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John Hooker, Reporter of Judicial Decisions

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Article

John Hooker, Reporter of Judicial Decisions

HENRY S. COHN & MICHAEL SCHULZ

This Article discusses the life and reportership of John Hooker, an early Connecticut Judicial Reporter and participant in the Women's Suffrage movement in Connecticut. This Article analyzes Hooker's letters, written primarily to his wife Isabella—who also played an important role in the Women's Suffrage movement in Connecticut—to better understand Hooker's experiences and thinking. This Article then addresses three points of contention regarding Hooker's life. First, this Article discusses Hooker's unique style of adding footnotes with his own commentary to judicial opinions. Second, this Article argues that Hooker's contributions to the In re Mary Hall decision may have been more significant than some of his modern critics contend. Third, this Article pushes back on criticisms of Hooker's obituaries, particularly his obituary of Chief Justice Park, arguing that these were in keeping with the style of the time rather than indicative of jealousy.

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John Hooker, Reporter of Judicial Decisions

HENRY S. COHN* & MICHAEL SCHULZ**

INTRODUCTION

John Hooker (1816–1901) was a Hartford aristocrat, a direct descendent of the Reverend Thomas Hooker, who journeyed into Connecticut in 1636 and founded the state.¹ He served as one of the earliest court reporters, and his service in this role provides valuable insight into the development of the office. Hooker, along with his wife Isabella Hooker, also played an important role in the women’s suffrage movement in Connecticut. Hooker’s private legal practice became virtually inactive by 1858 with his appointment as the reporter of judicial decisions for the Connecticut Supreme Court of Errors.² This Article discusses Hooker’s career as the reporter in general and discusses three controversies associated with his life and reportership. Part I provides a brief biography of John Hooker. Part II details the creation and early history of the court reporter role and discusses Hooker’s experience as court reporter. This discussion is drawn in large part from John Hooker’s letters to his wife, Isabella Hooker, which provide an insight into Hooker’s thinking and life. Part III discusses Hooker’s use of footnotes, a more freewheeling addition of his own insights into judicial opinions than one would see today and discusses the unique precedential value these footnotes carry. Part IV discusses Hooker’s role in the *In re Hall* decision—a landmark decision admitting Mary Hall as one of the first female members of any bar in the country—and argues that Hooker’s critics have credited Hooker with too little contribution to the decision. Part V discusses Hooker’s obituary of Chief Justice Park. This obituary is often criticized today as being too harsh on Justice Park and revealing Hooker’s jealousy of Park. This Article pushes back on those criticisms, arguing that Hooker’s obituary was in keeping with the obituary style of the time and does not support Hooker’s critics accusations of jealousy.

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¹ Michael Besso, *Thomas Hooker’s 1638 Letter to John Winthrop*, 56 CONN. HIST. REV. 173, 192, 195 (2017).

² JOHN HOOKER, SOME REMINISCENCES OF A LONG LIFE: WITH A FEW ARTICLES ON MORAL AND SOCIAL SUBJECTS OF PRESENT INTEREST 10–11 (1899).

I. JOHN HOOKER, A BRIEF BIOGRAPHY

John Hooker was born in Farmington, Connecticut on April 19, 1816.³ His father, Edward, a Yale graduate, was a tutor and maintained a private classical school in Farmington, “Old Red College.”⁴ He also farmed an extensive tract of land that he inherited.⁵ His mother came from the prominent Daggett family of New Haven.⁶ Both of Hooker’s parents had distinguished ancestors.⁷ His father was a direct descendent of Thomas Hooker, a founder of the Connecticut colony, and his mother was a cousin of Roger Sherman Baldwin, grandson of the famed Roger Sherman, a “founding father” of the United States.⁸

Hooker studied in Farmington and entered Yale at age sixteen.⁹ He was assisted in his studies by his father who drilled him in Latin and Greek.¹⁰ Hooker was progressing well at Yale when he contracted typhoid fever.¹¹ Pushing himself to recover, he permanently damaged his eyesight and could no longer continue at Yale.¹² He was later granted a degree by the school in 1842 as a graduate of the class of 1837.¹³

At odds for a career, he set sail twice, once to the Mediterranean and once to China.¹⁴ On his return trip from China, his boat was captured by a Portuguese pirate.¹⁵ This sea life lasted for two years.¹⁶

In 1841, Hooker, while considering the ministry, chose instead to read law and was admitted to the Hartford County bar.¹⁷ After practicing with his brother-in-law, Thomas Perkins, he opened an office in Farmington.¹⁸ He married Isabella, the youngest daughter of Lyman Beecher on August 5, 1841.¹⁹ Isabella was also Harriet Beecher Stowe’s half-sister.²⁰ Isabella and John had three children who survived to adulthood—Edward, Alice, and Mary.²¹

³ *Id.* at 9.

⁴ SUSAN CAMPBELL, TEMPEST-TOSSED: THE SPIRIT OF ISABELLA BEECHER HOOKER 31–32 (2014); see also *Edward Hooker House (1811)*, HISTORIC BUILDINGS CONN., <http://historicbuildingsct.com/the-john-hooker-house-1811/> (last visited Jan. 28, 2020).

⁵ HOOKER, *supra* note 2, at 9.

⁶ *Id.* at 9.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 10.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 10, 24–25.

¹⁸ CAMPBELL, *supra* note 4, at xiv, 29, 32; HOOKER, *supra* note 2, at 10.

¹⁹ CAMPBELL, *supra* note 4, at xiv, 40.

²⁰ *Id.* at xiv.

²¹ HOOKER, *supra* note 2, at 9–10.

In 1851, Hooker and his family moved to Hartford.²² In 1853, he and his brother-in-law, Frances Gillette, purchased a farm consisting of slightly more than 100 acres on Farmington Avenue.²³ The tract of land was called “Nook Farm” because the “Park [R]iver . . . curved about the southern part of it in such a way as to leave thirty or forty acres within a nook.”²⁴

Hooker built a home on Forest Street in Nook Farm and sold off the acreage to others.²⁵ This subdivision became a famous literary and politically active community.²⁶ In his autobiography, Hooker describes the Nook Farm community as a little society of its own with doors always open for residents and visitors.²⁷ Social evenings included interaction over the issues of the day.²⁸ He continued:

There was a curious thread of relationship running through our little neighborhood. As I have already stated, Mr. Gillette and I were the first settlers, and Mrs. Gillette was my sister. Soon after came Thomas C. Perkins, an eminent lawyer of the city, whose wife was sister of my wife. Then came Mrs. Stowe, another sister, who at first built a house on another part of the farm, but subsequently came to live close by us on Forest street. My widowed mother early built herself a cottage next [to] my own house. Elizabeth, daughter of my sister Mrs. Gillette, married George H. Warner, and she and her husband settled close by us. Next came Charles Dudley Warner and his brilliant wife, he being the brother of George H. Warner just mentioned. Joseph R. Hawley, then my law partner, but since a general in the war and senator in Congress, met at my house, and afterwards married, Harriet W. Foote, a cousin of my wife. They also settled in our immediate neighborhood. Rev. Dr. Nathaniel J. Burton and his wife were for two years members of my family, becoming family connections by the marriage of my daughter to Dr. Burton’s brother. . . . Still later, Mark Twain . . . built, and has ever since occupied, a residence near us²⁹

In January 1858, Hooker was appointed by the Justices of the Supreme Court of Errors to the statutory post of reporter of judicial decisions.³⁰ He

²² *Id.* at 10.

²³ *Id.* at 170.

²⁴ *Id.* at 170.

²⁵ *Id.* at 170–71.

²⁶ See KENNETH R. ANDREWS, *NOOK FARM: MARK TWAIN’S HARTFORD CIRCLE 1–5* (1950) (discussing the community of influential figures that developed in Nook Farm).

²⁷ HOOKER, *supra* note 2, at 170–71.

²⁸ *Id.* at 171; ANDREWS, *supra* note 26, at 5.

²⁹ *Id.*

³⁰ DWIGHT LOOMIS & JOSEPH GILBERT CALHOUN, *THE JUDICIAL AND CIVIL HISTORY OF CONNECTICUT 146* (Dwight Loomis & Joseph Gilbert Calhoun, eds.) (1895).

held this post while keeping a nominal private practice.³¹ He resigned as reporter in 1894, serving thirty-six years and editing thirty-eight volumes of the Connecticut Reports.³²

Beginning during his reportership, Hooker joined his wife in supporting women's rights.³³ Hooker wrote: "[W]e read Blackstone together in the early days of my law practice and puzzled over the traditional bondage under which women suffer, we have been eager for change in our country's laws and customs."³⁴ The Hookers' equal rights for women crusade led to both John and Isabella taking an active role in the effort for women's suffrage.³⁵ Isabella organized the Connecticut Women's Suffrage Association in Hartford in 1869.³⁶ The Hookers were close to Susan B. Anthony and Elizabeth Cady Stanton.³⁷ They were ostracized by friends and family for their firm position.³⁸ John was an official in Isabella's organization, writing letters to the editor of the Hartford Courant and giving speeches.³⁹ He was convinced that there was "no greater question before the American people . . ."⁴⁰ It was a matter of human rights.⁴¹

John and Isabella celebrated their golden anniversary in 1891 with his former partner, then Senator Joseph Roswell Hawley, as the host of the event.⁴² John Hooker died on February 12, 1901,⁴³ and Isabella Hooker died on January 25, 1907.⁴⁴

II. THE REPORTER'S LIFE

This section will proceed in five sections. Section A will outline the history of the reporter position leading up to Hooker taking on the role. Section

³¹ The Hartford Courant gives examples of Hooker's private practice. In 1857, he won a case that stood for the proposition that towns did not have the right to allow free grazing of cattle. *The Law of Highways*, HARTFORD DAILY COURANT, Sept. 4, 1860, at 2. In 1880, he won a case involving an attorney's fee due from an estate. J. Hooker, *A Card from John Hooker: The Settlement of the Webb Estate*, HARTFORD DAILY COURANT, Sept. 3, 1880, at 2.

³² HOOKER, *supra* note 2, at 125.

³³ *John Hooker*, CONN. HIST. ON WEB, http://www.connhistory.org/hooker_readings.htm#johnbio (last visited Sept. 1, 2020); *see also* HOOKER, *supra* note 2, at 245–47 (reciting his "own earnest approval" of women's suffrage "and the fact that [he has] worked earnestly for it for many years").

³⁴ *John Hooker*, CONN. HIST. ON WEB, *supra* note 33. Hooker was also an abolitionist prior to the Civil War. HOOKER, *supra* note 2, at 23, 38–41.

³⁵ CAMPBELL, *supra* note 4, at 35.

³⁶ *Id.* at 102.

³⁷ *See* HOOKER, *supra* note 2, at 177–78 (describing the Hookers as a "long-lived friend" to Susan B. Anthony, among other influential feminists); CAMPBELL, *supra* note 4, at 86 (describing the friendship between Stanton and Isabella Hooker).

³⁸ *See* CAMPBELL, *supra* note 4, at 55.

³⁹ *Id.* at 110–11 (describing Hooker's letter writing and work as treasurer for the Connecticut Woman Suffrage Association).

⁴⁰ *John Hooker*, CONN. HIST. ON WEB, *supra* note 33.

⁴¹ HOOKER, *supra* note 2, at 246.

⁴² *Id.* at 10, 175, 177.

⁴³ CAMPBELL, *supra* note 4, at 171.

⁴⁴ *Id.* at 176.

B will analyze Hooker's letters, primarily to his wife Isabella, during this period, which document Hooker's thoughts on his role as reporter and a number of important judicial decisions of the day. Section C will recount and analyze Hooker's description of his time as reporter as he later described it in his autobiography. Section D will discuss Hooker's role as publisher of the reports, and the way that this role was further defined by litigation during Hooker's reportership. Section E will briefly discuss Hooker's retirement and succession.

A. *The Office of Reporter of Judicial Decisions*

The "Acts and Laws" of 1796 provided that the Supreme Court of Errors had the duty "to cause the reasons of their Judgment to be committed to Writing, and signed by one of the Judges, and to be lodged in the Office of the Clerk of the Superior Court."⁴⁵ At that time, there was no further official requirement that these written statements of reasons be reported in any fashion.⁴⁶

While no official reports were issued, Ephraim Kirby, an enterprising young lawyer, published a volume of case reports printed in Litchfield in 1789.⁴⁷ Many of the reported decisions were Superior Court cases.⁴⁸ Kirby's reports are often cited as the first effort to report judicial decisions in the United States.⁴⁹

The second series of reports, with both Superior and Supreme Court cases, was issued by Jesse Root in 1789.⁵⁰ In his first volume of cases from 1789 to 1793, he reviewed other Superior Court cases than those found in Kirby.⁵¹ He issued a second volume in 1802, with cases from both courts from 1793 to 1798.⁵²

In 1802, Thomas Day took on the role of reporter, concentrating on Supreme Court decisions.⁵³ He wrote of his technique:

In the plan of the work he has endeavored to follow the most approved models. The statements of the cases have been made from a careful inspection of the record; and the opinions of the judges have been transcribed from their notes. In exhibiting the arguments of counsel, he has aimed at distinctness and conciseness. He has sometimes stated only the points and

⁴⁵ An Act for Constituting and Regulating Courts, and Appointing the Times and Places for Holding the Same, ACTS AND LAWS IN THE STATE OF CONNECTICUT, IN AMERICA 127 (1796).

⁴⁶ *Id.*

⁴⁷ *America's First Court Reporter Ephraim Kirby*, ST. CONN. JUD. BRANCH, <https://jud.ct.gov/lawlib/history/kirby.htm> (last visited July 6, 2020).

⁴⁸ Alan V. Briceland, *Ephraim Kirby: Pioneer of American Law Reporting, 1789*, 16 AM. J. LEGAL HIST. 297, 306 (1972).

