

John Caher: Welcome to Amici, news and insight from the New York Judiciary and Unified Court System. Today, our guest is state reporter William J Hooks. Mr. Hooks, a graduate of LeMoyne College and Albany Law School, was appointed state reporter by the Court of Appeals, effective June 25th, 2009. He is the 26th person to hold this position, in a line that dates back to 1804. Mr. Hooks was previously deputy state reporter, assistant state reporter, legal editor, and senior legal editor. Since joining the bureau a year out of law school, he has literally worked his way up from the bottom to the top. Bill, thank you for being with us today. First, what in the world is a state reporter?

Bill Hooks: John, first, let me thank you for this, the opportunity to sit down and speak to you a bit about my job and what we do here at the Law Reporting Bureau.

A state reporter, or the state reporter, is the head of the Law Reporting Bureau, appointed by the Court of Appeals, and the reporter essentially performs the typical duties that any head of an agency would—develop a budget, hire, take care of personnel matters, that sort of thing. In terms of the Law Reporting Bureau itself, the specific kinds of things that the reporter is responsible for is negotiating a commercial printing contract for the reports, selecting trial court decisions for publication in the reports, and then really being the primary contact between the Law Reporting Bureau and the judges whose decisions we publish, attorneys, the public, and also legal publishers, who tend to come to us to acquire the decisions that they publish on their own services.

John Caher: To back up one moment, what exactly is the Law Reporting Bureau?

Bill Hooks: The bureau is an agency of the Court of Appeals, created by statute, and the bureau's mission is to prepare for publication the decisions that appear in the Official Reports. The bureau performs quite a number of tasks in preparing the decisions. We check all the citations in cases, all the quotations in cases, we read the decisions for sense, we check for grammar, spelling, that sort of thing, proofread them, and then, when all is said and done, we send those decisions back to the judges who wrote them, and they can review them to make sure that everything is okay, and if the judge has any final corrections or edits he or she would like to make, they do that, and they come back to us. We then coordinate the publication of the decisions with our commercial publisher. We send copy to the publisher, and then we exchange versions to make sure that we have the final version, and then we approve it for publication and the advance sheets, in bound volumes, and nowadays, an online service. Currently, Thompson Reuters West has our publishing contract, so they publish our books, and they publish us on WestLaw.

John Caher: Okay. Let's discuss the history a little bit. Can you take us from the very early days with Chancellor Kent, and explain why and how the bureau came to be?

Bill Hooks: Absolutely. Contrary to my appearance, I wasn't around then, so some of this is going to be hearsay, John. Yes, it's really interesting, from an historical perspective, and being a history major, this does interest me in particular.

Around the beginning of the 19th century, we're a new country, we have a new legal system, and not a lot of thought had been put into how the legal system was going to work. As a result, there was no method for memorializing the decisions of courts, or for disseminating those, so what would happen is an attorney would be sitting in a court, when the court orally rendered its decision, and an attorney would jot down notes, and that would be the record of what a court's decision was. Needless to say, that was not a terribly efficient or effective method for doing that.

Chancellor Kent was very dissatisfied with that as a rule. He was a huge advocate of having some formal way of memorializing cases and reporting them, making them available to other judges, and to attorneys. He was instrumental in having the first state reporter appointed. Chancellor Kent at the time was what would be the equivalent of the chief judge of the Court of Appeals today. He appointed George Caines. George Caines was the first reporter. That reporter, George Caines, and then after him William Johnson, reported primarily decisions of the Court of Appeals. It wasn't called the Court of Appeals back then, but there were selected decisions, and the reporters would-

John Caher: The Court for the Correction of Errors, or something like that.

Bill Hooks: Exactly. Yeah. The reporter then would publish, selectively, the decisions, and make notes, and have them bound, put in books, and then they would be available for the bench and the bar in the future.

From that, there was this outcropping of unofficial reporters. They would fill little niches. There would be a reporter of civil procedure, or a reporter of surrogates' decisions, and this was kind of a natural outcropping of the appointment of the first reporter. But again, these were unofficial decisions. Eventually, the courts decided that it was more appropriate that these decisions be published officially, so that they were authenticated, and there were separate reporters appointed then, for the Appellate Divisions, and for trial courts, so there were three reporters. Court of Appeals, Appellate Divisions, trial courts, which are known as the "miscellaneous courts."

Official reporting proceeded in that fashion throughout the 19th century. Then at some point, the decision was made that that was not a terribly effective way to do this, so let's centralize the reporting of decisions, and legislation that was enacted in 1938 created the Law Reporting Bureau, which unified all of the reporting of court decisions in a single office, and the state reporter became the head of that agency. There were no longer separate reporters for each of the levels of court. There's a single state reporter, and then the reporter, of course, was permitted to hire deputies to assist him with the publication of decisions.

