An illustration of C. P. W. “Chas” Hull, from Carrie Hull’s The Hull Baby. Courtesy of Special Collections, Mabee Library, Washburn University, Topeka, KS.
The Hull Baby Case and Women in 1870s Kansas

by Kelly Erby

The judgment of Solomon is a familiar Old Testament story in which two women, each claiming to be the mother of a baby boy, appealed to King Solomon of Israel to judge who was the true parent. After hearing each woman’s story, King Solomon decided, because he could not know for certain, that the only fair solution was to split the baby in two and give each woman half. One woman readily agreed to this verdict; the other cried out, “Oh, my lord, give her the living child, and in no wise slay it.” Then, according to the story, the king knew who the real mother was, for any mother would surely prefer to surrender her son rather than have him killed. King Solomon awarded the baby accordingly.

In spring 1877, Kansans were riveted by a contemporary version of this biblical parable, a salacious family drama in which two women, one the wife of a wealthy banker from Independence, the other a destitute inmate of the Home for the Friendless in Leavenworth, both claimed to be the mother of a baby boy called Chas. In April, Justice David Josiah Brewer, a Kansas Supreme Court judge who later became an associate justice of the U.S. Supreme Court, heard each woman’s case for maternity and rendered a verdict. The Hull Baby Case, as it became known, riveted the attention of newspapers and readers across the state.

The story of the Hull baby offers an unusual window into life in 1870s Kansas, particularly contemporary conceptions of motherhood and the opportunities available to women. During this time, white middle-class women in Kansas and elsewhere were still expected to devote themselves to the role of “republican mother,” raising virtuous sons for the

Kelly Erby is associate professor of history at Washburn University in Topeka. She is the author of Restaurant Republic: The Rise of Public Dining in Boston. She would like to thank her friend and colleague Tom Averill for alerting her to the case of the Hull Baby, and for building the Thomas Fox Averill Kansas Studies Collection of books at Washburn University.

2. Why Judge Brewer heard this case and not a district judge—as would have been typical—is not entirely evident. It may have been because the case spanned jurisdictions, involving one woman who lived in Leavenworth and another who lived in Independence. Another possible reason is that there simply may not have been a district judge available at the time. For a general overview of Judge Brewer’s career, see Stephen R. McAllister, “The Kansas Justice: David Josiah Brewer,” http://www.greenbag.org/v19n1/v19n1_front_matter.pdf. Ellsworth Reporter, September 16, 1875.
In the spring of 1877, Kansans were riveted by a contemporary version of a familiar Old Testament story, The Judgement of Solomon. As shown in this painting by William Blake, two women, each claiming to be the mother of a baby boy, appealed to King Solomon of Israel to judge who was the true parent of the child. After hearing each woman’s story and unable to know for certain, Solomon decided that the only fair solution was to split the baby in two and give each woman a half. When one woman declared it best the other get the child rather than it be killed, the king knew who the real mother was, and awarded the baby accordingly. Courtesy of the William Blake Archive, http://www.blakearchive.org.

gender ideals had long limited women’s occupational options in Kansas and elsewhere, leaving most women economically dependent on men. But in Kansas, the argument spearheaded by early women’s rights advocates that women’s responsibility for the nation’s future citizenry required access to certain political and economic rights had begun to make important headway, expanding women’s opportunities and influence.4

Indeed, thanks in no small part to the pioneering efforts of women such as Clarina Nichols and other activists who based their reform agendas on the special role women played in society as mothers, the state constitution in Kansas guaranteed women the right to inherit, control, and bequeath property in their own names. It also extended to them the right to vote in school board elections. Women’s rights in Kansas were advanced in other ways as well. Divorce had the reputation of being more easily obtained in Kansas than in the eastern states, and women were promised equal custody consideration of children in the case of divorce. In November 1867, Kansas even became the first state where the possibility of universal suffrage for women was presented through a public referendum. Women suffrage was voted down that fall, however, suggesting that the expansion of women’s citizenship on the basis of their gendered identity as mothers would not provide an easy pathway to full equality. The Hull Baby Case invites the historian to examine both the limits and the possibilities for women in late-nineteenth-century Kansas under these circumstances.

