John Hooker, Reporter of Judicial Decisions

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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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² J.D. Candidate, 2021, University of Connecticut School of Law.
⁴ 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. His father, Edward, a Yale graduate, was a tutor and maintained a private classical school in Farmington, “Old Red College.” He also farmed an extensive tract of land that he inherited. His mother came from the prominent Daggett family of New Haven. Both of Hooker’s parents had distinguished ancestors. 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.

Hooker studied in Farmington and entered Yale at age sixteen. He was assisted in his studies by his father who drilled him in Latin and Greek. Pushing himself to recover, he permanently damaged his eyesight and could no longer continue at Yale. He was later granted a degree by the school in 1842 as a graduate of the class of 1837.

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

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

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3 Id. at 9.
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. In 1853, he and his brother-in-law, Frances Gillette, purchased a farm consisting of slightly more than 100 acres on Farmington Avenue. 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.”

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

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

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

Beginning during his reportership, Hooker joined his wife in supporting women’s rights. 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.” The Hookers’ equal rights for women crusade led to both John and Isabella taking an active role in the effort for women’s suffrage. Isabella organized the Connecticut Women’s Suffrage Association in Hartford in 1869. The Hookers were close to Susan B. Anthony and Elizabeth Cady Stanton.

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


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 committe’d 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.
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.\textsuperscript{54}

The content of the reports and summaries by the reporter described by Day continued through Hooker’s reports.\textsuperscript{55} Day held his appointment from 1802 to 1853, editing twenty-six volumes of the Connecticut Reports.\textsuperscript{56} He resigned in 1853 and died on March 1, 1855.\textsuperscript{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.”\textsuperscript{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. \textit{Provided}, That this act shall continue in force for the term of four years from the rising of this assembly, and no longer.\textsuperscript{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.”\textsuperscript{60} Also at the time of the passage of the 1814 act, he was Secretary of the State.\textsuperscript{61} He “attested” to the act’s passage.\textsuperscript{62} He was then appointed at the next term of court.\textsuperscript{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.\textsuperscript{64} In 1854, Title 5, § 15, provided for the office, and Title 46, § 2 set compensation at $550.\textsuperscript{65} This was part of a provision for judicial officers.

\textsuperscript{54} Id. at xxvii.
\textsuperscript{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 (*).
\textsuperscript{57} Id.
\textsuperscript{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.
\textsuperscript{60} 1 Conn. xxvi (1814).
\textsuperscript{62} Id.
\textsuperscript{63} Thomas Day, \textit{LEDGER}, supra note 56.
\textsuperscript{64} CONN. GEN. STAT. § 21-8 (1821); CONN. GEN. STAT. § 83-1 (1821).
\textsuperscript{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. The 1875 statute, Title 4, § 13 allowed for an appointment; Title 13, Chapter 4 set the compensation at $2,500. 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.

A public act of 1882, Senate Bill 66, was passed as Hooker was publishing Volume 48 of the Connecticut Reports. 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. 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. 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.

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. 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.

With the passage of the 1814 statute, Day began working on the first Connecticut Reports, issued in 1817. 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.”

Day was succeeded by Attorney William N. Matson of Hartford, appointed by the Supreme Court in June 1853 “for the year ensuing.” Hooker was appointed at an annual meeting of the Supreme Court on January 18, 1858. The twenty-fifth volume of the reports “was principally prepared by the late reporter, Mr. Matson, and printed under his superintendence.”

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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).
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.\textsuperscript{80} A lawyer and Whig politician, Matson was apparently afflicted with a mental health disability.\textsuperscript{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.\textsuperscript{82} “How dreadful it is,” he wrote, while thanking her for visiting Matson.\textsuperscript{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.\textsuperscript{84}

Hooker chose to continue as the Reporter.\textsuperscript{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.”\textsuperscript{86} He frequently mentioned in letters to his wife that he had major debts and this position resolved them.\textsuperscript{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.\textsuperscript{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

\textsuperscript{80} HOOKER, \textit{supra} note 2, at 124.
\textsuperscript{81} This would later cause Matson to commit suicide in 1876, although his body was not found until 1877. \textit{The Late Judge Matson: Additional Facts in Relation to His Disappearance and Suicide—A Statement by His Son Mr. William L. Matson}, \textit{N.Y. Times}, May 25, 1877, at 5.
\textsuperscript{82} Letter from John Hooker to Isabella Hooker (Feb. 18, 1858) (on file with the Harriet Beecher Stowe Center).
\textsuperscript{83} Id.
\textsuperscript{84} HOOKER, \textit{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.
\textsuperscript{85} HOOKER, \textit{supra} note 2, at 121, 124, 129.
\textsuperscript{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, \textit{THE BEECHER SISTERS} 107 (2003).
\textsuperscript{88} See HOOKER, \textit{supra} note 2, at 32 (describing an incident in which Hooker and Hawley purchased and freed an enslaved Black reverend); Henry S. Cohn, \textit{Mark Twain and Joseph Roswell Hawley}, 53 \textit{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 . . . .”

