1931–35

A whole lot of litigation, Trustee Creighton obfuscates and delays, Regent Murfin continues as hero, Myrtle White miraculously reappears, Ida’s suit settles, Hutchins Hall opens, dedication day for the Law Quadrangle, the Port Chester lawsuit ends in Michigan’s favor
I have about exhausted my usefulness . . . and I have hope that the day of the snarl is ended.

JAMES MURFIN TO SHIRLEY SMITH, MARCH 1, 1932

WE ARE NEARING THE END OF OUR STORY. What is left to tell about is a whole lot of litigation, which, after much uncertainty, wrangling, and frustration (especially affecting the long-suffering Regent Murfin), successfully concludes on Michigan’s behalf.

John Creighton continues as the villain of this piece. Much to Murfin’s consternation, Creighton shows every sign that he is delaying and obstructing the disposition of the will and the completion of the Law Quadrangle in order to line his own pockets. At one point, Creighton charges the Cook estate fifty thousand dollars for legal advice he gives to himself as the estate’s trustee. Murfin is beyond livid, and any lingering trust and faith he has in Creighton (and New York lawyers) flies out the window.

Murfin continues to save the day at every twist and turn. But he does get some help. It becomes clear that the Law Quadrangle can’t move forward until Ida is made whole. Serendipity once again takes a leading role, when the capable and resourceful Myrtle White, now a Los Angeles doctor’s wife, is able to glean key information concerning Ida’s health that finally brings the suit to settlement.

But more delays ensue when Michigan refuses to pay Creighton the money he brazenly believes he is owed, resulting in his refusal to release funds from the estate to the university. Ironically (and fortuitously), by the time this stalemate is resolved and work on the Quad can resume, the price of labor and materials in the bad economy drops more than the value of the treasury certificates the university has been using to pay the project’s building contractor.
By spring 1933, eleven years after William Cook announced his plans to build the Lawyers Club for Michigan, Hutchins Hall is finished, and the faculty begins to move into their new offices. A year later, on June 15, 1934, the Law Quadrangle is finally complete, and a grand dedication is held.

But another lawsuit has reared its ugly head, and Regent Murfin is once again embroiled in a fight on behalf of the University of Michigan. The state of New York has condemned sixteen acres of Cook’s Port Chester estate, and Michigan must go to court to obtain the proceeds of the sale to the government. Finally, in July 1935, the New York Court of Appeals rules against the other claimant, Presbyterian Hospital, and on behalf of the University of Michigan.

Sadly, what William Cook had most feared before his death has come true: New York has succeeded in taking sixteen acres of his property, and it is the first clear sign that he will have failed to control the fate of his beloved Port Chester property. Before we can revel in Michigan’s happy ending, we must pick up our story where we left it in chapter 1, in early February 1931.

At the end of chapter 1, Ida Olmstead Cook was retaining nationally prominent attorney William Gibbs McAdoo to represent her interests in her threatened suit to obtain half of her ex-husband’s estate. Because Cook’s safe held his copy of his 1898 divorce decree, Regent James Murfin did not at first take Ida’s threat of suing for half of the Cook estate seriously. But even before her suit and on the very day of Cook’s funeral, John Creighton was already making trouble.

Today, looking back at the correspondence, it is clear that on the day of the funeral, Creighton was feeling his oats in his new role as trustee of the Cook estate. We have clear evidence of this from a telling conversation that took place between architect Philip Sawyer and President Ruthven on January 26, 1931, six months after Cook’s funeral. The conversation was prompted by news the university had received from Creighton earlier in the month. Creighton claimed that only $800,000 of Cook’s money (not the $2.8 million described in Murfin’s memo—the original estimate) was currently available to Michigan Law. This was a problem, because everyone knew that Hutchins Hall would cost twice that.

As Philip Sawyer told Ruthven on that late January day, Creighton had informed him at the funeral that it was going to be Creighton’s decision whether to continue the building project at Michigan and that Sawyer should not assume he would continue to be the project’s architect if it did move forward. The latter decision was apparently also going to be Creighton’s. Sawyer also explained to
Ruthven that he believed Creighton preferred the Fuller Construction Company, rather than the James Baird Company, which Sawyer and Michigan preferred. “I think he wants us all to feel that he is in the position of power, and that if Baird is to do this work it is entirely by the grace of his august permission,” Sawyer told Ruthven.