⁴⁹ John Blue & Henry S. Cohn, *Kirby, Root and Swift: The Superior Court at the Dawn of the Republic*, VI CONN. SUP. CT. HIST. 45, 45–46, 51 (2013).

⁵⁰ *Id.* at 52.

⁵¹ *Id.*

⁵² *Id.* at 52–53; 2 Root iv–viii (1802).

⁵³ Reporter's Preface, 1 Conn. xxv (1814).

authorities; and sometimes he has contented himself, especially where all the considerations urged are reviewed by the court, with mentioning the names of the counsel. In the marginal abstracts, he has studied perspicuity and precision; in the index, copiousness and systematic arrangement.⁵⁴

The content of the reports and summaries by the reporter described by Day continued through Hooker's reports.⁵⁵ Day held his appointment from 1802 to 1853, editing twenty-six volumes of the Connecticut Reports.⁵⁶ He resigned in 1853 and died on March 1, 1855.⁵⁷

Day edited five volumes in the Kirby and Root fashion, as an independent contractor. In 1814, the legislature enacted "An Act for the appointment of a Reporter of Judicial Decisions."⁵⁸ It provided:

That there shall be annually appointed, by the supreme Court of errors of this state, a reporter of the judicial decisions of said court, and as a compensation for his services, he shall receive from the treasury of the state, the sum of three hundred dollars annually. *Provided*, That this act shall continue in force for the term of four years from the rising of this assembly, and no longer.⁵⁹

When Day states in his 1817 preface that the legislature passed the 1814 act, he also points out that he had suspended his independent contractor efforts "by the want of adequate encouragement."⁶⁰ Also at the time of the passage of the 1814 act, he was Secretary of the State.⁶¹ He "attested" to the act's passage.⁶² He was then appointed at the next term of court.⁶³ Clearly Day was working behind the scenes to establish an official reporter system.

In 1821, Title 21, § 9 of the Connecticut Acts and Laws provided for the office of reporter, with the compensation set at \$350 by Title 83, § 1.⁶⁴ In 1854, Title 5, § 15, provided for the office, and Title 46, § 2 set compensation at \$550.⁶⁵ This was part of a provision for judicial officers.

⁵⁴ *Id.* at xxvii.

⁵⁵ Hooker also made one change to Day's approach, as discussed *infra*. He added footnotes to many decisions by use of an asterisk symbol (*).

⁵⁶ *Thomas Day*, LEDGER, <https://ledger.litchfieldhistoricalsociety.org/ledger/students/803> (last visited Jan. 31, 2021).

⁵⁷ *Id.*

⁵⁸ An Act for the appointment of a Reporter of Judicial Decisions, ch. 25, 1814 Conn. Pub. Acts 168.

⁵⁹ *Id.* There is no indication that this four-year limitation had any effect on Day, and he and his successors continued without any interruption. It is not mentioned in subsequent statutes.

⁶⁰ 1 Conn. xxvi (1814).

⁶¹ An Act for the appointment of a Reporter of Judicial Decisions, ch. 25, 1814 Conn. Pub. Acts 168.

⁶² *Id.*

⁶³ *Thomas Day*, LEDGER, *supra* note 56.

⁶⁴ CONN. GEN. STAT. § 21-8 (1821); CONN. GEN. STAT. § 83-1 (1821).

⁶⁵ CONN. GEN. STAT. § 5-15 (1854); CONN. GEN. STAT. § 46-2 (1854).

The 1866 statute in Title 11, § 5 provided for appointment, and Title 53, § 2 placed the compensation at \$1,200.⁶⁶ The 1875 statute, Title 4, § 13 allowed for an appointment; Title 13, Chapter 4 set the compensation at \$2,500.⁶⁷ The Title 4 statute also provided that the reporter was to stereotype the reports on publication at his own expense, but the plates were the property of the state, subject to his agreement to use them for printing copies.⁶⁸

A public act of 1882, Senate Bill 66, was passed as Hooker was publishing Volume 48 of the Connecticut Reports.⁶⁹ The Public Act provided for the appointment of a reporter with a salary of \$3,000, with the current reporter (Hooker) receiving an additional \$1,000.⁷⁰ Section 2 provided that the State Comptroller was to have the reports printed and copyrighted in the name of the Secretary of the State for the benefit of the people of the state.⁷¹ Section 3 allowed the State Comptroller to charge the public for purchase and to distribute a free copy to town clerks and to each courthouse in the state.⁷²

Much of this public act became part of the 1887 statute. Section 334 added free distribution for the Superior Court, Court of Common Pleas, and District Courts.⁷³ Under Section 825, the reporter was to prepare the decisions for publication with a syllabus, followed by the date of argument and date of decision.⁷⁴

With the passage of the 1814 statute, Day began working on the first Connecticut Reports, issued in 1817.⁷⁵ His work continued until 1853; he was praised as having “no superior in the ability to grasp the precise point decided, and to present that point clearly and definitely; in the power to extract the spirit of the decision separated from all extraneous matter.”⁷⁶

Day was succeeded by Attorney William N. Matson of Hartford, appointed by the Supreme Court in June 1853 “for the year ensuing.”⁷⁷ Hooker was appointed at an annual meeting of the Supreme Court on January 18, 1858.⁷⁸ The twenty-fifth volume of the reports “was principally prepared by the late reporter, Mr. Matson, and printed under his superintendence.”⁷⁹

⁶⁶ CONN. GEN. STAT. § 11-5 (1866); CONN. GEN. STAT. § 53-2 (1866).

⁶⁷ CONN. GEN. STAT. § 4-13 (1875); CONN. GEN. STAT. § 13-4 (1875).

⁶⁸ CONN. GEN. STAT. § 4-13 (1875).

⁶⁹ An Act in addition to an Act relating to Courts, ch. 35, 1882 Conn. Pub. Acts 137 (describing appointment of the reporter position and the reporter’s role and salary).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ CONN. GEN. STAT. § 8-334 (1887).

⁷⁴ CONN. GEN. STAT. § 16-825 (1887).

⁷⁵ *See* 1 Conn. iii (1817).

⁷⁶ 23 Conn. 668–69 (1856).

⁷⁷ 22 Conn. iv. (1853).

⁷⁸ HOOKER, *supra* note 2, at 124.

⁷⁹ 25 Conn. iii (1825).

This opening in the office of reporter in 1858 occurred with the resignation of Matson.⁸⁰ A lawyer and Whig politician, Matson was apparently afflicted with a mental health disability.⁸¹ Hooker wrote to his wife just as he received his appointment that he was aware, at the time of Matson's resignation, that it was due to Matson's disability.⁸² "How dreadful it is," he wrote, while thanking her for visiting Matson.⁸³

Why did John Hooker, a wealthy and literate patrician, descended from Hartford's founder, choose to take the post of a court reporter? The position was one that was more administrative than judicial. Hooker had always, according to his autobiography, wanted to serve on the Supreme Court, and in his autobiography, he mentions two attempts in the years soon after his taking the reportership.⁸⁴

Hooker chose to continue as the Reporter.⁸⁵ In his autobiography, he gave a direct answer: he was devoted to the cause of "the emancipation of women (now that the slaves have been emancipated)" and this position "provided the income we so desperately needed in order to support our many activities."⁸⁶ He frequently mentioned in letters to his wife that he had major debts and this position resolved them.⁸⁷

But one has to know Hooker to reach a full answer to his taking the job. He and his sometimes partner, Joseph Roswell Hawley, had some legal business (often an appellate brief or a collection action), but their interests laid outside strict attorney-client ventures.⁸⁸

Hooker enjoyed keeping his hand in the academics of the law while pursuing his anti-discrimination campaigns. On February 18, 1858, he wrote to Isabella, just a month after his appointment: "My services here are perfect entertainment and recreation. When I . . . get into Court as mere reporter, I feel as if I had gone out of the world of noise and hurry into that of

⁸⁰ HOOKER, *supra* note 2, at 124.

⁸¹ This would later cause Matson to commit suicide in 1876, although his body was not found until 1877. *The Late Judge Matson: Additional Facts in Relation to His Disappearance and Suicide—A Statement by His Son Mr. William L. Matson*, N.Y. TIMES, May 25, 1877, at 5.

⁸² Letter from John Hooker to Isabella Hooker (Feb. 18, 1858) (on file with the Harriet Beecher Stowe Center).

⁸³ *Id.*

⁸⁴ HOOKER, *supra* note 2, at 122. In 1861, he was offered the position, but did not believe he was adequately prepared. *Id.* at 121–22. He next declined the position in 1864 because of an arrangement that allowed Justice Park to join the Court and an Attorney H.K.W. Welch to be appointed to the Superior Court. *Id.* at 122–23.

⁸⁵ HOOKER, *supra* note 2, at 121, 124, 129.

⁸⁶ *John Hooker*, CONN. HIST. ON WEB, *supra* note 33.

⁸⁷ *See, e.g.*, Letter from John Hooker to Isabella Hooker (Apr. 27, 1860) (on file with the Harriet Beecher Stowe Center) (writing that the position provides "money enough to be free from care"). For a detailed description of Hooker's dire financial situation, see also BARBARA A. WHITE, *THE BEECHER SISTERS* 107 (2003).

⁸⁸ *See* HOOKER, *supra* note 2, at 32 (describing an incident in which Hooker and Hawley purchased and freed an enslaved Black reverend); Henry S. Cohn, *Mark Twain and Joseph Roswell Hawley*, 53 MARK TWAIN J. 67, 67 (2015) (discussing the minimal nature of Hooker's and Hawley's practice).

philosophy and study . . . just the thing for me”⁸⁹ On April 26, 1861, from Litchfield, he wrote to Isabella: “A simple, humble, unpretending life, looks very attractive here — a life of show, and fashion and pretension, never looked more uninviting.”⁹⁰

B. Reporter Hooker’s Letters

Hooker’s letters to Isabella show his daily routine through the years and provide insight to his life as a reporter. The letters also illuminate John and Isabella Hooker’s relationship and their thinking about the events of the world. Many of the letters begin with a compliment to her.⁹¹

In Litchfield on April 27, 1859, he lamented that she had not written to him and that he was greatly disappointed.⁹² He stated that he could not write “more than a line” as he was very busy.⁹³ He added that he could write only in the courtroom with lawyers at both elbows.⁹⁴ As he was writing, he noted that another lawyer was about to start speaking “at the top of his lungs.”⁹⁵

On May 5, 1859, Hooker responded to a letter he had at last received from Isabella.⁹⁶ “I have been hard at work in court till now and have had 5 minutes to write to you,” he wrote.⁹⁷

On April 17, 1860, Hooker wrote a note from Hartford to Isabella who was then having a hydropathy “cure” in Elmira.⁹⁸ She was to be in Elmira several times while he was the reporter.⁹⁹ At Elmira, Isabella had a friendship with the Langdons, later to be Mark Twain’s in-laws.¹⁰⁰

⁸⁹ Letter from John Hooker to Isabella Hooker, *supra* note 82.

⁹⁰ Letter from John Hooker to Isabella Hooker (Apr. 26, 1861) (on file with the Harriet Beecher Stowe Center).

⁹¹ *See, e.g.*, Letter from John Hooker to Isabella Hooker (Apr. 24, 1859) (on file with the Harriet Beecher Stowe Center) (addressing Isabella as “my precious wife”); Letter from John Hooker to Isabella Hooker (July 5, 1860) (on file with Harriet Beecher Stowe Center) (remarking that he is “not good enough for her”); Letter from John Hooker to Isabella Hooker (Oct. 28, 1862) (on file with the Harriet Beecher Stowe Center) (addressing Isabella as “good grand wife”).

⁹² Letter from John Hooker to Isabella Hooker (Apr. 27, 1859) (on file with the Harriet Beecher Stowe Center).

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Letter from John Hooker to Isabella Hooker (May 5, 1859) (on file with Harriet Beecher Stowe Center).

⁹⁷ *Id.*

⁹⁸ Letter from John Hooker to Isabella Hooker (Apr. 17, 1860) (on file with the Harriet Beecher Stowe Center); *see also* CAMPBELL, *supra* note 4, at 80–81 (discussing Isabella Hooker’s “hydropathy” treatments in Elmira).

⁹⁹ Letter from John Hooker to Isabella Hooker, *supra* note 98. *See also* Letter from John Hooker to Isabella Hooker (May 13, 1860) (on file with the Harriet Beecher Stowe Center) (noting that John Hooker had recently received letters from Isabella in Elmira); WHITE, *supra* note 87, at 79 (discussing Isabella’s hydropathy cures in Elmira).

¹⁰⁰ WHITE, *supra* note 87, at 113.

In the letter of April 17, 1860, Hooker told Isabella that he would be in the Litchfield court until the following Monday.¹⁰¹ He also spoke of J.R. Hawley, his former partner.¹⁰²

On April 19, 1860, Hooker started a letter by mentioning that this was his forty-fourth birthday.¹⁰³ He noted that he had received Isabella's letter from Elmira and had received other letters that she had forwarded to him.¹⁰⁴ He stated that he was comfortable, seeing to planting trees part of the time and writing in the quiet of his bedroom.¹⁰⁵ He mentioned Hawley again, noting that some of his letters could not be sent now that Hawley was gone to war.¹⁰⁶

On April 27, 1860, Hooker wrote from Litchfield that the court had just adjourned and the judges were considering the outcome of a few cases.¹⁰⁷ Hooker stated that he had no time to write "as I am taking notes of the Judges' remarks between every two lines that I write [to you]."¹⁰⁸ Hooker mentioned that he had been writing all morning steadily.¹⁰⁹

In his April 27, 1860 letter, Hooker wrote about the scenery of the place where he traveled, as was often the case.¹¹⁰ "The beauties and attractions of this world are growing upon me all the while. Its mountains and valleys and fresh rivers and lakes seem more beautiful to me every year that I live."¹¹¹

Writing from Hartford on May 13, 1860, Hooker mentioned that their "home is too pleasant to leave."¹¹² "The apple blossoms are in their glory," the foliage is out, the weather is summerlike, and "the air is perfumed."¹¹³ He told Isabella that he was working on case reports and of an important case to come before the court later in the week, the "Rifle Factory Machinery" matter.¹¹⁴

On May 23, 1860, Hooker wrote that he regretted not sounding cheerful in his last letter.¹¹⁵ He mentioned that he was now in the best of spirits, with

¹⁰¹ Letter from John Hooker to Isabella Hooker (Apr. 17, 1860) (on file with the Harriet Beecher Stowe Center).

