	0%

Looking back, we see the tables have turned once again.¹⁸ This year's second-place winner tied with the Fifth Circuit for last place in October Term 2014; meanwhile, the Third Circuit (previously tied for first place) came in dead last in October Term 2015. The first- and third-place winners moved from the middle to the top of the stat pack, and after two terms at the bottom of the rankings, the Fifth Circuit snatched fourth place.

¹⁸ The presentation of historical data is a relatively new feature of the Appellate Review and one that we hope will prove more useful as we collect even more data. But it comes with a couple of caveats. First, we altered our method in Appellate Review III (October Term 2012), so while we continue to compare apples to apples, the way we pick them has changed. See Appellate Review III at 388-92 ("[T]he metric compares the courts' performance on the same legal questions. Apples-to-apples, as they say."). Second, our sample size is still very small. The Supreme Court has been deciding circuit splits for more than two centuries, but we've only counted them for six terms.

Historic Parallel Review Affirmance Rates by Place ¹⁹					
OT2010		OT2011		OT2012	
Cir.	Rate	Cir.	Rate	Cir.	Rate
10th	100%	4th	78%	10th	88%
1st	86%	11th	56%	1st	80%
5th	79%	DC	50%	7th	67%
3rd	78%	6th	50%	2nd	64%
4th	67%	9th	44%	5th	60%
7th	62%	2nd	40%	4th	57%
2nd	60%	3rd	40%	8th	40%
9th	60%	10th	38%	11th	40%
6th	50%	7th	36%	DC	40%
8th	50%	1st	33%	3rd	36%
11th	45%	5th	33%	6th	33%
DC	33%	8th	25%	9th	18%
OT2013		OT2014		OT2015	
Cir.	Rate	Cir.	Rate	Cir.	Rate
4th	86%	2nd	100%	11th	100%
10th	83%	3rd	100%	DC	80%
1st	83%	4th	83%	9th	75%
6th	80%	7th	83%	5th	71%
8th	75%	10th	75%	2nd	63%
7th	75%	11th	75%	8th	63%
2nd	67%	1st	67%	4th	56%
3rd	57%	9th	67%	1st	50%
DC	50%	6th	50%	6th	50%
11th	50%	8th	50%	7th	50%
9th	27%	5th	0%	10th	43%
5th	0%	DC	0%	3rd	0%

¹⁹ See Appellate Review I at 69; Appellate Review II at 40; Appellate Review III at 394; Appellate Review IV at 68; Appellate Review V at 58-59.

Historic Parallel Review Affirmance Rates by Circuit ²⁰						
Cir.	OT2010	OT2011	OT2012	OT2013	OT2014	OT2015
	Rate	Rate	Rate	Rate	Rate	Rate
1st	86%	33%	80%	83%	67%	50%
2nd	60%	40%	64%	67%	100%	63%
3rd	78%	40%	36%	57%	100%	0%
4th	67%	78%	57%	86%	83%	56%
5th	79%	33%	60%	0%	0%	71%
6th	50%	50%	33%	80%	50%	50%
7th	62%	36%	67%	75%	83%	50%
8th	50%	25%	40%	75%	50%	63%
9th	60%	44%	18%	27%	67%	75%
10th	100%	38%	88%	83%	75%	43%
11th	45%	56%	40%	50%	75%	100%
DC	33%	50%	40%	50%	0%	80%

CONCLUSION

In the next installment in our series, we'll be counting up circuit splits and tabulating parallel affirmance rates for the 70 decisions from the October 2016 term. As always, we look forward to sharing our findings with you.

#

²⁰ *Id.*

ALMANAC EXCERPTS

SELECTED WORKS FROM THE LATEST EDITION OF THE
BAKER STREET ALMANAC

BAKER STREET ALMANAC

AN ANNUAL CAPSULE
OF A
TIMELESS PAST AND FUTURE

2020

IN THE FORM OF A FORMIDABLE SCRAP-BOOK OF 2019,
INCLUDING TREASURES CREATED OR UNCOVERED THEN,
WITH A FEW OTHER ODDS AND ENDS TOSSED IN,
AND A GLANCE AHEAD AT 2020

EDITED BY
ROSS E. DAVIES, IRA BRAD MATETSKY, AND MONICA SCHMIDT

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BAKER STREET ALMANAC

AN ANNUAL CAPSULE OF A TIMELESS PAST AND FUTURE

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for Now*

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Editions: There are two versions of the 2020 *Baker Street Almanac*: the limited *Sense of Humour Edition* (it features an ink-on-paper format, and some copies include a few accessories), and the unlimited *Staunch Witnesses Edition* (it features an electrons-on-internet format, and is free).

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CONTENTS

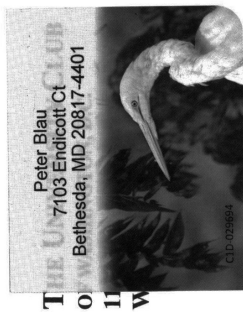
With this short preface . . .	
<i>by Ross E. Davies</i>	42

LISTS AND OTHER RECORDS

Arthur Conan Doyle in 2019	
<i>by Alexis Barquin</i>	47
Sherlock Holmes and Science 2019	
<i>by Carlina de la Cova</i>	55
Sherlock Holmes and Law 2019	
<i>by Ira Brad Matetsky</i>	59

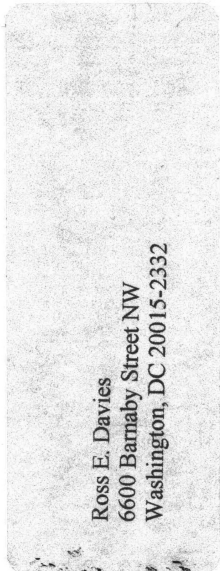
COMMENTARIES, HISTORIES, AND DIVERSIONS

The Adventure of the Cardboard Box: A New Annotated Edition	
<i>by A. Conan Doyle, with Mary M. Alcaro, Peter E. Blau, Ross E. Davies, Carlina de la Cova, Jenn Eaker, Jayantika Ganguly, Walter Jaffee, Robert A. James, Roger Johnson, Alexander Katz, Robert S. Katz, Michael Kean, Anastasia Klimchynskaya, Jennifer Kneeland, Nick Martorelli, Ira Brad Matetsky, Scott Monty, Oscar Ross, Greg D. Ruby, Monica Schmidt, Marina Stajić, Jean Upton, Karen Wilson, Burt Wolder, Beverly Wolov, Tamar Zeffren, and Christopher Zordan</i>	63
Ceramic Sherlock	103



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WITH THIS SHORT PREFACE . . .

Ross E. Davies*

This is our third *Baker Street Almanac*. For an explanation of why we at the *Green Bag* launched this ship and why we are optimistic about its course, please read “Laws of Demand and Supply” in the 2019 edition. It is available on our website (www.greenbag.org).

PORTENTS

The portents are promising.

First, many of the hopes and dreams we listed in the introduction to last year’s *BSA* are already being realized and coming true, including:

- Linda and Terry Hunt’s biographical register of significant figures in the Sherlockian-Doylean-Morleyan world (inspired by the “Births and Deaths” section of *Wisden Cricketers’ Almanack*) has arrived. See their “Past Sherlockians” in this volume.
- More news is coming in from Sherlockians around the world, including Aleš M. Kolodrubec (Czech Republic), Michael Skov Lambek (Denmark), Thierry Saint-Joanis (France), Michele Lopez (Italy), and Roger Johnson and Jean Upton (United Kingdom). As for the United States, well, just take a look at the first page of the table of contents!
- More experts are generating more lists and reports on topics of interest to the kinds of enthusiasts likely to read the *BSA*, including Alexis Barquin (“Arthur Conan Doyle in 2019”), Ron Fish (“A Glance Ahead at 2020”), Carlina de la Cova (“Sherlock Holmes and Science 2019”), and Rob Nunn (“The Beacon Society”).

There are, of course, many more people from many more places we would love to hear from, and many more topics on which it would be nice to have annual (or at least frequent) reports and reflections. Here’s hoping we do hear and learn even more in the future. In the same vein, from time to time there can be a quiet year for a group or a topic (or a year that is so hectic that there is no spare time to do a write-up), and so the occasional absence from the *BSA* of a regular author or group or topic should come as no surprise. Still, even in an exceptionally quiet or hectic year it is nice to have word, like the note we received from Tamar Zeffren of the Baker Street Babes:

* Ross Davies is a *Green Bag* editor.

In 2019, the Baker Street Babes did not take to the airwaves as a collective. However, their efforts manifested in other community pursuits, such as organizing The Great SherlockDCC Scavenger Hunt (<https://sherlockedccparty.tumblr.com/TheHunt>) during San Diego Comic-Con from July 18-21, 2019 and creating and maintaining the Facebook group “221 Be Here,” in affirmation of the credo, “All Holmes is Good Holmes.”

We look forward to hearing of their pursuits — and more of their trademark podcast — in the future. And so, similarly, we know from friendly comments and correspondence that some combination of the quiet and the hectic means that we will not hear now but will hear later from, for example, Germany and Sweden and *I Hear of Sherlock Everywhere*.

Second, some additional improvements in both the organization and the content of the *BSA* happened sooner than we could reasonably have expected, including:

- The editorial structure got two major upgrades in the persons of Ira Brad Matetsky (now Editor of Canonical Annotations) and Monica Schmidt (now Editor of Scionical¹ and Societal Reports (U.S.A.)).
- Monica’s resourcefulness and persuasiveness have triggered a huge rise in news from Sherlockians in the U.S.A. To get a sense of it, compare the total length of last year’s U.S. scionical and societal reports to this year’s. The only downside to her arrival on the *BSA*’s masthead is the cost of the extra ink and paper to print all the news she’s pulling in! If your U.S.-based scion or other society does not appear in this pages and you wish it would, please write to Monica at sweeper887@gmail.com.
- Similarly, Ira has brought back, and improved on, the *Green Bag*’s short-lived (back in 2015 and 2016) program of extravagant Canonical annotation. Elsewhere in this volume you will find his treatment, with contributions from more than two dozen other commentators (you will find their names next to Arthur Conan Doyle’s in the table of contents), of *The Adventure of the Cardboard Box* — with such thoroughness that the whole work is about as long as Monica’s reports. At the end of the story you will find an invitation to propose (and volunteer to write) annotations for Ira’s project for the 2021 *BSA: The Adventure of the Priory School*.

¹ No, “scionical” is not a word (according to the *OED*) — at least not yet. But we aim to change that. See Jon O. Newman, *Birth of a Word*, 13 *Green Bag* 2d 169 (2010).

Third, we continued to attract excellent individual contributions from able and distinguished authors, including:

- Steve Doyle’s history of Wessex Press.
- Ira Brad Matetsky’s aural report.
- Nicholas Utechin’s reflections on Sidney Paget, his artistry, and his engraving intermediaries.

ERRORS

It must be conceded, however, that not everything went well with the 2019 *BSA*. For example, the caption competition flopped. We won’t be trying that again any time soon, or at least not this year.

More distressingly, when we republished Carolyn Wells’s classic pastiche, *The Adventure of the Clothes-Line*, we missed a chance to cite and quote Leslie S. Klinger, whose annotated treatment of the story (characteristically useful and entertaining) appeared in his 2018 anthology, *In the Shadow of Agatha Christie: Classic Crime Fiction by Forgotten Female Writers: 1850–1917*. Apologies to our readers, to Les, and to the memory of Wells.

Finally, slightly confusingly, and truly inconsequentially, the creator of the cartographical dustjacket for the limited *Sense of Humour Edition* of the 2019 *BSA* noted — incorrectly, as it turned out — that the article on which the map was based would appear in the Spring 2019 issue of the *Baker Street Journal*. The article appeared in the Summer 2019 issue.

If you catch an error — large or small — please do let us know (email editors@greenbag.org).

SCUTTLEBUTT

One other topic on which it is worth dwelling for a moment is the single largest entry in this year’s *BSA*, and last year’s: Peter E. Blau’s *Scuttlebutt* from the Spermaceti Press. What we said in our introduction to last year’s entry is worth saying (in shorter form) again, here: Peter’s long-running, supremely informative and entertaining monthly newsletter is available online, but it is still worthy of republication in the *BSA*, not only because it is worth reading and re-reading, but also because the internet is a wonderfully flexible resource for sharing and updating information. Peter himself arranges for the updating of his *Scuttlebutts* on the internet in useful ways — correcting errors, updating links, and so on.² But all that makes finding a reliably genuine first edition (or facsimile of a first edition) difficult. Indeed, the Internet

² And any nefarious pirate of *Scuttlebutts* could update their duplicates too.

Archive itself — that awesome website that aspires to be “[l]ike a paper library” and “provide Universal Access to All Knowledge” online³ — now keeps ink-on-paper copies of many of the millions of books it posts online, precisely because the internet is so wonderfully flexible. “The books are not meant to be loaned out on a regular basis,” *The Guardian* said in a 2011 article, “but are protected as authoritative reference copies if the digital version somehow disappears or a question ever arises about an eBook’s faithfulness to the original printed edition.” In the same spirit, we hope to preserve — in ink, on paper — each issue of *Scuttlebutt* in its original, first-edition form, just as it appeared when it rolled out of the printer in Peter’s office.

And as this year’s set of *Scuttlebutts* shows, there is much to learn from looking at primary sources. Consider, for example, what morsels an historian might someday glean from the envelope — reproduced on the page facing the first page of this preface — in which the October 2019 *Scuttlebutt* traveled from Peter’s hands to *Green Bag* World HQ. Hint #1: What is the latest date on which Peter could have completed writing that issue of *Scuttlebutt*? Hint #2: Peter may or may not have been a member of the Diogenes Club at the time of mailing, but are there any other leading prospects? Or compare page 4 of the July 2019 *Scuttlebutt* available online to the facsimile of the original in this *BSA*. There is more. Someday, perhaps, an original hard copy of a *Scuttlebutt* will be like an original *Strand* or even an original *Beeton*’s, and this *BSA* will be like an early facsimile. For now, though it is just fun, and perhaps thought-provoking, and that is enough.

THANKS

This year is like any other year in at least one way: all of us owe thanks to librarians. Here and now, we are especially grateful to Jessie Amaolo of the Arthur Conan Doyle Collection at the Toronto Reference Library and Tim Johnson of the Sherlock Holmes Collections in the University of Minnesota Libraries. They were instrumental in arranging for the appearance in this *BSA* of original works by Sidney Paget portraying scenes in *The Adventure of the Cardboard Box* (from Toronto) and *The Red-Headed League* (from Minnesota). Thank you very much!

Thanks also to you, reader, for reading. Please write, too, if you catch us in an error or think of something we ought to start or stop doing.

Ross E. Davies
February 23, 2020

³ See <https://archive.org/about/>.

ARTHUR CONAN DOYLE IN 2019

*Alexis Barquin**

The year 2019 saw Arthur Conan Doyle's 160th birthday and was rich in events, adaptations, finds and new features added to *The Arthur Conan Doyle Encyclopedia*. The following will focus on non-SH activities, as Sherlock Holmes is already covered in this Almanac.

EVENTS

The interest in Arthur Conan Doyle's works beyond Sherlock Holmes increased incredibly in 2019. It's not easy to explain why it happened this year. Some say it may be due to many years of unlikely Sherlock Holmes adaptations, not faithful to the original stories (Sherlock BBC, Elementary, Miss Sherlock, Holmes & Watson), and the audience may have had a need for true Conan Doyle stories and not ersatz. Or maybe it's just a coincidence.

Anyway, in 2019, a new street with ACD's name was inaugurated, along with the first episodes of a new podcast, three conferences, the announcement of a new magazine and a new edition of ACD's works, plus the creation of a new society dedicated to ACD's life and works. Here are the details:

"Conan Doyle Gasse" (Conan Doyle Alley) is a street sign that was unveiled in Feldkirch, Austria, on 25 May 2019, by the German Sherlock Holmes Society ("Deutsche Sherlock-Holmes-Gesellschaft"). This is related to Arthur Conan Doyle attending the Jesuit school "Stella Matutina" in Feldkirch in the years 1875-1876.¹

The Film Archive of Sweden discovered, on 29 May 2019, a 40-second newsreel movie showing Sir Arthur Conan Doyle at his arrival in Stockholm on 27 October 1929, together with his wife Jean and his friend Ashton Johnson.²

"Doings of Doyle" is a podcast created in October 2019 by Dr. Mark Jones and Paul M. Chapman and dedicated to "explore the works of Sir Arthur Conan Doyle, the creator of Professor Challenger, Brigadier Gerard and Sherlock Holmes." They record one podcast per month. So far, they have discussed the following ACD fictions: "The Doings of Raffles Haw" (November 2019), "The Winning Shot" (December 2019) and "The Captain of

* Alexis Barquin is curator of *The Arthur Conan Doyle Encyclopedia*. Copyright 2020 Alexis Barquin.

¹ <https://www.arthur-conan-doyle.com/index.php/Plaques#Feldkirch>.

² Stunning video: [https://www.arthur-conan-doyle.com/index.php/Sir_Arthur_Conan_Doyle_arrival_in_Stockholm_\(movie_27_october_1929\)](https://www.arthur-conan-doyle.com/index.php/Sir_Arthur_Conan_Doyle_arrival_in_Stockholm_(movie_27_october_1929)).

the Pole-Star” (January 2020). Subscribe for free to this very interesting, must-hear show.³

“Arthur Conan Doyle — The Spiritualist” was presented five times at the Arthur Conan Doyle Centre during the Edinburgh Fringe festival (13-26 August 2019) by Eleanor Docherty, resident detective at the ACD Centre (Edinburgh). She revealed the curious history of Sir Arthur Conan Doyle and his links to the world of spiritualism — followed by a tour of the Centre.

“A Tribute to Arthur Conan Doyle, the Man Behind and Beyond Sherlock Holmes” was a conference held on 26 August 2019 at the Arthur Conan Doyle Centre during the Edinburgh Fringe festival. It took the form of a discussion between Elizabeth Crowens, an American author, and Tania Henzell, a relation of the Doyle family who has created an official Sherlock Holmes tartan. Crowens discussed her books and her interest in the paranormal and spiritualism, and Henzell exhibited her tartans.

A new “Arthur Conan Doyle Society”: In September 2019, an open letter by Clifford Goldfarb (Chairman of The Friends of The Arthur Conan Doyle Collection at the Toronto Public Library) expressed the idea that there was room for a new society dedicated to ACD. The idea spread at the speed of light around the world and soon a committee of several devotees started discussing it during the “Conan Doyle and London” conference on 15 November 2019. Following that conference, a manifesto by Dr. Mark Jones was circulated on 28 November 2019 to present the new society goals, activities, and publications, and an initial meeting of advocates was held in New York City on 17 January 2020. The committee is looking for volunteers to help establish the new Conan Doyle Society. Stay tuned and prepare your subscription!

“Conan Doyle and London” was a symposium held on 15 November 2019 at the Senate House, London, organised by the Institute of English Studies at the School of Advanced Study, University of London. Conference topics included: “Conan Doyle: Man of Letters, Man about Town,” by Douglas Kerr; “Of Time and the City: Conan Doyle and London Print Culture,” by Jonathan Cranfield; “A great traffic was going on, as usual, in Whitehall: Public Places and Secret Spaces in Sherlock Holmes’s London,” by Andrew Glazzard; “I have my eye on a suite in Baker Street,” by Catherine Cooke; “Conan Doyle and Medical London,” by Roger Luckhurst; “Cosmopolitan Spiritualism and Doyle’s The Land of Mist,” by Christine Ferguson; and finally a presentation of “The Edinburgh Edition of the Works of Arthur Conan Doyle,” a 22-volume collected works to be published in 2020. Their next symposium will be in June 2020 on “Conan Doyle in Edinburgh.”

³ <https://www.doingsofdoyle.com>.