Creighton also claimed that his approval was required before the university could use any income from the trust and that he had to see York and Sawyer’s plans and visit the site in Ann Arbor. James Baird, the general contractor favored by the university and the architects, had agreed to be paid over time, which was going to greatly alleviate any problems of cash flow. But the men at Michigan were suspicious that the delays created by Creighton would give the bank time to press for Fuller to replace Baird as general contractor. These are exactly the kinds of problems that Murfin feared when he wrote his memo on June 27, 1930, stating that the Cook estate held $2.8 million to conclude construction of the Law Quad buildings. Already Creighton was constraining the university by holding back Cook’s money and creating obstacles to the completion of the Legal Research Building and Hutchins Hall.

Creighton made an appearance in Ann Arbor to discuss the project on February 4, 1931, and he brought up another possible reason to delay. He mentioned to James Murfin that Dr. Sawyer in Hillsdale had said something about a legatee of Cook’s will who wanted or deserved more. Murfin duly checked with Dr. Sawyer, who wrote on February 7, 1931, that the Cook family thought Helen Cook Chase, the daughter of one of Cook’s deceased sisters, could make better use of a lifetime income with principal reverting to the university after her death than she could with the lump sum of twenty-five thousand dollars Cook had bequeathed to her. Helen had a “ne’er do well husband,” according to Sawyer, who would quickly run through a single payment. To Murfin, this so-called delay appeared an easily solvable problem.

On that same day, Murfin wrote to Ruthven expressing delight that Creighton’s visit to Ann Arbor had been so fruitful that “our law building problem is practically settled.” Murfin went on to describe Creighton as someone “in sympathy with our plans.” Alas, Murfin was being overly optimistic. The problem with Cook’s niece proved, as Murfin had suspected, to be insignificant, and Creighton had even agreed to keep Baird as the contractor. But a problem yet unknown to Murfin was about to appear on the horizon. Creighton was on the verge of revealing the news of Ida’s lawsuit. The sense that difficulties were resolved had been an apparition, perhaps deliberately created by Creighton, who would continue to obstruct the release of money to the university.
In his letter, Regent Sawyer, also naively believing all difficulties resolved, thanked Murfin for handling the Cook affair “in a mighty good way,” as if the need for handling it was over. He praised Murfin for “at all times understanding the situation” with Cook and lauded his ability to have “kept everybody in good humor.” Sawyer noted that although Murfin had “some problems with Bates and Sunderland, who are pretty difficult sinners,” he was sure Murfin would “arrive at a good solution.”

The praise was perhaps premature, as the problems would extend far beyond Bates and Sunderland and the Legal Research Institute.

Any delight Murfin was feeling lasted only a few days. A week later, Creighton’s letter about Ida Olmstead Cook’s possible lawsuit was in the hands of the men at Michigan. The letter included a statement by Creighton that must have baffled Murfin: “We do not see why you should halt the preparations for the new building, but . . . you realize we will be unable to go along with you on this matter until this claim has been finally disposed of.”

Creighton was saying that he would not release money to the university until Ida’s claim was resolved. But he promised to resolve it as quickly as possible and to keep Murfin informed.

Murfin would take the lead in finding solutions. In January 1931, the Board of Regents had appointed a committee of three (Ruthven, Shirley Smith, and Murfin) to run the building project. Smith would handle the financial angles, and Ruthven would help as needed with high-level policy. It was clear that Murfin would be the point person, especially as the latest challenge was a possible lawsuit.

As we learned in chapter 1, Murfin informed others in Ann Arbor about the threatened suit. In March Bates recommended that they hire Ralph Carson (Michigan Law 1923), of the Davis, Polk, and Wardwell firm, to represent them. Bates said that they needed a vigorous man who had “no affiliations with or fear of National City,” the bank administering Cook’s estate. As mentioned in chapter 8, John W. Davis had been one of the first people, after Charles Evans Hughes, to be invited to give the Cook lectures on American institutions. The connection that created that invitation also brought Michigan to Davis’s firm in this hour of need.

Murfin had at first believed that the university would be able to proceed with the building program using the Cook trust established for that purpose. But Creighton had said in January that only eight hundred thousand dollars was available. That was not going to be nearly enough.