But first, who were the women claiming to be the mother of this baby? The wealthier of the two, Carrie E. Hull, had moved to Kansas from Illinois and married Charles Hull of Independence in 1876. This marriage was not her first; she had previously been wed to physician Dr. David Swim of Bunker Hill, Illinois, who had died in 1873. According to Carrie Hull’s later account of her marriage to David Swim, she had twice “thrilled at the sound of a feeble cry, the voice of her new-born babe.” But each time, “sorrow had taken the place of joy, when the little ones opened their eyes to behold the sunlight of this bright world, only to close them again,” departing with angels.

Two years after David Swim’s death in 1873, his widow, Carrie, left their home in Illinois with a small sum of money that had been bequeathed to her by his estate


7. Carrie E. Hull, The Hull Baby, or, a Mother’s Wrongs: Being a Complete Account of the Celebrated Case Pending in the Courts of Kansas (St. Louis, MO: Author, 1878), 11–12. David Swim, born in 1828, probably grew up in rural Pennsylvania. He became a physician and married his first wife, Margaret, in the late 1840s. In 1848 or 1849, David and Margaret welcomed a child, Lydia Ann, named after David’s mother. Sometime before 1858, David moved his family, which now included a second daughter and a son, to the fledgling settlement of Americus in Breckenridge County of Kansas Territory. His aging mother also accompanied the family west. In Kansas, David continued to practice as a physician and Margaret gave birth to their fourth child, Terrence. Then, judging from census records, tragedy appears to have struck the Swims, resulting in the deaths of Margaret and three of the four children. Only little Terrence and his father survived. By 1870, federal census takers found David and his son—now twelve—living back east in Bunker Hill. At this time, David was remarried to a woman named Emma. It is possible that Mrs. Hull, whose middle initial was E., was the Emma Swim whom the 1870 census records as being married to physician David Swim of Bunker Hill, Macoupin County, Illinois. According to this census, Emma Swim was twenty-seven years old in 1870—approximately the right age to be the same woman as Carrie Hull. Or, it may be that David Swim remarried yet again sometime between when the 1870 census was completed and his death in 1873. It is impossible to know for certain. After 1870, his surviving son, Terrence, also disappears from the census records. Bureau of the Census, 1880, Kansas Territory, Breckenridge County, Americus; Bureau of the Census, 1870, Illinois, Macoupin County, Bunker Hill.
and her piano. In Independence, a prosperous upstart town located in the southeastern portion of the young state of Kansas, she hoped to create a new life for herself. The widow quickly secured a position as the assistant principal of the public schools in Independence, a job that provided her with a modest but comfortable income. Only a few months later, however, she resigned from her school duties to become Mrs. Charles Hull. The Hulls were married in Olathe on January 19, 1876.

Charles Hull had migrated to Independence with his brother, Edgar, from Kalamazoo, Michigan, where his father, Latham Hull, owned a thriving bank. He, too, had chosen the community primarily for its economic promise: “Surrounded by a fertile valley, thoroughly cultivated, large, productive farms, and a class of industrious citizens,” Independence, he believed, was “destined to become a city of great importance to the State.” The brothers, with assistance from their father, established a bank in Independence, the only bank in the county to weather the financial crisis of 1873 without having to suspend payment of specie for even one hour. To secure the future of the banking enterprise, Hull’s father promised $5,000 to the first male heir born to either of his sons, a powerful incentive to start a family—which, according to Carrie Hull, she and Charles did with the birth of their son, Chas, in November 1877.