“The Conan Doyle Review” was announced in December 2019 by editor Dr. Ashley D. Polasek as an “interdisciplinary journal for scholarship on the life, works, creative afterlives, and cultural legacies of Arthur Conan Doyle.” The review will begin accepting submissions for peer review in the summer of 2020 and will publish Vol. 1 #1 in Spring 2021. However, a special issue was released in January 2020 for the BSI festivities but with only Sherlockian content. Let’s hope that Vol. 1 #1 will be focused on ACD.⁴

BOOKS

Three noteworthy books were published in 2019:

“Sherlock Holmes and Conan Doyle in the Newspapers, vol. 4,” by Mattias Boström, Mark Alberstat, Leah Guinn & Matt Laffey (Gasogene Books, 29 April 2019, 202 p.): The 4th volume includes hundreds of press articles published between January and June 1894, the period after the death of Sherlock Holmes. Lots of reviews, interviews, articles on ACD’s life and writings. Next volume will cover July–September 1894.⁵

“Arthur Conan Doyle,” by Eduardo Caamaño (Editorial Almuzara, 30 April 2019, 636 p.): This big biography, in Spanish, is modestly subtitled “The Definitive Biography of the creator of Sherlock Holmes.” Eduardo Caamaño is a Spanish biographer, author of biographies of The Red Baron and Harry Houdini.⁶

“Conan Doyle for the Defence,” by Margalit Fox (Profile Books, 6 June 2019, 368 p.): The book recounts Arthur Conan Doyle’s application of Sherlock Holmes’s deduction skills to the real case of Oscar Slater, wrongly accused of the murder of an old lady, Miss Marion Gilchrist, in 1908.⁷

ADAPTATIONS

There were many adaptations of non-Sherlock Holmes stories in 2019 — three times more than the previous year, confirming the enthusiasm for Conan Doyle — one novel adapted in comic, three short stories and one essay adapted in short movies, and two plays with Arthur Conan Doyle as a character:

“Sir Nigel” (Vol. 1: 6 March; Vol. 2: 21 August 2019, Glénat editions, France): The French publisher “Glenat” has published two volumes of the

⁴ <https://www.facebook.com/ACDreview>.

⁵ <http://www.wessexpress.com/html/newspaper4.html>.

⁶ <https://www.amazon.com/dp/841755808X>.

⁷ <https://www.amazon.com/dp/1781253579>.

ACD's historical novel "Sir Nigel." This comic was adapted by Roger Seiter and drawn by Christian Gine. This is the first Sir Nigel comic in color (second if you count the illustrated novel by Patrick Nicolle in the 1960s).⁸

"Ether: The Strange Afterlife of Harry Houdini and Sir Arthur Conan Doyle" (12 April 2019; 50 minutes) is a stage reading of the first act of an unproduced play of the same name, written by Susan I. Weinstein and directed by Sara Minisquero, performed at the Dixon Place (New York, NY, USA), starring Owen Hayden as Arthur Conan Doyle and Geoff Moonen as Harry Houdini. Harry Houdini & Sir Arthur Conan Doyle's rivalry continues in the afterlife, where they and their wives are stuck in their versions of life after death. The play is based on letters they exchanged after Houdini asked Conan Doyle to find him a genuine medium. They explore the space between life and death together. They end at opposite ends of a spectrum that here must find a resolution.⁹

"Professor Challenger and The Disintegration Machine" (29 April 2019; 17 minutes) is an American short movie, adapted, produced and directed by Ross K. Foad, released on YouTube, starring Martin W. Payne as Professor George Edward Challenger, Fergus Foster as Edward Malone and Wesley Lloyd as Theodore Nemur. The movie is an adaptation of Arthur Conan Doyle's short story, "The Disintegration Machine" (1929).¹⁰

"Mysterious Circumstances" (June-July 2019) is an American play, written by Michael Mitnick and directed by Matt Shakman, performed by the Geffen Playhouse Theater at the Gil Cates Theater (Los Angeles, CA, USA) from 11 June to 21 July 2019, starring Austin Durant as Arthur Conan Doyle, Alan Tudyk as Sherlock Holmes and Ramiz Monsef as Dr. Watson. Inspired by the *New Yorker* article "Mysterious Circumstances: The Strange Death of a Sherlock Holmes Fanatic," by David Grann, the play centers around the story of the mysterious death of Richard Lancelyn Green, the world's foremost scholar of Sherlock Holmes. After spending two decades searching for the missing papers of Sir Arthur Conan Doyle, Green came close to unlocking the secrets behind Holmes' creator when he tracked down an elusive box which was said to be cursed.¹¹

⁸ <https://www.amazon.com/dp/2344023399>.

⁹ [https://www.arthur-conan-doyle.com/index.php/Ether:_The_Strange_Afterlife_of_Harry_Houdini_and_Sir_Arthur_Conan_Doyle_\(reading\)](https://www.arthur-conan-doyle.com/index.php/Ether:_The_Strange_Afterlife_of_Harry_Houdini_and_Sir_Arthur_Conan_Doyle_(reading)).

¹⁰ https://www.arthur-conan-doyle.com/index.php/Professor_Challenger_and_The_Disintegration_Machine.

¹¹ [https://www.arthur-conan-doyle.com/index.php/Mysterious_Circumstances_\(play_2019\)](https://www.arthur-conan-doyle.com/index.php/Mysterious_Circumstances_(play_2019)).

“The Terror at Blue John Gap” (16 July 2019; 30 minutes) is an American short movie, adapted, produced and directed by Ross K. Foad, released on YouTube, starring Phil Kay as Dr. James Hardcastle. The movie is based upon Arthur Conan Doyle’s short story of the same name (1910) and upon the works of H. P. Lovecraft.¹²

“The Truth Lies Within” (26 October 2019; 17 minutes) is an American short movie, adapted, produced and directed by Ross K. Foad, released on YouTube, starring John Rittey as Dr. Benjamin Kennedy and Louis Mackenzie as Dr. Julius Burger. The movie is an adaptation of Arthur Conan Doyle’s short story, “The New Catacomb” (1898).¹³

“The History of Spirituality” is a series of documentary videos produced by Ross K. Foad, adapting Arthur Conan Doyle’s essay “The History of Spiritualism” (1926). In 2019, three episodes were released:

- Episode 5: “The Mediumship of Eusapia Palladino” (19 August 2019)¹⁴
- Episode 6: “The Fall of The Fox Sisters” (2 November 2019)¹⁵
- Special episode 4+6: “Foxing a Nation” (20 November 2019)¹⁶

THE ARTHUR CONAN DOYLE ENCYCLOPEDIA IN 2019

<https://www.arthur-conan-doyle.com>

In 2019, *The Arthur Conan Doyle Encyclopedia* continued its growth in pages and images. In March, we reached 20,000 images! These include original publications of articles and fictions, manuscripts, photos, illustrations, covers, posters, comics, etc. This is the biggest online resource for illustrations of ACD’s works between 1870 and 1930, with more than 250 illustrators and more than 3,600 illustrations.

This threshold reminded me of the costs associated with this huge work of data gathering (mainly subscriptions to many newspaper archives and purchases of original books or magazines). As the *Encyclopedia* is a free non-profit website with no ads, I had the idea to launch a support campaign. Every sponsor and contributor received a nice ACD lapel pin of the silhouette designed by E.O. Hoppé in *The Bookman* (November 1912). This lapel pin can still be obtained for any donors as support never ends.¹⁷

¹² https://www.arthur-conan-doyle.com/index.php/The_Terror_at_Blue_John_Gap.

¹³ https://www.arthur-conan-doyle.com/index.php/The_Truth_Lies_Within.

¹⁴ <https://www.youtube.com/watch?v=SFbtYwME8Pk>.

¹⁵ <https://www.youtube.com/watch?v=9V1wyQ09hj0>.

¹⁶ <https://www.youtube.com/watch?v=sj5ygDgeHHI>.

¹⁷ https://www.arthur-conan-doyle.com/index.php/Support_Us.

On 7 July 2019, the anniversary of ACD's death, I created an "Obituaries" page referencing not only articles about ACD's death, but also obituaries of family members (wives, sons, uncles, . . .) and other closely connected people (Joseph Bell, George T. Budd, Alfred H. Wood, . . .). In an interview for the *Daily Mail* on 1 July 1930, ACD said: "I am tired of hearing myself described as the author of Sherlock Holmes. One would think I had written nothing but detective stories." One week later almost all obituaries were titled "Death of the creator of Sherlock Holmes."¹⁸

By the end of the year, I had extended the Sherlock Holmes search engine from the 62 Sherlock stories, to include all Conan Doyle fictions: 253 fictions (213 short stories, 24 novels and 16 plays). "Angels of Darkness" will be included soon.¹⁹

Some of the many rare/odd findings in 2019:

26 February: Cheque signed by Arthur Conan Doyle — If Arthur Conan Doyle had given you a cheque, would you have cashed it or kept it as a souvenir? This one from Lloyds Bank Ltd. was for L.S.A. (London Spiritualist Alliance), he paid £1 4s. 9d. on 9 August 1924.²⁰

2 March: Arthur Conan Doyle and W.G. Grace — A rare photo showing Arthur Conan Doyle and W.G. Grace on 23-25 August 1900 during the "London Club" vs "M.C.C. & Ground" first-class cricket match was auctioned at Knights Sporting auction house (lot 386). Hammer price not communicated.²¹

9 April: His Interest — A fine joke titled "His Interest" published on 10 May 1913 in the *St. Louis Post-Dispatch*:

- "Does your son show any special aptitude?"
- "I think he wants to be a doctor."
- "Fine. Shows an interest in doctors, does he?"
- "Yes. He reads everything that's been written by Dr. Conan Doyle."²²

¹⁸ <https://arthur-conan-doyle.com/index.php/Obituaries>.

¹⁹ <https://www.arthur-conan-doyle.com/search-fictions>.

²⁰ <https://www.arthur-conan-doyle.com/images/6/6c/1924-08-09-sacd-cheque-to-london-spiritualist-alliance.jpg>.

²¹ <https://www.arthur-conan-doyle.com/images/5/5d/1900-08-23-25-crystal-palace-london-county-vs-mcc-ground.jpg>.

²² https://www.arthur-conan-doyle.com/index.php/His_Interest.

- 20 April: ACD Marriage** — In this photo from 18 September 1907, Jean and Arthur Conan Doyle are just married. They leave St. Margaret's, Westminster after the ceremony. Discover in the article "Sherlock Holmes Married" the detailed description of Jean's gown and all the wedding gifts.²³
- 24 April: The Xema Expedition** — Arthur Conan Doyle involved in "The Mysterious Voyage of the Xema," a real story of a treasure hunt on a desert island. But also a total fiasco.²⁴
- 5 May: ACD Portrait** — A very nice portrait of ACD by illustrator E.R.H. published in *The Berkshire Evening Eagle* on 6 March 1925.²⁵
- 13 May: ACD or not ACD?** — According to Clark & Simpson Auctions, in this photo (lot 74) is Arthur Conan Doyle in templar frock or masonic symbolic posture. Most Doylean experts think it's not him.²⁶
- 15 May: Conan Doyle says . . .** — A collection of ironic jokes published in American newspapers between 1921-1923, when Arthur Conan Doyle did his lecture tours about spiritualism around the world. Some funny examples:
- *Conan Doyle says they stay married forever in heaven. Some people wouldn't call that heaven.*
 - *Conan Doyle says it is a funny feeling when you die, but then he never tried it.*
 - *Conan Doyle says a man can take his horse to heaven. There is no reason why he couldn't take his car, too.*
 - *Conan Doyle says he wishes he hadn't written Sherlock Holmes, but nobody does.*
- 11 July: Letter about Sherlock Holmes, Joseph Bell and A Study in Scarlet** — Forum Auctions sold a short letter (Lot 417) written by ACD on the influence of his mentor Joseph Bell at Edinburgh University medical school and the creation of Sherlock Holmes. Hammer price: £14,000!²⁷

²³ https://www.arthur-conan-doyle.com/index.php/Sherlock_Holmes_Married.

²⁴ https://www.arthur-conan-doyle.com/index.php/The_Xema_Expedition.

²⁵ https://www.arthur-conan-doyle.com/index.php/Conan_Doyle_Says:_Spiritualism_Is_Only_Hope_of_World_Salvation!.

²⁶ <https://www.the-saleroom.com/en-gb/auction-catalogues/clarke-and-simpson/catalogue-id-ibcla10340/lot-c13e8fd1-a7ca-4dfb-b039-aa4800ff9636>.

²⁷ https://www.arthur-conan-doyle.com/index.php/Notecard_about_Sherlock_Holmes,_Dr._Bell_and_A_Study_in_Scarlet.

- 16 August: Cool story, bro!** — “Bro. Dr. Conan Doyle” in *The Masonic Illustrated* (October 1901).²⁸ See also links between Conan Doyle and Freemasonry.²⁹
- 23 September: Another ACD Portrait** — This original drawing by Oscar Cesare, an American caricaturist, was published on 7 May 1922 in *The New York Times* to illustrate an article by Horace Green: “An Open Letter to Sir Arthur Conan Doyle.”³⁰
- 20 October: A Hunting Morning** — Want to sing a poem written by Arthur Conan Doyle? You can hear “A Hunting Morning” (1901) performed by Peter Savidge in 2000 from music written in 1908 by Alfred J. Silver.³¹
- 11 November: The most prolific illustrator** — Leo Edward O’Mealia (1884–1960) was an American cartoonist. Between 1930 and 1931, he did 816 illustrations for nine Sherlock Holmes short stories written by Arthur Conan Doyle (from *The Memoirs of Sherlock Holmes*). This is a lot more than Sidney Paget and his 594 illustrations (including his SH and non-SH illustrations.).³²
- 15 December: Jean and sons** — Bought on auction, nice and new photos from a 1920s press agency of Jean Conan Doyle and her two sons Adrian and Denis at Bignell Woods (undated, 1925–1930s).³³

²⁸ https://www.arthur-conan-doyle.com/index.php/Bro._Dr._Conan_Doyle.

²⁹ <https://www.arthur-conan-doyle.com/index.php/Freemasonry>.

³⁰ https://www.arthur-conan-doyle.com/index.php/An_Open_Letter_to_Sir_Arthur_Conan_Doyle.

³¹ https://www.youtube.com/watch?v=s_K0o18NsxY.

³² https://www.arthur-conan-doyle.com/index.php/Leo_O%27Mealia.

³³ <https://www.arthur-conan-doyle.com/images/b/b7/1925-1930s-jean-conan-doyle-with-denis-and-adrian-at-bignell-woods-01.jpg>; <https://www.arthur-conan-doyle.com/images/a/ab/1925-1930s-jean-conan-doyle-with-denis-and-adrian-at-bignell-woods-02.jpg>.

SHERLOCK HOLMES AND SCIENCE 2019

*Carlina de al Cova**

The year of 2019 proved that Sherlock Holmes is still important to science. His mention in publications across the sciences in disciplines such as medicine, chemistry, genetics, and forensics demonstrates the influence that the Great Detective still has on scholarship, as well as the public. If we were to examine all the major journals in the various disciplines that comprise the sciences from their initial publication dates to the present day, Sherlock Holmes would likely appear in at least one article per year. Textbooks in the field, in one way or another, reference Sherlock Holmes. This is especially true in the social sciences, medicine, and chemistry, where Sherlock Holmes is often employed to teach the basic concepts of these disciplines. For example, in the 2019 book *Chemistry and Crime: Investigating Chemistry from a Forensic Science Perspective*, edited by Amanda S. Harper-Leatherman and Ling Huang, the second chapter (pages 12-34), written by Dr. Lawrence J. Kaplan and titled “Teaching Chemistry with Forensic Science”, illustrates how to teach chemistry through the lens of forensic science, using the Sherlock Holmes stories as an aid to introduce students to basic forensic chemistry concepts (such as reagents). However, the Great Detective also appears in several research articles across the sciences. Below are some of the more interesting works from the year 2019 that Sherlock Holmes is referenced in.

Kampmann, Jan D, “Medical references and curiosities in the Sherlock Holmes stories,” *The Medical Journal of Australia* 211.11 (December 2019): 525-527 — As this work indicates, Sherlock Holmes’ relationship to medicine is strong, with “references to 68 diseases, 32 medical terms, 38 doctors, 22 drugs, 12 medical specialties, six hospitals, three medical journals, and two medical schools” (p. 525). This is not surprising given that Sir Arthur Conan Doyle’s medical background and his partial basis of Sherlock Holmes on his University of Edinburgh medical school mentor, Sir Joseph Bell. However, this work pays particular attention to Holmes’ beliefs about cocaine and tobacco use, age rejuvenation and the Langur serum associated with “The Creeping Man”, the curious case of Tapanuli fever and what it really may have been, the cases of fainting and brain fever in the canon, the effects of the Devil’s Foot root, death by jellyfish, and faux leprosy/skin disorders. Each of these addictions, poisonings, or illnesses is discussed in detail and

* Carlina de la Cova, Ph.D., is “The *Anthropological Journal*” in the Baker Street Irregulars.

assessed for present day clinical correlates. Perhaps most interesting is a discussion about the Devil's Foot root and what it really may have been. The author reveals that Sir Arthur Conan Doyle, whilst a medical student, performed an experimental study on himself that involved the ingestion of *Gelsemium* for the treatment of neuralgia (nerve pain). Apparently, the side effects had some similarities to those described in "The Devil's Foot". Conan Doyle's results were published in 1879 in the *British Medical Journal*.

Ambagtsheer, Frederike and Linde Van Balen, "I'm not Sherlock Holmes': Suspicion, secrecy and silence of transplant professionals in the human organ trade," *European Journal of Criminology* (January 2019): 1-20 (<https://doi.org/10.1177%2F1477370818825331>) — Sherlock Holmes is found in the title of this article, which focuses on the secrecy and silence 41 transplant professionals in the Netherlands maintained when working with patients who were suspected to have purchased kidneys in the illicit organ trade. Apart from the title, the only mention of Holmes comes from an interview with a transplant professional (p. 10), who indicates: "*I'm not Sherlock Holmes. I'm not going to try to find out whether they purchased the kidney. I'm just not going to do that. I don't care. Why should I care?*" This physician is indicating that it is not their business to know where their patients' soon to be transplanted kidneys came from. The reference to the Great Detective also alludes to the fact that the transplant specialist places their duty as a doctor above that of the local constabulary and justice system. Ultimately this creates a wall of secrecy about the illicit organ trade and places patients at risk for disease transmission from illegally obtained kidneys. It also leads to harm, something physicians take an oath not to do, by silently supporting the organ trade.

Kellner, Max J., Jeremy G. Koob, Jonathan S. Gootenberg, and Omar O. Abudayyeh, "SHERLOCK: nucleic acid detection with CRISPR nucleases," *Nature Protocols* 14.10 (September 2019): 2986-3012 — Genetics continues to rapidly evolve as a discipline especially with the improvement of technology, which allows for more accurate, cost-effective DNA testing. Rapid detection of specific nucleic acids (the NA in DNA) and other strands of DNA are central to accurate clinical diagnosis. This article describes a new method created by the authors to target specific DNA or RNA (ribonucleic acids) sequences. This new method, named after the Great Detective, is called *SHERLOCK: specific high-sensitivity enzymatic reporter unlocking*. The authors indicate it allows for complex, portable, and "ultra-sensitive detection of RNA or DNA from clinically relevant samples" (p. 2986). Thus, Sherlock Holmes has officially entered the DNA-detection arena. True to his word, it is his business to know what other people don't know . . . right down to one's DNA.

Jones, Benjamin J., “Microscopy in Forensic Sciences,” *Springer Handbook of Microscopy*, eds. Peter W. Hawkes and John C. H. Spence (Cham, Switzerland: Springer, 2019), 1507-1524 — Microscopy and forensics go hand-in-hand. It is an important skill used in forensic investigation to visualize aspects of the human skeleton and teeth, assess ballistics, identify trace evidence, examine fingerprints, and through the use of entomology and biology, estimate postmortem interval (the estimate of time since death). Sherlock Holmes utilized both a magnifying glass and a microscope, so it is fitting that he is mentioned in a handbook on forensic microscopy. In this instance he is used as a teaching tool (one wonders how he would have felt about this) to force the reader to think about how “stereotypical investigators” are often portrayed using a magnifying glass to find clues and whether or not, in a true criminalistic setting, this is accurate and acceptable.