John Caher: Stare decisis and precedent, of course, are such fundamental elements of jurisprudence that it's hard to imagine how, before this was formalized, how that would work. How

would a judge know what the precedent was, what the law was? It's not like they could look it up in an Internet.

Bill Hooks: Exactly. That was Chancellor Kent's whole position. This is really crazy, because the courts are deciding these cases, and these are important issues, and yet, there's nowhere for anybody else to find them. Obviously, a particular judge would have written a decision. He might have — back then it was just a he — he would have had a copy of that decision. But of course, the decisions couldn't be reproduced as easily as they could today, so it was essentially word of mouth kind of law, and just terrible in terms of stare decisis and precedent. But again, that was ... Chancellor Kent saw the need for that, and I guess was rather persuasive in encouraging and convincing others that it was necessary to have some formal way of reporting decisions.

John Caher: With that sort of a nomenclature. I imagine the former Court for the Correction of Errors had a lot of errors to correct!

Bill Hooks: Absolutely. Not their own errors, though. These were errors of others.

John Caher: Or so they said! Where are you located physically?

Bill Hooks: We are now located in a building known as Centennial Hall. It's at the corner of Lodge and Pine Street, across the street from Court of Appeals Hall. It's an historic building. Before we took occupancy here, it served as a performance venue at one point. It was a Catholic grade school, and then served as the Albany County Family Court for a number of years, and now we occupy it.

John Caher: I never knew it was a performance venue. I knew about the Family Court and the long time, long period, when I think it was unoccupied at all.

Bill Hooks: Right. When it was initially built, there was a stage. Actually, when we first started to look at the building with the architects to see what could be done, the stage still existed. There was a stage on the first floor. Interesting.

John Caher: Yes, it is. Let's drill down just a bit more. What are Official Reports, as opposed to *unofficial* Reports, or *not* Official Reports?

Bill Hooks: Well, Official Reports are the final decisions of the courts of New York. The court will hand down initially what's known as a "slip decision," and that's an unedited decision that decides the issues in the case. That's available to the parties, and it moves the litigation ahead. But to serve the purposes of precedent and stare decisis, those are going to be finalized and then published, officially.

The Official Reports version has been edited by the Law Reporting Bureau. Again, we check all the citations, all the quotations, to make sure that everything is accurate in the decision. The judge has reviewed the editorial work that we've done. The judge may make some small, final edits to the decision, and we get that final version and publish it

in print and online, in the official report. That is the official approved version. It's the common law of New York.

Certainly, the unofficial publishers have access to slip opinions, but their editorial process is not necessarily the same as ours, and the courts themselves are not approving the version that's published in the unofficial reporters.

John Caher: Is that what distinguishes the Official Reports from the decisions that you can find on Lexis, Westlaw, and Google Scholar, and probably other places?

Bill Hooks: Absolutely. Those services, and highly reputable services, will try to obtain the edited text from us, which we do make available. But the bottom line is that, for any attorney or court to rely on a report of a decision, they really should rely on the official version, because then they're certain that they have the final version that's been approved by the court that issued the decision.

John Caher: Certainly. Something as minor as a comma could change a meaning considerably.

Bill Hooks: Absolutely.

John Caher: According to your website, every decision of the Court of Appeals, or the Appellate Division, is published unless, "otherwise directed by the deciding court." Why would an appellate court direct you to not publish a decision, and does that ever happen?

Bill Hooks: Yes, although it is probably somewhat different than you might understand from the statutory language, John.

The appellate courts decide a number of different kinds of matters in the course of litigation that are really of interest only to the parties. They manage the course of the litigation. For instance, a motion to proceed as a poor person, a motion to appoint counsel, to resettle a record, or things of those nature, which really have nothing to do with the development of the law. There's no precedential value to any of those decisions. Those are the kinds of things that a court, an appellate court, would not have us publish.

As you can imagine, our appellate courts in New York are pretty busy. That's a high volume of what they do, is that sort of thing, to keep the litigation moving.

John Caher: They're almost ministerial.

Bill Hooks: It is. Exactly. Now, in other instances, there may be, after the court has handed down a decision, they may discover, for some reason, that there's an error in the decision, or it's just not the version that they intended to publish. The courts have their own procedures, but essentially, what they'll do is recall a decision, and vacate it, and then reissue a new decision. We publish decisions within hours of when the courts hand down, so we already had that available to the public and to the bar, so we'll withdraw

that opinion from publication, and then reissue the corrected decision that the court has issued.