In mid-March 1931, Creighton told Murfin that Ida’s grounds for claiming the divorce invalid had to be either collusion between Will and Ida or lack of jurisdiction by the North Dakota court over both parties. Examples of the latter
would include Will not receiving notice of the divorce action or Ida not being subject to the North Dakota court because her husband had not empowered her to be in North Dakota. But Creighton said that Cook’s lawyer in the divorce, Porter McCumber, said there had been no collusion. McCumber is another example of Cook’s national network: he graduated from Michigan Law in 1880 and would have known Cook, who earned his B.A. that year. The year after McCumber handled the Cook divorce, North Dakotans elected him to the U.S. Senate, where he served for four years, from 1919 to 1923. He was practicing law in Washington when Creighton contacted him. The two may well have become acquainted earlier, during Creighton’s service with U.S. attorney general A. Mitchell Palmer.

Murfin pressed Creighton to provide the documents of any court filing. When he found out that there was only a letter threatening a suit, rather than an actual filed suit, he decided that Creighton was just “making a mountain out of a molehill.” This would have made Murfin even more distrustful of Creighton, who appeared to have exaggerated Ida’s action and then used that as a reason to refuse to send money to the university.

A couple of days later, on March 17, 1931, Murfin wrote to Ruthven that he was returning the “confidential communication you had from York and Sawyer,” which he had read with “interest and amazement.” Murfin said that while he hated to lose confidence in people with whom he was dealing, he was now “forced to the conclusion that there is a nigger in the woodpile somewhere.” Without that confidential communication, we can only speculate that architect Sawyer told Murfin about the close connection between National City Bank and the Fuller Construction Company or that the letter contained information about Creighton’s desire to make a living from administering the Cook estate by introducing (or inviting) complications such as the delays in distributing income and in responding to Ida’s threat to sue. Philip Sawyer, for whom Cook was a client for over twenty years, had a loyalty to his client’s wishes that would override any powerful forces working to thwart that client’s interests.

Poor Henry Bates, who had wanted a law building to be the first priority way back in 1921, wished to start building Hutchins Hall despite the difficulties. Murfin overruled that, saying in a letter to Bates on March 17, 1931, that he didn’t want anyone “unduly prematurely stirring up the animals.” On the same day, Creighton tried to reassure Murfin by writing, “[D]on’t worry, if this most recent will is invalid, we have five earlier wills in the bank’s vault.” We can almost see Creighton rubbing his hands in glee at the thought of litigating six wills in succession. It was probably not Irishman Murfin’s jolliest St. Patrick’s Day.
Creighton at last gave the go-ahead for Hutchins Hall on March 25. Contractor Jim Baird wrote a grateful letter to Murfin. The next day, Murfin couldn’t resist telling Ruthven and Shirley Smith about Creighton’s response to a request from the New York City Michigan alumni association for a contribution. After giving the matter consideration for several days, Creighton settled on the somewhat stingy amount of five hundred dollars—payable at fifty dollars a year over ten years.

The very next day, Bates told Murfin he wanted to “frame a reorganization of the Legal Research Institute.” Murfin seems to have set that aside for the time being, so that he could focus on the much more fundamental problem of Ida’s lawsuit. In early April, H. Bartow Farr (who did most of the legal work for Ida) told Charles Angulo, National City Bank’s lawyer, that Ida would take twenty-five thousand dollars a year for the rest of her life (“and she is seventy-two”) plus attorneys’ fees, excluding her claim for dower (the widow’s share) in Cook’s real estate. Since the property (ninety-seven acres in Port Chester and the custom-built town house on East 71st Street) was extremely valuable, Murfin wrote to Ruthven, on April 13, that he “would not consider” the offer. Pushing back against Murfin’s reluctance, however, were Cook’s legatees, including favorite niece Florentine, who called on Murfin to express her worry that the threatened suit would slow the receipt of her annuity. Murfin reported this news to Creighton on April 15.

Murfin wondered about the divorce: had there been any financial settlement that might neutralize Ida’s current claims? On April 20, Creighton assured Murfin that inquiries to McCumber revealed no financial settlement. McCumber said that Cook had only paid off Ida’s outstanding bills (Ida’s father had paid her lawyer).

Then, in April, Ida’s threat to sue became public, and papers from New York to California published articles about it. That publicity pushed Creighton and National City Bank, serving as the estate’s trustees, to file a public account of the estate, on April 21, with the probate court. This filing, in turn, forced Ida’s lawyers to take legal action to first state and then prove her claim. That same day, Creighton wrote Murfin that Ida had rejected an offer of two hundred dollars a month, saying she wanted ten to fifteen thousand dollars a year for life. On April 23, Murfin again said no.