¹⁰² *Id.*

¹⁰³ Letter from John Hooker to Isabella Hooker (Apr. 19, 1860) (on file with the Harriet Beecher Stowe Center).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Letter from John Hooker to Isabella Hooker (Apr. 27, 1860) (on file with the Harriet Beecher Stowe Center).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Letter from John Hooker to Isabella Hooker (May 13, 1860) (on file with the Harriet Beecher Stowe Center).

¹¹³ *Id.*

¹¹⁴ *Id.* The actual case name is *Rowan v. Sharps' Rifle Mfg. Co.*, 29 Conn. 282 (1860). This case addressed credits due under a mortgage debt. *Id.* at 301. Hooker also wrote a brief for the appellant, and it is not uncommon to see his name listed in the credits to a Connecticut Supreme Court case. *Id.* at 298.

¹¹⁵ Letter from John Hooker to Isabella Hooker (May 23, 1860) (on file with the Harriet Beecher Stowe Center).

summer “opening beautifully” upon him.¹¹⁶ He was keeping the printers busy with his “grand project”—the edited volumes of the reports.¹¹⁷

On February 13, 1861, at 8:00 a.m., Hooker wrote to Isabella while in a court outside of Hartford during an oral argument.¹¹⁸ He mentioned that he had very few court arguments and would be home Friday,¹¹⁹ and that, the day before, Attorney Perkins—Isabella’s relative—had been in court all day.¹²⁰ Hooker wrote that it was almost like a session in Hartford with Perkins there and that they had a nice visit.¹²¹

On April 23, 1861, he wrote from a court outside of Hartford that he could not believe that he had been in the same court over a year ago during the last term.¹²² To Hooker, it seemed to be only three or four months.¹²³ Hooker mentioned that there were fourteen cases to hear, but he wanted to return home as soon as possible.¹²⁴

On April 26, 1861, Hooker wrote that he was at the Litchfield court, enjoying the beautiful weather.¹²⁵ He was looking forward to being home on Saturday.¹²⁶ He wrote to Isabella that he was “scratch[ing] [her] a hasty line” during a trial.¹²⁷ He mentioned that he was writing his first editorial in the courtroom.¹²⁸ He had sent it to Charles Dudley Warner at the Hartford Courant.¹²⁹ “Read it on my account,” he wrote Isabella.¹³⁰ Hooker wrote that he was heading home soon¹³¹ and that “[i]t seem[ed] to [him] the whole earth cannot show [such] a happiness.”¹³²

On October 1, 1861, Hooker wrote to Isabella to inform her that the court was sitting in Danbury, not Bridgeport, where it was initially scheduled to sit.¹³³ Hooker was staying at the Wooster House and would be there longer than he originally thought.¹³⁴ He had been stalled on the train en route at

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ Letter from John Hooker to Isabella Hooker (Feb. 13, 1861) (on file with the Harriet Beecher Stowe Center).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Letter from John Hooker to Isabella Hooker (Apr. 23, 1861) (on file with the Harriet Beecher Stowe Center).

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ Letter from John Hooker to Isabella Hooker (Apr. 26, 1861) (on file with the Harriet Beecher Stowe Center).

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ Letter from John Hooker to Isabella Hooker (Oct. 1, 1861) (on file with the Harriet Beecher Stowe Center).

¹³⁴ *Id.*

Norwalk for two-and-a-half hours.¹³⁵ He relayed the news that Judge Sanford's son remained incapacitated.¹³⁶

Again in Danbury on October 2, 1861, Hooker told Isabella that he was in court listening to a "most able and interesting argument from Mr. Baldwin."¹³⁷ But he wished that he were home.¹³⁸ "There is no place like home when a man's wife is there," he wrote.¹³⁹ Hooker mentioned that the courtroom in Danbury was too warm and his eyes were "weak."¹⁴⁰ He was looking forward to a scheduled argument that would feature a prominent leading patent attorney from New Jersey.¹⁴¹ Hooker also mentioned a contentious stock transfer case that was to be argued by prominent lawyers.¹⁴²

On February 13, 1862, Hooker wrote to Isabella from the Bridgeport courtroom, reporting on the *Beers v. Woodruff* case.¹⁴³ The attorney for the defendant, Dickerson, was a patent and mechanics expert.¹⁴⁴ The defendant argued that the plaintiff had failed to prove that the boiler that the defendant sold was negligently manufactured.¹⁴⁵ Hooker wrote: "He had a model of the boiler before him and his whole argument was equal to the most entertaining and instructive scientific lecture. I never learned so much about steam boilers and all the philosophy of steam before."¹⁴⁶

This letter also described Hooker's early mornings before court began.¹⁴⁷ Sometimes he sat and read before a fire.¹⁴⁸ Hooker was then reading DeTocqueville, and he noted that he met DeTocqueville once in Paris but had not read his works then.¹⁴⁹ He wished now to have this opportunity; De Tocqueville was a treasure to him.¹⁵⁰ Other times, if he was well, Hooker would take a walk before court.¹⁵¹ Hooker wrote about looking

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Letter from John Hooker to Isabella Hooker (Oct. 2, 1861) (on file with the Harriet Beecher Stowe Center). Hooker was referring to *Calhoun v. Richardson*, 30 Conn. 210 (1861) (discussing the right of a trustee of bankrupt insurance company to certain bonds).

¹³⁸ Letter from John Hooker to Isabella Hooker, *supra* note 137.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* This case, involving a boiler explosion, was actually argued the following year in February 1862. *Beers v. Woodruff & Beach Iron Works*, 30 Conn. 308 (1862). In 1862, attorney E.N. Dickerson's office was given as New York, not New Jersey. *Id.* at 308.

¹⁴² Letter from John Hooker to Isabella Hooker, *supra* note 137. Hooker was referring to *Bridgeport Bank v. N.Y. & New Haven R.R. Co.*, 30 Conn. 231 (1861).

¹⁴³ Letter from John Hooker to Isabella Hooker (Feb. 13, 1862) (on file with the Harriet Beecher Stowe Center).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* The Supreme Court reversed the verdict in the Superior Court for the plaintiff. *Beers*, 30 Conn. at 312.

¹⁴⁷ Letter from John Hooker to Isabella Hooker, *supra* note 143.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

forward to the day he turned seventy and had the freedom to enjoy nature, traveling, and his family.¹⁵² He also mentioned the news of the day—“Louis Napoleon’s decision not to interfere.”¹⁵³

Hooker also wrote in a second letter on February 13, 1862, “a hasty line in the courtroom.”¹⁵⁴ He wrote that he was “under the nose of a heavy in need lawyer . . . speaking over my head.”¹⁵⁵ The purpose of this letter was to tell Isabella that the court was probably going to spend an additional week in Bridgeport.¹⁵⁶

Instead, Hooker’s February 18, 1862 letter to Isabella indicates that he was in New Haven by that date.¹⁵⁷ He wrote to Isabella at 10:30 p.m., mentioning that he had been to a party of bar members with about forty judges, lawyers, and college professors.¹⁵⁸ Hooker had some ice cream and coffee, “weak and only a half cup.”¹⁵⁹ Hooker mentioned that, in court, the judges had heard three cases, and there were nine more; he would be home by Friday.¹⁶⁰ The war news was good, and he hoped the war would end soon with the “wicked men” defeated. “What a world it would be!”¹⁶¹

On Tuesday October 28, 1862, forenoon, Hooker wrote to his “good grand wife” in Norwich.¹⁶² He was in court, while outside it was “perfectly glorious.”¹⁶³ He was listening to the “shout of an arguing lawyer, who is pouring out a torrent of eloquence over my head at the judge behind me.”¹⁶⁴ Hooker was “supposed to be taking notes of his argument” and noting “about every fourth line to make an entry of some book referred to by him.”¹⁶⁵

He next wrote two letters on September 8, 1863.¹⁶⁶ He did not state his location, but he noted that the weather was “perfect.”¹⁶⁷ He had been on a

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ Letter from John Hooker to Isabella Hooker (Feb. 13, 1862) (on file with the Harriet Beecher Stowe Center).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ Letter from John Hooker to Isabella Hooker (Feb. 18, 1862) (on file with the Harriet Beecher Stowe Center).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.* Hooker was referring to the Union victories at Fort Henry and Fort Donelson on February 6 and 16, 1862, respectively.

¹⁶² Letter from John Hooker to Isabella Hooker (Oct. 28, 1862) (on file with the Harriet Beecher Stowe Center).

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ Letters from John Hooker to Isabella Hooker (Sept. 8, 1863) (on file with the Harriet Beecher Stowe Center).

¹⁶⁷ *Id.*

picnic.¹⁶⁸ In a courtroom letter, he stated that there were “miraculously few” cases and he would leave the next day.¹⁶⁹

Writing on January 26, 1864, Hooker told Isabella that “[w]e are all well.”¹⁷⁰ He had finished three cases and finished his tasks and was concerned that he had no load of work.¹⁷¹

On February 5, 1864, Hooker spent most of his letter discussing his train arrangements.¹⁷² The trip included an indirect trip and was uncomfortable.¹⁷³ He also maintained that he now had two priorities for his books, with the intent to have publication without delay.¹⁷⁴

On October 10, 1864, Hooker wrote to Isabella while on a visit to Philadelphia.¹⁷⁵ He had visited a friend and had attended church, hearing a “very good sermon . . . to quite a large audience.”¹⁷⁶ He left detailed instructions if a letter arrived from New York City with printing of the Connecticut Reports.¹⁷⁷ The pages would be in sheets and should be taken to the bindery.¹⁷⁸ “That’s a good girl—you will see to it, won’t you,” he wrote to Isabella.¹⁷⁹

On February 14, 1865, Hooker wrote to Isabella from Bridgeport.¹⁸⁰ He was staying at the Atlantic Hotel.¹⁸¹ Isabella was to telegraph him with anything monumental.¹⁸² He was concerned with the health of his son, Eddie (“Ned”).¹⁸³

On March 14, 1865, Tuesday morning, Hooker wrote from New London.¹⁸⁴ He mentioned that it was “a most glorious morning,” and he saw the harbor on a walk, “always beautiful . . . flooded with sunlight.”¹⁸⁵ “[T]he air was just crisp enough to make one full of vigor. . . . One of our summer

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ Letter from John Hooker to Isabella Hooker (Jan. 26, 1864) (on file with the Harriet Beecher Stowe Center).

¹⁷¹ *Id.*

¹⁷² Letter from John Hooker to Isabella Hooker (Feb. 5, 1864) (on file with the Harriet Beecher Stowe Center).

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Letter from John Hooker to Isabella Hooker (Oct. 10, 1864) (on file with the Harriet Beecher Stowe Center).

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ Letter from John Hooker to Isabella Hooker (Feb. 14, 1865) (on file with the Harriet Beecher Stowe Center).

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ Letter from John Hooker to Isabella Hooker (Mar. 14, 1865) (on file with Harriet Beecher Stowe Center).

¹⁸⁵ *Id.*

expeditions must be to come down to this place.”¹⁸⁶ He concluded: “The court travels are a perfect blessing to me. Long live the Reporter’s life, I say.”¹⁸⁷

On March 22, 1865, Hooker wrote from home in Hartford in his “dear little bed.”¹⁸⁸ He was “on parole” but was looking forward to court that week.¹⁸⁹ Hooker wrote that the upcoming arguments were “remarkably interesting [and that he] shall have a good time”¹⁹⁰

On March 24, 1865, Hooker wrote to his wife from Hartford at 4:00 p.m.¹⁹¹ Again, Isabella was out of town, and Hooker lamented that she had not even “writ[ten] one line” to him.¹⁹² The court had just adjourned after a very interesting argument in *Colt v. Colt*¹⁹³ that involved the jurisdiction of the Superior Court to hear a dispute over a stock transfer made by Samuel Colt to his brother James. A lawyer nicknamed “Judge” Curtis, of Massachusetts, presented an argument on lack of jurisdiction to the Supreme Court.¹⁹⁴ The court would later rule against Curtis, affirming the Superior Court’s decision finding jurisdiction.¹⁹⁵ This letter by Hooker also mentions that he had visited Attorney Perkins and other relatives of Isabella.¹⁹⁶ Perkins had appeared in opposition to Curtis.¹⁹⁷

On Tuesday, February 12, 1867, at 5:00 p.m., Hooker wrote from New Haven, responding to a letter from his “darling wife” that arrived when he reached his hotel.¹⁹⁸ He had been writing a lot and had little vigor in his hand to write a lengthy reply.¹⁹⁹ He wrote a similar letter from New Haven on September 23, 1868.²⁰⁰ He was enjoying the reporter’s life, with cases that would last for a few days.²⁰¹

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ Letter from John Hooker to Isabella Hooker (Mar. 22, 1865) (on file with Harriet Beecher Stowe Center).

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ Letter from John Hooker to Isabella Hooker (Mar. 24, 1865) (on file with Harriet Beecher Stowe Center).

¹⁹² *Id.*

¹⁹³ 32 Conn. 422 (1865).

¹⁹⁴ *Id.* at 440.

¹⁹⁵ *Id.* at 451.

¹⁹⁶ Letter from John Hooker to Isabella Hooker, *supra* note 191.

¹⁹⁷ *Colt*, 32 Conn. at 434.