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.”

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.

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

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

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

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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. He also spoke of J.R. Hawley, his former partner.

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

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. 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].” Hooker mentioned that he had been writing all morning steadily.

In his April 27, 1860 letter, Hooker wrote about the scenery of the place where he traveled, as was often the case. “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.”

Writing from Hartford on May 13, 1860, Hooker mentioned that their “home is too pleasant to leave.” “The apple blossoms are in their glory,” the foliage is out, the weather is summerlike, and “the air is perfumed.” 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.

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

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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. He was keeping the printers busy with his “grand project”—the edited volumes of the reports.

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

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. To Hooker, it seemed to be only three or four months. Hooker mentioned that there were fourteen cases to hear, but he wanted to return home as soon as possible.

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

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. Hooker was staying at the Wooster House and would be there longer than he originally thought. He had been stalled on the train en route at

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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. He relayed the news that Judge Sanford’s son remained incapacitated.

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.” But he wished that he were home. “There is no place like home when a man’s wife is there,” he wrote. Hooker mentioned that the courtroom in Danbury was too warm and his eyes were “weak.” He was looking forward to a scheduled argument that would feature a prominent leading patent attorney from New Jersey. Hooker also mentioned a contentious stock transfer case that was to be argued by prominent lawyers.

On February 13, 1862, Hooker wrote to Isabella from the Bridgeport courtroom, reporting on the *Beers v. Woodruff* case. The attorney for the defendant, Dickerson, was a patent and mechanics expert. The defendant argued that the plaintiff had failed to prove that the boiler that the defendant sold was negligently manufactured. 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.”

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

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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.\textsuperscript{152} He also mentioned the news of the day—“Louis Napoleon’s decision not to interfere.”\textsuperscript{153}

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

Instead, Hooker’s February 18, 1862 letter to Isabella indicates that he was in New Haven by that date.\textsuperscript{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.\textsuperscript{158} Hooker had some ice cream and coffee, “weak and only a half cup.”\textsuperscript{159} Hooker mentioned that, in court, the judges had heard three cases, and there were nine more; he would be home by Friday.\textsuperscript{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!”\textsuperscript{161}

On Tuesday October 28, 1862, forenoon, Hooker wrote to his “good grand wife” in Norwich.\textsuperscript{162} He was in court, while outside it was “perfectly glorious.”\textsuperscript{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.”\textsuperscript{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.”\textsuperscript{165}

He next wrote two letters on September 8, 1863.\textsuperscript{166} He did not state his location, but he noted that the weather was “perfect.”\textsuperscript{167} He had been on a

\begin{footnotes}
\item[152] Id.
\item[153] Id.
\item[154] Letter from John Hooker to Isabella Hooker (Feb. 13, 1862) (on file with the Harriet Beecher Stowe Center).
\item[155] Id.
\item[156] Id.
\item[157] Letter from John Hooker to Isabella Hooker (Feb. 18, 1862) (on file with the Harriet Beecher Stowe Center).
\item[158] Id.
\item[159] Id.
\item[160] Id.
\item[161] Id. Hooker was referring to the Union victories at Fort Henry and Fort Donelson on February 6 and 16, 1862, respectively.
\item[162] Letter from John Hooker to Isabella Hooker (Oct. 28, 1862) (on file with the Harriet Beecher Stowe Center).
\item[163] Id.
\item[164] Id.
\item[165] Id.
\item[166] Letters from John Hooker to Isabella Hooker (Sept. 8, 1863) (on file with the Harriet Beecher Stowe Center).
\item[167] Id.
\end{footnotes}
picnic. In a courtroom letter, he stated that there were “miraculously few” cases and he would leave the next day.

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

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

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

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

On March 14, 1865, Tuesday morning, Hooker wrote from New London. He mentioned that it was “a most glorious morning,” and he saw the harbor on a walk, “always beautiful . . . flooded with sunlight.” He air was just crisp enough to make one full of vigor. . . . One of our summer
expeditions must be to come down to this place."

He concluded: “The court travels are a perfect blessing to me. Long live the Reporter’s life, I say.”