Merkelbach, Harald and Marko Jelcic, M., “Feigning Hand Preference? A Case Report Preliminary Data,” *Journal of Forensic Sciences* 64.3 (May 2019): 938-940 — Understanding hand preference plays a crucial role in forensic science, especially in regard to instances where a victim is stabbed, beaten, or shot. Handedness becomes important in ascertaining whether a suspect is right- or left-handed and thus capable of committing the crime they have been accused of. Witness accounts as well as standardized tests may be employed to determine handedness of an unspecified perpetrator and/or a suspect. However, as this case study illustrates, suspects can cunningly fake handedness and con the standardized methods used in the discipline to ascertain hand preference. Sherlock Holmes makes an appearance in the conclusion of the work. The authors note that in fiction, handedness is easily determined. They cite “The Boscombe Valley Mystery”, where Holmes realized, based on injury to the left side of the back of the victim’s skull, that the attacker was left-handed. However, as the authors indicate on page 940, “in the universe of Holmes, things are fixed: Holmes knew for sure that the attacker was standing behind his victim and also, once arrested, the defendant did not try to hide his real hand preference.” Reality is far murkier, as investigators do not always know the location of an attacker in relation to the victim and a suspect may successfully feign handedness on a standardized test, complicating the picture. Better methods are needed in the discipline to accurately assess hand preference.

Trainum, James L., “The CSI effect on cold case investigations,” *Forensic Science International* 301 (August 2019): 455-460 — This work discusses the impact popular television shows and movies have had the public’s perception of forensic science versus what real forensic science is. A number of popular

shows across a variety of networks and subscription services are discussed. Unfortunately, Sherlock Holmes is mentioned in passing, which is surprising given that there are recent adaptations of the canon that bring the detective into the modern era and illustrate good examples of forensic science and crime scene investigation. However, the way in which Holmes is briefly described in this article is worthy of ending this segment on. The author notes on page 455 that: "I'm sure that even prosecutors in the Victorian era lamented the impact the fictional Sherlock Holmes had on their juries." I will leave it our readers to argue this point as we know Sir Arthur Conan Doyle did consult in the forensic capacity during his lifetime.

SHERLOCK HOLMES AND LAW 2019

*Ira Brad Matetsky**

January 1, 2019: At the stroke of midnight, the copyright on Arthur Conan Doyle's "The Adventure of the Creeping Man," first published in 1923, expires in the United States. Due to a series of congressional enactments extending the duration of copyright terms, this is the first canonical Sherlock Holmes story to enter the public domain in the U.S. in more than two decades. (See also December 31, 2019 entry.)

March 4, 2019: The Massachusetts Land Court resolves a dispute over the boundary line between two neighboring properties. In doing so, Justice Keith C. Long rejects an argument concerning the doctrine of "adverse possession," partly on the ground that the argument has rarely been presented in other similar cases and has never been accepted by a court. The court states in a footnote that the novel argument "fails the *Silver Blaze* test. If it [were] correct, it would surely have been raised and applied in a legion of other adverse possession cases."¹ The Court then cites "*Silver Blaze*," which is the most commonly quoted of all Sherlock Holmes stories in a legal context,² and quotes at length from Holmes's famous exchange with Inspector Gregory about "the curious incident" of the dog that "did nothing in the night-time."

March 19, 2019: "*Silver Blaze*" again, in another footnote. The Washington (State) Court of Appeals finds that there was sufficient evidence to find a criminal defendant guilty of drug possession. The court distinguishes two other cases cited by the defendant in which convictions were reversed, because in those cases but unlike this one, no drug paraphernalia was found. In a footnote, Judge Kevin Korsmo observes, "The absence of evidence sometimes can constitute evidence. See Sir Arthur Conan Doyle, 'The Adventure of Silver Blaze' in *The Memoirs of Sherlock Holmes* (1894) (silence of guard dog allowed inference that thief was known to the dog)."³

March 20, 2019: A federal court in Indiana finds that there are disputed issues of fact in a lawsuit by an employee who claims that his employer wrongfully denied him time off under the Family and Medical Leave Act

* Ira Brad Matetsky is "The Final Problem" in the Baker Street Irregulars.

¹ *Nannucci v. Hynds*, 27 L.C.R. 89, 93 n.19 (Mass. Land Court Mar. 4, 2019).

² See Ira Brad Matetsky, "The Law of Dogs That Do Nothing in the Night-Time: Judges and the Sherlock Holmes Canon," in Candace Lewis, Ira Brad Matetsky & Roger Donway, eds., *Upon the Turf: Horse Racing and the Sherlockian Canon*, at 149-57 (BSI Press 2020).

³ *State v. Alatorre*, 2019 Wash. App. LEXIS 652, at *8 n.3 (Mar. 19, 2019).

(FMLA). The employee had told the employer he was injured, but had not provided much detail about the injuries. Judge Robert L. Miller, Jr. quotes precedent holding that “[t]he FMLA does not require employers to play Sherlock Holmes, scanning . . . for clues to the undisclosed, true reasons for an employee’s absence.”⁴

March 27, 2019: Professor Stephen R. Alton, of the Texas A&M University School of Law, posts an online preprint of his forthcoming law review article, “Dr. Jekyll and Mr. Holmes: A Tale of Two Testaments.”⁵ Alton’s paper addresses a series of legal issues created by the reported testamentary dispositions of Dr. Henry Jekyll in Robert Louis Stevenson’s *The Strange Case of Dr. Jekyll and Mr. Hyde* and Jonas Oldacre in Arthur Conan Doyle’s “The Adventure of the Norwood Builder.” As summarized in the abstract of Alton’s article, “[t]aken together, these two testaments raise the issues of the testator’s capacity and intent to make the will, undue influence and bequests to attorneys (notably to the drafting attorney), due execution of the will, and the effect of the beneficiary’s possible murder of the testator.”⁶

June 12, 2019: The U.S. Court of Appeals for the Ninth Circuit overturns a lower court’s dismissal of some customers’ claim that bank employees stole valuables from their safe deposit boxes. The plaintiffs argued that the only way anyone could have gained access to the boxes was either to pick the lock, to drill through the lock, or to use the bank’s keys. Plaintiffs presented evidence that lock-picking and lock-drilling had not occurred and therefore the remaining possibility — that bank employees must have gained unauthorized access using the keys — must be correct. In holding that plaintiffs’ case was strong enough to go to trial, the court in a footnote quotes Sherlock Holmes in “The Adventure of the Blanched Soldier”: “[W]hen you have eliminated all which is impossible, then whatever remains, however improbable, must be the truth.”⁷

⁴ *Lutes v. United Trailer, Inc.*, 2019 U.S. Dist. LEXIS 45772, at *11 (N.D. Ind. Mar. 20, 2019) (quoting *de la Rama v. Illinois Dep’t of Human Servs.*, 541 F.3d 681, 687 (7th Cir. 2008)).

⁵ Texas A&M University School of Law Legal Studies Research Paper 19-13, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3360516 and forthcoming in the *University of South Carolina Law Review*.

⁶ For related discussion, see Andrew Jay Peck *et al.*, “The Adventure of the Norwood Builder: A Lawyerly Annotated Edition,” 2015 Green Bag Almanac & Reader 116-162, 5 *Journal of Law* 235-278 (2015), *available at* <http://journaloflaw.us/8%20Almanac%20Excerpts/2015/JoL5-1,%20AE-2015,%206Doyle-et-al.pdf>, and the articles cited there.

⁷ *Nalbandyan v. Citibank, N.A.*, 777 Fed. Appx. 189, 192 n.2 (9th Cir. June 12, 2019) (per curiam).

June 27, 2019: It is the U.S. Supreme Court's last scheduled session before the Court recesses for the summer, and legally attentive Sherlockians are eagerly awaiting the Court's decision in *Carpenter v. Murphy*, one of the last remaining cases of the Court's 2018-2019 Term that has not yet been resolved. When the case was argued in 2018, Justice Samuel A. Alito, Jr. invoked "a fundamental principle of law that derives from Sherlock Holmes, which is the dog that didn't bark,"⁸ raising the question whether this "Sherlock Holmes Canon"⁹ would be cited in the Court's written opinion. But in an unusual development, the Court is unable to resolve the case by the end of the Term and issues no decision; instead, Chief Justice John Roberts announces that the case "is restored to the calendar for reargument" at a later date.¹⁰ A decision in the case, or another presenting the same legal issue, is now expected sometime in 2020.

October 1, 2019: Another citation of "Silver Blaze," in another footnote. The California Court of Appeal finds that a citizen ballot initiative raised the age at which youthful offenders can be tried in adult rather than juvenile court. Dissenting, Judge Art W. McKinster argues that the ballot initiative did not make this change, in part because no one suggested that the initiative would have this effect while it being considered. In a footnote, McKinster declares: "This lack of comment, like Sherlock Holmes' 'dog in the night-time' which tellingly failed to bark . . . was in itself evidence."¹¹

November 4, 2019: Yet another quotation from "Silver Blaze," in another footnote — and this time in a case *literally* about dogs "that did nothing in the night-time." The Texas Court of Appeals affirms a defendant's conviction for murdering his wife, rejecting the defendant's contention that the murder was committed by a burglar. Among other evidence supporting the conviction, Judge Elizabeth Kerr observes: "Additionally, other evidence belied a burglary. If a burglar had entered the house, the dogs would have barked. They did not."¹² In a footnote, Kerr continues: "Sherlock Holmes fans will immediately call to mind 'The Adventure of Silver Blaze,' a story in *The Memoirs of Sherlock Holmes*, in which Holmes deduces that the presumed

⁸ Transcript of oral argument at 53, *Carpenter v. Murphy*, No. 17-1107 (argued Nov. 27, 2018).

⁹ See Matetsky, note 2 above, at 156 & n.33 (discussing Anita S. Krishnakumar, "The Sherlock Holmes Canon," 84 Geo. Wash. L. Rev. 1 (2016)).

¹⁰ *Journal of the Supreme Court of the United States*, October Term 2018, at 904.

¹¹ *B.M. v. Superior Court*, 40 Cal. App. 5th 742, 767 n.3, 243 Cal. Rptr. 3d 426 (4th Dist. Oct. 1, 2019) (McKinster, J., dissenting).

¹² *Andrews v. State*, 2019 Tex. App. LEXIS 9750, at *22-23 (2d Dist. Nov. 7, 2019).

murderer was someone well-known to the stable dog past which a famous race horse had been led in the night with no fuss from the dog.”¹³ The footnote continues by quoting the dialog between Holmes and Inspector Gregory as well as Holmes’s later explanation that he “had grasped the significance of the silence of the dog” as an inference that helped solved the case.

December 18, 2019: The year’s last “Silver Blaze” footnote. The Supreme Court of Michigan declines to issue an advisory opinion on the constitutionality of an amendment to the Michigan Constitution. In a dissenting opinion, Justice David Viviano observes that “it appears no delegate at the constitutional convention ever mentioned that he or she understood” a constitutional provision adopted at the convention in the fashion being advocated in another justice’s opinion.¹⁴ In a footnote citing “Silver Blaze,” Viviano observes: “In this sense, it was like the watchdog that did not bark in the famous Sherlock Holmes novel [*sic*], i.e., the absence of a fact that one would expect to see.”¹⁵

December 20, 2019: The U.S. Court of Appeals for the Ninth Circuit, based in California, holds that users of Huuuge Inc.’s video slots game app are not bound by an arbitration clause contained in Huuuge’s terms of use, because the clause was concealed and a reasonable user would not have been on notice of it. Judge M. Margaret McKeown finds that far from being clearly displayed, the clause was positioned so that users would “need Sherlock Holmes’ instincts to discover the terms.”¹⁶

December 31, 2019: At the end of the year, three more canonical stories, all first published in 1924, enter the public domain in the United States: “The Adventure of the Sussex Vampire,” “The Adventure of the Three Garridebs,” and “The Adventure of the Illustrious Client.” The last six stories from *The Case-Book of Sherlock Holmes* remain under copyright in the U.S. — but not for much longer: four will enter the public domain in 2022, and the final two in 2023.

¹³ *Id.* at n.6.

¹⁴ *In re House of Representatives Request for Advisory Opinion Regarding Constitutionality of 2018 PA 368 & 369*, 936 N.W.2d 241, 274 (Mich. 2019) (Viviano, J., dissenting).

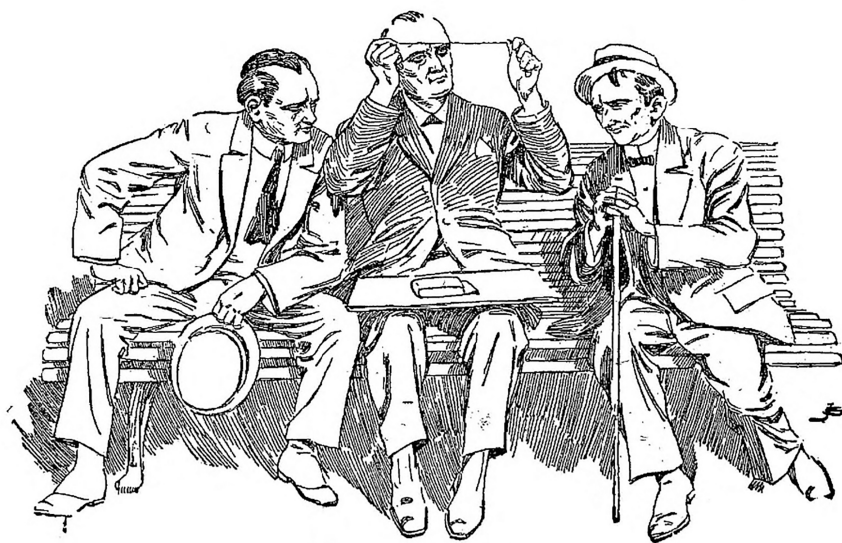
¹⁵ *Id.* at n. 65 (Viviano, J., dissenting).

¹⁶ *Wilson v. Huuuge, Inc.*, 944 F.3d 1212, 1214 (9th Cir. 2019).

THE ADVENTURE OF THE CARDBOARD BOX

by A. Conan Doyle

A NEW ANNOTATED EDITION



Sherlock Holmes examines the cardboard box.

By J. Basté in *Les Annales Politiques et Littéraires* (1920).
Courtesy of Alexis Barquin and the ACD Encyclopedia.

THE ADVENTURE OF THE CARDBOARD BOX

A NEW ANNOTATED EDITION

*Arthur Conan Doyle,¹ with notes² by Mary M. Alcaro,³ Peter E. Blau,⁴
Ross E. Davies,⁵ Carlina de la Cova,⁶ Jenn Eaker,⁷ Jayantika Ganguly,⁸
Walter Jaffee,⁹ Robert A. James,¹⁰ Roger Johnson,¹¹ Alexander Katz,¹²
Robert S. Katz,¹³ Michael Kean,¹⁴ Anastasia Klimchynskaya,¹⁵
Jennifer Kneeland,¹⁶ Nick Martorelli,¹⁷*

These authors have retained copyright in their work published here: Mary M. Alcaro, Peter E. Blau, Carlina de la Cova, Jenn Eaker, Roger Johnson, Monica Schmidt, Marina Stajić, Jean Upton, Beverly Wolov, and Tamar Zeffren.

¹ Arthur Conan Doyle wrote “The Adventure of the Cardboard Box,” 59 other Sherlock Holmes stories, and many other things.

² Among other accomplishments, many of our contributors are invested in the Baker Street Irregulars and/or Adventuresses of Sherlock Holmes. We note only those invested in the most recent classes.

³ Mary M. Alcaro is an English Ph.D candidate at Rutgers University, where she studies medieval literature and teaches writing. Her BSI investiture is “Ivy Douglas.”

⁴ Peter E. Blau served in the U.S. Navy, is a geologist and journalist, and is the subject of *Peter E. Blau: A Festschrift*.

⁵ Ross E. Davies teaches law at George Mason University and edits *The Green Bag*.

⁶ Carlina de la Cova, an Associate Professor of Anthropology at the University of South Carolina, was invested in the BSI in 2020 as “The Anthropological Journal.”

⁷ Jenn Eaker has written for the *Baker Street Journal* and wrote two award-winning articles in *The Serpentine Muse*. She lives in New York City and works in television.

⁸ Jayantika (“Jay”) Ganguly is a corporate lawyer with a top law firm in India. She is the General Secretary and Editor for the Sherlock Holmes Society of India.

⁹ Walter Jaffee graduated from the U.S. Merchant Marine Academy and sailed as a licensed deck officer. He has authored 18 books on ships and the sea and edited *Mobile Holmes*.

¹⁰ Robert A. James is a San Francisco lawyer and founded a legal trivia review, the *Journal of Attenuated Subtleties*.

¹¹ Roger Johnson is Commissioning Editor of *The Sherlock Holmes Journal*, and co-author with his wife Jean Upton of *The Sherlock Holmes Miscellany*.

¹² Alexander Katz holds degrees in Music History from The Hartt School, and is invested in both the BSI and ASH as “Sarasate.”

¹³ Robert S. Katz is a retired physician and serves as Co-Publisher of BSI Press.

¹⁴ Michael Kean, a retired publishing executive, is “Wiggins” (President) of the BSI.

¹⁵ Anastasia Klimchynskaya is a postdoctoral fellow at the University of Chicago and has won the *Baker Street Journal*’s Morley-Montgomery Award.

¹⁶ Jennifer Kneeland leads 221B NYC and is a Universal Literacy Coach in New York City. She was invested in ASH in 2019 as “A Touch of the Dramatic.”

¹⁷ Nick Martorelli serves as Headmaster of the Priory Scholars of NYC.

Ira Brad Matetsky,¹⁸ Scott Monty,¹⁹ Oscar Ross,²⁰ Greg D. Ruby,²¹
Monica Schmidt,²² Marina Stajić,²³ Jean Upton,²⁴ Karen Wilson,²⁵
Burt Wolder,²⁶ Beverly Wolov,²⁷ Tamar Zeffren,²⁸ and Christopher Zordan²⁹

INTRODUCTION, WITH A NOTE ON THE TEXT

Ira Brad Matetsky

As editor-in-chief of *The Green Bag Almanac and Reader*, an annual publication celebrating excellence in legal writing, Ross Davies gets to choose each year's theme. For 2015 and again for 2016, he chose Sherlock Holmes. The 2015 edition featured, among other Sherlockian material, a "Lawyerly Annotated Edition" of "The Adventure of the Norwood Builder."³⁰ This feature was so well-received that the 2016 edition contained lawyerly annotations to a second canonical story, "The Adventure of the Reigate Squire."³¹ Non-lawyer readers should know that while these annotations were written by lawyers and judges, the notes were not unduly technical and should be readily accessible to interested Sherlockians who do not share a legal background. Look them up sometime, if you haven't already seen them.

¹⁸ Ira Matetsky co-edited *Upon the Turf*, was invested in the BSI in 2019 as "The Final Problem," and won the Morley-Montgomery Award for 2019.

¹⁹ Scott Monty is executive editor and co-host of "I Hear of Sherlock Everywhere" and "Trifles." He writes the Timeless & Timely newsletter for business executives.

²⁰ Oscar Ross is the Purser and co-founder of The Crew of the S.S. *May Day*, moored at Belfast, Northern Ireland.

²¹ Greg D. Ruby is the founder and Gasogene of The Sherlockians of Baltimore and The Fourth Garrideb. He edits *The Newspapers* and works as a meetings and event planner.

²² Monica Schmidt is president of The Younger Stamfords and was invested in the BSI in 2019 as "Julia Stoner." She is a licensed mental health counselor.

²³ Marina Stajić, Ph.D., has been a practicing forensic toxicologist for over 40 years.

²⁴ Jean Upton is Editor of *The District Messenger*, the monthly newsletter of the Sherlock Holmes Society of London.

²⁵ Karen Wilson is a Baltimore, Maryland philosophy teacher, church musician, and mom, and a past Gasogene of Watson's Tin Box of Ellicott City.

²⁶ Burt Wolder co-hosts "I Hear of Sherlock Everywhere" and "Trifles." He is chief marketing officer for a medical information services company.

²⁷ Beverly Wolov has an M.A. in the History of Decorative Arts from the Smithsonian/Corcoran College of Art and Design, with a background in fashion history.

²⁸ Tamar Zeffren is an officer of the Priory Scholars of New York and is an archivist.

²⁹ Christopher Zordan is a chemist working in pharmaceuticals and an officer of the Priory Scholars of New York.

³⁰ 2015 Green Bag Alm. 116, 5 J. of L. 235, available at <http://journaloflaw.us>.

³¹ 2016 Green Bag Alm. 109, 6 J. of L. 141, available at <http://journaloflaw.us>.

Now that *The Baker Street Almanac* stands on its own, the editors have decided to revive the annual feature of annotating a different Sherlock Holmes story each year, beginning this year with “The Adventure of the Cardboard Box.” Annotations were solicited from two dozen Sherlockians. In selecting invitees, we looked well beyond the legal profession, although lawyers certainly were not unrepresented.