¹⁹⁸ Letter from John Hooker to Isabella Hooker (Feb. 12, 1867) (on file with the Harriet Beecher Stowe Center).

¹⁹⁹ *Id.*

²⁰⁰ Letter from John Hooker to Isabella Hooker (Sept. 23, 1868) (on file with Harriet Beecher Stowe Center).

²⁰¹ *Id.*

Hooker wrote another similar letter from Norwich on Tuesday, March 9, 1869, which mentioned that he was enjoying the beautiful spring weather and there were only a few cases.²⁰² He was thinking about his beautiful home.²⁰³

On Wednesday, October 9, 1872, Hooker wrote to Isabella from Eggishorn, a mountain village in Switzerland.²⁰⁴ Earlier in 1868 he had sent a newspaper clipping to Isabella about Switzerland.²⁰⁵ He went himself in 1872.²⁰⁶ He wrote again on October 13, 1872, from Baveno on Lake Maggiore, Italy.²⁰⁷ In Eggishorn, an inn-keeper told him that “in 50 years it would be the established rule in all Christian countries that women would be held absolutely equal to men in all rights of every kind whatsoever.”²⁰⁸ Hooker found such views remarkable in a young man of twenty-four and “a Catholic too.”²⁰⁹

On September 4, 1877, Hooker wrote to his son-in-law, John C. Day, who had represented trustees in a railroad, to tell him that Day had obtained a 3-2 victory in the Supreme Court.²¹⁰ In *Batchelder v. Bartholomew*, the court held that an award of property damages in the amount of \$400, rendered after a hearing in damages, might be reduced to a nominal amount, through the defendant’s showing of lack of negligence.²¹¹ Hooker signed his letter “much love to you all. Very truly yours.”²¹²

On November 16, 1877, Hooker wrote to his son Ned, looking forward to seeing him in five weeks for Christmas.²¹³ He wrote that he was pleased that the United States Supreme Court had affirmed a favorable outcome in a suit by the federal government against the New Haven Railroad.²¹⁴ Hooker had prepared the briefs for Attorney R.D. Hubbard who represented the railroad.²¹⁵

²⁰² Letter from John Hooker to Isabella Hooker (Mar. 9, 1869) (on file with the Harriet Beecher Stowe Center).

²⁰³ *Id.*

²⁰⁴ Letter from John Hooker to Isabella Hooker (Oct. 9, 1872) (on file with the Harriet Beecher Stowe Center).

²⁰⁵ Letter from John Hooker to Isabella Hooker (Sept. 23, 1868) (on file with the Harriet Beecher Stowe Center).

²⁰⁶ Letter from John Hooker to Isabella Hooker, *supra* note 204.

²⁰⁷ Letter from John Hooker to Isabella Hooker (Oct. 13, 1872) (on file with the Harriet Beecher Stowe Center).

²⁰⁸ *Id.*

²⁰⁹ *Id.* Although Hooker was committed to civil rights, we still see the prevailing prejudice toward Catholics. His autobiography relates a court incident involving an “ignorant Irishman.” HOOKER, *supra* note 2, at 134.

²¹⁰ Letter from John Hooker to John C. Day (Sept. 4, 1877) (on file with the Harriet Beecher Stowe Center).

²¹¹ 44 Conn. 494, 501–04 (1877).

²¹² Letter from John Hooker to John C. Day, *supra* note 210.

²¹³ Letter from John Hooker to Edward Beecher Hooker (Nov. 16, 1877) (on file with the Harriet Beecher Stowe Center).

²¹⁴ *Id.*

²¹⁵ *Id.* See *Grant v. Hartford & New Haven R.R. Co.*, 93 U.S. 225 (1876) (listing R.D. Hubbard as the attorney for the railroad).

In a card written in Norwich, probably on Thursday, August 7, 1879, Hooker informed Isabella that a trial would continue, he would be home the following week, and that “[h]e was very well.”²¹⁶

On Friday morning, January 2, 1880, Hooker wrote from the courtroom in New Haven to Isabella that court was continuing.²¹⁷ He was going to a reception that evening and had been sleeping well.²¹⁸ He was looking forward to appearing at the women’s suffrage center.²¹⁹ In six years, Hooker would be seventy, and he was content with his aging.²²⁰

On Tuesday evening, January 13, 1880, he wrote that the court was very busy with sixteen or seventeen cases and he had had to skip dinner.²²¹ Hooker also mentioned that there was currently a snowstorm.²²²

C. *Hooker’s Autobiography*

Hooker’s autobiography also relates incidents of his time as Reporter, including humorous episodes during oral argument.²²³ He remembers the “enjoyable companionship”²²⁴ that he had with the judges. As the years passed, he noted that he was older than many of the judges.²²⁵

One of Hooker’s humorous incidents relates to an incident in court involving an “ignorant Irishman,” revealing prejudices which contrast with Hooker’s stance as an abolitionist and suffragist.²²⁶ But, more frequently, Hooker’s humorous incidents demonstrate an ability to laugh at himself. Apparently, in Hooker’s later years, he would occasionally take a nap in court during a lengthy argument.²²⁷ He relates that one of the justices fell asleep shortly after he was caught napping.²²⁸ The justice wrote a note to Hooker after Hooker woke up:

²¹⁶ Letter from John Hooker to Isabella Hooker (Aug. 7, 1879) (on file with the Harriet Beecher Stowe Center).

²¹⁷ Letter from John Hooker to Isabella Hooker (Jan. 2, 1880) (on file with the Harriet Beecher Stowe Center).

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ Letter from John Hooker to Isabella Hooker (Jan. 13, 1880) (on file with the Harriet Beecher Stowe Center).

²²² *Id.*

²²³ HOOKER, *supra* note 2, at 135, 141, 150, 152–54.

²²⁴ *Id.* at 126.

²²⁵ *Id.*

²²⁶ *Id.* at 134.

²²⁷ *Id.* at 152.

²²⁸ *Id.* at 153.

And all the court concurred, and swore
That never had there been a bore
That on their nerves so harshly wore,
And wished that they with John might snore.²²⁹

In Hooker's first year, he received instructions and a note in Latin from Chief Justice Storrs,²³⁰ prior to the argument in *Solomon v. Wixon*.²³¹ The erudite Storrs mentioned the difficulty in walking the hilly streets of Norwich; it was a "via dolorosa."²³²

Hooker's autobiography also includes many accounts of what life was like as a reporter with the court, and his relationship with the justices. Hooker was asked, on circuit, to join with the justices for dinner.²³³ On November 19, 1867, Hooker and some of the members of the bar and the justices had dinner at Justice Park's New London home.²³⁴ Hooker wrote:

We had a fine dinner and an uncommonly pleasant time. Mrs. Park is a beautiful woman and very attractive in her manners. Judge Carpenter had brought on his wife and was staying at Judge Park's. The house is delightfully situated on the high bank on the east side of the Thames, about a mile from the center of the city, at what is called Laurel Hill. The view of the river from the house is very fine.²³⁵

In February 1870, Hooker helped take Justice Hinman to the New Haven train station.²³⁶ Hinman had become ill at court and was advised by a doctor to recover at home.²³⁷ Hooker tried to encourage him and expected him to recover.²³⁸ But Hinman unfortunately passed away and Hooker wrote that he had "lost a good friend."²³⁹

When *Bailey v. Bussing*²⁴⁰ appeared in the Supreme Court for the fourth time, Hooker wrote that Attorney Sanford remarked in his argument that the case had lasted for eighteen years.²⁴¹ Sanford commented on the "at-tenuated thread of life that was left to it."²⁴² He quoted from a decision by the late Justice Storrs who in turn had referenced two lines from one of Watt's hymns:

²²⁹ *Id.*

²³⁰ *Id.* at 129.

²³¹ 27 Conn. 520 (1858).

²³² HOOKER, *supra* note 2, at 130.

²³³ *Id.* at 158.

²³⁴ *Id.* at 134.

²³⁵ *Id.* Hooker later notes another "enjoyable time" at Park's home on March 11, 1874 where he describes Justice Park's common sense and modesty. *Id.* at 141.

²³⁶ *Id.* at 135-36.

²³⁷ *Id.* at 136.

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ 41 Conn. 73 (1874).

²⁴¹ HOOKER, *supra* note 2, at 141.

²⁴² *Id.*

Oh, Lord, on what a slender thread
Hang ever-last-ing things.²⁴³

Hooker and the court visited various establishments during his tenure. This included a visit on May 30, 1877, to “the magnificent ‘Echo Farm’ of Mr. Starr, a mile east of the village of Litchfield, upon his invitation, partaking of a very nice collation of coffee, ice-cream, and cake just before we left.”²⁴⁴ In 1878, he attended the near-last session of the court in the Old State House, along with the last session of the General Assembly.²⁴⁵ The justices interrupted an oral argument to join the proceedings that included an address by Governor Hubbard.²⁴⁶ A few weeks later, Hooker and the justices attended a demonstration of the Gatling gun at the Colt Pistol Factory, given by Dr. Gatling.²⁴⁷ Carriages with Hooker and the justices departed after lunch, and they returned to the court by 3:40 p.m.²⁴⁸ Finally, Hooker wrote of being in court at the January term in Hartford in 1879 when “the Supreme Court met for the first time in its fine hall in the new capitol—a large and elegant room. Rev. Mr. Twichell of Hartford opened the session with a dedicatory prayer.”²⁴⁹

D. Hooker as Publisher

Hooker’s time as publisher involved numerous incidents that show how the nascent role of court reporter was still developing at this time.²⁵⁰ One example of this emerged in the case of *Cotting v. New York & New England Railroad Company*.²⁵¹ The Hartford Courant reported the result of the case on July 23, 1886—that a preferred dividend was allowed even though the common stock was “impaired.”²⁵² In reporting the decision, the Courant noted that while the decision was released a few days before, “[t]he fact was not known until yesterday in this city. The Hon. John Hooker, reporter for the court, is off on a vacation, and in his absence the information was some time in reaching the public.”²⁵³

²⁴³ *Id.*

²⁴⁴ *Id.* at 144.

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.* at 144–45.

²⁴⁸ *Id.* at 145.

²⁴⁹ *Id.* A few years after Hooker died, in 1910, the Supreme Court moved out of the capitol to its own building across the street from the capitol. Kendall F. Wiggin, *Hopes and Expectations Materialized: Building the Connecticut State Library and Supreme Court*, 5 CONN. SUP. CT. HIST. 1, 1 (2006).

²⁵⁰ For an account of similar, early efforts to establish and define the role of court reporters in California, see Jake Dear, *California’s First Judicial Staff Attorneys: The Surprising Role that Commissioners Played, 1885–1905*, in *Creating the Courts of Appeal*, 15 CAL. LEGAL HIST. 125 (2020) (documenting California’s early struggles to establish a program of reporting judicial decisions).

²⁵¹ 54 Conn. 156 (1886).

²⁵² *The New England Preferred: Decision of the Supreme Court*, HARTFORD DAILY COURANT, July 23, 1886, at 2.

²⁵³ *Id.*

Hooker was also involved in litigation over his exclusive publication of the Connecticut Reports during his reportership. First, in *Gould v. Banks*, West Publishing and Lawyers' Co-operative Publishing raised a question to the Supreme Court.²⁵⁴ Hooker had been asked by them to give decisions as issued to the informal reporter companies, but he refused.²⁵⁵ He told the companies to wait until the official volumes appeared.²⁵⁶ This meant that the reporter companies were often publishing the decisions several months after the date of decision.²⁵⁷ As would be expected, the Supreme Court agreed with Hooker's denial.²⁵⁸ The need for accurate official reports superseded the need for speedy publication.²⁵⁹

Epaphroditus Peck, an attorney, and later an associate judge and a legislator from Bristol,²⁶⁰ tried again, alongside West Publishing Company, to win over the court in a battle against Hooker, but also failed.²⁶¹ Peck also tried, by mandamus, to force Hooker to release pre-final copies of the Supreme Court's decisions.²⁶² Again the court stated that Hooker was statutorily responsible for issuing the opinions and correctness was more important than speed.²⁶³

Hooker and the state comptroller also requested a decision from the Supreme Court providing advice on the reporter position.²⁶⁴ While Hooker was to print the volumes of the Connecticut Reports at his own expense, a statute in 1871 increasing Hooker's salary appeared to take away his ownership of the plates from which the books were printed.²⁶⁵ The court ruled that Hooker maintained exclusive rights to use the plates and to obtain money for sale of the books, and his rights continued permanently for his volumes.²⁶⁶

E. *Hooker Retires*

In June 1893, the Waterbury Evening Democrat published a story that Hooker was "about to retire" after thirty-six years as "supreme court

²⁵⁴ 53 Conn. 415 (1885).

²⁵⁵ *Id.* at 418.

²⁵⁶ *Id.* at 416–18.

²⁵⁷ In the Matter of Gould & Co., 2 A. 886, 895 (Conn. 1885). The Atlantic Reporter of the case includes the longer excerpts of the attorney's arguments in the case.

²⁵⁸ *Gould*, 53 Conn. at 419.

²⁵⁹ In the Matter of Gould, 2 A. at 893 (citing the argument of Charles Gross, attorney for Banks & Brothers, the publishing company tasked with publishing the Connecticut Reporter).

²⁶⁰ Peck was a valedictorian graduate of Yale in 1881. His unusual first name and career are sketched on-line. Andy Osterdahl, *Epaphroditus Champion (1756–1834)*, *Epaphroditus Ransom (1798–1859)*, *Epaphroditus Peck (1860–1938)*, *Epaphroditus Champion Bacon (1811–1845)*, STRANGEST NAMES IN AM. POL. HIST. (July 21, 2011, 9:50 AM), <https://politicalstrangenames.blogspot.com/2011/07/epaphroditus-champion-1756-1834.html>.

²⁶¹ *Peck v. Hooker*, 61 Conn. 413, 420 (1892).