Interestingly, in New York ... New York is different in many respects than a lot of other jurisdictions in the United States, in that we don't selectively publish our appellate court decisions, and we don't limit their citability. If a decision is published in the Official Reports, it's-

John Caher: It's fair game.

Bill Hooks: Exactly. And, the appellate courts publish all of the decisions of a substantive nature that they issue. Other jurisdictions, number one, they'll selectively publish appellate decisions, and some of them will actually, when they issue decisions, they will say, "This decision is not to be cited in any paper submitted to the courts of XYZ state."

This state is definitely much more willing to have the law out, available — all the law — available to anybody who's interested in it.

John Caher: Just for further clarifications, for example, the Appellate Divisions routinely hand down decisions and post them on the Internet. Those decisions are not the ones that would be cited. The ones that are posted on the Internet. They would be cited once they become an official report.

Bill Hooks: Well, as soon as the decision is made public, it can be cited. The appellate courts, on the day of hand down, submit those decisions to us, and we publish them on our own website that day, and we assign a slip opinion citation to them. They can be cited, even in slip form, but the caveat is that it's not the final version of the decision.

Sometimes, parties to a particular litigation are waiting a decision on appeal that's going to affect what they're doing in a particular matter, so they anxiously want that case, and they want to be able to cite it, so we provide that slip citation. Now, when we have finalized that, when we've edited, and the court has approved the final version, then we assign what is the official report citation, and that distinguishes between the slip opinion and what the actual final, official version of the case is.

John Caher: Okay, I see. What about trial decisions? Who submits those, and who decided whether they're worthy of publication?

Bill Hooks: The reporter decides which trial court decisions are published. We are selective in that matter, and the reporter does make that decision. The trial judges themselves are a primary source of those cases. They'll send them to us, and often they'll include a little note saying, "We think the decision should be published for such and such a reason," but we also have attorneys submit decisions. Either they become aware of a case that they think should be out there, so that it can be cited, and they'll send it along to us, or sometimes it's a case that they've actually worked on, and they'll submit it. We, here in the office, we review a number of legal publications to see if there are any decisions

that we think should be published, and if the judge or an attorney hasn't already submitted those to us, we'll reach out to the judge and ask if we can publish that.

John Caher: What are the criteria for deciding whether trial court decisions should be published?

Bill Hooks: The broad criteria that the Judiciary Law prescribes are precedential significance, or importance as a matter of public interest, and those are pretty broad criteria. What we've done is we've kind of filled the gaps in those broad categories by, first of all, defining precedent. Trial court decisions tend not to be precedential. It's appellate level courts that are precedential, but until an appellate court speaks on something, a trial court opinion may be very persuasive, so in that sense-

John Caher: It may be the first word on a matter of first impression.

Bill Hooks: Absolutely. A statute that's newly enacted, an issue that's percolating through the common law, where just no court has really had an opportunity to sit down and decide it, so precedential in that regard, we will publish. Also, matters that might tend not to reach an appellate level. A lot of procedural matters. They're small matters that an appellate court just might not be called upon to determine, but they can be of significance to practitioners, who are in the trial courts, working every day on various matters, where some kind of guidance will help both the lawyers and a trial court that's faced with one of those types of issues. But we also try to represent the state as a whole. There are different types of issues that arise in different areas of the state, and have greater significance for the people of those areas, so we try to have diversity in, geographic diversity, in terms of the kinds of cases that we decide. We strive for author diversity, as well. We try to give as many judges, trial judges, as possible, an opportunity to have their decisions published-

John Caher: It must be difficult, because I can imagine that judges would have very different ideas on what they think ought to be published. I imagine some judges are very frequent submitters, and I imagine some judges are maybe more reluctant to submit things than they ought to be.

Bill Hooks: You're absolutely right, John. We do have both of those types of judges, and some that just don't submit decisions to us at all, for whatever their particular reasons are, but yes, there can be a difference of opinion as to what should be published and what shouldn't be published. For the most part, the judges are very understanding of the decisions that we make, and we do take a close look at these cases, so we are giving them a fair, hard look.

John Caher: Still, I can see there might be a certain discomfort, or awkwardness, when you have to tell a judge who wants a decision published, that it's not worthy of publication.

Bill Hooks: Yes. One way to avoid the awkwardness is to not say it's unworthy: "It doesn't satisfy the selection criteria, judge."