As in the past, our annotations follow in the Sherlockian annotation tradition, which began with William S. Baring-Gould’s *The Annotated Sherlock Holmes*, continued with *The Oxford Sherlock Holmes*, and culminated in Leslie S. Klinger’s *Sherlock Holmes Reference Library* and *New Annotated Sherlock Holmes*. Citations to these prior annotations appear in the footnotes, together with our current authors’ additions to their work.³²

If you enjoy reading our New Annotated Edition of this story, and might like to participate in this project by writing your own annotation for “The Adventure of the Priory School” (which will appear in the 2021 edition of the *Baker Street Almanac*), please see page 352 of this *Almanac* and email me at irabrad221b@gmail.com.

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“The Adventure of the Cardboard Box” first appeared in the January 1893 issue of *The Strand Magazine* in the United Kingdom, and the January 14, 1893 issue of *Harper’s Weekly* in the United States. The text reprinted below is taken from the *Harper’s Weekly* version.

As is well-known, when the second series of 12 Sherlock Holmes short stories was assembled in book form, Arthur Conan Doyle directed that “The Cardboard Box” be omitted from what became *The Memoirs of Sherlock Holmes*. There has been much speculation on why he did so, though I know of no direct evidence from Doyle’s own mouth or pen.³³ The British edition of *The Memoirs* followed Doyle’s direction and left out “The Cardboard Box.” The first American edition included “The Cardboard Box,” but was soon followed by a “new and revised edition” that omitted it. “The Cardboard Box” was eventually published in book form, both in the U.K. and the

³² Baring-Gould’s *The Annotated Sherlock Holmes* will be cited as “WBG”; the Oxford Sherlock Holmes volume on *The Memoirs of Sherlock Holmes*, as “OSH: Memoirs”; Klinger’s Reference Library volume on *The Memoirs*, as “LSK, Ref: Memoirs”; and Klinger’s *New Annotated Sherlock Holmes*, as “LSK, 1 New Ann.”

³³ In a September 22, 1893 letter to Harper & Brothers (publisher of the U.S. editions of *The Adventures* and *The Memoirs*), Doyle states laconically that “I should like the second story omitted,” but gives no reason for this before moving on to other matters.

U.S., in the collection *His Last Bow* in 1917. The text used in preparing that edition was derived from *The Strand Magazine*, not *Harper's Weekly*.

There is a Sherlockian cottage industry in compiling and analyzing textual variations in different versions of each story that have appeared in periodicals and books on both sides of the Atlantic. One reason the editors chose "The Cardboard Box" as this year's annotated story was in anticipation of the opportunity to examine variations between the little-seen *Harper's Weekly* text of this story and the better known *Strand Magazine* and *His Last Bow* texts. In 2018, Ross used the *Harper's Weekly* text of "The Adventure of the Resident Patient" as the basis for one of his Sherlockian maps and asked me to help proofread it. In doing so, I spotted some interesting differences between what I was reading and the text that I knew.³⁴ Those changes had previously gone unnoticed because when "The Cardboard Box" was dropped, its opening "mind-reading scene" was moved to "The Resident Patient." This required the substitution of a newly edited version of "The Resident Patient" in the U.S. *Memoirs* for the text that had been derived from *Harper's Weekly*. As a result, the *Harper's Weekly* "Resident Patient" was lost to Sherlockians for more than 100 years. But the *Harper's Weekly* "Cardboard Box" never was used for *The Memoirs* at all, and was just as lost. What interesting changes, we wondered, would we find in the newly rediscovered *Harper's Weekly* text as compared to the *Strand's* or George Newnes's or Doubleday's?

Having now made the comparison, we have an anticlimactic answer: None. Disappointing as it may be to report, there are no differences between the various texts of "The Cardboard (or Card-Board) Box" that have any bearing on the meaning of the story. In fact, there are virtually no differences at all. There are, of course, the usual Americanizations of punctuation and spelling, according to the American standards of punctuation and spelling in 1893. The most prominent of these changes is that the title of the story appeared in *Harper's Weekly* as "The Adventure of the Card-Board Box" as opposed to the *Strand's* "The Adventure of the Cardboard Box." (Nineteenth-century American editors were hyphen-happy.) Words such as "clue" and "endeavoured" and "discoloured" were predictably changed to "claw" and "endeavored" and "discolored" as per the U.S. spellings of the day, and so forth. There is not much grist for the mill there.

There is one change that at first glance appears substantive — *Harper's Weekly* omits two paragraphs of the canonical text³⁵ — but those paragraphs

³⁴ See Ira Brad Matetsky, "More Textual Variations in 'The Resident Patient,'" 68 *Baker Street J.* 6 (Autumn 2018).

³⁵ The two paragraphs are quoted in their place in footnote 61 below.

turn out to be so inconsequential that they were probably omitted either to save a few lines of space or simply by mistake, so there is little to be read into the change either. The next longest change — an omission of three words in *Harper's Weekly*³⁶ — is, if anything, even less important. In another minor variation, *Harper's Weekly* describes Holmes at one point as sitting “in deep thought” rather than “in deep meditation”³⁷ — most likely out of concern that some readers would not know the word “meditation,” rather than for any “deeper” reason.

But perhaps it should be a relief that we can focus on a single agreed text of the story, without side-debates about line readings and bad quartos. In any event, on to the story.

THE ADVENTURE OF THE CARD-BOARD BOX

By A. Conan Doyle

In choosing a few typical cases which illustrate the remarkable mental qualities of my friend Sherlock Holmes, I have endeavored, as far as possible, to select those which presented the minimum of sensationalism, while offering a fair field for his talents. It is, however, unfortunately, impossible to entirely separate the sensational from the criminal, and a chronicler is left in the dilemma that he must either sacrifice details, which are essential to his statement, and so give a false impression of the problem, or he must use matter which chance, and not choice, has provided him with.³⁸ With this short preface I shall turn to my notes of what proved to be a strange, though a peculiarly terrible, chain of events.

It was a blazing hot day in August.³⁹ Baker Street was like an oven, and the glare of the sunlight upon the yellow brick-work of the houses across the road was painful to the eye. It was hard to believe that these were the same walls which loomed so gloomily through the fogs of winter. Our blinds were half-drawn, and Holmes lay curled upon the sofa, reading and re-reading a letter which he had received by the morning post. For myself, my term of service in India had trained me to stand heat better than cold, and a ther-

³⁶ See footnote 119 below.

³⁷ See footnote 78 below.

³⁸ THE EDITORS: This type of story opening, in which Watson begins a story by discussing his difficulties in deciding which of Holmes's cases to report, will become a familiar one. For other examples, see “The Five Orange Pips,” “The Resident Patient,” “The Solitary Cyclist,” and “The Golden Pince-Nez.”

³⁹ WBG, p. 2:193, n. 1.

mometer at ninety was no hardship.⁴⁰ But the morning paper was uninteresting. Parliament had risen.⁴¹ Everybody was out of town, and I yearned for the glades of the New Forest⁴² or the shingle of Southsea.⁴³ A depleted bank account⁴⁴ had caused me to postpone my holiday,⁴⁵ and as to my companion, neither the country nor the sea presented the slightest attraction to him. He loved to lie in the very centre of five millions of people, with his filaments stretching out and running through them, responsive to every little rumor or suspicion of unsolved crime. Appreciation of nature found no place among his many gifts,⁴⁶ and his only change was when he turned his mind from the evil-doer of the town to track down his brother of the country.

Finding that Holmes was too absorbed for conversation, I had tossed aside the barren paper,⁴⁷ and leaning back in my chair, I fell into a brown-

⁴⁰ JAY GANGULY: Dr. Watson's Indian landing, as briefly recorded in *A Study in Scarlet*, was at the city of Bombay (now renamed "Mumbai") on the western coast of India. From there he made his way to Candahar (we know it as "Kandahar") in Afghanistan. Dr. Watson's visit was about 140 years ago — he participated in the Second Afghan War, and from his words, it appears he was involved in the Battle of Kandahar, which took place in September 1880. Currently, a temperature of 90 degrees is fairly commonplace for Mumbai, and it actually gets much hotter than that in the summer — not surprising, given the rapid urbanization of the city. Nearly a century and a half ago, 90 degrees was not the average temperature for Mumbai, unlike today, but summers in Mumbai would still easily hit this mark. Also, the route from Mumbai to Kandahar passed through several Indian states, some of which fall in the Thar Desert. There, a temperature of 90 degrees would actually be considered pleasant, even back in Dr. Watson's day. As such, when Dr. Watson says a temperature of 90 degrees was no hardship for him thanks to his Indian days, he is not exaggerating. India is a tropical country, after all.

⁴¹ WBG, p. 2:193, n. 1.

⁴² LSK, Ref.: Memoirs, p. 29, n. 4; LSK, 1 New Ann., p. 428, n. 4; OSH: Memoirs, p. 278; WBG, p. 2:194, n. 4.

⁴³ LSK, Ref.: Memoirs, pp. 29-30, n. 5, LSK, 1 New Ann., p. 428, n. 5; OSH: Memoirs, p. 279.

⁴⁴ LSK, Ref.: Memoirs, pp. 29-30, n. 5, LSK, 1 New Ann., p. 428, n. 5; OSH: Memoirs, p. 279.

⁴⁵ WSB, p. 2:194, n. 5.

⁴⁶ WBG, p. 2:194, n. 6.

⁴⁷ ROSS E. DAVIES: The "barren paper" tossed aside by Watson is not just any paper. It is *The Times*, which is unsurprising in two ways. First, *The Times* was London's great newspaper, read in sitting rooms and club rooms across London and around the world. Second, as Brad Kefauver has observed, *The Times* is "Sherlock Holmes's favorite newspaper." *A Day in the Life, a Day in The Times*, 53 Baker Street J. 39 (Autumn 2003). But in a third way, Watson's tossing aside of that particular paper is an event of some slight, obscure Canonical significance. *The Times* is mentioned by name in the Canon seven times — more than any other paper (Stephen Clarkson, *The Canonical Compendium* 46-47 (1999)) —

study.⁴⁸ Suddenly my companion's voice broke in upon my thoughts.

"You are right, Watson," said he. "It does seem a most preposterous way of settling a dispute."⁴⁹

but in none of the seven stories identified by Clarkson does Watson read the *Times*. In *The Sign of Four*, both Holmes and Mary Morstan read it. In "The Adventure of the Blue Carbuncle," "The Adventure of the Engineer's Thumb," *The Hound of the Baskervilles*, and "The Adventure of the Missing Three-Quarter," Holmes reads it. In "The Adventure of the Solitary Cyclist," Violet Smith at least looks at it. And in *His Last Bow*, Baron Von Herling refers to it. No sign of a Watson-*Times* relationship anywhere. Nor does there appear to be one in Watson's report of "The Adventure of the Cardboard Box," printed in the January 1893 issue of *The Strand* (U.K.). *The Times* is not mentioned in the text, and while there is a Sidney Paget portrayal of the scene in which Watson tosses aside that "barren paper," the printed picture is not sharp enough to show the name of the paper. Fortunately, however, the name of that paper is preserved in the Arthur Conan Doyle Collection at the Toronto Public Library. The Library has Paget's original illustration, in which "THE TIMES" is easy to see across the top of the front page of the paper. See for yourself, courtesy of the Toronto Public Library: Paget's work (enlarged for easy reading and general appreciation) is on the dust jacket of the book in which this annotation appears, the 2020 *Baker Street Almanac*. So, *The Times* appears in eight stories, not seven, and Watson did read it, on at least one occasion.

⁴⁸ LSK, 1 New Ann., pp. 423-24, n.7. ROSS E. DAVIES: The leading authority on the meanings of English words that we know as the *Oxford English Dictionary* published its definition of "brown study" in 1888. That definition has never changed: "A state of mental abstraction or musing: 'gloomy meditations' (Johnson); 'serious reverie, thoughtful absent-mindedness' (Webster); now esp. an idle or purposeless reverie." Intriguingly, that definition was a little bit controversial in its own time. In the course of a lengthy discussion of "the case of the somewhat peculiar expression *brown study*," a review in the April 4, 1889 issue of *The Nation* complained that, "[t]he adjective here has assuredly the general idea of 'deep,' 'profound,' 'abstracted.' It is hard to fix upon the phrase the sense of 'gloomy meditation,' by which Johnson [that is, lexicographer Samuel Johnson] defined it; and the particular meaning given to it in this dictionary of 'an idle and purposeless reverie' is certainly not common." So, at the time Watson tossed aside that "barren paper," a contemporary reader would almost certainly have envisioned a deeply abstracted Watson, but perhaps not a gloomy one. Anatoly Liberman, *A Study in Brown and in a Brown Study, Part 3*, OUPblog, blog.oup.com/2014/10/brown-etymology-word-origin-part-3/ (Oct. 22, 2014). On the other hand, the topic Watson was thinking about — the awful American Civil War — would have provided good grounds for gloom.

⁴⁹ ROBERT S. KATZ: The so-called "mind-reading" sequence that begins here is one of the most significant sections of the entire Canon. In fact, it is so important that it appears twice in the actual stories. It was and remains the opening of "The Cardboard Box," but when this group of short stories first came to be anthologized, the subject-matter of this story was regarded as too provocative and the story was removed from the book version. However, Watson, or Conan Doyle as Literary Agent, liked this segment so much that it was transposed to the beginning of "The Resident Patient." When "The Cardboard Box" was ultimately anthologized in *His Last Bow*, the opening remained. It was a bit confusing

to this author, as a first-time reader, to see a section appear in two places in the Canon. But the section is so much fun and so meaningful that the duplication is easily accepted. This bit of Baker Street dialogue is noteworthy as it provides us one of the few and perhaps most useful pieces of biographical information about the life of John Watson. We realize that Watson had a considerable interest in and knowledge of the American Civil War, even though it took place far from England and several decades earlier. We also learn that Watson owned portraits of General Charles Gordon and Henry Ward Beecher. Finally, we see him reaching for his leg when he thinks of a war wound.

These seemingly unrelated bits of data, combined with a few other nuggets elsewhere in the Canon, are our best clues in trying to piece together Dr. Watson's childhood. Elsewhere in the Canon (*The Sign of Four*), we learn that Watson had spent some time in the minefields of Ballarat, in Australia. Combined with the vividness of his descriptions of two great American mining areas, the Southwest in *A Study in Scarlet* and the coal country of the Vermessa Valley in *The Valley of Fear*, we can suggest that Watson's father may have been in the mining industry and traveled the world as part of his career. The pictures of Gordon and Beecher, both staunch abolitionists, give us an indication of the political views of the Watson family. As Watson was likely a few years older than Holmes, he would have been in his early teens, living in a mining area of Pennsylvania, when the American Civil War broke out. As I indicate in my article "A Long Afternoon" (appearing in *The Watsonian*, Volume 1, Number 1, 2013), young John would have run away to join the Union Army and ended up in the regiment commanded by the friend and colleague of Henry Ward Beecher's brother-in-law (husband of Harriet Beecher Stowe), the fabled Twentieth Maine. Finding himself holding Little Round Top at the Battle of Gettysburg, Watson suffered the leg wound mentioned in this segment. This explains the anatomic discrepancies between his various injuries: His first wound came at Gettysburg, and it was at Maiwand that he subsequently received the second.

Judged as literature, this segment is one of the most enjoyable sequences in the Canon. It shows Holmes as the ultimate master of observation, diagnosis, and deduction. Nearly every Sherlockian will point to this as one of the most popular moments in the sixty stories. It's so well-written and entrancing that no one cares that it appears twice. But as history, it is unparalleled as it provides us one of the few glimpses into the childhood of John H. Watson. He tells us little about his family and his background, but occasionally lets us peek into a remarkable early life. This particular "peek" enhances our understanding of the Canon.

ANASTASIA KLIMCHYNSKAYA: As a detective, Holmes is a reader of signs (and, in fact, scholarship on the detective novel often draws attention precisely to the detective's role as reader). It is this uncanny ability to interpret traces legible only to him that frequently leads other characters to proclaim Holmes a wizard or magician, such as in "The Adventure of the Beryl Coronet." Usually, however, such signs are physical remnants of external, physical acts: footprints, bloodstains, mud, or tobacco ash. Here, although many of the signs Holmes interprets are external (Watson's expressions, sighs, and glances), the crux of his reading lies in Watson's *interiority*, in the thoughts and emotions whose immediate physical locus is hard to pinpoint. In this sense, Holmes might be considered to be venturing into the territory of Freud, who is often evoked in Sherlockian pastiches because he, too, reads and interprets signs — those of mental disorders. At the same time, Holmes is not entirely new to this kind of psychological dabbling: he has certainly made generalizations about how

"Most preposterous!" I exclaimed; and then, suddenly realizing how he had echoed the inmost thought of my soul, I sat up in my chair and stared at him in blank amazement.

"What is this, Holmes?" I cried. "This is beyond anything which I could have imagined."

He laughed heartily at my perplexity.

"You remember," said he, "that some little time ago, when I read you the passage in one of Poe's sketches⁵⁰ in which a close reasoner follows the unspoken thoughts of his companion, you were inclined to treat the matter as a mere tour de force of the author. On my remarking that I was constantly in the habit of doing the same thing, you expressed incredulity."⁵¹

"Oh, no!"

"Perhaps not with your tongue, my dear Watson, but certainly with your eyebrows. So when I saw you throw down your paper and enter upon a train of thought, I was very happy to have the opportunity of reading it off, and eventually of breaking into it, as a proof that I had been in rapport⁵² with you."

But I was still far from satisfied. "In the example which you read to me," said I, "the reasoner drew his conclusions from the actions of the man whom he observed. If I remember right, he stumbled over a heap of stones, looked up at the stars, and so on. But I have been seated quietly in my chair, and what clues can I have given you?"

"You do yourself an injustice. The features are given to man as the means by which he shall express his emotions, and yours are faithful servants."

"Do you mean to say that you read my train of thoughts from my features?"

a particular type of person is apt to act. One might remember, for example, his insistence in "A Case of Identity" that a woman in love tends to be unwilling to be disabused of her delusion.

One will also note that Holmes here takes a stab at the kind of "mind-reading" that Poe's detective Dupin engages in, which is ironic given Holmes' criticism of Dupin in *A Study in Scarlet* as "a very inferior fellow" whose "trick . . . of breaking in on his friends' thoughts with an apropos remark after a quarter of an hour's silence is really very showy and superficial." It seems that Holmes has rid himself of such qualms about showiness or superficiality since those early days.

THE EDITORS: Although Holmes's displays of "mind-reading" ability occur throughout the Canon and are an aspect of Holmes's talent known even to the general public, this scene contains the longest illustration of such a chain of reasoning. Only the opening of "The Dancing Men" might be comparable.

⁵⁰ LSK, Ref.: *Memoirs*, p. 30, n. 7; LSK, 1 New Ann., p. 424 n. 8; OSH: *Memoirs*, p. 279.

⁵¹ WBG, p. 2:195, n. 7.

⁵² OSH: *Memoirs*, p. 280; WBG, p. 2:195, n. 9.

"Your features, and especially your eyes. Perhaps you cannot yourself recall how your reverie commenced?"

"No, I cannot."

"Then I will tell you. After throwing down your paper, which was the action which drew my attention to you, you sat for half a minute with a vacant expression. Then your eyes fixed themselves upon your newly framed picture of General Gordon,⁵³ and I saw by the alteration in your face that a train of

⁵³ LSK, Ref.: Memoirs, p. 31, n. 8; LSK, 1 New Ann., p. 424, n. 9; OSH: Memoirs, p. 280; WBG, p. 2:195, n. 9. MICHAEL KEAN: Leslie Klinger's cited notes on General Charles "Chinese" Gordon sketch this extraordinary man and his remarkable career quite well. However, some information about Gordon's early life might prove useful in understanding how he developed into a complex and (some might say) neurotic Victorian hero. Gordon's father was also a career Army officer, ultimately achieving the rank of Lieutenant General. His postings in Dublin, Leith and Corfu required the family to move frequently. When the family returned to Woolwich, young Charles entered the Academy as an officer cadet at the age of fifteen. He was commissioned as a Second Lieutenant in the Royal Engineers in 1852. He was intelligent and industrious, and his posting in the Crimea and his success in China resulted in considerable notoriety. Nevertheless, throughout his life, Gordon maintained an almost puritanical aversion to recognition. After returning to England from China, he accepted the important but unglamorous role of Engineering Officer at Gravesend, supervising the construction of the fortifications for the defense of the Thames.