The other potential mother of the boy in question, Hester Wiley, hailed from a considerably less prosperous background than Carrie Hull and was “able to read but a little and unable to write.” Wiley lived with her mother and stepfather in Fort Scott, Kansas, until she married James Silver and moved with him to Chicago, Illinois. After Silver died in August 1874, she married Edmund Wiley, “a man of no property,” in June 1875 and soon became pregnant. Unfortunately, her new husband began to beat her. Concerned about the possible effects of her husband’s regular abuse on their unborn child, Wiley left her husband in Chicago and returned to Fort Scott to live with her parents. About six months later, she was forced to take up residence at the Home for the Friendless in Leavenworth, a public shelter for impoverished women partially funded by the state legislature, because her parents could no longer support her.

The socioeconomic contrast between Hull and Wiley was repeatedly highlighted by Kansas newspapers throughout their coverage of the Hull baby trial. Journalists never missed an opportunity to remind readers that Hull was the wife of a rich banker, while Wiley was an inmate of the Home for the Friendless. Reporters also frequently compared these women’s appearance, describing Hull as fashionable and good-looking and devoting several lines of each day’s trial coverage to how she had dressed to appear in court. For example, on April 7, after the first day of the trial, the Leavenworth Times informed its readers that Hull “appeared to be a good looking lady of about thirty years of age, rather small in stature and a trifle stout. Dressed as she was in a suitting of black, with a velvet overdress and a black hat and veil, one would have supposed she was in mourning had it not been for the relief shown by a white feather of her hat.” On the second day of the trial, the Leavenworth Times noted that Hull wore a “black velvet cloak, black veil, black kid gloves, heavy chain, gold bracelets around the outside of the cuffs, and dainty kid boots.” In contrast, the papers characterized Wiley as a “very plain looking woman” who “made no pretensions as to anything like style” but rather came to court every day in the same calico dress.

The two women shared more in common through what one historian has called the “bonds of womanhood” than these sartorial differences suggested. After all, both had been widowed as young brides, and both had lived for a time in Illinois before settling in Kansas. More importantly, both faced a society and culture that, in spite of the rather liberal provisions of the state constitution for women’s rights, defined women first and foremost as wives and mothers and, as a result, significantly truncated their economic and political opportunities. As single women, both Hull and Wiley had confronted bleak circumstances.

8. Hull, The Hull Baby, 11, 18, 27–30. It is possible that her decision to go to Kansas was partly influenced by her deceased husband’s former connection to Kansas Territory; see note 7.
12. “Whose Is It?”
Hull, armed with the “little money” she had inherited from her first husband’s estate, her education, and her good breeding, was able to secure a position in the public school system. Hers was undoubtedly one of the best employment options available to single women in Independence at the time, though it still paid only a modest income. And she had to be single to hold the job of assistant principal—married women were not eligible to work for the public school system because they were expected to devote themselves to their husbands, children, and housekeeping. During her employment with the public schools, the widow likely lodged with a respectable family in town so as not to compromise her reputation by living on her own—and it is improbable that she earned enough to afford to live by herself. Still, Hull later acknowledged the isolation she had felt during this period of her life “when the labor of the day was ended, and she was seated in her quiet room,” alone.15 Because feminine ideals were based on the successful fulfillment of the roles of wife and mother, it is no wonder that Hull felt loneliness and ostracism under this arrangement, even if she was pleased to have found a way to support herself after her first husband’s death. This sense of isolation helps to explain why when Charles Hull, a wealthy man from a prominent family, began to show a romantic interest in her, she was quick to encourage him.16 Unfortunately for her, Charles later abandoned their marriage, and she again found herself in a similarly confined economic and social position—a position that would play a role in undermining her legal rights to the baby, Chas.

Wiley had similarly experienced the boundaries of women’s opportunities. In Chicago, where she had lived when her first husband died, the lack of economic options for women could mean indigence for widows. Though her second husband had no property, Wiley was more likely to escape severe poverty with the assistance of a husband than on her own. Regrettably, Edmund Wiley turned out...
to be physically abusive. Back in Kansas, uneducated and pregnant, having left the husband who beat her and cast out by her family, Hester Wiley had nowhere to turn for support and safety but the Home for the Friendless.