²⁶² *Id.* at 417.

²⁶³ *Id.* at 420.

²⁶⁴ *State Comptroller v. Hooker*, 59 Conn. 332, 333 (1890).

²⁶⁵ *Id.* at 332–33.

²⁶⁶ *Id.* at 334–35.

reporter.”²⁶⁷ His “Hooker’s reports” were well known to the legal profession throughout the country.²⁶⁸ He sought a “[l]ong [n]eeded [r]est.”²⁶⁹

Hooker’s letter of resignation was dated October 2, 1893.²⁷⁰ His effective date of resignation was January 1, 1894.²⁷¹ He recognized “the familiar and exceedingly pleasant companionship to which [he had] from the first been invited.”²⁷² The Chief Justice, Charles B. Andrews, responded:

[T]he judges of the court desire to express not only their high appreciation of [Hooker’s] services to the state, but the warm sentiment of regard and attachment which he has inspired not only in them, but, as they well know, in their predecessors in office, during a long course of years.

Mr. Hooker began his labors as reporter in 1858, and by far the greater part of the whole series of Connecticut Reports has been his work. From the first to the last of these volumes he has shown a rare mastery of the power of analysis and discrimination, as well as of concise statement and clear expression.

The judges part from him with sincere personal regret and only consent to his retirement at his earnest and repeated request.²⁷³

The exchange between Hooker and the Chief Justice was reported in the *Hartford Courant* on October 3, 1893.²⁷⁴ The article related that Hooker was seventy-eight years old and had been “one of the original abolitionists, and, though a man of singularly gentle nature, ha[d] always been active in the agitation of reforms that he favored.”²⁷⁵ The article mentioned that the justices had chosen between several candidates for Hooker’s successor.²⁷⁶ One was Charles Fellows of the Hartford Common Pleas Court.²⁷⁷ The justices, however, selected James P. Andrews, grandson of Thomas Day, and trained in the law office of William Hamersley.²⁷⁸ He was a Republican and not yet age forty.²⁷⁹

²⁶⁷ *John Hooker to Retire*, WATERBURY EVENING DEMOCRAT, June 20, 1893, at A4.

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ HOOKER, *supra* note 2, at 125.

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Supreme Court Reporter: John Hooker Resigns and James P. Andrews is Elected*, HARTFORD COURANT, Oct. 3, 1893, at 2.

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ *Id.* The office of the Reporter of Judicial Decisions remains in the Judicial Branch today. Its employees are part of the state civil service. Currently the office consists of a reporter, a deputy reporter, nine assistant reporters, and two paralegals. Email from Adam Schibley, Assistant Rep. of Jud. Decisions, Off. of the Rep., to author (Oct. 17, 2018 8:07 AM) (on file with author).

III. HOOKER'S USE OF FOOTNOTES IN JUDICIAL DECISIONS

Hooker's reports frequently include footnotes, marked by asterisks, in which Hooker provides useful information or his own opinions. The use of asterisks in this manner is not done in modern reports, but it was less controversial during Hooker's day. Matson, Hooker's immediate predecessor, had occasionally used asterisks in his reports. In *Hood v. New York and New Haven Rail Road Co.*, Matson noted that the court had awarded a new trial to the plaintiff and set forth the result of the new trial.²⁸⁰ In the same volume, at page fifty-six, Matson mentioned that an heir, whose rights were at issue in the case, had died.²⁸¹

Hooker, both with procedural notes and notes of substance, went beyond Matson and all future reporters.²⁸² These notes were often signed "R." or "Reporter."²⁸³

Hooker's use of asterisked procedural footnotes included the following:

1. Disqualification or unavailability of a justice, with the assignment of a replacement from the Superior Court.²⁸⁴
2. Cases taken by the court on the briefs without oral argument.²⁸⁵
3. Citations to other relevant cases, statutes, the record, errata, or factual background of a case or another text.²⁸⁶

²⁸⁰ *Hood v. N.Y. & New Haven R.R. Co.*, 22 Conn. 1, 19 n.* (1853).

²⁸¹ *White v. Fisk*, 22 Conn. 31, 56 n.* (1853).

²⁸² Hooker's successor, Andrews, only used the asterisk to set forth the statutory text. *See, e.g.*, *O'Connor v. Waterbury*, 69 Conn. 206, 209 n.* (1897).

²⁸³ *See, e.g.*, *Salisbury Sav. Soc'y v. Cutting*, 50 Conn. 113, 126 (1882) (signing a note "R."); *Bull v. Meloney*, 27 Conn. 560, 566 (1858) (signing a note "Reporter").

²⁸⁴ *E.g.*, *Lane v. Brainerd*, 30 Conn. 565, 565 (1862); *City of New Britain v. Sargent*, 42 Conn. 137, 141 (1875); *Gallagher v. Dodge*, 48 Conn. 387, 387 (1880); *Gates v. Bingham*, 49 Conn. 275, 275 (1881); *State v. Smith*, 49 Conn. 376, 378 (1881); *Brinley v. Grou*, 50 Conn. 66, 66 (1882); *Shea v. Maloney*, 52 Conn. 327, 327 (1884); *Hewitt's Appeal from Probate*, 53 Conn. 24, 24 (1885); *Bartlett v. Slater*, 53 Conn. 102, 102 (1885); *Town of Middletown v. Bos. & N.Y. Air Line R.R. Co.*, 53 Conn. 351, 357 (1885).

²⁸⁵ *E.g.*, *Olmstead v. Winsted Bank*, 32 Conn. 278, 284 (1864); *Hull v. Culver*, 34 Conn. 403, 404 (1867); *Steele v. Steele*, 35 Conn. 48, 53 (1868); *Stile's Appeal from Probate*, 41 Conn. 329, 333 (1874); *Welch v. Bos. & Albany R.R. Co.*, 41 Conn. 333, 343 (1874); *Kerrigan v. Rautigan*, 43 Conn. 17, 17 (1875); *Osgood v. Carver*, 43 Conn. 24, 28 (1875); *Taylor v. Moore*, 47 Conn. 278, 278 (1879); *Ward v. Dick*, 47 Conn. 300, 304 (1879).

²⁸⁶ *E.g.*, *Slater v. Hayward Rubber Co.*, 26 Conn. 128, 143 (1857); *Smith v. Richards*, 29 Conn. 232, 234 (1860); *Osgood v. Thompson Bank*, 30 Conn. 27, 34 (1861); *In re Opinion of Justices*, 30 Conn. 591, 591 (1862); *Somers v. Joyce*, 40 Conn. 592, 592 (1874); *Tyler v. Hamersley*, 44 Conn. 393, 394 (1877); *State v. Hoyt*, 47 Conn. 518, 518–20 (1880); *Buckingham's Appeal from Probate*, 60 Conn. 143, 148 (1891). This list does not include quotations from a statute under review in a case. These were always printed in part or in full by means of an asterisk. This list is of different statutes from a statute under review. An example from *Fowler v. Bishop*, 32 Conn. 199, 201 n.* (1864):

While one of the counsel was discussing this point, Judge Dutton remarked that where a note, of such an amount as to be beyond the jurisdiction of an inferior court, had been reduced by payments indorsed on it to a sum within the jurisdiction, and the payments were stated in the declaration, he had held that the jurisdiction of the inferior

4. Summarizing arguments of counsel. Hooker would usually summarize these, although there were times he did not believe such summarization was called for. Hooker would sometimes, as a help to the bar, summarize an argument of counsel that was not reached by the court.²⁸⁷
5. Notes reflecting that the court was considering a motion for a new trial or a motion in error.²⁸⁸
6. General court information about lawyers that argued or recently joined the case, or attorneys or judges that were ill or died.²⁸⁹
7. To correct the summary in the headnote. This indicates that the asterisks were added by Hooker after he received the original proofs.²⁹⁰
8. These cases also indicate that Hooker occasionally would prepare a brief for the attorney arguing the case.²⁹¹

Hooker would also use his asterisk or note-making early on to write a biographic tribute to an attorney friend. Later, these obituaries would find their way to the appendix of the Connecticut Reports volume. He wrote an obituary at 27 Conn. 271 for his “intimate friend” Elihu Spencer, noting that he had left him on his deathbed, after visiting him in Middletown during a term of the court.²⁹²

court could be sustained. He stated that he took the informal advice of the judges of the Supreme Court upon the point, and that they so advised him.

²⁸⁷ *E.g.*, Meriden Britannia Co. v. Parker, 39 Conn. 450, 451 n.* (1872); Ridgefield & N.Y. R.R. Co. v. Brush, 43 Conn. 86, 93 n.* (1875); Morgan v. Jones, 44 Conn. 225, 229 n.* (1876); Greene v. A. & W. Sprague Mfg. Co., 52 Conn. 330, 358 n.* (1885); Hartford Manilla Co. v. Olcott, 52 Conn. 452, 453 n.* (1885).

²⁸⁸ *E.g.*, State v. Maine, 27 Conn. 281, 281 (1858); Mead v. Dayton, 28 Conn. 32, 35 n.† (1859); Trinity Coll. v. City of Hartford, 32 Conn. 452, 466 n.* (1865).

²⁸⁹ *E.g.*, Judges of the Supreme Court of Errors During the Time of the Within Reports, 25 Conn. iii (1856); Dean v. Mann, 28 Conn. 352, 352 (1859); Bridgeport Bank v. N.Y. & New Haven R.R. Co., 30 Conn. 231, 240 (1861); Hoxie v. Home Ins. Co., 32 Conn. 21, 40 n.* (1864); Weiss v. Alling, 34 Conn. 60, 62 n.* (1867); Goodsell v. Dunning, 34 Conn. 251, 251 n.* (1867); Occum Co. v. A. & W. Sprague Mfg. Co., 34 Conn. 529, 531 n.* (1868); Marvin v. Bushnell, 36 Conn. 353, 353 n.* (1870); Town of Chatham v. Niles, 36 Conn. 403, 403 n.* (1870); Jewett v. City of New Haven, 38 Conn. 368, 368 n.* (1871); Pond v. Skidmore, 40 Conn. 213, 223 (1873); Judges of the Supreme Court of Errors During the Time of the Within Reports, 41 Conn. iii (1875) (discussing Justice Park becoming Chief Justice); Knowles v. Peck, 42 Conn. 386, 394 (1875); Shay’s Appeal from Probate, 51 Conn. 162, 164 n.* (1883); Prefatory Note, 54 Conn. iii (1887) (noting the scheduling); Preface, 56 Conn. iii (1889) (prefacing 1888 statutes); Judges of the Supreme Court of Errors During the Time of the Within Decisions, 57 Conn. iv (1890) (preface) (demonstrating that Park retired and Andrews appointed).

²⁹⁰ *E.g.*, Farist Steel Co. v. City of Bridgeport, 60 Conn. 278, 288 n.* (1891).

²⁹¹ *E.g.*, Smith v. Lewis, 26 Conn. 110, 112 n.* (1857); Rowan v. Sharps’ Rifle Mfg. Co., 29 Conn. 282, 298 (1860); Gillette v. City of Hartford, 31 Conn. 351, 354 (1863); State *ex rel.* Woodford v. North, 42 Conn. 79, 85 (1875). In *Woodford*, and in several other cases, it is unclear whether Hooker only wrote the brief or actually argued. He is listed first.

²⁹² Obituary of Elihu Spencer, Esq., 27 Conn. 271 app., 271–72 (1858).

In the *Smith v. Lewis* cases,²⁹³ Hooker played a role as an advocate both before and after he became the reporter. These cases involved an action for breach of contract.²⁹⁴ The issue was whether the defendant had properly tendered personalty by stating that he was “ready and willing” to do so.²⁹⁵ The cases were brought to the Supreme Court on a stipulation of facts.²⁹⁶ Hooker represented the plaintiff in error, the defendant at trial who was appealing the finding against him as a contract violator, along with Calvin Wheeler Philleo.²⁹⁷ Hooker wrote a letter, probably to Philleo, during the proceedings, most likely in 1856.²⁹⁸ He was most insistent: “Where are you. When are you coming down. I want you here very much on the *Smith v. Lewis* case. The judge agreed to allow our motion. I am only waiting for you to come down. Bear a hand and come along. Yours, J.H.”²⁹⁹

The court ruled against Hooker, holding that the defendant failed to prove that the alleged tender was sufficient.³⁰⁰ The case in 24 Conn. was included in a volume edited by Matson.³⁰¹ The case in 26 Conn. was included in a volume edited by Hooker in 1859.³⁰² At 26 Conn. 112, Hooker placed an asterisk and included an obituary: “This was the last occasion on which Mr. Philleo appeared at the bar of this court. The next term found him in declining health, and on the 30th day of June [1858] following he died at the age of thirty-six.”³⁰³ Hooker continued that Philleo was also a magazine writer whose work had appeared in *Putnam’s Monthly* and *The Atlantic Monthly*.³⁰⁴

More substantively, in *Bull v. Meloney*, his note showed that he “examined the file in the office of the clerk of court in” a case cited in the opinion.³⁰⁵ Hooker compared the facts in the earlier case to the case under decision.³⁰⁶ Similarly, in *Bailey v. Bussing*, Hooker raised a point in a footnote of whether a defendant was correctly characterized as jointly liable.³⁰⁷

In *Calhoun v. Richardson*, the court granted a new trial as the trial judge had given an improper charge.³⁰⁸ The issue was the liability of the directors of a bankrupt insurance company.³⁰⁹ Hooker wrote a three-page essay on

²⁹³ *Smith v. Lewis*, 24 Conn. 624 (1856); *Smith v. Lewis*, 26 Conn. 110 (1857).

²⁹⁴ *Smith*, 24 Conn. at 624; *Smith*, 26 Conn. at 110.

²⁹⁵ *Smith*, 24 Conn. at 62.

²⁹⁶ *Id.* at 627–30.

²⁹⁷ *Id.* at 632.