A week later, attorney Ralph Carson reported to Murfin that Creighton had charged Cook’s estate fifty thousand dollars for advice given by Creighton the lawyer to Creighton the trustee. This enraged Murfin (recall Creighton’s donation of fifty dollars a year for ten years to the alumni association), who investi-
gated the legitimacy of such a claim over the next few weeks. He found that the practice was both legal and common, which inspired him, on January 21, 1932, to write to Shirley Smith, “The more I see of New York lawyers, the more I wish I was back in Portsmouth, Ohio [Murfin’s hometown].” Creighton’s request to pay himself for advice to himself was the last straw for Murfin, whose suspicions about the trustee’s motives had been confirmed. Murfin would never again trust Creighton, and he determined to keep Creighton from enriching himself any further from Cook’s estate.

Bates remained an additional thorn in Murfin’s side, not that this was a surprise; Bates was reliable in his ability to annoy. He sent a series of suggestions, complaints, and queries to Murfin about his handling of Ida’s claim. We can imagine Murfin’s Irish ire rising with each suggestion, since Murfin had already accomplished everything Bates had been inquiring about. On May 2, 1931, Bates wrote to Murfin, “We should see whether the woman making the claim is really Ida Olmstead Cook.” Murfin replied the next day that the trust company had looked into that months ago. Bates also reported to Murfin that someone told Bates that Mrs. Cook was confined in a sanitarium almost immediately after the divorce. Murfin replied, on May 4, that Florentine had told him that the confinement was for a “very brief period, very brief.” On May 20, Murfin reported to Bates that, according to Florentine, “some years after the divorce, Ida had unsuccessfully sought a reconciliation.” As late as October 13, 1931, Bates suggested, “[W]e should have had an expert testify as to North Dakota law.” Murfin replied the next day, “We had such an expert, who testified that the divorce was valid. They had such an expert, who testified that it was not. With this amusing gesture, the case rested.”

Toward the end of May 1931, despite Bates’s suggestions and several conferences, there was still no progress toward a settlement. Murfin believed that McAdoo, on a contingent fee, was “unusually greedy.” But Murfin offered Ida six thousand dollars a year for life plus ten thousand dollars for lawyers, considering that further litigation would be very expensive. Ida rejected the offer two days later, which Murfin reported to Ruthven on May 28. On June 1, Murfin told Carson he had talked with Florentine, who reported her impression that Ida had found Cook “an impossible person to live with, and that was the primary reason for her leaving him.” (In an interview for this book, Ida’s grandnephew, Larry McGill, said that Ida had described Cook’s sexual habits as “coarse.”)

On June 3, Carson urged Murfin to find a “happy medium” between what Ida wanted—$250,000—and Murfin’s last offer, which was about $8,000. Carson gave four reasons for recommending a settlement. First, it was not an open-
and-shut case, and there was an outside possibility of losing. Second, even if the university was assured that the law was on its side, the case would be hard-fought and would require expensive appellate counsel like Mr. Davis himself (who had been the Democratic presidential nominee in 1924). Third, the correct measure of the value of the case was not what Mrs. Cook might win but the enormous loss that her victory would inflict on the university. Even the highest possible amount mentioned to date for a settlement ($250,000) was a mere 5 percent of the probable loss to Michigan (half of Cook’s $12 million estate) should Mrs. Cook win. Finally, everyone should remember, Carson wrote, that the publicity of a contest like this is almost always unfavorable to the charity involved.\(^36\)

Everyone had expected a hearing to be held in May. However, court schedules as well as the schedules of the parties involved led to the hearing being postponed until the fall. In the interim, a few other offers flew back and forth, but nothing was ever acceptable to both parties. Finally, on September 20, both sides went before Surrogate Judge Thomas Foley—who all agreed was the best judge they could have—and made their case. Foley gave the parties fifteen days to submit briefs; he would set a trial date when he had the briefs.

In October the university received the letter from Harvard law professor Joseph Henry Beale it had been waiting for.\(^37\) Presenting a “hypothetical situation” identical to that of Cook’s, Michigan had asked Beale for his opinion. Beale had been one of Harvard Law’s most distinguished professors for over thirty years. In 1903 he had left Harvard for two years to serve as founding dean of the University of Chicago Law School, and he took law professor Floyd Mechem from Michigan with him. Michigan gave Beale an honorary LL.D. in 1905.\(^38\) In short, Beale’s opinion would have tremendous authority with any court. What Michigan got from Beale was exactly what they wanted: an opinion “very strongly in our favor” that was a “crowning blow” against Ida’s position, lawyer Walter D. Fletcher (who had replaced the less experienced Carson) reported to Murfin on October 6, 1931.\(^39\)

In the meantime, while the legal case was doing very well, the construction project’s financial situation was not in such good shape, because of Creighton’s continuing refusal to release income to the Law School pending the outcome of the suit. The value of Cook’s estate was continuing to decline, reducing the expected income. The contractor, Baird, had extended himself by about one hundred thousand dollars. Murfin was fuming. He did not understand Creighton’s reasons for withholding money.