The Home for the Friendless was itself a testament to women’s constricted economic options in Kansas in the 1870s. Established in 1868 and chartered in 1870, the home was intended to provide temporary shelter to poor women and children. It also acted as an adoption agency, helping to place the children of its inmates—single women unlikely to ever be able to support children on their own—in “good, Christian homes.” Thus, whichever woman had actually given birth to Chas, both women’s lives reflected the limitations that women experienced during this period in Kansas and elsewhere. The right to the elective franchise, which might have helped to address some of these problems, had, of course, recently been denied to women in Kansas.

How was it that these two women came to face off against each other in a court battle for the baby, Chas? The question of Chas’s maternity became a legal matter when lawyers for Wiley requested that the Kansas court system issue a writ of habeas corpus to transfer custody of the baby from Hull to Wiley, who, they claimed, had given birth to him and a twin sister at the Home for the Friendless on October 19, 1876. (The baby girl was said to have later died of erysipelas, an acute infection usually caused by streptococcus.) At trial, Wiley’s lawyers alleged that Hull, motivated by the financial reward her father-in-law had promised to whichever of his sons was the first to produce a male heir and afraid she would not be able to fill her nursery in the typical fashion before the wife of her husband’s brother beat her to it, had faked pregnancy, then traveled to Leavenworth to the Home for the Friendless to adopt a baby she could pass off as her own biological son. Afterward, Hull allegedly went to a hotel in Kansas City where no one would recognize her and pretended to give birth to her newly acquired son before returning with him to her home and husband in Independence. Mary Perkins Blair-Smith, the matron of the Home for the Friendless, was among several witnesses who testified to provide evidence for this version of events. She also swore that Chas was the same baby born to Wiley. From the witness stand, Wiley admitted that she had not objected to the adoption of her son (nor did she ever explain why she suddenly wanted him returned to her), but her lawyers presented evidence that Hull had misrepresented who she was to the home’s adoption board and provided falsified letters of reference. Therefore, they claimed that Chas’s adoption had been illegal.

Hull disputed the allegations against her. On the first day of the trial, she submitted an affidavit vigorously denying that Wiley had given birth to the baby Chas: “This respondent denies that the within named Hester A. Wiley is the mother of said Chas. P. W. Hull and denies that he was born at the Home for the Friendless. . . and denies that said Hester A. Wiley has any right to the care, custody or control of said Chas. P. W. Hull.” However, it was not entirely clear from the affidavit that Hull was swearing to have given birth to the boy herself. The affidavit began, “I, Carrie E. Hull . . . have ever since about the last four months kept and cared for the within named Chas. P. W. Hull as its mother.” Whether this language was deliberately intended to obfuscate or whether it was simply sloppy writing is unclear. Wiley’s lawyers certainly characterized it as “weak and evasive.” After this affidavit was read into the court record, Hull’s lawyers asked for a continuance, which they later explained was to give them time to track down Hull’s husband, who had suddenly disappeared and who they said could confirm Chas’s parentage. Judge Brewer granted the request for a continuance until April 24, but Charles Hull was never located.

When the trial resumed, Hull’s lawyers pursued a threefold strategy to defend their client. First, they refuted through cross-examination of the plaintiff’s witnesses the charge that Chas was the same boy child born to Hester Wiley at the Home for the Friendless. Second, when it was the defense’s turn to present, they called their own witnesses intended to show that their client had herself given birth to the child. These witnesses included W. A. M’Cully, a physician practicing in Independence, who

17. Hall and Hand, “History of the City of Leavenworth, Kansas.”
20. “Whose Is It?”
testified that Hull had become pregnant soon after her marriage to Charles Hull and that he had called upon her as her physician several times throughout her pregnancy, including when she had first felt the fetus begin to move, or “quicken.” The defense also called Caroline Witherly and M. D. Henry, who each testified to having seen Carrie Hull during the period of her confinement after she had given birth at the St. James Hotel in Kansas City. Witherly added that she had noticed clothing in Hull’s hotel room stained as if childbirth had taken place. No doctor, however, was ever called to say he had actually helped deliver Hull’s baby. Hull herself never took the witness stand.