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

On March 24, 1865, Hooker wrote to his wife from Hartford at 4:00 p.m. Again, Isabella was out of town, and Hooker lamented that she had not even “writ[en] one line” to him. The court had just adjourned after a very interesting argument in *Colt v. Colt* 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. The court would later rule against Curtis, affirming the Superior Court’s decision finding jurisdiction. This letter by Hooker also mentions that he had visited Attorney Perkins and other relatives of Isabella. Perkins had appeared in opposition to Curtis.

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. He had been writing a lot and had little vigor in his hand to write a lengthy reply. He wrote a similar letter from New Haven on September 23, 1868. He was enjoying the reporter’s life, with cases that would last for a few days.

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186 *Id.*
187 *Id.*
189 *Id.*
190 *Id.*
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 Isabelle 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. He was thinking about his beautiful home.

On Wednesday, October 9, 1872, Hooker wrote to Isabella from Eggishorn, a mountain village in Switzerland. Earlier in 1868 he had sent a newspaper clipping to Isabella about Switzerland. He went himself in 1872. He wrote again on October 13, 1872, from Baveno on Lake Maggiore, Italy. 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.”

Hooker found such views remarkable in a young man of twenty-four and “a Catholic too.”

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. 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. Hooker signed his letter “much love to you all. Very truly yours.”

On November 16, 1877, Hooker wrote to his son Ned, looking forward to seeing him in five weeks for Christmas. 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. Hooker had prepared the briefs for Attorney R.D. Hubbard who represented the railroad.

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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 Id.
206 Letter from John Hooker to Isabella Hooker (Sept. 23, 1868) (on file with the Harriet Beecher Stowe Center).
207 Id.
208 Letter from John Hooker to Isabella Hooker, supra note 204.
209 Id.
211 Id.
212 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.
213 Id.
215 Id.
216 44 Conn. 494, 501–04 (1877).
218 Letter from John Hooker to Edward Beecher Hooker (Nov. 16, 1877) (on file with the Harriet Beecher Stowe Center).
219 Id.
220 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.”

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

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. Hooker also mentioned that there was currently a snowstorm.

C. Hooker’s Autobiography

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

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. 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. He relates that one of the justices fell asleep shortly after he was caught napping. The justice wrote a note to Hooker after Hooker woke up:

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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 Id.  
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. Bussing240 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:

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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 (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).
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

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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).
261 Peck v. Hooker, 61 Conn. 413, 420 (1892).
262 Id. at 417.
263 Id. at 420.
265 Id. at 332–33.
266 Id. at 334–35.
reporter. His “Hooker’s reports” were well known to the legal profession throughout the country. He sought a “Long needed rest.”

Hooker’s letter of resignation was dated October 2, 1893. His effective date of resignation was January 1, 1894. He recognized “the familiar and exceedingly pleasant companionship to which [he had] from the first been invited.” 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.

The exchange between Hooker and the Chief Justice was reported in the Hartford Courant on October 3, 1893. 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.” The article mentioned that the justices had chosen between several candidates for Hooker’s successor. One was Charles Fellows of the Hartford Common Pleas Court. The justices, however, selected James P. Andrews, grandson of Thomas Day, and trained in the law office of William Hamersley. He was a Republican and not yet age forty.

267 John Hooker to Retire, WATERBURY EVENING DEMOCRAT, June 20, 1893, at A4.
266 Id.
265 Id.
264 HOOKER, supra note 2, at 125.
271 Id.
272 Id.
273 Id.
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. In the same volume, at page fifty-six, Matson mentioned that an heir, whose rights were at issue in the case, had died.

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

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.
2. Cases taken by the court on the briefs without oral argument.
3. Citations to other relevant cases, statutes, the record, errata, or factual background of a case or another text.

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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).
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); Brimley 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., Olnstead 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, 144 (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

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); Occom 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); JWett 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, Hooker played a role as an advocate both before and after he became the reporter. These cases involved an action for breach of contract. The issue was whether the defendant had properly tendered personalty by stating that he was “ready and willing” to do so. The cases were brought to the Supreme Court on a stipulation of facts. 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. Hooker wrote a letter, probably to Philleo, during the proceedings, most likely in 1856. 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.”

The court ruled against Hooker, holding that the defendant failed to prove that the alleged tender was sufficient. The case in 24 Conn. was included in a volume edited by Matson. The case in 26 Conn. was included in a volume edited by Hooker in 1859. 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.” Hooker continued that Philleo was also a magazine writer whose work had appeared in *Putnam’s Monthly* and *The Atlantic Monthly*.

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. Hooker compared the facts in the earlier case to the case under decision. Similarly, in *Bailey v. Bussing*, Hooker raised a point in a footnote of whether a defendant was correctly characterized as jointly liable.