Bill Hooks: As I said, the judges, for the most part, are very understanding about the decisions that we make, but we have a process that enables a judge who is dissatisfied with our initial decision to ask, first, for an informal reconsideration. A judge can send me an email or give me a telephone call and say, "Bill, I think you may have missed the boat on this case, for this reason," and I'll take another look at the case in light of what the judge has told me, and reconsider my decision. But there's also a formal appeal process, and there's a Committee on Opinions, and it consists of one justice from each of the Appellate Divisions, that's appointed by the presiding judge for that particular department, and if, on reconsideration, I still think that a decision should not be published in the Official Reports, then the judge is entitled to appeal that to the Committee on Opinions, and I am bound by whatever the committee decides.

John Caher: How often do judges win those appeals?

Bill Hooks: In my experience, no judge has ever won one of those appeals, although — and by the way, I'm not throwing down the gauntlet here for anybody to challenge that record — but I think that's largely due to the fact that, again, we have a good relationship with the judges, and I think that when we ultimately say, "This just doesn't satisfy the criteria," the judge ultimately understands that. Although nowadays we don't have as many opportunities for that, because we've expanded our ability to publish in the electronic age. When the Official Reports were print only, we were limited to about 500 trial court decisions a year, and that was from between 2,500 and 3,000 decisions that were submitted, so a lot of judges were disappointed in those days.

John Caher: That they just didn't make the cut.

Bill Hooks: Exactly. Nowadays, we can offer the alternative to publish a decision online only. The distinction is that that case is not published in print. We will publish a small digest of the case in the print reporter. We publish the full text online on our, on the Law Reporting Bureau website, but it's also published on Westlaw in the Official Reports database, so it is an officially reported case, even though it's not in full text in book form, or in print form.

As a result, we're able to accept cases now that we, once upon a time, we would not have been able to accept.

John Caher: It just wouldn't fit among the 500.

Bill Hooks: Yes. There's less of an opportunity for that to be totally dissatisfied submitter.

John Caher: How often does a Committee on Opinions meet?

Bill Hooks: It's a case by case basis, John. If the reporter and a submitting judge can't agree, then the reporter puts together a package of whatever the judge has submitted, and the reporter prepares his own report, and then we'll contact the judge who's been appointed, and we cycle through. We go from the First Department, to the Second Department, Third, Fourth, and just cycle through judges that way, and then, when that

judge decides a particular appeal, we move on to the next. If the next opportunity arises for an appeal, the next judge is requested to decide it.

John Caher: Okay. How many decisions get published every year, appellate and trial?

Bill Hooks: That's a -

John Caher: Two part question?

Bill Hooks: Yes, it is. The Law Reporting Bureau is responsible for publishing in excess of 50,000 decisions a year.

John Caher: Wow!

Bill Hooks: Now, of that number, we publish between 13,000 and 14,000 that are fully edited, and that are published in full, in print form. On top of that, there are those decisions that I just mentioned; we refer to them as "online only" decisions, so they're published in full, online. They have an electronic life, but they're not published, officially, in print form.

That would account for maybe an additional 2,500 to maybe 3,000 cases. We also will reproduce from e-Courts, which you may be familiar with, a repository of decisions with OCA, and we'll republish those. They're in PDF format, but we'll assign a citation, a slip opinion citation to them, and we assign star paging, so they're easily citable, and we publish an additional 3,000 of those each year. Then, on top of that, those appellate decisions that I referred to earlier, the ones that we don't publish in print because they're just kind of housekeeping matters, we publish those. The Appellate Divisions will submit, and the Appellate Terms, submit those decisions to us, they're called motion decisions, and we post those on our website. The Law Reporting Bureau is essentially the central location where a judge or an attorney can find out whatever is going on with any case on an appellate level.

John Caher: Sounds like a tremendous amount of work.

Bill Hooks: It's a lot. Fortunately, we've been able to make the most of automation, to make it possible for us to do that. Quite honestly, in the old days, when we would sit down and — we didn't use quill pens in my time, but we still used pens, and some electric typewriters— we just couldn't possible handle the volume of work with those kinds of tools. From when I started with the Law Reporting Bureau in 1981, we probably published about 9,000 decisions, I would imagine, a year, and perhaps less than that, and nowadays we're publishing in excess of 50,000.

John Caher: Wow. How much staff do you have?

Bill Hooks: Currently, we have 28 positions. Roughly half are attorneys. We have support staff, who we refer to as paralegals. They're not paralegals in the sense that they have certificates, but they do have to be knowledgeable about the law, and we do train people when we hire them on. But they have to have an interest in reading, and be strong in grammar,

and that sort of thing, because they do predominately the proofreading that's done here, among other things.