The final strategy of Hull’s defense was to suggest that her wealthy in-laws had conspired with Wiley and Smith of the Home for the Friendless to impugn her reputation and take away her child. At trial, Judge L. B.

Wheat, one of Carrie Hull’s attorneys, declared that “the whole Hull family were running the case.” According to Wheat, the Hull family had paid Wiley and Smith to say that Chas had been born to Wiley and to request the writ of habeas corpus. Wheat also said that the Hull family was paying for Wiley’s legal representation throughout the trial. Indeed, the second witness the defense called was one of Wiley’s own attorneys, George Chandler, Esq., who acknowledged that he was also employed by Charles Hull as his attorney and had been for a long time.

Chandler testified that another of the men representing Wiley in the case, Mr. Duncan, was an attorney for the Hull family bank. Chandler further admitted that he had met with Smith in March and advised her to request the writ of habeas corpus, assuring her that Charles Hull had offered to pay the cost of the court proceedings. Chandler stated that he had told Smith he would pay her “$500, on his own account, to have the case settled” in Wiley’s favor.

If Hull was the biological mother of the child, why would her in-laws engage in such a conspiracy against her? Why would the Hull family desire this young babe to be torn from his mother, disinherited, and handed over to a poor stranger? The defense failed to provide answers to any of these questions during the trial (Carrie Hull would later publish her allegations against the Hull family in a book, discussed below). At trial, Hull’s lawyers obliquely promised that there was much more to the story of the Hull baby than they were currently able to reveal to the public. They strongly condemned Charles Hull for failing to appear at “a time when he was most needed” to defend his wife and tell the full version of events. In fact, Charles Hull’s whereabouts would remain unknown for several months after the trial ended, and Carrie Hull would eventually petition for divorce from her husband on the grounds of his abandonment.

Given these sensational details, it is no wonder that the Hull baby trial generated intense interest across the state. From the moment word of the custody battle became public, Kansans followed the story with great fascination. It seems to have especially interested Kansas women, many of whom packed the courthouse to witness the proceedings firsthand. According to the Leavenworth Times,

Many, after reading the reports of the various features in the great Habeas Corpus case now pending before Judge Brewer, had anticipated that a large audience would be present yesterday morning, but

22. Ibid.


24. “Wiley Winner”; “The Wiley Hull.” The 1868 General Statutes of the State of Kansas listed the following as grounds for divorce: “when either of the parties had a former husband or wife at the time of the marriage, abandonment for one year, adultery, impotency, when the wife was pregnant by another man at the time of the marriage, extreme cruelty, fraudulent contract, habitual drunkenness, gross neglect of duty, and conviction of a felony or imprisonment.” General Statutes of the State of Kansas, 1868, Ch 80, Article 27, Sec. 39, quoted in Schmidt, “Selfish Intentions,” 30.
they were wholly taken aback at the perfect jam which crowded the vast room known as the District Court room. As early as nine o’clock ladies in large numbers began to arrive and at the hour appointed for the opening of the session fully one hundred had assembled of all sizes and shapes.25

Even more women appeared by the third day of the trial: “The remarkable feature of the audience was, that the largest portion was ladies.”26

Why were women in particular so interested in this trial? It may have been simply the opportunity to witness the public airing of a prominent local family’s dirty laundry. But from the conversations between female court attendees reported by the newspapers, it appears that many women were interested because they felt a special interest in, and even responsibility for, the welfare of the baby Chas. Indeed, several women quoted by the papers questioned men’s ability to make the right decision regarding the child, arguing that the state should defer to what women thought was best for him. According to the Leavenworth Times, in the evening after the third day of testimony, “the excitement and discussion among various ladies who had been present during the trial waxed warm, and even when the case is decided . . . some of them will yet contend that it ought to have been tried before a jury of women.”27 At the time, jury service was not a right that belonged to women in Kansas (or in any other state); in addition, the Hull Baby Case was tried not before a jury at all but before a (male) judge. Nevertheless, the women’s attitude reflected the view that women were better suited to make decisions regarding the welfare of children. With their influence restricted primarily to child-rearing, it is no wonder that women were anxious to safeguard what little clout they had. And, as we have already seen, there was potential, at least, for women in Kansas to transform their acknowledged authority in child-rearing into real political power. After all, it was by leveraging this authority that Kansas women were able to secure the limited rights promised them in the state constitution, including the ability to vote in school board elections.