Gordon's mother was a pious woman, and raising eleven children doubtlessly made her long-suffering as well. From her, young Gordon developed a strong spiritual inclination and a literal view of the Bible, though he eschewed organized religion and never joined a church. His belief in traditional Christianity created in him a missionary zeal, which translated into his care of young neglected boys. He fed and clothed hundreds of children, and each evening taught basic literacy to a small group of them, spending his own money on their welfare. Charles Gordon and Sherlock Holmes were both involved with a group of street urchins. Gordon's boys learned to read the Bible, while Holmes' Baker Street irregulars served as his eyes and ears throughout London.

One might wonder whether the fact that Dr. Watson, who like General Gordon had also been a military officer and had seen action in remote parts of the British Empire, added to Watson's "brown study" and his ruminations about the futility of war as a means of settling disputes. Did the good doctor think about how fortunate he was to have been rescued on the battlefield by his orderly, Murray, while Gordon was killed and decapitated by the Ghazis at Khartoum?

General Gordon was lionized by the British public during the late nineteenth century, and was one of the four individuals profiled by Lytton Strachey in his classic biography, *Eminent Victorians*. A caricature of Gordon appeared in an 1881 issue of the popular British magazine, *Vanity Fair*, as part of its color lithograph portrait series, with the title, "The Ever Victorious Army." A statue of General Gordon by Sir Hamo Thornycroft formerly stood in Trafalgar Square, but has now been moved to the Victoria Embankment.

For those who are interested in learning more about one of the best known, yet most enigmatic Victorians, I recommend Lord Elton, *General Charles Gordon's Khartoum Journal*

thought had been started. But it did not lead very far. Your eyes flashed across to the unframed portrait of Henry Ward Beecher⁵⁴ which stands upon the top of your books. You then glanced up at the wall, and, of course, your meaning was obvious. You were thinking that if the portrait were framed, it would just cover that bare space, and correspond with Gordon's picture over there."

"You have followed me wonderfully!" I exclaimed.

"So far I could hardly have gone astray. But now your thoughts went back to Beecher, and you looked hard across as if you were studying the character in his features. Then your eyes ceased to pucker, but you continued to look across, and your face was thoughtful. You were recalling the incidents of Beecher's career. I was well aware that you could not do this without thinking of the mission which he undertook on behalf of the North at the time of the civil war, for I remember your expressing your passionate indignation at the way in which he was received by the more turbulent of our people.⁵⁵ You felt so strongly about it that I knew you could not think of Beecher without thinking of that also. When, a moment later, I saw your eyes wander away from the picture, I suspected that your mind had now turned to the civil war,⁵⁶ and when I observed that your lips set, your eyes sparkled, and your hands clinched, I was positive that you were indeed thinking of the gallantry which was shown by both sides in that desperate struggle. But then, again, your face grew sadder; you shook your head. You were dwelling upon the sadness and horror and useless waste of life. Your hand stole towards your own old wound and a smile quivered on your lips, which showed me that the ridiculous side of this method of settling international questions⁵⁷ had forced itself upon your mind. At this point I agreed with you

(1961); Lord Elton, *Gordon of Khartoum* (1955); Lawrence and Elisabeth Hanson, *Chinese Gordon: The Story of a Hero* (1954); Peter Johnson, *Gordon of Khartoum* (1985); Roy MacGregor-Hastie, *Never to be Taken Alive* (1985); Charles Chenevix Trench, *The Road to Khartoum* (1978); and John H. Waller, *Gordon of Khartoum: The Saga of a Victorian Hero* (1988).

⁵⁴ LSK, Ref.: Memoirs, p. 31, n. 9; LSK, 1 New Ann., p. 424, n.10; OSH: Memoirs, p. 280; WBG, p. 2:195 n. 10. THE EDITORS: Beecher was a prominent American clergyman and abolitionist, but another source of his notoriety during his lifetime was his involvement in a prominent, controversial, inconclusive adultery trial. See, e.g., Robert Shaplin, "The Beecher-Tilton Affair," *The New Yorker* (June 12, 1954); Michael A. Green, "Battle in Brooklyn: The Cross-Examination of Henry Ward Beecher in the Trial of the Century," *Judicial Notice* No. 13 (Historical Society of the New York Courts 2009).

⁵⁵ WSB, p. 2:195, n. 11.

⁵⁶ OSH: Memoirs, p. 281.

⁵⁷ THE EDITORS: Does Holmes here describe the causes of the American Civil War as "international questions" rather than domestic ones, and thereby implicitly endorse one side of a key issue in that conflict? We know that Watson, as an admirer of Beecher, would not

that it was preposterous, and was glad to find that all my deductions had been correct.”

“Absolutely,” said I. “And now that you have explained it, I confess that I am as amazed as before.”

“It was very superficial, my dear Watson, I assure you. I should not have intruded it upon your attention had you not shown some incredulity the other day. But I have in my hands here a little problem which may prove to be more difficult of solution than my small essay in thought-reading.⁵⁸ Have you observed in the paper a short paragraph referring to the remarkable contents of a packet sent through the post to Miss Susan Cushing, of Cross Street,⁵⁹ Croydon?”⁶⁰

“No; I saw nothing.”⁶¹

“Miss Susan Cushing, living at Cross Street, Croydon, has been made the victim of what must be regarded as a peculiarly revolting practical joke,⁶²

have taken that side. Or have his thoughts moved from the Civil War as an example of warfare to more current or prospective wars that were indeed of an “international” nature?

⁵⁸ LSK, Ref.: Memoirs, p. 32, n. 11.

⁵⁹ LSK, Ref.: Memoirs, p. 33, n. 12; LSK, 1 New Ann., p. 427, n. 13.

⁶⁰ LSK, Ref.: Memoirs, p. 33, n. 13, WBG, p. 2:195, n. 15.

⁶¹ THE EDITORS: At this spot appears the only significant textual variation between the *Harper's Weekly* version of this story and other published versions. In the *Strand* and book versions of the story, after Watson says “No, I saw nothing,” these two paragraphs follow:

“Ah! then you must have overlooked it. Just toss it over to me. Here it is, under the financial column. Perhaps you would be good enough to read it aloud.”

I picked up the paper which he had thrown back to me, and read the paragraph indicated. It was headed, “A Gruesome Packet.”

The story continues as above. As there is nothing unusual about these two omitted paragraphs, but they also are not essential to the narrative, one concludes that they were dropped in *Harper's Weekly* either to save a few lines of space or by simple inadvertence.

⁶² KAREN WILSON: After the passage of the Anatomy Act of 1832 made cadavers more available to medical schools for dissection, “easily accessible bodies became a staple of [English] medical school humor.” Dissecting-room pranks — from the depositing of body parts in unlikely places, to actual cannibalism — “became a Victorian cliché.” (Malchow, *Gothic Images of Race in Nineteenth-Century Britain*, Stanford University Press, 1996). This was not limited to Britain: Henry Brodribb Irving's *Studies of French Criminals* (William Heinemann, 1901) recounts the 1878 case of Barré and Lebiez, who left dismembered remains of their victim in rooms they had let in Paris' Rue Polivau, “correctly surmis[ing] that the proximity of the street to the surgical theatres would cause the remains, when discovered, to be regarded as a practical joke on the part of some medical student.” (The police weren't fooled for long, however.)

That practical joking was a part of the general culture is reflected in several canonical mentions. Villains invoke it: Jonas Oldacre (“The Norwood Builder”) defends his attempt to frame John McFarlane as “a practical joke, nothing more.” James Windibank (“A Case of

unless some more sinister meaning should prove to be attached to the incident. At two o'clock yesterday afternoon a small packet, wrapped in brown paper, was handed in by the postman. A card-board box was inside, which was filled with coarse salt. On emptying this, Miss Cushing was horrified to find two human ears, apparently quite freshly severed. The box had been sent by parcel post⁶³ from Belfast⁶⁴ upon the morning before. There is no

Identity") takes a similar tack — "It was only a joke at first" — when Holmes identifies him as Hosmer Angel. Naïve Jabez Wilson ("The Red-Headed League") theorizes that his odd experience was an expensive prank, while deserted houseguest John Scott Eccles ("Wisteria Lodge") initially believes he's been the victim of an "absurd practical joke." Elsie Cubitt ("The Dancing Men"), knowing better, hopes her husband will dismiss the mysterious cyphers as a "senseless practical joke." And unfortunate John Openshaw ("The Five Orange Pips") finds the police convinced that his seed-bearing missives "are all practical jokes."

⁶³ LSK, Ref.: Memoirs, p. 33, n. 14. ROGER JOHNSON and JEAN UPTON: Although King Charles II established the General Post Office in 1660, the transport of parcels within the British Isles was for nearly two centuries undertaken by private companies. At first they were courier services using stage coaches, but by 1850 the railway companies had a near monopoly. It was not until 1882, after lengthy negotiations with the railway companies, that legislation enabled the Post Office to set up Parcel Post as a specialized service, and the necessary arrangements could begin. (Post Office depots throughout the U.K. had to be reconstructed, a great amount of new equipment acquired, delivery routes revised, and the public made aware of the new service.) Parcel Post began operating on the 1st August 1883, fulfilling its mission "to convey and deliver packages up to a certain limit of weight, at a fixed charge irrespective of distance." Each package would bear a sticker certifying that it was to be sent by Parcel Post, and by the 1890s — a little after the time of "The Cardboard Box" — the Parcel Post was handling 50 million parcels a year.

The cardboard box with its gruesome contents was posted in Belfast, whence it would have been taken by train to Dublin and there transferred to a steamship which took it across the Irish Sea to Holyhead on the island of Anglesey in North Wales. In the mid-1860s, the contract for the Mail steamers passed from the City of Dublin Steam Packet Company to the London and North Western Railway Company, whose famous train the Irish Mail conveyed the box to Euston Station in London. The Mail trains included Travelling Post Offices: specially adapted carriages in which postal staff sorted the mail en route. The box was dispatched from Belfast in the morning. The distance to Dublin by train is just over 110 miles, so it would be in plenty of time for the crossing. By 1885, the night mail from Dublin took less than ten and a half hours to reach Euston Station, and from there it was less than twenty miles to Croydon. The box was handed to Miss Cushing at 2:00 p.m. — probably not the last of the six or seven delivery rounds that day. (In central London, 221B Baker Street enjoyed up to twelve postal deliveries a day.)

Parcel Post no longer exists under that name. Its successor since 1990 is called Parcelforce Worldwide. (Information from The Postal Museum, www.postalmuseum.org; *Dickens's Dictionary of London* (1888; [reprinted by Old House Books, 1993]); and RTE Radio 1 documentary *The Irish Mail*, www.rte.ie/radio1/doconone/2012/0703/647118-documentary-

indication as to the sender, and the matter is the more mysterious as Miss Cushing, who is a maiden lady of fifty, has led a most retired life, and has so few acquaintances or correspondents that it is a rare event for her to receive anything through the post. Some years ago, however, when she resided at Penge,⁶⁵ she let apartments in her house to three young medical students,⁶⁶ whom she was obliged to get rid of on account of their noisy and irregular habits. The police are of opinion that this outrage may have been perpetrated upon Miss Cushing by these youths who owed her a grudge, and who hoped to frighten her by sending her these relics of the dissecting-rooms. Some probability is lent to the theory by the fact that one of these students came from the north of Ireland, and, to the best of Miss Cushing's belief, from Belfast. In the meantime the matter is being actively investigated, Mr. Lestrade, one of the very smartest of our detective officers, being in charge of the case."

"So much for the *Daily Chronicle*,"⁶⁷ said Holmes, as I finished reading. "Now for our friend Lestrade."⁶⁸ I had a note from him this morning, in

podcast-irish-mail-euston-dublin-train-journey/.)

⁶⁴ LSK, Ref.: Memoirs, p. 33, n. 15.

⁶⁵ LSK, Ref.: Memoirs, p. 33, n. 16. THE EDITORS: "Rumpole of the Bailey" fans will recall Penge as the location of the Penge Bungalow Murders, in which the defendant was successfully defended by the young barrister Horace Rumpole, alone and without a leader.

⁶⁶ SCOTT MONTY: The number three comes up repeatedly in the Canon. Of all the stories with numbers in their titles, three appears the most frequently — three times! ("The Three Students," "The Three Garridebs," "The Three Gables".) Holmes had three dressing gowns (or at least three colors of dressing gown: mouse, blue, and purple). What is it about that number? The number three is a fascinating number in that it's easy for the brain to recall things threes. But why do we see threes so often in the Canon?

While it's not "an exercise in trigonometry" ("The Musgrave Ritual"), it does involve mathematics and Holmes's knowledge of it. Holmes chastised Watson for his writing, saying it would have been akin to inserting "an elopement into the fifth proposition of Euclid." (*The Sign of Four*.) Euclid had five postulates, and the fifth was: "if a straight line intersects two other straight lines, and so makes the two interior angles on one side of it together less than two right angles, then the other straight lines will meet at a point if extended far enough on the side on which the angles are less than two right angles." The result? A triangle. Holmes understood the power of three.

Regarding the Solar System, Holmes said, "you say that we go round the sun. If we went round the moon it would not make a pennyworth of difference to me or to my work." (*A Study in Scarlet*.) The Earth? We're the third planet from the Sun.

⁶⁷ LSK, Ref.: Memoirs, p. 34, n. 17; OSH: Memoirs, p. 282.

⁶⁸ NICK MARTORELLI: With this phrase, it seems that Holmes and Lestrade are no longer the adversaries they were in *A Study in Scarlet* or "The Noble Bachelor." An established inspector at the time of *Study*, Lestrade is in the practice of taking cases to Holmes at Baker Street, but he is unwilling to allow Holmes any notoriety or public credit for the solution.

which he says: I think that this case is very much in your line. We have every hope of clearing the matter up, but we find a little difficulty in getting anything to work upon. We have, of course, wired to the Belfast post-office,⁶⁹ but a large number of parcels were handed in upon that day, and they have no means of identifying this particular one, or of remembering the sender. The box is a half-pound box of honeydew tobacco,⁷⁰ and does not help us in any

Scotland Yarders continue to see Holmes as a rival through many of the early stories, with both Jones (in *The Sign of Four*) and Lestrade (in “The Boscombe Valley Mystery” and “The Noble Bachelor”) dismissing and openly competing with Holmes’s methods and conclusions. By the time “The Cardboard Box” is published, however, Lestrade has become a “friend” who refers this case to Holmes not only because he needs some help, but because he knows that it is “very much in your line.” Holmes is noticeably cheerier toward Lestrade as well, explaining his deductions about the tarred string and providing him with the name of the criminal. Perhaps once Holmes was able to establish his own reputation, his attitude toward the Yarders softened. Lestrade shows himself to evolve his opinion on Holmes, culminating in “The Six Napoleons,” where he routinely visits Baker Street for conversation and the occasional cigar. It is this case where we see that their relationship is progressing, towards Lestrade’s openly telling Holmes in “The Six Napoleons” that the Yarders aren’t “jealous of you down at Scotland Yard. No sir, we’re proud of you.” Holmes and Lestrade — from rivals to colleagues.

⁶⁹ OSCAR ROSS: “You will observe that this line of boats calls at Belfast, Dublin and Waterford,” remarks Holmes while discussing this case. From that we may deduce that James Browner, the steward of the *S.S. May Day*, was a regular visitor to Belfast. It is probable that he would have been familiar with one of Belfast’s landmark buildings, the Custom House, which housed the Queen’s Square post-office. The location would have been particularly convenient for him to post his “gruesome packet” as it was close to the docks where his ship berthed. In August 1886, two years prior to the mostly likely date of the case, a new GPO opened at Royal Avenue, the city’s new main thoroughfare. As a consequence of this, Queen’s Square, which had been the town’s chief post-office since 1857, was demoted to branch status.

In his first note to Holmes, Inspector Lestrade wrote: “We have wired to the Belfast post-office but a large number of parcels were handed in that day and they had no means of identifying any particular parcel or of remembering the sender.”

It seems unlikely that Scotland Yard would have bypassed the new GPO in Royal Avenue and instead wired to Queen’s Square or one of several other smaller offices in the vicinity. The new GPO was also only a short walking distance from Browner’s ship, and it had one big advantage which someone in his situation may have appreciated. Being much bigger and busier, it offered a greater degree of anonymity than a smaller office. So, and on the balance of probabilities, my vote goes to Royal Avenue as the location for the “Belfast post-office.”

⁷⁰ LSK, Ref.: Memoirs, p. 34, n. 18; LSK, 1 New Ann., p. 428, n. 14; OSH: Memoirs, p. 282; WBG, p. 2:196, n. 14. MONICA SCHMIDT: As an occasional cigar smoker who knows little about tobacco, I interviewed noted Sherlockian pipe and tobacco enthusiasts Al Shaw and Dino Argyropoulos and consulted a scholarly work by James O’Leary, each of whom

way. The medical student theory still appears to me to be the most feasible, but if you should have a few hours to spare, I should be very happy to see you out here. I shall be either at the house or in the police station all day.' What say you, Watson? Can you rise superior to the heat, and run down to Croydon with me on the off chance of a case for your annals?"

"I was longing for something to do."

"You shall have it, then. Ring for our boots,⁷¹ and tell them to order a cab. I'll be back in a moment, when I have changed my dressing-gown and filled my cigar-case."

A shower of rain fell while we were in the train, and the heat was far less oppressive in Croydon than in town. Holmes had sent on a wire, so that Lestrade, as wiry, as dapper, and as ferretlike as ever, was waiting for us at the station.⁷² A walk of five minutes took us to Cross Street, where Miss Cushing resided.

It was a very long street of two-story brick houses, neat and prim, with whitened stone steps and little groups of aproned women gossiping at the doors. Half-way down. Lestrade stopped and tapped at a door, which was opened by a small servant girl. Miss Cushing was sitting in the front room, into which we were ushered. She was a placid-faced woman with large, gentle eyes, and grizzled hair curving down over her temples on each side. A worked

has completed extensive research on tobacco in the Sherlockian Canon, including O'Leary's having tracked down an example of the most likely culprit for the actual cardboard box itself. See James O'Leary, "Discovered: THE Cardboard Box", in *The Newspapers: An Irregular Journal of Sherlockiana*, vol. 3 (Sherlockians of Baltimore, Greg Ruby ed. 2019); see also <https://www.ihearofsherlock.com/2019/09/discovered-cardboard-box.html>. All three scholars agree that in Holmes's time, "honeydew tobacco" most likely referred to naturally sweetened tobacco that was pressed into a cake or "plug" in the curing process and allowed to age in a manner that allowed the natural sugars to come forth. Shaw stated that the higher the Virginia content, the sweeter the smoke after aging and pressing. In other regions, additives like licorice or molasses were used to sweeten the tobacco, but this was not allowed in tobaccos made in England until 1986 (<https://www.jrcigars.com/blending-room/university/pipe-tobacco/2015/06/22/#>). Argyropoulos noted manufactures of tobacco often supplied retail outlets with loose tobacco in cardboard boxes which the retailer would transfer to storage jars in their shops. A half-pound (8 ounces) of tobacco is a fairly large quantity, which means that "the stuff in the cardboard box was probably a bulk tobacco." Shaw pointed out that each tobacconist had its own house blends of tobaccos, so without the tobacconist information regarding the blend (the lack of specificity regarding tobacco was typical of Doyle), it would be impossible to track down the specific blend of honey-dew tobacco was stored in the box.

⁷¹ LSK, Ref.: *Memoirs*, p. 34, n. 19.

⁷² LSK, Ref.: *Memoirs*, p. 34, n. 20.

antimacassar⁷³ lay upon her lap, and a basket of colored silks stood upon a stool beside her.

"They are in the out-house,⁷⁴ those dreadful things," said she, as Lestrade entered. "I wish that you would take them away altogether."

"So I shall, Miss Cushing. I only kept them here until my friend Mr. Holmes should have seen them in your presence."

"Why in my presence, sir?"

"In case he wished to ask any questions."

⁷³ LSK, Ref.: Memoirs, p. 35, n. 21; LSK, 1 New Ann., p. 429, n. 16; OSH: Memoirs, p. 282. BEVERLY WOLOV: First advertised in 1807, Macassar (or Makassar) oil was described as "an unguent for the hair." Its promotor, Alexander Rowland of Hatton Garden, London, claimed that it was based on sweet oils from Macassar, a seaport on the island of Celebes. In actuality, "Macassar oil" was most likely manufactured from the seeds of a *Schleichers oleosa* tree, which grows in Nepal and India, nowhere near Celebes and Macassar. Olive and other oils were added to create a pomade.