²⁹⁸ Letter from John Hooker to an unknown recipient (date unknown, presumed 1856) (on file with the Harriet Beecher Stowe Center).

²⁹⁹ *Id.*

³⁰⁰ *Smith*, 24 Conn. at 641.

³⁰¹ Preface, 24 Conn. i–ii, vi (1855–56).

³⁰² Preface, 26 Conn. i–ii, vi (1857–58).

³⁰³ *Smith*, 26 Conn. at 112 n.*.

³⁰⁴ *Id.*

³⁰⁵ *Bull v. Meloney*, 27 Conn. 560, 566 (1858).

³⁰⁶ *Id.*

³⁰⁷ *Bailey v. Bussing*, 28 Conn. 455, 456 n.* (1859).

³⁰⁸ *Calhoun v. Richardson*, 30 Conn. 210, 227, 229 (1861).

³⁰⁹ *Id.* at 211.

estoppel in a footnote to the opinion.³¹⁰ He concluded that the case should be “taken out of this mere equitable principle and placed on the highest ground known to the law, that of its policy, founded on morality and the public good.”³¹¹

In *Potwine’s Appeal from Probate*, the court left open the issue of the probate judge’s right to revoke one decree and issue a second decree more favorable to a widow.³¹² Hooker, in a footnote, analyzed the issue and found a case, from another jurisdiction, disallowing this procedure.³¹³

In *Adams v. Lewis*, Hooker explained in his note a procedural ruling of the court.³¹⁴ The defendants in the trial court had made a reply that placed the burden on them.³¹⁵ Subsequently, the parties had stipulated that the Supreme Court should render a decision.³¹⁶ The Supreme Court decided to let the defendants argue first.³¹⁷

In *Greene v. New London Agriculture Society*, Hooker explained in a note that one issue in the case as raised by the parties was the constitutionality of an act of Congress taxing a state’s legal writ.³¹⁸ He concluded that the court never reached this issue in its decision.³¹⁹

In *Kellogg v. Brown*, Hooker gave a lengthy explanation of when a court has jurisdiction, and when jurisdiction may be waived if the court is not properly constituted.³²⁰ He also discussed a situation where a judge is disqualified and the parties agree that a member of the bar may, by consent, adjudicate the matter.³²¹

In *Hamilton v. Crosby*, Hooker concluded, regarding a deed at issue, that a trustee lacked authority to sell the realty or the trustee had not deemed it necessary and proper to sell.³²² “[B]ut as the court upheld the deed . . . it is to be inferred that it was held to be good.”³²³

In *Loomis v. Eaton*, Hooker set forth the holding of the case—that the commissioners in probate had not issued a conclusive ruling.³²⁴ He discusses a further issue of whether a Superior Court judgment on the commissioners’ report would be conclusive and appealable, concluding that “a judgment of

³¹⁰ *Id.* at 229–31.

³¹¹ *Id.* at 231.

³¹² *Potwine’s Appeal from Probate*, 31 Conn. 381, 382–83 (1863).

³¹³ *Id.* at 383 n*.

³¹⁴ *Adams v. Lewis*, 31 Conn. 501, 505 n.* (1863).

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Greene v. New London Cnty. Agric. Soc’y*, 32 Conn. 95, 95 n.* (1864).

³¹⁹ *Id.*

³²⁰ *Kellogg v. Brown*, 32 Conn. 108, 111–12 (1864).

³²¹ *Id.* at 112.

³²² *Hamilton v. Crosby*, 32 Conn. 342, 347 (1865).

³²³ *Id.*

³²⁴ *Loomis v. Eaton*, 32 Conn. 550, 552 (1865).

the superior court upon the same matter on an appeal from the commissioners would undoubtedly be conclusive.”³²⁵

In the supplement to 32 Conn., the justices replied to a question from the General Assembly: Was a Black person a citizen of the United States under an amendment to the state constitution of October 1845?³²⁶ The justices replied that a free Black person was a citizen of the United States.³²⁷ In a footnote, Hooker reviewed the case of *Crandall v. State*, 10 Conn. 339 (1834), where Chief Justice Daggett stated that Black people were not citizens.³²⁸ Hooker provided a letter from Judge Williams from March 1857 that Hooker had “seen.”³²⁹ The letter was sent by Williams, who had participated in *Crandall*, to Judge Bissell.³³⁰ Williams stated that Judge Daggett’s view in *Crandall*, holding that Black people were not citizens, was not accepted by the other judges.³³¹ Hooker also referenced “the recent act by Congress, known as the Civil Rights bill.”³³² This act of Congress made the Williams letter more of historical than practical interest.³³³

In *Mather v. Chapman*, Hooker expounds upon a case where the court rejected in part the plaintiffs’ claim to seaweed on a neighbor’s property.³³⁴ The seaweed had washed up below the high tide mark and thus was public property.³³⁵ In its ruling, the Court had considered the plaintiffs to be an owner, while Hooker considered the plaintiffs to be making a claim as an easement-holder.³³⁶

In *Bristol v. Ousatonic Water Co.*, the Court wrote an opinion rejecting an action by an adjoining owner against a person who had constructed a dam on a river.³³⁷ The plaintiff had a fishery on the river.³³⁸ Hooker’s note stated that the court did not reach the issue of riparian rights of the fisherman, but he was providing portions of one party’s briefs in his footnote as this would be “valuable to the profession” on this topic.³³⁹

In *Supples v. Cannon*, Hooker took up a matter that was the basis for the court’s opinion.³⁴⁰ There was no question that a fact in a prior version of the case, where a fact was specifically found, would bind a later determination in court.³⁴¹ In the situation where it was unclear what facts were found, parol

³²⁵ *Id.*

³²⁶ Supplement: Opinion of the Judges of the Supreme Court, 32 Conn. 565, 565 (1865).

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Id.* at 566.

³³⁰ *Id.*

³³¹ *Id.*

³³² *Id.*

³³³ *Id.*

³³⁴ *Mather v. Chapman*, 40 Conn. 382, 395 (1873).

³³⁵ *Id.* at 396.

³³⁶ *Id.* at 395 n.*.

³³⁷ *Bristol v. Ousatonic Water Co.*, 42 Conn. 403, 415 (1875).

³³⁸ *Id.* at 404.

³³⁹ *Id.* at 410 n.*.

³⁴⁰ *Supples v. Cannon*, 44 Conn. 424, 431–34 (1877).

³⁴¹ *Id.* at 431.

evidence would be allowed.³⁴² Even a judge or juror could testify, but only voluntarily.³⁴³ He continued this discussion in a long note in *Gregory v. Sherman*.³⁴⁴ The court thoroughly discussed what differentiates a judicial record that is considered one of “absolute verity” from one that is merely incidental, such as a marshal’s service.³⁴⁵

In *Zaleski v. Clark*, a sculptor plaintiff had sued the defendant for failure to pay his fee for a bust he had made of the defendant’s late husband.³⁴⁶ The widow had rejected paying for the bust on the grounds that it failed to capture her husband’s likeness.³⁴⁷ In an original appeal by the plaintiff, a new trial was ordered, and the plaintiff would later recover in this second trial.³⁴⁸ The defendant, after this proceeding in the Superior Court, unsuccessfully sought to obtain an order of the Supreme Court that another trial be held.³⁴⁹ Hooker’s lengthy note set forth the four means then existing to take an appeal to the Supreme Court: (1) writ of error, (2) motion in error, (3) motion for a new trial, and (4) a reservation for advice.³⁵⁰ He argued that the attempt at a new trial was procedurally flawed in this appeal, and it should have been brought as a writ of error or motion in error.³⁵¹

In *Catlin v. Haddox*, Hooker specifically differed with the analysis of the court in a case involving an “infant” disavowing or accepting a contract.³⁵²

In *Salisbury Savings Society v. Cutting*, the court had ruled on a case involving the duty of the defendant to search the land records.³⁵³ Hooker spent five pages *rejecting* a rule that he states was not discussed in the opinion.³⁵⁴ He could not accept that a grantor may give a deed while not holding title and then, after acquiring title, convey a second deed and record this second deed, and make the claim that the first deed prevails.³⁵⁵ He rejected this rule as doing violence to the registration of deeds system.³⁵⁶

In *Miller v. Benton*, a divided Supreme Court held that a lease survived a rescission to the extent that a landlord might recover outstanding rent from the lessee.³⁵⁷ Hooker wrote a lengthy note on the effect of a rescission, addressing whether an annulled contract can be made the basis of a suit for damages.³⁵⁸

³⁴² *Id.* at 432.

³⁴³ *Id.* at 432–33.

³⁴⁴ *Gregory v. Sherman*, 44 Conn. 466, 473 (1877).

³⁴⁵ *Id.* at 468.

³⁴⁶ *Zaleski v. Clark*, 45 Conn. 397, 397–98 (1877).

³⁴⁷ *Id.* at 398.

³⁴⁸ *Zaleski v. Clark*, 44 Conn. 218, 220 (1876).

³⁴⁹ *Zaleski*, 45 Conn. at 397.

³⁵⁰ *Id.* at 405–08.

³⁵¹ *Id.* at 408.

³⁵² *Catlin v. Haddox*, 49 Conn. 492, 500–01 (1882).

³⁵³ *Salisbury Sav. Soc’y v. Cutting*, 50 Conn. 113, 118 (1882).

³⁵⁴ *Id.* at 122–26.

³⁵⁵ *Id.* at 122–23.

³⁵⁶ *Id.* at 123.

³⁵⁷ *Miller v. Benton*, 55 Conn. 529, 548–49 (1888).

³⁵⁸ *Id.* at 551–54.

In *Shaw v. City of Hartford*, the court held that a penalty should not have been charged for a non-resident who was late in submitting a property list to the assessor.³⁵⁹ Hooker gave an analysis confirming the court's decision.³⁶⁰

In *Essex Savings Bank v. Meriden Ins. Co.*, the court decided whether an insured had an insurable interest to recover a loss.³⁶¹ Hooker's note summarized a companion case in which an insured attempted to claim an insurable interest after a property had been foreclosed upon.³⁶²

In *Butler v. Barnes*, Hooker challenged the use by the bar of the word "costs" to include out-of-pocket damages.³⁶³ "Costs" refers only to statutory "taxable costs."³⁶⁴

In *Donahue's Appeal from Commissioners*, as "a service to the profession" Hooker discusses the distinction of appealing from a commissioner's report on an insolvent estate and an appeal from an act of the probate court itself.³⁶⁵ Hooker noted that the practice is "becoming so loose and irregular."³⁶⁶

Hooker's notes were seen by the court as a source of precedent.³⁶⁷ Justice Pardee, one of Hooker's closest friends, cited to Hooker's notes in *Damon v. Denny*.³⁶⁸

Justice Hall in *Wheeler v. Young* refers to Hooker's note in *Salisbury Savings Society*, a case which, like *Wheeler*, involved the recording of deeds:³⁶⁹

The note to the case by the reporter, the late Mr. Hooker, contains an able discussion of the question left undecided by the court, in which he reaches the conclusion that the deed of the subsequent *bona fide* purchaser for value and without knowledge of the prior deed, must prevail, under our registry laws, over that of the prior recorded deed of the negligent grantee. We think his reasoning is convincing and is especially applicable to the facts of the present case.³⁷⁰

³⁵⁹ *Shaw v. City of Hartford*, 56 Conn. 351, 352, 354 (1887).

³⁶⁰ *Id.* at 354–55.

³⁶¹ *Essex Sav. Bank v. Meriden Fire Ins. Co.*, 57 Conn. 335, 335 (1889).

³⁶² *Id.* at 345–46.

³⁶³ *Butler v. Barnes*, 61 Conn. 399, 405, 411 (1892).

³⁶⁴ *Id.* at 405 n.*.

³⁶⁵ *Donahue's Appeal from Comm'rs*, 62 Conn. 370, 376–78 (1892).

³⁶⁶ *Id.* at 376.

³⁶⁷ *See, e.g.*, *Damon v. Denny*, 54 Conn. 253, 255–56 (1886) (citing Hooker's note in *Supples v. Cannon*, 44 Conn. 424, 431–34 (1877)).

³⁶⁸ *Id.* at 255. *See also* HOOKER, *supra* note 2, at 161–62 (speaking glowingly of Pardee); Obituary Sketch of Dwight W. Pardee, 63 Conn. 607 app., 607–08 (1893) (speaking glowingly of Pardee in his obituary).

³⁶⁹ *Wheeler v. Young*, 76 Conn. 44, 48–49 (1903).

³⁷⁰ *Id.* at 49–50.

IV. HOOKER'S ROLE IN THE MARY HALL DECISION

Hooker was also involved in the admission to the Connecticut Bar of Mary Hall, the first woman so designated.³⁷¹ This Section will argue that, while his claim of having written the opinion³⁷² is not likely to be true, Hooker likely played a larger role than his modern critics often contend.

The issue was obviously related to Hooker's life-long devotion to the rights of women.³⁷³ He prepared a draft bill at the urging of Isabella that abolished the common law right of the husband to control his wife's financial estate.³⁷⁴ This proposed act was first introduced in the Connecticut General Assembly in 1870 but was not adopted.³⁷⁵ After submitting the bill year after year, the Hookers successfully achieved its passage in 1877.³⁷⁶ It was entitled "The Married Women's Property Act."³⁷⁷

Hooker was deeply involved in the suffrage movement, along with Isabella.³⁷⁸ He wrote many letters to the Hartford Courant on the topic and was involved in the controversy over the trial of Susan B. Anthony that was held in 1873.³⁷⁹ On December 15, 1873, his opinion was printed in the Courant arguing that she had the right to vote under the Fourteenth Amendment and her conviction was wrong.³⁸⁰

Hooker was also active in Isabella's Connecticut Women's Suffrage Organization. A Courant article of October 29, 1869 lists Hooker as the author of the organization's bylaws,³⁸¹ and an October 5, 1871 article referred to him as the chairman and treasurer of the organization.³⁸²

³⁷¹ HOOKER, *supra* note 2, at 146; *see also* Matthew G. Berger, *Mary Hall: The Decision and the Lawyer*, 79 CONN. BAR J. 29, 36–37, 39–40 (2005) (providing the full story of Hooker's role in Hall's admission to the Bar).