Though they were not given any official decision-making power in determining the outcome of the Hull Baby Case, women nonetheless participated in the trial in significant ways. For example, several women were

25. “Habeas Corpus Infantum.”

How each woman conducted herself in the courtroom was closely examined in the state’s newspapers. Reporters agreed that Hull was clearly more demonstrative in her emotions and attachment to the baby, and this won her public sympathy and favorable newspaper attention. The public did threaten to turn against Hull when it was revealed that Chas bore a strange mark on his neck that seemed to spell out the word “Hull,” almost as if he had been tattooed or branded. Although this discovery “caused a large crowd of curious people to press closely around the witness stand,” a doctor testified that the mark on Chas’s neck was natural and “order was restored.”
called as expert witnesses to approximate the age of the baby Chas because women were assumed to be more qualified than men to make such judgments. And when a male physician gave his opinion as to how long a mother would likely be able to correctly identify her infant after having been parted from it, one of the lawyers objected on the basis that only a woman was competent to give such an opinion (Judge Brewer overruled this objection). Though this involvement stemmed from women’s traditional gendered role as mothers, it nevertheless also extended to them greater involvement in the legal system.

In other ways, however, the male participants in the Hull Baby Case were quite conservative in their attitudes toward women during the trial. For example, during one afternoon when the testimony focused on discussions of menstruation and pregnancy, Judge Brewer asked the many women present in the courtroom as spectators to leave. The reason offered was the supposed need to shield these ladies’ delicate sensibilities from the discussion of such sensitive topics. But since these women presumably all had intimate, firsthand knowledge of these matters, it is more likely that the real reason was to save the male lawyers and judge from the potential embarrassment of discussing these subjects in front of women.

Even more traditional was the closing statement of L. B. Wheat, one of the attorneys representing Carrie Hull. In this statement, he attempted to undermine the evidence in support of the plaintiff Wiley by disparaging the testimony of the many female witnesses—including Smith, the matron of the Home for the Friendless—who had provided it. Wheat quoted Rufus Choate, the Massachusetts lawyer and congressman, who, in advising a fellow attorney, once said,

> Never examine a woman. It is no use. They cannot disintegrate the story they have once heard. They cannot eliminate the part that is for you, from that which is against you. They can neither combine nor shade a quantity. They go for the whole thing, and the moment you begin to cross examine one, instead of being bitten by one rattlesnake you are bitten by a whole barrel full.31

The ambivalent attitudes expressed toward women throughout the trial once again highlight the drawbacks of basing the extension of women’s rights on their gendered identity as mothers rather than gender equality.

Many of those who followed the case seemed certain that the true mother would reveal herself—just as she had in the biblical story of the judgment of Solomon—through her conduct toward the child during the trial (and the opportunity to decide for oneself who was the mother of the baby may also help to explain the public interest the case generated). How each woman conducted herself in the courtroom was thus closely examined in the state’s newspapers. Reporters agreed that Hull was clearly more demonstrative in her emotions and attachment to the baby, and this won her public sympathy and favorable newspaper attention. For example, when the writ of habeas corpus was filed and Hull and Chas were first summoned to Leavenworth for the trial, the *Leavenworth Times* noted approvingly that Hull did not begin to prepare for her defense until after she had seen Chas “comfortably settled” with a nurse. After Judge Brewer granted a continuance of two weeks, he ordered that the baby be put in the temporary custody of a Mrs. Cawthron. The *Leavenworth Times* reported that Hull approached the judge and “with tearful eyes and quivering lips . . . in the most piteous accents” begged him not to take the child from her. Later in the trial, during another of Chas’s appearances in the courtroom, the baby began to cry. According to the *Leavenworth Times*, “Mrs. Hull, at the first sound, did not seem to pay much attention, but at the second cry, turned around, and seemed to be considerably agitated. Hester A. Wiley . . . was also in the room, but did not evince any emotion at the time.” Wiley’s lack of visible feeling for the child did not help to support her claim that she was his mother because it did not align with contemporary expectations of the selfless, compassionate demeanor women were supposed to exhibit.