September and October passed, November arrived, and still there was no money. On November 3, 1931, Murfin wrote to Creighton that construction was nearly at a standstill and that he could not understand the reason for a moment’s
delay in sending the money. Three days later, Creighton was still balking. On November 9, Murfin wrote to Walter Fletcher, saying he could “not understand Creighton” and that “Baird may stop work and abandon the unfinished building [Hutchins Hall].” On November 13, Fletcher said there was “no reason not to make a substantial advancement now.”

The oral argument in Ida’s case took place on November 19. It would be weeks, however, before the court issued an opinion. There was still time to negotiate. But was money flowing yet from the estate to the university? On November 19, Creighton told Murfin that forty thousand dollars would be available from the estate.

The same day, McAdoo wrote that he would be in New York on December 2 for two weeks. Did McAdoo’s trip to New York signal that a settlement was near? The difficulty the university was having wresting money from National City Bank was squeezing them, and their problems were compounded by a unique twist: the cost of labor and materials was dropping, for the moment, faster than the value of Cook’s estate. Pressure to settle was increasing. But the university still didn’t know much about the pressures on Ida. What did she really need? How much would her lawyers take? Was she healthy and sound or sick and weak? Without that type of information, Murfin was severely handicapped. The university’s dire situation was quite public, but Ida’s was not.

By early December, the terms of a possible settlement were emerging—perhaps around two hundred thousand dollars for Ida. But no one at the university knew how likely this was to meet her needs. Was she desperate and willing to settle for less, or would she be able to fight on through appeals?

Then, in mid-December, almost out of the blue, Myrtle White reappeared. If you remember, Myrtle was the wet-behind-the-ears Michigan graduate who, in 1910, had called on William Cook and piqued his interest in giving money for a dormitory for women. She had showed him plans that intrigued him and had passed on to brand-new Michigan president Harry Hutchins Cook’s request “Have your president call on me.”

Myrtle was now Mrs. Godwin, wife of a successful Los Angeles doctor, and she had stayed connected to the University of Michigan. She still returned occasionally to Ann Arbor, and she was there in late 1931. Myrtle’s letters to Shirley Smith after that visit reveal that she and Smith had met and discussed Ida’s suit, which threatened the gift Myrtle had helped to nurture. Smith gave Ida’s address to Myrtle so that she could look into Ida’s situation.
Myrtle did just that, and her December 1931 letter to Smith was written over two days, December 13 and 14. Myrtle had a friend, Margaret Carhart, who taught at the University of California in Los Angeles. Carhart arranged an annual trip to England for her students. One of those students was currently Beatrice Borst, who wanted to go to England but couldn’t afford the trip. Miss Borst, however, hoped that her aunt, who lived with her, might come into an inheritance that would help pay for the trip. The aunt was Mrs. Ida Cook. Myrtle asked Carhart to get more information from Beatrice about her Aunt Ida, and Myrtle had a second meeting with Carhart the next day.

What Myrtle learned about Ida from her friend Margaret Carhart doesn’t square entirely with what we know for certain about Ida, but Myrtle provided crucial last-minute information to Shirley Smith and Jim Murfin about Ida’s current situation, which helped them make a settlement offer that was attractive to Ida yet affordable to Michigan. Myrtle reported that Borst’s Aunt Ida was elderly and sick, suffering from tuberculosis; that Cook’s eccentricity and impatience had driven her, when they were married, to a nervous breakdown; and that she had gone to Montana to get a divorce but that Cook didn’t want her to get the divorce, so he got it for himself in Montana. For eighteen years, after Dwight Olmstead died in 1901, Ida had lived with her sister, Grace Borst. But when Mr. Borst died suddenly in 1918, the family had been left destitute. Ida was currently living on a small income from her father’s estate. Grace and Ida had moved to California, and after Cook died, Ida had read of McAdoo in the paper and thought he might be able to help her. McAdoo told Ida that if she were thirty-five years old, he would advise her to fight to the last court. But now Ida would settle, Carhart told Myrtle, if she could get one hundred thousand dollars free and clear of all costs. This was exactly what Michigan needed to know.