We also have technology staff. The Law Reporting Bureau has its own website, and it was built by our staff, and it's maintained by our staff. That's where all of these decisions are made available to the public. And as long as I'm talking about the website, I do want to add that it's free. It's a public access website, so anybody who wants to have available to them the common law can come to our website and have it without having to spend a penny. It's an extremely cost-effective method for those in the legal profession, attorneys who may not have a budget to pay for high priced commercial services.

John Caher: As you know, I used to write for the Law Journal, and I would visit your site several times a day.

Bill Hooks: That's great to hear.

John Caher: I think everybody on the staff did. We had to. That was where we would find things out.

Bill Hooks: That's great. In addition, not only do we have the decisions, but the website also has a legal research portal, which takes you out to a lot of other free sources, and one of our pride and joys is the official style manual, which is the manual that guides the style for judges when they're writing their opinions, and the Official Reports when they're published in print.

John Caher: The proofreading process must be painstakingly detailed.

Bill Hooks: The editorial process, and proofreading, is painstaking. We really take every writing and break it down, right from scratch. Every citation is checked, to make sure that the citation is accurate, but also, that the citation supports the proposition that it's stated for. We check every quotation verbatim to make sure that that quotation is entirely accurate, and as I said, we also will review for grammar, spelling, sense, that sort of thing. That's what our attorneys are doing. Then our proofreaders are comparing the edited version to the original version, to make sure that we haven't altered anything in the opinion that would alter the meaning of the opinion itself. That's just the first round of what we do, in terms of proofreading and editing. When we're done with that, as I said, we submit it to the judge, and the judge returns it to us, and then we submit to the publisher, to have the copy made for print, and we review that as well, when we get it back from the publisher, to make sure that nothing has been altered in that process. Painstaking is a perfect word for it, John.

John Caher: Other than the state reporter — you — whose name is on the binder of all these volumes, everyone else seems kind of anonymous. What sort of a person, what kind of a personality, is best suited to work in a bureau like this?

Bill Hooks: First of all, I would say that really the names that should be on the spine of the book are the staff besides the state reporter, because they're the ones that are doing all that

painstaking hard work. So they deserve the credit for what's in the Official Reports. But the type of person who, I think, enjoys the work here, and thrives here ... It can vary, but I think certainly you have to enjoy a back office atmosphere. We're not in the public eye. We're not the type of office where the employee typically has adrenaline rushes each day because of some particular issue that's arising. It's pretty constant work. The flow of work doesn't really alter. You always know, when a case is done, there's another one waiting for you. The nature of that work can be solitary, although nowadays we do really encourage, particularly our younger editors, to seek guidance from the more experienced editors when they encounter different situations with their cases. You have to enjoy reading. You have to have, really, a broad interest in the law, because you're handling so many different kinds of issues, and if you have that type of interest in the law, this place is a great place to work. Now, conversely, if you're the type of person who's litigious, if you're confrontational, if you're the kind of person who needs that adrenaline rush, you're going to be very unhappy here, very fast.

John Caher: People who work here must have an extraordinary knowledge and breadth of the law, just because of the volume, and the diversity, of the opinions they're reading. Or are they specialists? Are there people who specialize in criminal law or civil law or whatever?

Bill Hooks: We don't have the luxury of having specialists, John, because of the volume of work that we have, but you're absolutely right. The diversity of what you see here is just an education in itself about the law, because you're literally reading cases from A-Z. One day, you can be working on a speedy trial case, and the next day you're working on a case that has to do with the canal law. Most people didn't even know that the canal law existed. As an editor, you're editing and reading some of these statutes and cases, but our editors also write head notes, which is a brief analysis of the case, and you have to understand that little area of the law in order to write a head note that's going to make sense. It's truly an education, and people do develop a great deal of expertise, broadly, in the law, as a result of being an editor here.

John Caher: They would have to, and thank you for the work you do, from the courts and the people of New York.

Bill Hooks: Absolutely. It's our pleasure. When I was in law school, it wasn't something that I thought I would ever do. I didn't know that there was such a thing as a state reporter, but I feel very fortunate to have been employed here for so long, and to actually have attained the position of reporter. I've really enjoyed my stay at the Law Reporting Bureau.

John Caher: And thank you for your time today.

Bill Hooks: Thank you, John.

John Caher: Thank you for listening to this edition of Amici. If you have a suggestion for a topic on Amici, call John Caher, at 518-453-8669, or send him a note at [jcaher@nycourts.gov](mailto:jcaher@nycourts.gov). In the meantime, stay tuned.