Hull’s lawyers concurred with this assessment; during his closing statement for the defense, Wheat said of Wiley, “Has anybody seen her make any expression of affection? Tell me that a woman will sit there as she does today without a tear, and say that she is the mother? No sir! When she shows no more feeling than a brute does toward its offspring are we to believe she is its mother? Nature

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28. “Habeas Corpus Infantum.”
31. Ibid.
32. Ibid.
33. “Habeas Corpus Infantum.”
tells us much. A mother cannot sit quietly and say nothing.”

One reporter from the Leavenworth Times, however, attempted to defend Wiley’s reserved courtroom demeanor toward the child:

Many expressions have been made to the effect that she has portrayed no feeling during the trial. This is a mistake. . . . To a close observer when any question was brought up as to the identity of the child [the appearance of Wiley’s face] would become paler, her eyes would be riveted on the witness, the pupils dilating now and again contracting, and ever and anon, her whole self seeming lost to anything else was found to be concentrated on the subject dearest to any woman’s heart.

The reporter further speculated that the differences between these women’s emotional behavior in court were best explained by their respective socioeconomic backgrounds: “Tied, as [Wiley] was by the bonds placed on her by being an inmate of the Home for the Friendless, it was not to be presumed she would dare to ‘outrage society’ by making ‘a fuss’ over her child, while Mrs. Hull is the wife of a rich banker, and consequently one of the upper-world could be excused, and was expected to make any demonstrations she saw fit, and they would be approved.”

On April 27, 1877, after three days of testimony, Judge David Brewer, pictured here, rendered a verdict in the Hull Baby Case. According to Brewer, the preponderance of evidence presented during the trial demonstrated that Wiley was the natural mother of the baby. Brewer also considered the best interests of the child, deliberating which of the two women was better suited to raise him. In determining parental fitness, Brewer recognized Wiley’s poverty and the fact that she had willingly given Chas up for adoption as facts not in her favor. But he also hinted at Hull’s recent abandonment by her husband, revealing the prejudice he and society felt for single mothers, as well as her obtainment of Chas through misrepresentation and fraud. This above all else convinced Brewer that Carrie Hull was unfit to continue as the baby’s mother, as it undermined her claim to the morality and virtue that society required of mothers in this period.

As these contemporary analyses of the conduct of Hull and Wiley toward the baby Chas demonstrate, motherhood was clearly contested around issues of class during this period. More affluent women, who were able to fulfill domestic ideals and were more familiar with middle-class social codes, were considered better mothers. Indeed,

34. “Wiley Winner.”
35. Ibid.
36. Welter, “The Cult of True Womanhood.”
Hull’s economic privilege helped to tilt public sentiment in her favor during most of the trial. The fact that she was still married—though her husband was not present at the trial—likely also helped Hull win public sympathy. Wily, in contrast, had left her abusive husband in Chicago. Homeless and husbandless, she was far from society’s model of the perfect mother.

The public did threaten to turn against Hull when it was revealed that Chas bore a strange mark on his neck that seemed to spell out the word “HULL,” almost as if he had been tattooed or branded. Had Hull put the mark there in a misguided attempt to prevent the baby from being taken from her? Was she willing to hurt the child if it meant not having to give him up? If so, this attitude made her not unlike the selfish mother in the familiar Bible parable and undermined her claim to the child. A doctor, however, testified that the mark on Chas’s neck was natural.37

On April 27, after three days of testimony, Judge Brewer rendered a verdict in the Hull Baby Case. In announcing his decision, Brewer began by acknowledging the unusual nature of this particular custody battle: “I hardly know how to commence what I have to say in deciding this case. It is a novel case, certainly, in the history of this state.” Brewer explained that the state constitution of Kansas promised women certain rights regarding custody of their children in cases of divorce, declaring “that the legislature shall provide for the equal right and equal interest of mother and father to the possession of the child.” If custody with the father was not in the best interests of the child, the statutes of the Kansas constitution provided that the mother should retain full custody.38 In the case of the Hull baby, however, Judge Brewer was asked to deliberate not between a mother and a father but between two potential mothers.