In addition to providing a "smooth and beautiful gloss" to one's tresses, Macassar oil was touted as preserving hair from changing color or falling out. Advertised in upscale publications such as *La Belle Assemblée*, it quickly became popular for men and women alike. The problem was that the Macassar pomade left oil stains on upholstered furniture. In order to protect costly fabric coverings, housewives draped the backs of chairs and sofas with washable cloths. By 1830, these furniture protectors were known as antimacassars. While Macassar hair oil gradually disappeared from use, antimacassars remain in use even today, protecting upholstered bus and airline seats from grease and hair dirt.

Traditional nineteenth-century antimacassars were made with sturdy cotton or linen thread in order to be hard-wearing and eminently washable. Patterns for crocheting or tatting these upholstery protectors were available in magazines and needlework newsletters such as *Weldon's*. Some antimacassars covered the entire chair back to avoid slippage.

That Susan Cushing had "a basket of coloured silks" implies embroidery as her needlework technique of choice. Her fabric base would have been silk, cotton, linen, or wool cloth. Capricious color fastness of the embroidery silks, not to mention delicacy of the thread, would have made laundering Susan Cushing's antimacassar difficult. Her finished piece was meant to be decorative, rather than hard-wearing functional. It suggests a gesture toward middle-class refinement with little expectation of visitors. The working of the antimacassar also supplies financial information about Susan Cushing. Rather than basic wood furniture, she can afford an upholstered chair that requires protection. Holmes and Watson find her sitting at her needlework twice during the afternoon, implying lifestyle ease. Indeed, a maid answers the door, in blunt contrast to white-aproned housewives gossiping on their stoops, pausing from doing their own housework. This casual portrait of Susan Cushing at ease gives a glimpse of the emerging middle class and the social dichotomy of the neighborhood.

⁷⁴ THE EDITORS: As used here, "out-house" means simply "a building that is separated from the main building." William S. Dorn, 2 *A Study Guide to Sherlock Holmes* 133 (2000, e-book 2012), available at <http://www.beaconsociety.com>.

"What is the use of asking me questions, when I tell you that I know nothing whatever about it?"

"Quite so, madam," said Holmes, in his soothing way. "I have no doubt that you have been annoyed more than enough already over this business."

"Indeed I have, sir. I am a quiet woman and live a retired life. It is something new for me to see my name in the papers and to find the police in my house. I won't have those things in here, Mr. Lestrade. If you wish to see them you must go to the out-house."

It was a small shed in the narrow garden which ran down behind the house. Lestrade went in and brought out a yellow card-board box, with a piece of brown paper and some string. There was a bench at the edge of the path, and we all sat down while Holmes examined, one by one, the articles which Lestrade handed to him.

"The string is exceedingly interesting," he remarked, holding it up to the light and sniffing at it. "What do you make of this string, Lestrade?"

"It has been tarred."

"Precisely. It is a piece of tarred twine.⁷⁵ You have also, no doubt, remarked that Miss Cushing has cut the cord with a scissors, as can be seen by the double fray on each side. This is of importance."

"I cannot see the importance," said Lestrade.

"The importance lies in the fact that the knot is left intact, and that this knot is of a peculiar character."

"It is very neatly tied. I had already made a note to that effect," said Lestrade, complacently.

"So much for the string then," said Holmes, smiling; "now for the box wrapper. Brown paper, with a distinct smell of coffee."⁷⁶ What, you did not

⁷⁵ WALTER JAFFEE: Tarred twine was commonly found on most ships of the era. Tar was applied to fiber cordage when the expected use of such cordage would cause it to be exposed to weather. Tarring the twine prevents the twine from rotting. Tarred cordage has 75 percent of the strength of untarred. It was part of a vessel's normal stores and used to bundle coils of rope and to make ratlines, marline, houseline, hambroline, seizing, rounding, worming, serving, and whipping. (Rene de Kerchove, *International Maritime Dictionary* (2d ed. 1961)). Tarred twine was similar in diameter and purpose to sailmaker's twine, which was coated with beeswax rather than tar, and used on yachts and other passenger-carrying vessels to sew and shape canvas into sails. Many sailing ships carried a sailmaker as part of the crew, whose job was to make sails for the vessel.

⁷⁶ WALTER JAFFEE: During this time period of the late 1880s, green coffee beans were shipped from South America in burlap bags. Brown paper was always used to cover the area in which the coffee was loaded, to prevent the commodity from becoming tainted by contact with any metal in the decks or bulkheads. (See Dr. Pierre Garouche, *Dictionary of Commodities Carried by Ship* (1952).)

observe it? I think there can be no doubt of it. Address printed in rather straggling characters: 'Miss S. Cushing, Cross Street, Croydon.' Done with a broad pointed pen, probably a J,⁷⁷ and with very inferior ink. The word Croydon has been spelt originally with an i, which has been changed to y. The parcel was directed then by a man — the printing is distinctly masculine — of limited education and unacquainted with the town of Croydon. So far, so good! The box is a yellow, half-pound honeydew box, with nothing distinctive save two thumb-marks at the left bottom corner. It is filled with rough salt of the quality used for preserving hides and other of the coarser commercial purposes. And embedded in it are these very singular inclosures."

He took out the two ears as he spoke, and laying a board across his knees, he examined them minutely, while Lestrade and I, bending forward on each side of him, glanced alternately at these dreadful relics and at the thoughtful, eager face of our companion. Finally he returned them to the box once more, and sat for a while in deep thought.⁷⁸

"You have observed, of course," said he at last, "that the ears are not a pair."

"Yes, I have noticed that. But if this were the practical joke of some students from the dissecting-rooms,⁷⁹ it would be as easy for them to send two odd ears as a pair."

"Precisely. But this is not a practical joke."

"You are sure of it?"

"The presumption is strongly against it. Bodies in the dissecting-rooms are injected with preservative fluid. These ears bear no signs of this. They are fresh, too. They have been cut off with a blunt instrument, which would hardly happen if a student had done it. Again, carbolic or rectified spirits⁸⁰ would be the preservatives which would suggest themselves to the medical

⁷⁷ OSH: *Memoirs*, p. 282. BURT WOLDER: "J" was a designation used by many pen manufacturers and was a popular nib used on dip pens. The name may have referred to a rounded or slight curve at the point, making writing smoother. Use of a widely available writing point and inferior ink suggested an average, indiscriminating writer, complementing Holmes's other observations. Pen nibs were a big business in the 19th century. There were 14 different manufacturing operations involved in turning a sheet of steel into flexible and durable writing points. Many new manufacturing techniques were perfected in Birmingham, which became the world center for pen nibs. Joseph Gillott, a major Birmingham manufacturer, advertised the firm's J nib as "the perfected broad point . . . nicer in touch, subtler in the point, more flexible, and floats over the paper light as a feather." The J pen appears again in GREE when Mycroft observes the response to his advertisement was "written with a J pen on Royal Cream paper."

⁷⁸ THE EDITORS: The *Strand* and other versions read "meditation" rather than "thought" here.

⁷⁹ LSK, 1 New Ann., p. 431, n. 17.

⁸⁰ LSK, Ref.: *Memoirs*, p. 36, n. 22; OSH: *Memoirs*, p. 282.

mind, certainly not rough salt.⁸¹ I repeat that there is no practical joke here, but that we are investigating a serious crime.”

A vague thrill ran through me as I listened to my companion’s words and saw the stern gravity which had hardened his features. This brutal preliminary seemed to shadow forth some strange and inexplicable horror in the background. Lestrade, however, shook his head like a man who is only half convinced.

“There are objections to the joke theory, no doubt,” said he; “but there are much stronger reasons against the other. We know that this woman has

⁸¹ CHRISTOPHER ZORDAN: Holmes’s inference that carbolic or rectified spirits to preserve the ears would be the preference of a medical man is reasonable. Both chemicals were a standard part of a doctor’s chemical inventory and were readily available in any laboratory. Either chemical would have been a more likely choice than coarse salt for someone trained in their use. Carbolic, also known as carbolic acid or phenol, was in regular use as an antiseptic due to the work of Joseph Lister. Phenol was isolated from coal tar and a 5% solution in water was used to treat wounds to prevent infection. Short-term preservation of a severed ear would be possible, but eventually the tissue would degrade due to the acidic nature of the solution. Rectified spirits are a highly concentrated solution of ethanol in water. Produced by the repeated distillation of grain alcohol, the solution was usually between 90% and 95% ethanol. It was a common chemical in laboratories of the day and would be one of the chemicals of choice for preserving specimens, the other being formaldehyde.

MARINA STAJIĆ: Dissections for the purpose of gaining more information about the human body can be traced back to ancient civilizations, as can the origins of anatomic embalming. In the United Kingdom, “An Act for Regulating Schools of Anatomy” was passed in 1832, allowing anatomy schools to legally obtain a sufficient supply of cadavers for “anatomical examination” and thereby enabling medical students to study anatomy and practice their surgical skills. Before carbolic acid was introduced to dissecting rooms, the main preserving agents used in anatomy were alcoholic solutions of arsenic or alumina salts. Carbolic acid was introduced to anatomical embalming by Sigismond Laskowski, a Polish doctor, in 1866. He initially used a mixture of carbolic acid and glycerin and later replaced some of the glycerin with alcohol.

In 1869, Augustus Wilhelm von Hofmann identified formaldehyde. As an excellent preservative, it became the foundation for modern methods of embalming, replacing previous methods based on alcohol and the use of arsenic or alumina salts. By 1898, eight of 45 medical schools throughout Europe introduced formaldehyde for preservation purposes. Meanwhile, the antiseptic properties of carbolic acid were noticed by Sir Joseph Lister in his pioneering technique of antiseptic surgery. Lister decided that the wounds themselves had to be thoroughly cleaned and subsequently covered with a piece of rag or lint soaked in carbolic acid. Lister reported on the antiseptic properties of carbolic acid in the *Lancet* in 1867. Dr. Watson was obviously familiar with Lister’s method when he treated Victor Hatherley’s wound and covered it with carbolized bandages (“The Engineer’s Thumb”). It is, therefore, curious that carbolic didn’t suggest itself to the medical mind of Dr. Watson, a former medical student and army surgeon. It is equally curious that formaldehyde didn’t suggest itself to the analytical mind of Sherlock Holmes.

led a most quiet and respectable life at Penge and here for the last twenty years. She has hardly been away from her home for a day during that time. Why on earth, then, should any criminal send her the proofs of his guilt, especially as, unless she is a most consummate actress, she understands quite as little of the matter as we do?"

"That is the problem which we have to solve," Holmes answered," and for my part I shall set about it by presuming that my reasoning is correct, and that a double murder has been committed. One of these ears is a woman's, small, finely formed, and pierced for an ear-ring. The other is a man's, sun-burned, discolored, and also pierced for an ear-ring.⁸² These two people are presumably dead, or we should have heard their story before now. To-day is Friday. The packet was posted on Thursday morning. The tragedy, then, occurred on Wednesday or Tuesday, or earlier.⁸³ If the two people were murdered, who but their murderer would have sent this sign of his work to Miss Cushing? We may take it that the sender of the packet is the man whom we want. But he must have some strong reason for sending Miss Cushing this packet. What reason, then? It must have been to tell her that the deed was done; or to pain her, perhaps. But in that case she knows who it is. Does she know? I doubt it. If she knew, why should she call the police in? She might have buried the ears, and no one would have been the wiser. That is what she would have done if she had wished to shield the criminal. But if she does not wish to shield him she would give his name. There is a tangle here which needs straightening out." He had been talking in a high quick voice, staring blankly up over the garden fence, but now he sprang briskly to his feet and walked towards the house.

⁸² JENNIFER KNEELAND: It was extremely common for women to have pierced ears in Europe throughout much of history. It was less common from the fourth to sixteenth centuries, when the fashion of the time would have hidden such piercings, but the trend returned with the changing hairstyles and clothing. By the 19th century, it was once again quite common in Britain and Ireland for women to have pierced ears.

Earrings did not come back into fashion for men until much later in the twentieth century. A pierced male ear in the nineteenth century in Britain was a reasonable link to a life at sea. Many sailors added a gold piercing as a sign of having crossed the Equator. Likewise, a black pearl earring would show that a sailor had survived a shipwreck. Eventually gold earrings were "Seen as a charm against drowning." (Chloe Rose, *Black Cats and Evil Eyes: A Book of Old-Fashioned Superstitions* (2012).) These piercings were so common among sailors that many reasons are offered for the ubiquity. Some people believed that it would improve eyesight to have an ear pierced. Others point to the practical application of the jewelry: a gold earring would pay for the burial of a sailor whose body washed up on shore. (Marge DeMello, *Encyclopedia of Body Adornment* (2007).)

⁸³ WBG, p. 2:198, n. 16.

"I have a few questions to ask Miss Cushing," said he.

"In that case I may leave you here," said Lestrade, "for I have another small business on hand. I think that I have nothing further to learn from Miss Cushing. You will find me at the police station."

"We shall look in on our way to the train," answered Holmes.

A moment later he and I were back in the front room, where the impassive lady was still quietly working away at her antimacassar. She put it down on her lap as we entered, and looked at us with her frank searching blue eyes.

"I am convinced, sir," she said, "that this matter is a mistake, and that the parcel was never meant for me at all. I have said this several times to the gentleman from Scotland Yard, but he simply laughs at me. I have not an enemy in the world, as far as I know, so why should any one play me such a trick?"

"I am coming to be of the same opinion. Miss Cushing," said Holmes, taking a seat beside her. "I think that it is more than probable—"

He paused, and I was surprised on glancing round to see that he was staring with singular intentness at the lady's profile. Surprise and satisfaction were both for an instant to be read upon his eager face, though when she glanced round to find out the cause of his silence he had become as demure as ever. I stared hard myself at her flat grizzled hair, her trim cap, her little gilt ear-rings, her placid features, but I could see nothing which could account for my companion's evident excitement.

"There were one or two questions—"

"Oh, I am weary of questions!" cried Miss Cushing, impatiently.

"You have two sisters, I believe."

"How could you know that?"

"I observed the very instant that I entered the room that you have a portrait group of three ladies upon the mantel-piece, one of whom is undoubtedly yourself, while the others are so exceedingly like you that there could be no doubt of the relationship."

"Yes, you are quite right. Those are my sisters Sarah and Mary."

"And here at my elbow is another portrait, taken at Liverpool, of your younger sister, in the company of a man who appears to be a steward by his uniform. I observe that she was unmarried at the time."

"You are very quick at observing."

"That is my trade."

"Well, you are quite right. But she was married to Mr. Browner a few days afterwards. He was on the South American line when that was taken,"⁸⁴

⁸⁴ WALTER JAFFEE: There is no steamship company known as the South American line,

but he was so fond of her that he couldn't abide to leave her for so long, and he got into the Liverpool and London boats."

"Ah, the *Conqueror*, perhaps?"⁸⁵

"No, the *May Day*,⁸⁶ when last I heard. Jim came down here to see me once. That was before he broke the pledge.⁸⁷ But afterwards he would always take drink when he was ashore, and a little drink would send him stark, staring mad. Ah! it was a bad day that ever he took a glass in his hand again. First he dropped me, and then he quarrelled with Sarah, and now that Mary has stopped writing, we don't know how things are going with them."

It was evident that Miss Cushing had come upon a subject on which she felt very deeply. Like most people who lead a lonely life, she was shy at first, but ended by becoming extremely communicative. She told us many details

or Line, during the relevant era. Susan Cushing is clearly not versed in maritime matters and might easily have been confused by what she was told, or Browner may have lied, for reasons known only to himself, about the trade route his ship was on. The main purpose of this passage is to establish the fact that Browner wanted to hire on with a steamship company with shorter runs so that he could see his wife more often. Having said that, it also holds that the "distinct smell of coffee" (note 76 above) reflects that earlier in his career, Browner was with a ship that carried coffee, presumably from South America.

⁸⁵ WALTER JAFFEE: No ship named the *Conqueror* existed at that time. The name was mentioned by Holmes as a means of getting Miss Cushing to state the name of the ship Browner actually was on.

⁸⁶ LSK, Ref.: Memoirs, p. 37, n. 23; LSK, 1 New Ann., p. 434, n. 18; OSH: Memoirs, p. 282; WBG, p. 2:199, n. 17. OSCAR ROSS: More than seventy years ago, American Sherlockian Richard W. Clarke claimed to have discovered the *May Day*, under the ownership of the Liverpool, Dublin, and London Steam Packet Company, in the Liverpool Registry. (The Nomenclature of Watson's Ships, *BSJ* (o.s.) 1, No. 2, April 1946.) Some prominent Sherlockian scholars have accepted Clarke's claim without question, thereby giving it a degree of tacit approval which was hardly deserved. However, according to R.C. Jarvis, "Of all the Shipping records in the UK, those in Liverpool are the most perfect." (Liverpool Statutory Registers of British Merchant Ships, Transactions of the Historic Society of Lancashire & Cheshire, CV, 1953.) This writer was unable to find the *May Day* or its owner in the Lloyd's Registers or any of the other records examined at Liverpool's Maritime Archives and Library. Another scholar, Arthur D. Fay, was similarly unsuccessful when he investigated Lloyd's. ("The Ships in the Canon," *BSJ* 17, No. 1, March 1967.) Likewise, the legendary Sherlockian Donald A. Redmond also drew a blank. "There are *Mays*, *May Flowers* and *May Queens* in Lloyd's, but no *May Day*," he said. ("Ship Ahoy, Captain Basil," *BSJ* 36, No. 4, December 1986.)

So, where exactly does this leave us? The most probable explanation is that Watson embellished the adventure, replacing the name of the ship and its owner with fictitious alternatives. It's possible that the name *May* was borrowed from the *Mayumba*, a whaling ship with which Watson's literary agent was personally acquainted.

⁸⁷ OSH: Memoirs, p. 282.

about her brother-in-law, the steward, and then wandering off on to the subject of her former lodgers, the medical students, she gave us a long account of their delinquencies, with their names and those of their hospitals. Holmes listened attentively to everything, throwing in a question from time to time.

"About your second sister, Sarah," said he. "I wonder, since you are both maiden ladies, that you do not keep house together."

"Ah! you don't know Sarah's temper, or you would wonder no more. I tried it when I came to Croydon, and we kept on until about two months ago, when we had to part. I don't want to say a word against my own sister, but she was always meddlesome and hard to please, was Sarah."

"You say that she quarrelled with your Liverpool relations."

"Yes, and they were the best of friends at one time. Why, she went up there to live just in order to be near them. And now she has no word hard enough for Jim Browner. The last six months that she was here she would speak of nothing but his drinking and his ways. He had caught her meddling. I suspect, and given her a bit of his mind, and that was the start of it."

"Thank you, Miss Cushing," said Holmes, rising and bowing. "Your sister Sarah lives, I think you said, at New Street, Wallington?⁸⁸ Good by, and I am very sorry that you should have been troubled over a case with which, as you say, you have nothing whatever to do."

There was a cab passing as we came out, and Holmes hailed it. "How far to Wallington?" he asked.⁸⁹

"Only about a mile, sir."

⁸⁸ WBG, p. 2:200, n. 18.

⁸⁹ IRA MATETSKY: Given Holmes's well-supported statement in "The Red-Headed League" that "[i]t is a hobby of mine to have an exact knowledge of London," one might wonder why Holmes would need to ask a cabman the distance between Croydon and Wallington, two neighboring places in Greater London. The likely answer is based on the fact that taxi fares in London were generally based on the distance driven, rather than time — but in the days before taxi meters, the driver and the passenger had to come to an understanding on what that distance was. As one contemporary guide put it, "As for calculating fares, that must depend entirely on our own power of judging distance. Some people when in doubt take the driver's ticket and tell him to name his own fare; and when he is satisfied that he will be summoned if he be found to have overcharged, the plan is no doubt efficacious." *Charles Dickens (Jr.)*, *Dickens's Dictionary of London* (1879), quoted at Lee Jackson, "The Dictionary of Victorian London," www.victorianlondon.org/transport/cab-fares.htm. In other words, Holmes knew full well how far it was from Croydon to Wallington; he wanted to make sure that the cabbie knew, and that the cabbie knew Holmes knew.