Myrtle’s letter did not reach Ann Arbor until December 17, but surely she used the phone to convey her crucial information to Smith. On December 14, Murfin told Michigan’s lawyer Walter Fletcher that the Board of Regents would be willing to settle with Ida for around two hundred thousand dollars, for the reasons Fletcher had outlined earlier. The main reason for the urgent effort to settle soon was to force Creighton to release the money to finish Hutchins Hall. Only two days later, Murfin was writing of a “good deal of relief in Ann Arbor that we disposed of the Cook litigation,” and he began to negotiate with the bank to speed up the flow of payments to the university. The same day, Murfin, the careful lawyer, wrote a memo to Shirley Smith setting forth the rationale for settling with Ida: the uncertainties of litigation; the
possibility of appeals, given the amount of money at stake; the delay in constructing Hutchins Hall being contrary to the donor’s wishes; and his belief that Michigan would be better served by eliminating the delay, uncertainty, and expense of continued litigation with Ida.\footnote{51}

Once again the relief in Ann Arbor was premature. Creighton had to agree to the settlement, and on December 19, Murfin learned that Creighton would not do so. On that day, Murfin received a letter from the bank’s lawyer, Charles Angulo, stating that Creighton had recalculated what Ida might win if she prevailed after a trial, and it was only $147,000.\footnote{52} The correspondence does not reveal how Creighton came up with this very low number, but it’s easy to see Creighton’s motive: he wanted to delay a settlement to increase the number of billable hours he could put into the case, perhaps even charging to give more advice to himself. Creighton’s reasoning would have been that the university should not settle for $200,000 if Ida could only win $147,000 at a trial. Angulo also told Murfin that he had other information he “preferred not to mention here that you should know about before we agree.” The correspondence does not reveal what that unmentionable information was. At this point, Murfin and Smith would have been grateful for Myrtle’s information about Ida’s poor health and straitened finances. They suspected a quick settlement was coming in order for Ida to avoid the long delay of a trial and appeal.

On Christmas Day the papers reported a settlement.\footnote{53} During the first week in January 1932, yet another potential delay cropped up when Fletcher wanted to have every member of the extended Cook family of legatees sign off on the settlement. Murfin objected, writing to Fletcher on January 11, 1932,

> Why do we need to get signatures of the many members of the Cook family? This great delay will involve explaining which may stir sleeping dogs which we have thus far been able to handle. No law makes this necessary; it would be a great mistake. Please confer with Angulo and see if we can avoid it.\footnote{54}

Finally, on January 28, the Board of Regents approved a settlement of $160,000 to Ida, to be paid from the principal of the Cook estate. This amount is $40,000 less than the $200,000 Michigan had in mind in mid-December, before getting Myrtle White Godwin’s information about Ida’s bad health.

> What if there had been no settlement? What if Surrogate Judge Foley had had to make the decision? Shirley Smith asked Foley this and reported to Murfin Foley’s response that Murfin’s argument was “the best argument made in the case” and that “his opinion would have followed it entirely.”\footnote{55}
Settling the lawsuit did not have the desired result of jump-starting the flow of money from Creighton. The wrangling and delays continued. The fees Creighton charged, which, by February 9, totaled $175,000 (this included the $50,000 he requested to pay himself, the lawyer, for advice he gave to himself, the trustee) rankled Murfin. The Michigan Board of Regents, as beneficiary of the trust, had reached a standoff with Trustee Creighton: as long as the university held up payment of Creighton’s fees, he would refuse to release money from the trust.

The problem with Creighton’s fees led Murfin, on February 22, to tell Fletcher that he was seriously considering filing a petition to remove Creighton as trustee, on the grounds of his “extortionate demands and withholding the deposit of income to our account.”56 This was despite Fletcher’s advice, on February 15, that it would be impossible to do such a thing.57 By March 1, a convoluted agreement on attorneys’ fees emerged that gave Creighton $62,500 rather than the total of $175,000 he was claiming to be owed. The Michigan regents informed Creighton that they would never again pay him to give advice to himself.58

One more hiccup remained: Murfin could not get from the bank an estimate of income for the coming year. Without that, Michigan could not continue building. A word to Fletcher at Davis Polk got the information immediately, along with a promise from the bank that inquiries to the office of Angulo (the firm that was of counsel to the bank) would be responded to without delay or difficulty. Perhaps Creighton resisted paying the university in order to enrich himself, but it’s quite possible that the bank simply did not have the money. National City had bought up many other banks in the late 1920s; by 1929 its stock had dropped from five hundred to two hundred dollars per share.