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

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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*, 26 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 Id., 24 Conn. at 641.
301 Preface, 24 Conn. i–ii, vi (1855–56).
303 *Smith*, 26 Conn. at 112 n.*.
304 Id.
305 Bull v. Meloney, 27 Conn. 560, 566 (1858).
306 Id.
308 Calhoun v. Richardson, 30 Conn. 210, 227, 229 (1861).
309 Id. at 211.
estoppel in a footnote to the opinion. 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.”

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. Hooker, in a footnote, analyzed the issue and found a case, from another jurisdiction, disallowing this procedure.

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

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. He concluded that the court never reached this issue in its decision.

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. 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.

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. “[B]ut as the court upheld the deed . . . it is to be inferred that it was held to be good.”

In Loomis v. Eaton, Hooker set forth the holding of the case—that the commissioners in probate had not issued a conclusive ruling. 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

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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*.
315 Id.
316 Id.
317 Id.
319 Id.
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.*.


\(^{341}\) 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).
354 Id. at 122–26.
355 Id. at 122–23.
356 Id. at 123.
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.\(^{370}\)

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\(^{359}\) Shaw v. City of Hartford, 56 Conn. 351, 352, 354 (1887).

\(^{360}\) Id. at 354–55.


\(^{362}\) 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. This Section will argue that, while his claim of having written the opinion 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. 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. This proposed act was first introduced in the Connecticut General Assembly in 1870 but was not adopted. After submitting the bill year after year, the Hookers successfully achieved its passage in 1877. It was entitled “The Married Women’s Property Act.”

Hooker was deeply involved in the suffrage movement, along with Isabella. 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. 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.

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, and an October 5, 1871 article referred to him as the chairman and treasurer of the organization.

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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.
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.
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. She asked John Hooker if he would assist in her goal of becoming an attorney. Hooker was also an acquaintance of Hall’s brother Ezra who died young in 1877. Ezra had read law with Thomas Perkins, Isabella’s relative by marriage.

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

Sufficiently trained by 1882, Hall sought admission to the bar. 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. The bar appointed Thomas McManus to support her admission in court and Goodwin Collier to oppose her admission.

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.” In other words, did “persons” in the statute extend to women?

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. Only legal points would be considered, and “all questions of expediency [would be] thrown aside.” All states to consider a woman’s admission, when there was no statute at all, had rejected admission. This had been remedied in some states by favorable legislation.


\[384\] Id.


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


\[388\] 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.

\[390\] Id. at 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.
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.
\(^{413}\) In re Hall, 50 Conn. 131, 137 (1882).
the interpretation and effect which we ought to give it.”\textsuperscript{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.\textsuperscript{415} Pardee argued that to rule otherwise was “to precede the legislature in declaring that it has changed its mind.”\textsuperscript{416}

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

Hooker’s involvement with \textit{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.\textsuperscript{420} It is likely that Hooker played a role in the argument, certainly helping to write the brief of McManus in favor of Hall.\textsuperscript{421} In his autobiography, Hooker states that he “argued” the case along with McManus.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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 \textit{Hall} opinion, Hooker stated in his autobiography he “wrote” that opinion.\textsuperscript{425} Wesley Horton, a scholar of the

\begin{footnotes}
\item[414] Id. at 138.
\item[415] Id. at 138–39 (Pardee, J., dissenting).
\item[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. \textit{Miss Attorney Hall}, \textit{N.Y. Times}, Sept. 27, 1882, at 4.
\item[417] Campbell, supra note 385.
\item[418] Id.
\item[419] Berger, supra note 371, at 38–39.
\item[421] In re \textit{Hall}, 50 Conn. 131, 131 (1882).
\item[422] Hooker, supra note 2, at 146.
\item[423] Letter from John Hooker to Isabella Hooker (Feb. 13, 1862) (on file with the Harriet Beecher Stowe Center).
\item[424] In re \textit{Hall}, 50 Conn. at 131 n.*.
\item[425] Hooker, supra note 2, at 127.
\end{footnotes}
Connecticut Supreme Court, calls this assertion by Hooker “too bizarre to be believed.” 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.” 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.

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. He also wrote a response by the court to a question posed by the legislature on taxation of U.S. bonds. His response declared that the Court could not give such advice.

Another case where Hooker played a role was Mowry v. Hawkins. Hooker received a draft opinion by Justice Carpenter. 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. On September 19, 1889, Carpenter wrote back agreeing to Hooker’s amended language.

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. 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 CLTA 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.  
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


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

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