“Very good. Jump in, Watson. We must strike while the iron is hot. Simple as the case is, there have been one or two very instructive details in connection with it. Just pull up at a telegraph office as you pass, cabby.”

Holmes sent off a short wire, and for the rest of the drive lay back in the cab with his hat tilted over his nose to keep the sun from his face. Our driver pulled up at a house which was not unlike the one which we had just quitted. My companion ordered him to wait, and had his hand upon the knocker, when the door opened, and a grave young gentleman in black, with a very shiny hat, appeared on the step.

“Is Miss Sarah Cushing at home?” asked Holmes.

“Miss Sarah Cushing is extremely ill,” said he. “She has been suffering since yesterday from brain symptoms⁹⁰ of great severity. As her medical adviser, I cannot possibly take the responsibility of allowing any one to see her. I should recommend you to call again in ten days.” He drew on his gloves, closed the door, and marched off down the street.

“Well, if we can’t, we can’t,” said Holmes, cheerfully.

“Perhaps she could not or would not have told you much.”

“I did not wish her to tell me anything. I only wanted to look at her. However, I think that I have got all that I want. Drive us to some decent hotel, cabby, where we may have some lunch, and afterwards we shall drop down upon friend Lestrade at the police station.”

We had a pleasant little meal together, during which Holmes would talk about nothing but violins, narrating with great exultation how he had purchased his own Stradivarius,⁹¹ which was worth at least five hundred guineas, at a Jew broker’s⁹² in Tottenham Court Road, for fifty-five shil-

⁹⁰ LSK, Ref.: Memoirs, p. 38, n. 24.

⁹¹ ROBERT JAMES: A Stradivarius is a stringed instrument crafted by Antonio Stradivari or his family in Cremona, Italy during the late seventeenth and early eighteenth centuries. These instruments have been long reputed as the finest of their kind, and acquiring a genuine violin at a bargain price would be a marker of great acuity and fortune. A price of 55s is only one-half of one percent of 500 guineas (there were 21 shillings in a guinea). Holmes is proud of having struck such a deal, stressing that the broker was a denizen of the Tottenham Court commercial thoroughfare — and was Jewish. Conversely, the famous violinist Efrem Zimbalist, Sr. thought he bought a Stradivarius but later discovered it was an imitation, worth only a fraction of the purchase price; his seller committed no fraud and Zimbalist lost his lawsuit to rescind the sale, but Zimbalist was excused from paying the unpaid installments. *Smith v. Zimbalist*, 38 P.2d 170 (Cal. App. 1934). Auction price records in the 1890s do show that some Stradivarius violins were sold for 400 to 800 pounds (https://tarisio.com/cozio-archive/price-history/?Maker_ID=722).

⁹² TAMAR ZEFFREN: The outsize prominence of Jews in the money-lending profession since the High Middle Ages has rendered them an enduring target of virulent anti-Semitic

lings.⁹³ This led him to Paganini,⁹⁴ and we sat for an hour over a bottle of

rhetoric and action. A full treatment of this practice is beyond the scope of this note, but fleeting mentions of Jews from totemic Victorian literary works such as Charles Dickens' *The Pickwick Papers* (1836), which details the "greasy and mildewed appearance" of Jewish court assistants with "no fixed offices", and George Eliot's *Middlemarch* (1871-72), which describes one of the primary characters, Will Ladislaw, as "the grandson of a thieving Jew pawnbroker," indicate that this anti-Semitic tradition continued to find robust expression in late-nineteenth-century England.

At the time "The Cardboard Box" was published in 1893, English Jews were no longer as prominently represented in the money-lending and aligned professions. Anne and Roger Cowen note "an important change" in the geographical and professional distribution of English Jewry starting as early as the 1830s — a shift away from their roots as "country peddlars" *Victorian Jews through British Eyes* (1998). In his examination of "Occupations of East London Jewry 1880-1905" in the *Social History of the Jews in England, 1850-1950* (1954), V.D. Lipman does not rank money-lending among the most popular occupations for British Jewry at that time.

Andrew Solberg and Charles Blanksteen have both recently produced investigations of anti-Semitism in the Canon. In "Sherlock Holmes: Anti-Semite?" (*Baker Street Journal* 51, no. 1 (2001)), Solberg analyzes the Canon's references to Jews alongside the corresponding *Oxford English Dictionary* etymology. He concludes: "Brokers" were, of course, money lenders, just as pawnbrokers are today. It is not surprising that there were Jewish brokers. As for the use of the word 'Jew' as an adjective, as I have discussed above, it was an acceptably neutral figure of speech that was not meant as an opprobrious phrase." Holmes' attitude at this juncture has already taken on a gleeful cast; a few sentences earlier, he "cheerfully" accepts being barred from visiting Miss Sarah Cushing. Subsequently, after dominating the conversation at his "pleasant little meal" with Watson with musical anecdotes, he reveals to Lestrade — well, "threw it over" — the name of the criminal with insouciance. I would argue that the most memorable part of Holmes' statement to Watson is not his straightforward characterization of the seller, but rather his evident self-satisfaction in having acquired an astonishingly rare instrument at a veritable bargain. His jubilation here over the Stradivarius puts one in mind of Holmes' reference in "The Red-Headed League" to "violin land, where all is sweetness, and delicacy, and harmony" — in stark contrast to Holmes' pessimistic closing words in "The Cardboard Box" about a "circle of misery and violence and fear."

THE EDITORS: Several issues relating to the treatment of Jews and Judaism in the Sherlockian Canon are also addressed in Hartley Nathan and Clifford Goldfarb's book *Investigating Sherlock Holmes: Some Unsolved Mysteries* (2014).

⁹³ LSK, Ref.: Memoirs, p. 39, n. 26; LSK, 1 New Ann., p. 436, n. 20; WBG, p. 2:200, n. 19. GREG RUBY: Fifty-five shillings (£2 15s) was a tidy sum of money in 1890 and would have been two weeks' salary for a well-paid clerk in an office environment at that time (*Tempted London* (1889)). It seems unlikely that a pawn broker would have accepted Holmes's personal cheque for the purchase. At the time, the smallest Bank of England currency in circulation was a £5 note, so the transaction mostly likely was conducted with coins. The most efficient method would have been four coins — two gold sovereigns (worth 20s each), one gold half sovereign, and a silver crown (worth 5s).

claret⁹⁵ while he told me anecdote after anecdote of that extraordinary man. The afternoon was far advanced and the hot glare had softened into a mellow glow before we found ourselves at the police station. Lestrade was waiting for us at the door.

“A telegram for you, Mr. Holmes,” said he.

“Ha! It is the answer!” He tore it open, glanced his eyes over it, and crumpled it into his pocket. “That’s all right,” said he.

“Have you found out anything?”

“I have found out everything!”

“What!” Lestrade stared at him in amazement. “You are joking.”

“I was never more serious in my life. A shocking crime has been committed, and I think that I have now laid bare every detail of it.”

“And the criminal?”

Holmes scribbled a few words upon the back of one of his visiting-cards and threw it over to Lestrade.

“That is it,” he said; “you cannot effect an arrest until to-morrow night at the earliest. I should prefer that you would not mention my name at all in connection with the case, as I choose to be associated only with those crimes which present some difficulty in their solution. Come on, Watson.” We strode off together to the station, leaving Lestrade still staring with a delighted face at the card which Holmes had thrown him.

Guineas were last minted in 1817 and the term was often used in wagering on races and for professional services rendered. Each guinea is worth 21 shillings, as opposed to the pound or sovereign being worth 20 shillings each. In 1890, 500 guineas would have been able to rent housing for a family for 5 years (*The Nineteenth Century* (1888)) and would have the purchasing power of nearly \$75,000 as this annotation is being written. (Eric W. Nye, “Pounds Sterling to Dollars: Historical Conversion of Currency”, <https://www.uwoy.edu/numimage/currency.htm>.)

⁹⁴ ALEXANDER KATZ: Paganini was a composer-performer (1782-1840) known for his virtuoso performances and compositions, most notably *24 Caprices for the Violin* (1805-1809). He owned and performed using several violins that were created by master luthiers, including Guarneri and Stradivarius. He won two Guarneri violins through competitions, one in Livorno and one in Parma, illustrating how brilliant he was as a performer. In Livorno, a wealthy businessman lent him one for a competition, and refused to take it back; this violin became known as “Il Cannone Guarnerius”. In Parma, Paganini won a challenging sight-reading competition. Holmes owned one Stradivarius, but could have appreciated Paganini’s competitive drive, and also his violin collection. Holmes went to hear Sarasate perform, and he also owned a Stradivarius. Sarasate’s Stradivarius is on display in a museum, although he and Paganini did not perform on the same violin. As Holmes acquired his Stradivarius in a rather unusual fashion, perhaps the story of Paganini’s acquiring his Guarneri instruments is one of the anecdotes that Holmes recounted to Watson.

⁹⁵ WBG, p. 2:201, n.20.

"The case," said Sherlock Holmes, as we chatted over our cigars that night in our rooms at Baker Street, "is one where, as in the investigations which you have chronicled under the names of the 'Study in Scarlet' and of the 'Sign of Four,'⁹⁶ we have been compelled to reason backward from effects to causes.⁹⁷ I have written to Lestrade asking him to supply us with the details which are now wanting, and which he will only get after he has secured his man. That he may be safely trusted to do, for although he is absolutely devoid of reason, he is as tenacious as a bulldog when he once understands what he has to do, and indeed it is just this tenacity which has brought him to the top at Scotland Yard."⁹⁸

"Your case is not complete, then?" I asked.

"It is fairly complete in essentials. We know who the author of the revolting business is, although one of the victims still escapes us. Of course you have formed your own conclusions."

"I presume that this Jim Browner, the steward of a Liverpool boat, is the man whom you suspect?"

"Oh! it is more than a suspicion."

"And yet I cannot see anything save very vague indications."

"On the contrary, to my mind, nothing could be more clear. Let me run over the principal steps. We approached the case, you remember, with an absolutely blank mind, which is always an advantage. We had formed no theories. We were simply there to observe and to draw inferences from our observations. What did we see first? A very placid and respectable lady, who seemed quite innocent of any secret, and a portrait which showed me that she had two younger sisters. It instantly flashed across my mind that the box might have been meant for one of these. I set the idea aside as one which could be disproved or confirmed at our leisure. Then we went to the garden, as you remember, and we saw the very singular contents of the little yellow box.

"The string was of the quality which is used by sail-makers aboard ship,"⁹⁹

⁹⁶ WBG, p. 2:201, n.20.

⁹⁷ LSK, Ref.: Memoirs, p. 40, n. 29; LSK, 1 New Ann., p. 437, n. 21; OSH: Memoirs, p. 283.

⁹⁸ LSK, Ref.: Memoirs, p. 40, n. 30.

⁹⁹ PETER E. BLAU: Holmes has earlier described the string as "a piece of tarred twine." (See note 75 above.) The string most likely was sailmakers' twine, which consists of two or more threads twisted together and then waxed, or sometimes tarred. It is strong, and weather-proof, and ideal for making and repairing sails. It's also used for whipping the ends of rope to prevent unravelling, and thus would have been found aboard the SS *May Day*, which belonged to the Liverpool, Dublin, and London Steam Packet Company (and may not have had sails or sailmakers).

and at once a whiff of the sea was perceptible in our investigation. When I observed that the knot was one which is popular with sailors,¹⁰⁰ that the parcel had been posted at a port, and that the male ear was pierced for an ear-ring, which is so much more common among sailors than landmen, I was quite certain that all the actors in the tragedy were to be found among our seafaring classes.

“When I came to examine the address of the packet I observed that it was to Miss S. Cushing. Now the oldest sister would of course, be Miss Cushing,¹⁰¹ and although her initial was ‘S.,’ it might belong to one of the others as well. In that case we should have to commence our investigation from a fresh basis altogether. I therefore went into the house with the intention of clearing up this point. I was about to assure Miss Cushing that I was convinced that a mistake had been made, when you may remember that I came suddenly to a stop. The fact was that I had just seen something which filled me with surprise, and at the same time narrowed the field of our inquiry immensely.

¹⁰⁰ PETER E. BLAU: The knot surely was a square knot, which was and is popular with sailors, and with just about anyone who wants a knot that’s both easy to tie and reasonably strong. Also called a reef knot, it’s known to have been used in ancient Greece and Rome, often as a symbol of love or marriage (hence the phrase “tying the knot”). The square knot bow will be familiar to all those who still tie their shoes with laces (“right over left, and left over right”). Holmes earlier said that the knot was “of a peculiar character,” suggesting that he wasn’t aware of how widely the square knot was to be found.

¹⁰¹ IRA MATETSKY: Holmes’s inference here, which may be missed by modern readers, is based on old etiquette convention (in both the U.K. and the U.S.) that in a family with more than one daughter, the eldest unmarried daughter is addressed on an envelope or card simply as “Miss [last name],” while the other daughters are “Miss [first name] [last name].” As Emily Post’s *Etiquette* explained to twentieth-century Americans, “[t]he eldest daughter is Miss Smith; her younger sister, Miss Jane Smith.” See also, e.g., A. N. Wilson, *Victoria: A Life* 64 (Penguin Books 2014) (quoting a letter in which Princess Victoria observes that “Miss Harcourt . . . ought by rights be called Miss Georgiana Harcourt, [her father’s] eldest daughter being unmarried”); Jo McMurtry, *Victorian Life and Victorian Fiction: A Companion for the American Reader* 34 (Archon Books 1978) (“The distribution of ‘Miss’es in a family with several daughters observed a kind of feminine primogeniture: The eldest daughter was spoken of as ‘Miss Jones,’ her younger sisters, as ‘Miss Mary Jones,’ ‘Miss Jane Jones,’ and so on. Upon the marriage of the eldest, the next sister in age became ‘Miss Jones.’”); R. Austin Freeman, *A Silent Witness*, ch. 12 (1912) (amusing scene in a Dr. Thorndyke novel referencing this point of nomenclature); J. Willis Westlake, *How to Write Letters: A Manual of Correspondence* 210 (1876). Of course, one might well wonder whether a man like James Browner could be expected to know of this social nuance — after all, we soon learn that it was Alec Fairbairn, not Browner, who “had wonderful polite ways with him for a sailor man” — but Holmes’s deduction turns out to be correct.

“As a medical man, you are aware, Watson, that there is no part of the body which varies so much as the human ear.¹⁰² Each ear is, as a rule, quite distinctive, and differs from all other ones. In last year’s *Anthropological Journal*¹⁰³ you will find two short monographs from my pen upon the subject.¹⁰⁴ I had, therefore, examined the ears in the box with the eyes of an expert, and had carefully noted their anatomical peculiarities. Imagine my surprise, then, when, on looking at Miss Cushing, I perceived that her ear corresponded exactly with the female ear which I had just inspected. The matter was entirely beyond coincidence. There was the same shortening of the pinna,¹⁰⁵ the same broad curve of the upper lobe, the same convolution of the inner cartilage. In all essentials it was the same ear.

“Of course I at once saw the enormous importance of the observation. It was evident that the victim was a blood relation, and probably a very close one. I began to talk to her about her family, and you remember that she at once gave us some exceedingly valuable details.

“In the first place, her sister’s name was Sarah, and her address had, until recently, been the same, so that it was quite obvious how the mistake had

¹⁰² CARLINA DE LA COVA: Holmes was correct in stating that the human ear is one of the most variable parts of the body. The ear is anatomically comprised of three regions, including the external, middle, and internal ear. Holmes, however, was referring to the external ear with its auricle (the visible part of the external ear) and external auditory meatus (the ear opening that allows for hearing). The shape, size, and contours of the external ear and the external auditory meatus are so diverse with distinguishing characteristics that they make each person’s ears unique. This distinctiveness has resulted in the usage of ears for forensic identification. Nineteenth century French criminalist Alphonse Bertillon, whom Holmes mentions in the Canon (indicating his familiarity with Bertillon’s methods), was the first to use the ear in criminalistics when his eleven-measurement identification system included ear metrics. Today, forensic scientists still rely on ear biometrics and features, especially if fingerprints are unavailable, to identify the remains of mutilated individuals or catch criminals who left earprints behind while pressing their ears against doors or windows to ascertain if someone was home during an attempted burglary. Although the ear is variable and distinctive, it does have specific non-metric traits that are genetic and thus are inherited from parent to offspring. These include ear shape, protrusion, and attached versus detached earlobes, to name a few. While these features may be shared in families, there will still be unique variation in size and other auricular features.

¹⁰³ LSK, Ref.: Memoirs, p. 41, n. 31; OSH: Memoirs, p. 283.

¹⁰⁴ LSK, Ref.: Memoirs, p. 41, n. 32; LSK, 1 New Ann., p. 439, n. 22; WBG, p. 2:202, n. 21. THE EDITORS: For discussion of the theory that a contemporary two-part article on human ears in *The Strand Magazine* was a reprint of Holmes’s monographs or at least was influenced by him, see pages 352–361 of this *Almanac*.

¹⁰⁵ LSK, Ref.: Memoirs, p. 41, n. 33; LSK, 1 New Ann., p. 439, n. 23; OSH: Memoirs, p. 283; WBG, p. 2:202, n. 22.

occurred, and whom the packet was meant for. Then we heard of this steward, married to the third sister, and learned that he had at one time been so intimate with Miss Sarah that she had actually gone up to Liverpool to be near the Browners, but a quarrel had afterwards divided them. This quarrel had put a stop to all communications for some months, so that if Browner had occasion to address a packet to Miss Sarah, he would undoubtedly have done so to her old address.

"And now the matter had begun to straighten itself out wonderfully. We had learned of the existence of this steward, an impulsive man of strong passions — you remember that he threw up what must have been a very superior berth, in order to be nearer to his wife — subject, too, to occasional fits of hard drinking. We had reason to believe that his wife had been murdered, and that a man — presumably a seafaring man — had been murdered at the same time. Jealousy, of course, at once suggests itself as the motive for the crime. And why should these proofs of the deed be sent to Miss Sarah Cushing? Probably because during her residence in Liverpool she had some hand in bringing about the events which led to the tragedy. You will observe that this line of boats calls at Belfast, Dublin, and Waterford; so that, presuming that Browner had committed the deed, and had embarked at once upon his steamer, the *May Day*, Belfast would be the first place at which he could post his terrible packet.

"A second solution was at this stage obviously possible, and although I thought it exceedingly unlikely, I was determined to elucidate it before going further. An unsuccessful lover might have killed Mr. and Mrs. Browner, and the male ear might have belonged to the husband. There were many grave objections to this theory, but it was conceivable. I therefore sent off a telegram to my friend Algar, of the Liverpool force, and asked him to find out if Mrs. Browner were at home, and if Browner had departed in the *May Day*. Then we went on to Wallington to visit Miss Sarah.

"I was curious, in the first place, to see how far the family ear had been reproduced in her. Then, of course, she might give us very important information, but I was not sanguine that she would. She must have heard of the business the day before, since all Croydon was ringing with it, and she alone could have understood whom the packet was meant for. If she had been willing to help justice she would probably have communicated with the police already. However, it was clearly our duty to see her, so we went. We found that the news of the arrival of the packet — for her illness dated from that time — had such an effect upon her as to bring on brain fever.¹⁰⁶ It was

¹⁰⁶ THE EDITORS: There is a substantial Sherlockian literature on "brain fever," which

clearer than ever that she understood its full significance, but equally clear that we should have to wait some time for any assistance from her.

"However, we were really independent of her help. Our answers were waiting for us at the police station, where I had directed Algar to send them. Nothing could be more conclusive. Mrs. Browner's house had been closed for more than three days, and the neighbors were of opinion that she had gone South to see her relatives. It had been ascertained at the shipping offices that Browner had left aboard of the *May Day*, and I calculate that she is due in the Thames to-morrow night. When he arrives he will be met by the obtuse but resolute Lestrade, and I have no doubt that we shall have all our details filled in."

Sherlock Holmes was not disappointed in his expectations. Two days later he received a bulky envelope, which contained a short note from the detective, and a type-written document¹⁰⁷ which covered several pages of foolscap.¹⁰⁸

"Lestrade has got him all right," said Holmes, glancing up at me. "Perhaps it would interest you to hear what he says."

appears to be a state of prolonged unconsciousness or semiconsciousness following an individual's receiving bad news or an emotional shock. At least five canonical characters are described as suffering from this ailment, although it has been sardonically described elsewhere as "a well-known 19th-century malady affecting only literary characters." "Discovering Sherlock Holmes," <http://sherlockholmes.stanford.edu/issue11.html>. An important recent treatment of this subject is Enrico Solito, M.D. & Stefano Guerra, M.D., "Brain Fever: Myth or Reality?" in Robert Katz & Andrew Solberg, eds., *Nerve and Knowledge: Doctors, Medicine, and the Sherlockian Canon* (BSI Press 2015).