Murfin’s patience and professionalism had been worn thin by all of this. Back on March 1, he had written to Shirley Smith, “I have about exhausted my usefulness in the Cook matter, I suggest you . . . leave me out . . . [T]here have arisen a number of very annoying features of late and I have hope that the day of the snarl is ended.”59 Just five weeks later, it was. A happy side effect of the delay was that during the long negotiations, the price of labor and materials had dropped more than the value of the treasury certificates the university had used to pay Baird.

The story of Cook’s will and trusts benefiting Michigan began with his death in June 1930 and appeared to have come to an end by early April 1932. The lawsuit and attendant disagreements over fees and commissions were finally settled, and money and estimates of annual income were now flowing to the university. But this was not the end of this story’s trials and tribulations. Just as Michigan was convinced that all problems were resolved, a new twist in the plot emerged.
University of Michigan president Alexander Ruthven was served, on April 12, 1932, with a notice and petition of condemnation by Westchester County of a significant portion of Cook’s Port Chester estate. Shirley Smith, apparently having assumed the “white man’s burden” of watching over the estate, as Murfin had suggested six weeks earlier, wrote to Creighton, “Please send brief note stating to what extent, if any, this affects the interests of the university as residuary legatee. Offhand, I guess it concerned more the lands given to Hospital, but may be mistaken.” This lawsuit, Creighton responded, did affect the university: at issue was the fair market value of the property and whether payment at sale should go to Presbyterian Hospital or to the university.

Before Michigan became fully engaged in yet another dispute over Cook’s will, there was something to celebrate: in the spring of 1933, Hutchins Hall was done, and in the summer, faculty moved in. Finally, eleven years after Cook had announced that he would build the Lawyers Club, the Law Quadrangle was complete. It had been nine years since students had first begun to occupy the rooms in the Lawyers Club and enjoy its lounge and dining room. It had been two years since the opening of the Cook Legal Research Library, with its incomparable Reading Room, and since students had moved into the John P. Cook dorm. Now the faculty had moved into their new offices in Hutchins Hall.

During that fall of 1933, students filled the capacious halls and classrooms of Hutchins Hall. The Law School no longer needed a single square inch of its aging former quarters. It could enlarge the number of students and faculty; it could undertake more research projects; it had an endowment that, while not as large as originally expected, would provide a cushion. At that time, no one knew that the Great Depression, far from being over, would only worsen in coming years. This would, of course, further diminish the income from the Cook estate. Still, in 2008 the Cook endowment stood at about $48 million; this money generates $2,274,000 in annual income that supports faculty research.

A grand celebration of the Cook Law Quadrangle took place in Ann Arbor on June 15, 1934. Speakers that day included associate justice of the U.S. Supreme Court Harlan Fiske Stone, Harvard Law dean Roscoe Pound, former secretary of war Newton D. Baker, and chief justice of the Wisconsin Supreme Court Marvin S. Roseberry. President Ruthven, Regent Murfin, and Dean Bates also made remarks. The great day attracted national attention. The New York Times anticipated the event with the June 14 headline “Michigan to Dedicate New Law
Quadrangle,” and the Chicago Daily Bulletin reported, on June 16, that “the University of Michigan’s $11 million Law Quadrangle was dedicated to the lofty ideals of legal research and leadership which inspired its donor, William W. Cook.” The university published the book Dedicatory Exercises of the Law Quadrangle,62 which included photos and the speeches and remarks made that day.

The Law Quad was finished, and it became instantly iconic. Because Cook’s will had set up several trusts, with income going to an individual for life and the principal reverting to the university at his or her death, decades would pass before all of Cook’s assets finally came to the university. Yet all was in order for that to happen.

But even as Michigan Law celebrated the completion of the Quad, the long-suffering regents were facing yet another lawsuit. This new one arose because Westchester County took by condemnation (the legal action a public body uses to obtain title to private land to use for a public purpose) sixteen acres out of the northwest corner of Cook’s ninety-seven-acre Port Chester property, for the purpose of extending the Hutchison Parkway. Clause 4 of Cook’s will had left all the Port Chester property to Presbyterian Hospital, but only for as long as it would use the property for legitimate hospital purposes. When the hospital was no longer able to use it, Clause 4 called for the land to go to the university. Cook also left a trust of one hundred thousand dollars to provide income to help the hospital maintain the property. That trust, too, would go to the university when the hospital stopped using the property.