³⁷² HOOKER, *supra* note 2, at 127.

³⁷³ *Id.* at 245–46.

³⁷⁴ CAMPBELL, *supra* note 4, at 134–35.

³⁷⁵ *Id.* at 134.

³⁷⁶ *Id.* at 135.

³⁷⁷ Conn. Gen. Stat. § 46b-36 (2020).

³⁷⁸ Hooker and Isabella played a role in the Smith sisters' effort to vote at the annual meeting in Glastonbury. *See* JULIA E. SMITH, ABBY SMITH AND HER COWS: WITH A REPORT OF THE LAW CASE DECIDED CONTRARY TO LAW 9–11 (1877). The local collector would periodically seize cows belonging to the Smith sisters, who refused to pay their real estate tax because they were denied the right to vote at the annual meeting. *Id.* at 13. With the Hookers' assistance, offering financial help and involving Susan B. Anthony, the Smith Sisters eventually prevailed in suits to take their animals due to the tax debt. *Id.* at 17–18.

³⁷⁹ John Hooker, Opinion, *Woman Suffrage*, HARTFORD COURANT, Dec. 15, 1873, at 1.

³⁸⁰ *Id.* *See also* HOOKER, *supra* note 2, at 163–70. He attacked the trial judge, U.S. Supreme Court Justice Hunt, for taking the case away from the jury. Susan B. Anthony was not allowed to prove that she did not intend to vote illegally. There was a scholarly debate current at the time of her vote that the privileges and immunities clause of the Fourteenth Amendment extended the franchise to women. This argument was rejected by the Supreme Court in *Minor v. Happersett*, 88 U.S. 162, 165, 176–78 (1874).

³⁸¹ *Woman's Suffrage Convention*, HARTFORD DAILY COURANT, Oct. 29, 1869, at 2.

³⁸² *Female Suffrage: Meeting of the State Female Suffrage Association*, HARTFORD DAILY COURANT, Oct. 5, 1871, at 1.

Mary Hall came to one of the Hookers' suffrage meetings in 1877 and was impressed.³⁸³ She asked John Hooker if he would assist in her goal of becoming an attorney.³⁸⁴ Hooker was also an acquaintance of Hall's brother Ezra who died young in 1877.³⁸⁵ Ezra had read law with Thomas Perkins,³⁸⁶ Isabella's relative by marriage.³⁸⁷

Hall stayed with Hooker as his assistant both in his limited private practice and in his reportership.³⁸⁸ She also was Hooker's contact for contributions to the suffrage movement.³⁸⁹

Sufficiently trained by 1882, Hall sought admission to the bar.³⁹⁰ The bar of Hartford County, after assessing her legal skills at an oral examination, voted to recommend her admission, subject to a decision by the Supreme Court of whether the statutes of Connecticut permitted admission of a woman to the bar.³⁹¹ The bar appointed Thomas McManus to support her admission in court and Goodwin Collier to oppose her admission.³⁹²

The sole issue in the case was whether Hall qualified under the statute that provided that the Superior Court "may admit as attorneys such persons as are qualified therefor agreeably to the rules established by the judges of said court."³⁹³ In other words, did "persons" in the statute extend to women?³⁹⁴

As the case approached oral argument, an editorial in the New York Times noted that two former judges of the Superior Court, McManus and Collier, were facing off against each other.³⁹⁵ Only legal points would be considered, and "all questions of expediency [would be] thrown aside."³⁹⁶ All states to consider a woman's admission, when there was no statute at all, had rejected admission.³⁹⁷ This had been remedied in some states by favorable legislation.³⁹⁸

³⁸³ *Mary Hall: Connecticut's First Female Attorney*, CONN. HIST. (May 29, 2020), <https://connecticuthistory.org/mary-hall-connecticuts-first-female-attorney>.

³⁸⁴ *Id.*

³⁸⁵ Susan Campbell, *Here's to Mary Hall, a Small-Town Success*, HARTFORD COURANT (July 4, 1998), <https://www.courant.com/news/connecticut/hc-xpm-1998-07-04-9807040178-story.html>.

³⁸⁶ Obituary Notice of Ezra Hall, 44 Conn. 612 app., 612 (1877).

³⁸⁷ Susan Campbell, *Looking Back: Tempest Tossed, the Story of Isabella Beecher Hooker*, CONN. HIST. (Mar. 5, 2020), <https://connecticuthistory.org/looking-back-tempest-tossed-the-story-of-isabella-beecher-hooker/>.

³⁸⁸ Campbell, *supra* note 385.

³⁸⁹ On August 11, 1882, Hooker wrote a letter to the Hartford Courant seeking contributions to an effort to amend Nebraska's constitution to allow women to vote. Hooker listed Hall as the recipient for any contributions to that effort. John Hooker, Letter to the Editor, *Woman Suffrage in Nebraska*, HARTFORD DAILY COURANT, Aug. 15, 1882, at 2.

³⁹⁰ HOOKER, *supra* note 2, at 145.

³⁹¹ *Id.* at 145–46.

³⁹² *Id.* at 146.

³⁹³ *In re Hall*, 50 Conn. 131, 131 (1882).

³⁹⁴ *Id.* at 136.

³⁹⁵ *Women at the Connecticut Bar: The Right of a Woman to Be Admitted to Practice to Be Tested*, N.Y. TIMES, Apr. 29, 1882, at 5.

³⁹⁶ *Id.*

³⁹⁷ *Id.*

³⁹⁸ *Id.*

In Connecticut, the Times article continued, there was a general statute on admission of attorneys, dating from 1708, which made no reference to gender.³⁹⁹ In New Haven County, the rules set admission at twenty years and allowed judges to promulgate any other rule that they saw fit.⁴⁰⁰ The issue of a woman's admission under the statute had never been resolved.⁴⁰¹ Those that differed with Hall believed that the 1708 legislation, at the time it was enacted, never contemplated women to be admitted.⁴⁰² Thus, if Hall were not a "person" under the 1708 statute or later enactments, she would need to obtain a new legislative enactment specifically stating that "person" included "a woman."⁴⁰³

After oral argument, the court ruled 3-2 in Hall's favor.⁴⁰⁴ Writing for the majority, Chief Justice Park first noted that the Superior Court had reserved the case for the advice of the Supreme Court.⁴⁰⁵ The sole argument against Hall was that when the predecessor statute, virtually identical to the current statute, was passed, "its application to women was not thought of."⁴⁰⁶ Thus, if this line of reasoning was correct, a clarifying statute was necessary, and, until the legislature enacted such a statute, Hall should have been denied admission to the bar.⁴⁰⁷

According to Justice Park, however, the use of the word "person" as originally used, and as retained in various amendments over the years, was not completely controlling.⁴⁰⁸ He called for an interpretation that took into account the reason "person" was used at all in the various revisions.⁴⁰⁹ Construing the legislation of 1875 required accounting for women currently in professional and public positions.⁴¹⁰ He pointed to two statutes allowing for the appointment of women as pension agents and postmasters.⁴¹¹ Indeed, Hall herself was a commissioner in Marlborough.⁴¹² As Justice Park stated, "We are not to forget that all statutes are to be construed, as far as possible, in favor of equality of rights."⁴¹³

Park closed by rejecting decisions of other states, holding that the Connecticut statute was "too clear to admit of any reasonable question as to

³⁹⁹ *Id.*

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.*

⁴⁰² *In re Hall*, 50 Conn. 131, 132 (1882).

⁴⁰³ *Id.*

⁴⁰⁴ *Id.* at 138.

⁴⁰⁵ *Id.* at 131.

⁴⁰⁶ *Id.* at 132.

⁴⁰⁷ *Id.*

⁴⁰⁸ *Id.* at 134–35.

⁴⁰⁹ *Id.*

⁴¹⁰ *Id.* at 135.

⁴¹¹ *Id.* at 137–38.

⁴¹² *Mary Hall*, CONN. WOMEN'S HALL FAME, <https://www.cwhf.org/inductees/mary-hall> (last visited July 19, 2020).

⁴¹³ *In re Hall*, 50 Conn. 131, 137 (1882).

the interpretation and effect which we ought to give it.”⁴¹⁴ Justice Pardee, in dissent, relied on the law of England in effect when the predecessor statute was passed, because there were no women practicing then.⁴¹⁵ Pardee argued that to rule otherwise was “to precede the legislature in declaring that it has changed its mind.”⁴¹⁶

Mary Hall became a member of the Connecticut bar and practiced for many years thereafter.⁴¹⁷ She continued at Hooker’s office for a while and then established her own firm.⁴¹⁸ She is also remembered for a club that she initiated to assist destitute young men, mostly newsboys, known as the “Good Will Club.”⁴¹⁹

Hooker’s involvement with *Hall* has brought about two controversies: First, did Hooker orally argue along with McManus, even though he was the Reporter of Judicial Decisions? And second, did Hooker write Chief Justice Park’s opinion?

On the first question, it was not uncommon for the strict ethics codes of today to have more relaxed standards in the nineteenth century.⁴²⁰ It is likely that Hooker played a role in the argument, certainly helping to write the brief of McManus in favor of Hall.⁴²¹ In his autobiography, Hooker states that he “argued” the case along with McManus.⁴²² This does not necessarily mean, however, that he participated in the *oral* argument. He was clearly in the courtroom, as his letters to Isabella recount that he was sitting in front of the justices.⁴²³ It is unlikely that he stood up and presented the case.

Justice Park’s opinion, by an asterisk supplied by Hooker, only notes that McManus represented Hall, as the bar ordered.⁴²⁴ Since Hooker was the person charged with editing Volume 50 of the Connecticut Reports, he may simply have placed his name first in the beginning of the case because this case was near to his heart.

On the question of authorship of the *Hall* opinion, Hooker stated in his autobiography he “wrote” that opinion.⁴²⁵ Wesley Horton, a scholar of the

⁴¹⁴ *Id.* at 138.

⁴¹⁵ *Id.* at 138–39 (Pardee, J., dissenting).

⁴¹⁶ *Id.* at 139. The New York Times on September 27, 1882, reported the outcome, quoting Justice Park’s opinion and summarizing his conclusion that the cases from other states were distinguishable. *Miss Attorney Hall*, N.Y. TIMES, Sept. 27, 1882, at 4.

⁴¹⁷ Campbell, *supra* note 385.

⁴¹⁸ *Id.*

⁴¹⁹ Berger, *supra* note 371, at 38–39.

⁴²⁰ See Carol Rice Andrews, *Standards of Conduct for Lawyers: An 800-Year Evolution*, 57 SMU L. REV. 1385, 1417–18 (2004) (describing the infrequency of disciplinary action against lawyers in the early United States, and the fact that this infrequency meant that the legal system did not develop uniform systems of conduct).

⁴²¹ *In re Hall*, 50 Conn. 131, 131 (1882).

⁴²² HOOKER, *supra* note 2, at 146.

⁴²³ Letter from John Hooker to Isabella Hooker (Feb. 13, 1862) (on file with the Harriet Beecher Stowe Center).

⁴²⁴ *In re Hall*, 50 Conn. at 131 n.*.

⁴²⁵ HOOKER, *supra* note 2, at 127.

Connecticut Supreme Court, calls this assertion by Hooker “too bizarre to be believed.”⁴²⁶ However, Hooker may well have put together a draft opinion for Justice Park, even if he was again overstating his involvement to some degree.

In his autobiography, Hooker states that he “wrote a large number of opinions, sometimes in cases of special difficulty, and sometimes only to help some judge who was ill.”⁴²⁷ Over fifty times, he drafted an opinion for the justice who was to write the opinion, and who later adopted Hooker’s draft as his own.⁴²⁸

In his autobiography, Hooker gives two examples other than *Hall* of his ghost-writing. He wrote a decision for Chief Justice Park in *Andreas v. Hubbard*, a case involving a foreclosure on two parcels and a claim by the debtor for apportionment.⁴²⁹ He also wrote a response by the court to a question posed by the legislature on taxation of U.S. bonds.⁴³⁰ His response declared that the Court could not give such advice.⁴³¹

Another case where Hooker played a role was *Mowry v. Hawkins*.⁴³² Hooker received a draft opinion by Justice Carpenter.⁴³³ Hooker wrote to Carpenter on September 18, 1889, informing him that clarity required the insertion of language, as Hooker drafted it, about “transfer” of a security.⁴³⁴ On September 19, 1889, Carpenter wrote back agreeing to Hooker’s amended language.⁴³⁵

Therefore, while *Hall* was “written” by Chief Justice Park, it is possible that Hooker wrote the first draft based on the brief that he had written for McManus. Horton points out that Park had a distinctive style and that Hooker therefore could not have written the opinion.⁴³⁶ However, Park’s

⁴²⁶ WESLEY HORTON, *THE HISTORY OF THE CONNECTICUT SUPREME COURT* 92 (2008). Horton criticized Hooker’s autobiography as not believable on this point and others, such as his explanation of his failing to obtain a seat on the Supreme Court. E-mail from Wesley Horton to author (Mar. 11, 2020 9:42 AM) (on file with author).

⁴²⁷ HOOKER, *supra* note 2, at 127.

⁴²⁸ *Id.* In Hooker’s obituary tribute to Lucius F. Robinson, Hooker states that Robinson was married to Justice Storrs’s niece. Obituary Notice of Lucius F. Robinson, 29 Conn. 606 app. at 607 (1861). Storrs regarded Robinson as a son. *Id.* Storrs asked Robinson to write a draft of *Connecticut Mutual Life Insurance Co. v. The New York & New Haven Railroad Co.* *Id.* at 606–07.