¹⁰⁷ THE EDITORS: Typewriters were in use in Great Britain by this era, though they were not as common then as they would later become. One person known to have owned a typewriter by the early 1890s is Arthur Conan Doyle. See Letter from Arthur Conan Doyle to (his mother) Mary Doyle, Sept. 28, 1891, reprinted in Jon Lellenberg, Daniel Stashower & Charles Foley, *Arthur Conan Doyle, A Life in Letters* 295 (HarperCollins 2009).

¹⁰⁸ JENN EAKER: Not to be confused with a fool's cap (a cap with bells worn by a court jester), foolscap, or foolscap folio, as defined by *Merriam-Webster* is a size of writing paper formerly standard in Great Britain. The writing paper got its name from the watermark of a fool's cap that used to be applied to the paper. Foolscap is cut to the size of 8½x13½ inches. Today's more common A4 paper, which is the current standard in Great Britain, is 8¼x11¾ inches. Sir Edward Henry, who served as Metropolitan Police Commissioner from 1903 to 1918 and is best known for establishing the Metropolitan Police Fingerprint Bureau, is also credited with introducing the use of typewriters at New Scotland Yard, the headquarters of the Metropolitan Police. (Fun fact: he is also credited with introducing the use of police dogs.) Constables were the ones who normally did the clerical work, but according to *Pitman's Journal of Commercial Education* for January 1916, for the first time women typists entered New Scotland Yard to take the places of constables who were needed elsewhere "in the war-depleted force." The article adds that those first women typists were not sworn in as constables themselves and did not have to wear a uniform.

“My dear Mr. Holmes,—In accordance with the scheme which we had formed in order to test our theories” — “the ‘we’ is rather fine, Watson, is it not?” — ‘I went down to the Albert Dock¹⁰⁹ yesterday at 6 P. M., and boarded the ss. *May Day*, belonging to the Liverpool, Dublin, and London Steam Packet Company.¹¹⁰ On inquiry, I found that there was a steward on board of the name of James Browner, and that he had acted during the voyage in such an extraordinary manner that the captain had been compelled to relieve him of his duties. On descending to his berth, I found him seated upon a chest, with his head sunk upon his hands, rocking himself to and fro. He is a big, powerful chap, clean-shaven, and very swarthy — something like Aldridge, who helped us in the bogus laundry affair. He jumped up when he heard my business, and I had my whistle to my lips to call a couple of river police, who were round the corner, but he seemed to have no heart in him, and he held out his hands quietly enough for the darbies.¹¹¹ We brought him along to the cells, and his box as well, for we thought there might be something incriminating; but, bar a big sharp knife, such as most sailors have, we got nothing for our trouble. However, we find that we shall

¹⁰⁹ LSK, Ref.: Memoirs, p. 42, n. 34; LSK, 1 New Ann., p. 441, n. 24; OSH: Memoirs, p. 283.

¹¹⁰ PETER E. BLAU: The packet trade has more than 500 years of history, beginning with government ships that carried mail. Private companies eventually took over the trade, using medium-sized ships that also carried cargo and passengers. The *May Day* would have been a packet steamer, and Jim Browner, as a steward, would have tended to its passengers.

WALTER JAFFEE: Browner mailed the cardboard box when the ship was in Belfast on September 1, 1889. According to George Chandler’s book *Liverpool Shipping: A Short History*, the run was dominated by the British and Irish Steam Packet Company and the City of Dublin Steam Packet Company. There is no mention of the Liverpool, Dublin and London Packet Company and one must assume this is a fictional name similar to those that actually existed. The City of Dublin Steam Packet Company was founded in 1823 to operate steamers from Dublin to Liverpool. The route was extended to London in 1826, and a Belfast-Glasgow route was operated in the late 1820s. In 1843, Liverpool and North Wales routes were taken over from the St. George Steam Packet Co. and this lasted until 1881. A service was started in 1838 by the *Royal William*, which made three round-trip voyages between Liverpool and New York in 1838 and 1839. She sailed from Liverpool for New York in July 1838 and was the first steamer to make a westbound transatlantic voyage from the Mersey. The *Royal William* was a wooden-hulled, side-paddle-wheel steamer. In 1839 she returned to Irish Sea voyages and later became a coal hulk. She was scrapped in 1888.

A regular Dublin-Belfast service was also operated from 1826 until the 1914-1918 war. Dublin-Liverpool services ceased in 1919 after two of the company’s passenger ships were sunk during the war and their ships were taken over by the British & Irish Steam Packet Co. (Coast Lines). The company went into liquidation in 1924.

¹¹¹ LSK, Ref.: Memoirs, p. 43, n. 35; OSH: Memoirs, p. 284.

want no more evidence, for, on being brought before the inspector at the station, he asked leave to make a statement, which was, of course, taken down, just as he made it, by our short-hand man.¹¹² We had three copies type-written, one of which I inclose. The affair proves, as I always thought it would, to be an extremely simple one, but I am obliged to you for assisting me in my investigation. With kind regards, yours very truly, G. Lestrade.”

“Hum! The investigation really was a very simple one,” remarked Holmes; “but I don’t think it struck him in that light when he first called us in. However, let us see what Jim Browner has to say for himself. This is his statement, as made before Inspector Montgomery at the Shadwell¹¹³ Police Station, and it has the advantage of being verbatim:

“Have I anything to say? Yes, I have a deal to say. I have to make a clean breast of it all. You can hang me, or you can leave me alone. I don’t care a plug which you do.¹¹⁴ I tell you I’ve not shut an eye in sleep since I did it, and I don’t believe I ever will again until I get past all waking. Sometimes it’s his face, but most generally it’s hers. I’m never without one or the other before me. He looks frowning and black-like, but she has a kind o’ surprise upon her face. Ay, the white lamb, she might well be surprised when she read death on a face that had seldom looked anything but love upon her before.

“But it was Sarah’s fault, and may the curse of a broken man put a blight on her and set the blood rotting in her veins! It’s not that I want to clear myself. I know that I went back to drink, like the beast that I was. But she would have forgiven me; she would have stuck as close to me as a rope to a block if that woman had never darkened our door. For Sarah Cushing loved me — that’s the root of the business — she loved me, until all her love

¹¹² THE EDITORS: A British shorthand writer of the 1880s would likely have used a version of the Pitman system. There are contemporary reports that some police detectives of the period were expected to know, or were taught, shorthand so they could take down statements from prisoners and others. To help popularize its shorthand system, Sir Isaac Pitman & Sons, Ltd. published a magazine, *Pitman’s Shorthand Weekly*, which beginning in 1893 serialized *The Adventures of Sherlock Holmes*.

¹¹³ OSH: *Memoirs*, p. 284; WSB, p. 2:204, n. 22.

¹¹⁴ IRA MATETSKY: Browner planned and carried out the premeditated unlawful killing of two human beings and hence was guilty of murder under English law, unless he could convince a jury that either he acted under provocation causing the loss of self-control (which would reduce the crime of murder to manslaughter) or was not guilty by reason of insanity. If he was convicted of murder, a sentence of death by hanging would be mandatory, subject to the Queen’s power (exercised in practice by the Home Secretary) to commute the sentence to imprisonment for life or a term of years. See Ira Brad Matetsky, “Homicide and Punishment: Murder in the Sherlockian Canon,” in William A. Walsh & Donny Zaldin, eds., *Canon Law: Law, Lawyers and the Sherlockian Canon* (BSI Press 2019).

turned to poisonous hate when she knew that I thought more of my wife's foot-mark in the mud than I did of her whole body and soul.

"There were three sisters altogether. The old one was just a good woman, the second was a devil, and the third was an angel. Sarah was thirty-three and Mary was twenty-nine when I married. We were just as happy as the day was long when we set up house together, and in all Liverpool there was no better woman than my Mary. And then we asked Sarah up for a week, and the week grew into a month, and one thing led to another until she was just one of ourselves.

"I was blue-ribbon at that time,¹¹⁵ and we were putting a little money by, and all was as bright as a new dollar. My God! Whoever would have thought that it could have come to this? Whoever would have dreamed it?

"I used to be home for the week-ends very often, and sometimes, if the ship was held back for cargo, I would have a whole week at a time, and in this way I saw a deal of my sister-in-law Sarah. She was a fine tall woman, black and quick and fierce, with a proud way of carrying her head, and a glint from her eye like the spark from a flint. But when little Mary was there I had never a thought for her, and that I swear as I hope for God's mercy.

"It had seemed to me sometimes that she liked to be alone with me, or to coax me out for a walk with her, but I had never thought anything of that. But one evening my eyes were opened. I had come up from the ship, and found my wife out, but Sarah at home. 'Where's Mary?' I asked. 'Oh, she

¹¹⁵ OSH: *Memoirs*, p. 284. MARY ALCARO: The Blue Ribbon Army was an 1870s American temperance organization founded by Francis Murphy, an evangelist and reformed drinker who had served jail time for crimes committed while under the influence. Like many of its contemporaries, the Blue Ribbon espoused a philosophy emphasizing religion and prayer for successful reformation. The name itself is a biblical allusion, bidding its wearers to "put upon the fringe of the borders a ribband of blue: and it shall be unto you for a fringe, that ye may look upon it, and remember all the commandments of the Lord, and do them." (Num. 15:38-39.)

The Blue Ribbon spread through America after being recognized by Frances Willard, a renowned social reformer and Woman's Christian Temperance Unions President, in 1874. Meetings lasted days or even weeks, and featured public signings of total abstinence pledges, which ran: "With charity to all and malice to none, I promise by divine help, to abstain from all intoxicating liquors and beverages and to discountenance their use by others." In 1877, William Noble brought the Blue Ribbon to England, where it found its home at Hoxton Hall, a music hall stripped of its license. (Despite the organization's Protestant foundation, secular spaces drew better crowds.) The Blue Ribbon turned out to be more than an "American fad;" the organization crossed class lines, with more than one million Englishmen taking the pledge — though how many would "break their blue ribbon" (a phrase Baring-Gould equates with "falling off the wagon") remains unknown. For more information, see Lilian Lewis Shiman, *Crusade Against Drink in Victorian England* (1988).

has gone to pay some accounts.' I was impatient, and paced up and down the room. 'Can't you be happy for five minutes without Mary, Jim?' says she. 'It's a bad compliment to me that you can't be contented with my society for so short a time.' 'That's all right, my lass,' said I, putting out my hand towards her in a kindly way, but she had it in both hers in an instant, and they burned as if they were in a fever. I looked into her eyes, and I read it all there. There was no need for her to speak, nor for me either. I frowned and drew my hand away. Then she stood by my side in silence for a bit, and then put up her hand and patted me on the shoulder. 'Steady old Jim!' said she; and, with a mocking laugh, she ran out of the room.

"Well, from that time Sarah hated me with her whole heart and soul, and she is a woman who can hate, too. I was a fool to let her go on biding with us — a besotted fool — but I never said a word to Mary, for I knew it would grieve her. Things went on much as before, but after a time I began to find that there was a bit of a change in Mary herself. She had always been so trusting and so innocent, but now she became queer and suspicious, wanting to know where I had been and what I had been doing, and whom my letters were from, and what I had in my pockets, and a thousand such follies. Day by day she grew queerer and more irritable, and we had causeless rows about nothing. I was fairly puzzled by it all. Sarah avoided me now, but she and Mary were just inseparable. I can see now how she was plotting and scheming and poisoning my wife's mind against me, but I was such a blind beetle that I could not understand it at the time. Then I broke my blue-ribbon and began to drink again, but I think I should not have done it if Mary had been the same as ever. She had some reason to be disgusted with me now, and the gap between us began to be wider and wider. And then this Alec Fairbairn chipped in, and things became a thousand times blacker.

"It was to see Sarah that he came to my house first, but soon it was to see us, for he was a man with winning ways, and he made friends wherever he went. He was a dashing, swaggering chap, smart and curled, who had seen half the world, and could talk of what he had seen. He was good company, I won't deny it, and he had wonderful polite ways with him for a sailor man, so that I think there must have been a time when he knew more of the poop than the forecabin.¹¹⁶ For a month he was in and out of my house, and never once did it cross my mind that harm might come of his soft, tricky ways. And then at last something made me suspect, and from that day my peace was gone forever.

¹¹⁶ LSK, Ref.: *Memoirs*, p. 44, n. 37; LSK, 1 *New Ann.*, p. 445, n. 26; OSH: *Memoirs*, p. 284.

"It was only a little thing, too. I had come into the parlor unexpected, and as I walked in at the door I saw a light of welcome on my wife's face. But as she saw who it was it faded again, and she turned away with a look of disappointment. That was enough for me. There was no one but Alec Fairbairn whose step she could have mistaken for mine. If I could have seen him then I should have killed him, for I have always been like a madman when my temper gets loose. Mary saw the devil's light in my eyes, and she ran forward with her hands on my sleeve. 'Don't, Jim, don't!' says she. 'Where's Sarah?' I asked. 'In the kitchen,' says she. 'Sarah,' says I, as I went in, 'this man Fairbairn is never to darken my door again.' 'Why not?' says she. 'Because I order it.' 'Oh!' says she, 'if my friends are not good enough for this house, then I am not good enough for it either.' 'You can do what you like,' says I, 'but if Fairbairn shows his face here again, I'll send you one of his ears for a keepsake.' She was frightened by my face, I think, for she never answered a word, and the same evening she left my house.

"Well, I don't know now whether it was pure deviltry on the part of this woman, or whether she thought that she could turn me against my wife by encouraging her to misbehave. Anyway, she took a house just two streets off, and let lodgings to sailors. Fairbairn used to stay there, and Mary would go round to have tea with her sister and him. How often she went I don't know, but I followed her one day, and as I broke in at the door, Fairbairn got away over the back garden wall, like the cowardly skunk that he was. I swore to my wife that I would kill her if I found her in his company again, and I led her back with me sobbing and trembling, and as white as a piece of paper. There was no trace of love between us any longer. I could see that she hated me and feared me, and when the thought of it drove me to drink, then she despised me as well.

"Well, Sarah found that she could not make a living in Liverpool, so she went back, as I understand, to live with her sister in Croydon, and things jogged on much the same as ever at home. And then came this last week and all the misery and ruin.

"It was in this way. We had gone on the *May Day* for a round voyage of seven days, but a hog'shead¹¹⁷ got loose and started one of our plates,¹¹⁸ so that we had to put back into port for twelve hours. I left the ship and came home, thinking what a surprise it would be for my wife, and hoping that maybe she would be glad to see me so soon. The thought was in my head as I turned into my own street, and at that moment a cab passed me, and there

¹¹⁷ OSH: *Memoirs*, p. 284.

¹¹⁸ OSH: *Memoirs*, p. 284.

she was, sitting by the side of Fairbairn, the two chatting and laughing, with never a thought for me as I stood watching them.¹¹⁹

"I tell you, and I give you my word on it, that from that moment I was not my own master, and it is all like a dim dream when I look back on it. I had been drinking hard of late, and the two things together fairly turned my brain. There's something throbbing in my head now, like a docker's hammer,¹²⁰ but that morning I seemed to have all Niagara whizzing and buzzing in my ears.

"Well, I took to my heels, and I ran after the cab. I had a heavy oak stick in my hand, and I tell you that I saw red from the first; but as I ran I got cunning too, and hung back a little to see them without being seen. They pulled up soon at the railway station. There was a good crowd round the booking-office, so I got quite close to them without being seen. They took tickets for New Brighton.¹²¹ So did I, but I got in three carriages behind them. When we reached it they walked along the Parade,¹²² and I was never more than a hundred yards from them. At last I saw them hire a boat and start for a row, for it was a very hot day, and they thought, no doubt, that it would be cooler on the water.

"It was just as if they had been given into my hands. There was a bit of a haze, and you could not see more than a few hundred yards. I hired a boat for myself, and I pulled after them. I could see the blur of their craft, but they were going nearly as fast as I, and they must have been a long mile from the shore before I caught them up. The haze was like a curtain all round us, and there were we three in the middle of it. My God! Shall I ever forget their faces when they saw who was in the boat that was closing in upon them? She screamed out. He swore like a madman, and jabbed at me with

¹¹⁹ THE EDITORS: In the *Strand* and some other versions of the story, the words "from the footpath" appear at the end of this sentence.

¹²⁰ THE EDITORS: This means "a dock worker's hammer." (Dorn, note 74 above, p. 134.) It could refer to an implement that we would call a pile driver. In any event, dockers' hammers were loud. See Devon & Cornwall Police, "Plymouth Dock Police," <https://www.devon-cornwall.police.uk/your-right-to-information/our-people/our-history/force-areas/plymouth-dock-police-1834-present-day-mod-police/> (stating that the Dockyard Police Force established in 1834 "was the first police force to use whistles, long before the Metropolitans — an alternative to the rattle which could not be heard over the din of the docker's hammer").

¹²¹ LSK, Ref.: Memoirs, p. 45, n. 38; OSH: Memoirs, p. 284; WBG, p. 2:207, n. 25.

¹²² THE EDITORS: "In seaside resort cities, [a 'parade' was] a waterfront street or promenade, usually with the beach on one side and major hotels, shops, etc. on the other." Gregory Benford, *Benford's G&S Lexicon*, s.v. "Marine parade," <https://gsopera.com/lexicon/marine-parade> (discussing this term as used in Act I of Gilbert and Sullivan's *The Mikado*).

an oar, for he must have seen death in my eyes. I got past it, and got one in with my stick that crushed his head like an egg. I would have spared her, perhaps, for all my madness, but she threw her arms round him, crying out to him, and calling him 'Alec.' I struck again, and she lay stretched beside him. I was like a wild beast then that had tasted blood. If Sarah had been there, by the Lord, she should have joined them. I pulled out my knife, and — well, there! I've said enough. It gave me a kind of savage joy when I thought how Sarah would feel when she had such signs as these of what her meddling had brought about. Then I tied the bodies into the boat, stove a plank, and stood by until they had sunk. I knew very well that the owner would think that they had lost their bearings in the haze, and had drifted off out to sea. I cleaned myself up, got back to land, and joined my ship without a soul having a suspicion of what had passed. That night I made up the packet for Sarah Cushing, and next day I sent it from Belfast.

"There you have the whole truth of it. You can hang me, or do what you like with me, but you cannot punish me as I have been punished already. I cannot shut my eyes but I see those two faces staring at me — staring at me as they stared when my boat broke through the haze. I killed them quick, but they are killing me slow; and if I have another night of it I shall be either mad or dead before morning. You won't put me alone into a cell, sir? For pity's sake don't, and may you be treated in your day of agony as you treat me now."

"What is the meaning of it, Watson?" said Holmes, solemnly, as he laid down the paper. "What object is served by this circle of misery and violence and fear? It must tend to some end, or else our universe is ruled by chance, which is unthinkable.¹²³ But what end? There is the great standing perennial problem to which human reason is as far from an answer as ever."¹²⁴

¹²³ THE EDITORS: John McNabb cites this passage as proof that Sherlock Holmes was not a Darwinist, even though Holmes cites Darwin in another context in *A Study in Scarlet*. "Anthropology by Gaslight: Sherlock Holmes, Conan Doyle and the Anthropology of Detection at the Victorian *Fin de Siècle*," 49 *World Anthropology* 728, 739 (2017).

¹²⁴ THE EDITORS: This is surely the most melancholy and despairing ending to any of the 60 adventures. Although Holmes oftentimes complains of boredom or a lack of challenging cases, he rarely displays such a gloomy attitude toward life as a whole. Another time he does do so is at the opening of "The Adventure of the Retired Colourman," near the very end of the Canon.



CERAMIC SHERLOCK

The *Green Bag* had a table in the the Merchants Room hosted by the Baker Street Irregulars during the Sherlockian festivities in New York City in January 2020. People who ordered and paid for the 2020 *Baker Street Almanac* there and then were given an opportunity to take home a Sherlock Holmes bobblehead. The *Green Bag* might do something similar next year. (Are you wondering about the details of the doll? There's an annotated version near the back of this book.)

JL