The lawsuit was a fortuitous occurrence for anyone wanting to find out as much as possible about William Cook. Details about him and his Port Chester property that appear earlier in this book and in the following paragraphs are drawn from testimony at the trial. From that testimony, we learn more about Cook’s character and about the excruciating conflict between what he wanted to accomplish at Michigan Law and what he wanted to happen to his beloved New York property. The testimony in this condemnation case brings to light a significant fact that none of the newspaper articles or extensive archival records at Michigan revealed: Westchester County had begun the process of condemning the sixteen acres at the northwest corner of Cook’s acreage on April 7, 1930, two months before his death.

Now we understand more about Cook’s depression, reported by Regent Sawyer in May 1930. To know that you are dying certainly might lead to a serious case of depression. To learn that 15 percent of your cherished land will soon be covered in concrete highway, to carry the cars belonging to what Cook referred
to as a “mob of litterers,” was surely devastating. Cook had mentioned in conversations with Florentine in the early 1920s that the new parkway system would eventually bring these mobs, and this was a major reason for Cook’s decision not to give the estate to the town of Rye for a park.

That Cook and Creighton knew about the coming condemnation years before Cook’s death also raises the question of whether the two lawyers should have used that knowledge to write a clearer Clause 4. This second flaw in the will (the first was failing to account for Ida’s existence) is additional evidence that Creighton’s goal was to generate as much work as possible for him as trustee. His goal should have been to ensure that his client’s wishes were fulfilled, which meant as much money as possible going to Michigan Law. Ironically, Cook’s chosen trustee, a Michigan Law alum, apparently didn’t have the character Cook wished lawyers educated at Michigan to possess.

The condemnation process and the resulting appeals took longer (from 1930 to 1935) than Ida’s suit (lasting from 1930 to 1932), but the part of the suit involving the university began almost immediately after Ida’s suit was settled. In July 1932, the New York Supreme Court of Westchester County (in New York this is the court in which lawsuits begin) had determined that the sixteen acres were worth $111,000. The county deposited that amount with the court, where it would accrue interest. Then the lawsuits began. The relevant question was, should the $111,000 and the interest it would accrue go to Presbyterian Hospital or the university?

The hospital argued that it had the right to the money under the unambiguous terms of Clause 4. The university argued that the money should come to Michigan because Cook’s obvious and clear intent in Clause 4 was that Michigan ultimately benefit from the property. Regent Murfin was again at the reins, committed to doing everything possible to achieve Cook’s goal of Michigan benefiting from the property.

Irony abounds here. Ida’s suit had brought the university and the hospital together as partners in minimizing any loss from the estate to Ida. Now, the former partners were, in the most dignified manner possible, fighting over $111,000—far less than the $160,000 they had just settled on Ida. To each party, the principle involved was the necessity of carrying out Cook’s wishes.

This suit was different in another crucial aspect: John Creighton played almost no role. He was a witness, and he was still the trustee, but he did little lawyering (for which he would have, famously, charged a fee). Instead, the calm and professional Charles Angulo, National City Bank’s lawyer, took the lead and made the oral arguments. Murfin and Creighton helped with the briefs.

In the initial trial, the court had determined, after hearing all the oral testi-
mony, that the testimony should not be admitted, because Clause 4 was not ambiguous. It ruled that the hospital should get the $111,000 award (but keep it in a separate fund) and be allowed to invest it and use any interest earned. The court ruled further that when the land went to the university, it would also get the $111,000 in the separate fund. On appeal, in February 1935, the Supreme Court Appellate Division Second Department agreed with the decision, and the Court of Appeals (New York State’s highest court) concurred in July 1935.

Murfin was satisfied that he had done all he could to achieve Cook’s wishes. A skilled lawyer, who was also very fond of Cook, Murfin surely appreciated Cook’s distress over the best way to maintain and save his land and why the condemnation of sixteen of its acres had contributed to Cook’s end-of-life depression.

William Cook died secure in the knowledge that most of his fortune would go to Michigan, but he also died knowing that his beloved land’s fate was beyond his control. Cook’s will directed that his ashes be buried on his Port Chester property, on a high point overlooking Long Island Sound. In the future, they would be dug up, along with his trees, and the land would be carved into small pieces for development. We know that his ashes survive, removed to safety in the Cook plot in Hillsdale’s Oak Grove Cemetery. But the land (and most of the trees) suffered the very fate Cook had feared most: it was divided and developed. The next chapter will describe the fate of the land, of Cook’s other assets, and of the people we have met in this story.