⁴²⁹ HOOKER, *supra* note 2, at 127 (discussing *Andreas v. Hubbard*, 50 Conn. 351 (1882)).

⁴³⁰ *Id.* at 132.

⁴³¹ *Id.* at 132–33.

⁴³² *Mowry v. Hawkins*, 57 Conn. 453 (1889).

⁴³³ Letter from John Hooker to Elisha Carpenter (Sept. 18, 1889) (on file with the Harriet Beecher Stowe Center).

⁴³⁴ *Id.*

⁴³⁵ Letter from Elisha Carpenter to John Hooker (Sept. 19, 1889) (on file with the Harriet Beecher Stowe Center).

⁴³⁶ HORTON, *supra* note 426, at 92.

style appears in *Andreas* as well.⁴³⁷ This is no disagreement with Hooker's statement in his autobiography that he wrote the draft of *Andreas*.⁴³⁸

V. HOOKER'S OBITUARY OF JUSTICE PARK

The third Hooker controversy involves his relationship with Chief Justice John Duane Park. This topic was taken up by Attorney Wayne Tillinghast in the *CLTA Forum*.⁴³⁹

Tillinghast argues that Hooker was envious and had bitter feelings toward Park.⁴⁴⁰ This stemmed from Park's appointment to the Supreme Court and Hooker's failure to achieve his lifelong ambition of serving on the Connecticut Supreme Court.⁴⁴¹ As evidence of his conclusion, Tillinghast points to two documents. The first is Hooker's discussion in his autobiography of the *Hall* decision, and his statements that he both argued for Hall and wrote the decision.⁴⁴²

The second, stronger proof is drawn from the obituary tribute in favor of Park that Hooker wrote after he retired from his reportership.⁴⁴³ In that obituary, Hooker called Park a person with a slow mind who knew little of the law.⁴⁴⁴

While Tillinghast correctly notes the bad taste of the obituary, there is no evidence of envy by Hooker. Rightly or wrongly, Hooker and the attorneys that he asked to write tributes did not sugarcoat their treatment of their subjects, as discussed below.

First, to find in Hooker an impermissible motive, one would have to discount completely Hooker's autobiography, where he writes about his decision to accede to Park's "elevation."⁴⁴⁵ Hooker states that he realized that he was "a happier man" without the Supreme Court appointment.⁴⁴⁶

Second, as indicated above, Hooker indeed exaggerated his role in *Hall*, but he did have some basis for stating his role.⁴⁴⁷ As the most important

⁴³⁷ See HOOKER, *supra* note 2, at 127 (demonstrating Park's distinctive style in *Andreas v. Hubbard*, an opinion which Hooker drafted).

⁴³⁸ Hooker, in his autobiography, stated that he explained his argument to Justice Beardsley, who was not on the panel, and Beardsley agreed with him. HOOKER, *supra* note 2, at 146. The outcome in favor of Mary Hall was, for Hooker, a highlight of his legal career.

⁴³⁹ Wayne G. Tillinghast, *The Curious Obituary Sketch of Chief Justice Park*, 9 CTLA F. 9, 9 (1991). Attorney Tillinghast has reached out to one of the authors (Cohn) regarding his conclusions about John Hooker. This is a portion of Attorney Tillinghast's email of January 13, 2021, that summarizes his view: "[T]he criticism is and has been, regardless of his motivation might have been, his choice of language and the tenor of his sketch was just plain inappropriate. . . . Hooker's sketch was intentionally and unnecessarily demeaning" He writes that Cohn's conclusions are too deferential to Hooker.

⁴⁴⁰ *Id.* at 12.

⁴⁴¹ *Id.*

⁴⁴² *Id.* at 12.

⁴⁴³ *Id.* at 9 (citing generally Obituary Sketch of Chief Justice Park, 68 Conn. 591 app. (1897)).

⁴⁴⁴ *Id.* (quoting *Obituary Sketch of Chief Justice Park*, 68 Conn. app. at 591).

⁴⁴⁵ HOOKER, *supra* note 2, at 122.

⁴⁴⁶ *Id.* at 124.

⁴⁴⁷ See *supra* notes 421–38 and accompanying text.

triumph of his career, he was taking credit for writing the McManus brief and assisting Park in his opinion.⁴⁴⁸

Third, as seen above, Hooker was constantly complimentary to Park.⁴⁴⁹ In Hooker's autobiography, he describes Park's pleasant hosting of dinner and his common sense and modesty.⁴⁵⁰

Fourth, regarding the Park obituary, clearly Park had other opponents who made negative statements about him.⁴⁵¹ Tillinghast mentions that the *Hartford Times* newspaper had written articles against Park, as had a well-regarded attorney, Arthur Shipman.⁴⁵²

Fifth, Hooker made positive observations about Park in the obituary.⁴⁵³ He was the first state referee, had a remarkably long judicial career, had practical judgment, knew how to correct his mistakes as he learned the law, had a sense of justice and was kind, and had no pride of opinion or office.⁴⁵⁴

Fundamentally, those that rely on Hooker's obituary of Justice Park to accuse Hooker of jealousy of Park overlook the nature of the obituaries that were included in the Appendix to the Connecticut Reports. The tradition of obituaries started before Hooker and has continued to the present; the last was in memory of Justice Loiselle, published in 2005.⁴⁵⁵

In the Hooker period, the obituaries—unlike those before or after—depart from the usual simple and justified praise of the deceased. This was in keeping only with Hooker's style. Even more than today, the usual obituary of the nineteenth century was quite maudlin.⁴⁵⁶

Historian Dwight Loomis states in *The Judicial and Civil History of Connecticut* that:

The biographical sketches, prepared either by [Hooker] or by some selected friend, soon came to be a regular addition to the reports as they appeared volume by volume. Those written by Mr. Hooker are among the most elegant of his productions, for he possessed not only an entire honesty of description, without flattery or detraction, but a particularly attractive faculty for eulogistic writing. He did not hesitate to say of one attorney, remarkably persistent and stubborn in his contests in court, "He rarely gave up a case that was decided against him until he had pursued it to the extreme limit of the legal remedy, and

⁴⁴⁸ *Id.*

⁴⁴⁹ See e.g., HOOKER, *supra* note 2, at 134, 141 (praising Justice Park and his wife).

⁴⁵⁰ *Id.*

⁴⁵¹ Tillinghast, *supra* note 439, at 10–11.

⁴⁵² *Id.*

⁴⁵³ *Obituary Sketch of Chief Justice Park*, 68 Conn. 591 app. at 591–92.

⁴⁵⁴ *Id.*

⁴⁵⁵ Justice Alva P. Loiselle, 276 Conn. 937 app. at 937 (2005).

⁴⁵⁶ See, e.g., MARK TWAIN, *ADVENTURES OF HUCKLEBERRY FINN* 137–39 (Victor Fischer, Lin Salamo & Walter Blair eds., 2003) (satirizing a daughter of the Shephardsons who composed obituary poems and sketched drawings of the deceased).

submitted to a final adverse decision only as to an accumulated wrong that he had no further power to resist,” and yet the entire eulogy is not only neither unkind nor unfair, but it is instinct with a respect for the subject that is all the more flattering because of its candor.⁴⁵⁷

The first two Hooker obituaries were not in the Appendix but were asterisks in opinions.⁴⁵⁸ Further examples of Hooker’s obituaries, printed in the appendices to reports, demonstrate this tendency:

1. Chief Justice Williams: He “found every thing so plain before him that he was never excited by any consciousness of great intellectual effort.”⁴⁵⁹
2. Judge Sanford: He did not have “educational advantages,” and he had “a severe domestic affliction” that “depressed his spirits,” but he was “of the highest integrity” and was “inclining to severity” in the administration of criminal justice.⁴⁶⁰
3. Chief Justice Butler: He had “nervous temperament” and “abhorred dishonesty in every form.”⁴⁶¹
4. Attorney Daniel Tyler: “He was not, however, a close student of the law, and lacked the mental constitution that could have made him a profound lawyer.”⁴⁶²
5. Attorney Francis Fellowes: “His progress was slow,”

⁴⁵⁷ LOOMIS & CALHOUN, *supra* note 30, at 147. One example of an obituary prepared by someone other than Hooker was that of the sketch of Mahlon R. West, prepared by attorney David Calhoun of Hartford. Calhoun wrote that West was honest and diligent, but after a personal tragedy in the death of his son, “his work lacked its former inspiration.” Obituary Sketch of Mahlon R. West, 54 Conn. 599 app. at 600–01 (1887). Hooker wrote to Calhoun on June 5, 1886, thanking him for the submission. Letter from John Hooker to David Calhoun (June 5, 1886) (on file with the Harriet Beecher Stowe Center). He had assisted the whole profession. *Id.* Another example is that of Orris S. Ferry, written by Asa B. Woodward, a member of the Fairfield County Bar. Obituary Notice of Orris S. Ferry, 44 Conn. 602 app. at 602–06 (1878). An excerpt: “He was . . . naturally so impulsive that he would often have made grievous mistakes but for the restraining power of his strong common sense and clear intellect.” *Id.* at 603. James Andrews, Hooker’s successor, initially also printed obituaries that were in the Hooker style. Indeed, Hooker’s Park obituary was done at the request of Andrews. *Obituary Sketch of Chief Justice Park*, 68 Conn. at 591 n.*. Another obituary, that of Justice Fenn, was written by Attorney J.H. Vaill. Obituary Sketch of Augustus H. Fenn, 69 Conn. 736 app. at 736–39 (1897). He describes his service in the Civil War where he lost an arm, *id.* at 736–37, and then he summarizes his judicial efforts as follows: “He worked rapidly; his opinions indicate that quality, and some of them show a want of careful revision.” *Id.* at 739. *See also Married Fifty Years: The Golden Wedding of John and Isabella Beecher Hooker*, N.Y. TIMES, Aug. 5, 1891, at A4 (noting that Hooker’s “sketches of dead members of the bar appended to the thirty-three volumes of official reports over which he has had supervision are regarded as particularly interesting and valuable”).

⁴⁵⁸ *Smith v. Lewis*, 26 Conn. 109, 112 n.* (1857) (memorializing Calvin Philleo); Obituary of Elihu Spencer, 27 Conn. 271 (1858).

⁴⁵⁹ Obituary Notice of Chief Justice Williams, 29 Conn. 611 app. at 613 (1861).

⁴⁶⁰ Obituary Notice of Judge Sanford, 32 Conn. 592 app. at 592–94 (1866).

⁴⁶¹ Obituary Notice of Chief Justice Butler, 39 Conn. 601 app. at 601–03 (1873).

⁴⁶² Obituary Notice of Daniel P. Tyler, 42 Conn. 603 app. at 604 (1876).

and “he seemed to have come directly from one of the old Inns of Court.” He was “thorough,” and though he had personal “misfortunes,” he was never disheartened.⁴⁶³

6. Justice Pardee: Pardee showed “less book-learning,” but a “faculty of dealing with novel questions.”⁴⁶⁴ Hooker spoke highly of Pardee in his autobiography.⁴⁶⁵
7. Justice Carpenter: He “was limited in his educational opportunities,” but determined to accomplish his duties.⁴⁶⁶ He was in line to become chief justice, but the governor did not approve him.⁴⁶⁷ He “never got over it.”⁴⁶⁸ Carpenter was one of Hooker’s favorite justices and a distant relation.⁴⁶⁹

These excerpts defeat the notion that Hooker wrote his Park obituary out of spite. The Park obituary was one of many in this style. This may have been an unusual approach, but it does not provide evidence of an improper motive in Hooker’s obituary of Park.

CONCLUSION

John Hooker served in the role of court reporter at a pivotal time both for the establishment of the institution and for the legal recognition of the rights of women in Connecticut, and Hooker played a significant role in both of these events. Although Hooker became the Reporter of Judicial Decisions initially to supplement his income to pay for his activist causes, he discovered almost at once that he liked the challenges of his reporter tasks, as well as his interaction with the justices of the Connecticut Supreme Court of Errors.

He took pride in organizing the Connecticut Reports and commenting on the opinions, and the justices and the bar supported his efforts. There is no question that in his autobiography he overstated his role in *In re Hall*, but he and his wife Isabella succeeded in improving the lot of women in Connecticut, and he may well have played a significant role in the arguing and drafting of the opinion.

Today, we may also frown on Hooker’s approach to the tributes to deceased members of the bar and judiciary. These unconventional obituaries

⁴⁶³ Obituary Sketch of Francis Fellowes, 56 Conn. 598 app. at 598–602 (1889).

⁴⁶⁴ Obituary Sketch of Dwight W. Pardee, 63 Conn. 607 app. at 607 (1893).

⁴⁶⁵ HOOKER, *supra* note 2, at 161 (“Judge Pardee was a man of so great ability as a judge and of so fine intellectual qualities that I depart from my rule so far as to give a passage from my sketch of him which particularly describes him in these higher relations.”).

⁴⁶⁶ Obituary Sketch of Elisha Carpenter, 69 Conn. 731 app. at 732 (1897).

⁴⁶⁷ *Id.* at 732.

⁴⁶⁸ *Id.* at 733.

⁴⁶⁹ *Id.* at 734.

were, however, accepted and enjoyed in their day. Hooker's obituary of Justice Park is therefore no evidence of jealousy towards Park.

We may, therefore, safely agree with Dwight Loomis's tribute to Hooker:

The office of reporter requires special and extraordinary gifts. He must have not only the faculty of lucid statement, which is very rare, but a quick, acute, logical and analytical mind, giving an intuitive perception of the real merits of the case, and furnishing a solvent that will extract the little particles of gold concealed in the incumbering verbiage. Mr. Hooker had these qualities and they have given him lasting fame.⁴⁷⁰

⁴⁷⁰ Obituary Sketch of John Hooker, 73 Conn. 745 app. at 745 (1901).