What did all this mean for baby Chas and the two women who claimed to be his mother? According to Judge Brewer, the preponderance of evidence presented during the trial demonstrated that Wiley was the natural mother of the baby. But Brewer did not stop here in rendering his verdict regarding who should take custody. Instead, as was becoming common practice in American courts during this period, Brewer also considered the best interests of the child, deliberating which of the two women was better suited to raise him.39 In determining parental fitness, Brewer recognized Wiley’s poverty and the fact that she had willingly given Chas up for adoption as facts not in her favor. He further admitted that until this time, “the child had been in a home of wealth and prosperity” with Hull, noting, “The child, as it comes here, bears indications of the kindest care and the best treatment, with ample provision for its welfare.” But then he hinted at Hull’s recent abandonment by her husband: “But that home, however pleasant and prosperous it was, no longer exists.” Here, Brewer revealed the prejudice he and society felt for single mothers—in his eyes, without a father, home and family did not exist. Brewer also hinted at the probable economic hardships Hull would face in the future without the continued financial support of her husband, which would eliminate the economic advantage she had previously held over Wiley. Finally, the judge explained that the court proceedings had convinced him that Hull—possibly in collaboration with her husband—had obtained Chas through misrepresentation and fraud. This finding above all else convinced Judge Brewer that Carrie Hull was unfit to continue as the baby’s mother—no doubt because it undermined her claim to the morality and virtue that society required of mothers in this period. Judge Brewer thus ordered the child be remanded to the custody of Hester Wiley.40

By all accounts, Hull was devastated by Judge Brewer’s decision against her. Newspapers across the state reported the tragic scene when Hull was forcibly separated from the baby. According to the Atchison Daily Champion,

At the announcement that the child was to be delivered into her care by the Sheriff, Mrs. Wiley listened as cold and immovable as a stone, apparently caring little or nothing for the result, while Mrs. Hull, in an agony of grief, clasped the little one to her breast, and, with heart-rending sobs and tears of anguish, clung to the babe with the desperation of death. When the Sheriff came over to where she sat with the child in her arms, she resisted with all her strength the efforts to take it from her, and when she was finally compelled to give it up, she sank to the floor in a deathly faint.

37. “Wiley Winner.”
40. “Wiley Winner.”
The *Daily Champion* also stated that overall, public sympathy remained with Hull: “During the time when, in obedience to the Court, the Sheriff was endeavoring to possess himself of the babe while in the arms of Mrs. Hull, so great was the excitement that violence was feared, and the officers held themselves in readiness to resist any attempt to interfere with the orders of the Court.” Holton’s *Recorder-Tribune* confirmed that the public’s sympathy generally continued with Hull after the trial, suggesting that the public did not agree with Brewer’s decision in the case.41

Judge Brewer ordered both women to return to court in sixty days to give Hull an opportunity to appeal his decision. But Wiley did not obey this order and instead disappeared with the babe to parts unknown, much to Hull’s reported anguish.42 Did Wiley fear that Hull would produce evidence that would contradict her own claims to maternity or that Brewer would otherwise find reason to reverse his decision?

Hull did not stop in her efforts to regain custody of Chas. After Wiley failed to reappear in court, Hull offered a thousand-dollar reward to anyone with any news of the whereabouts of Wiley or the baby.43 Since she could no longer depend on her husband’s money to help pay for this, Hull wrote and published a book in 1878 to raise the reward money and to help with her ongoing legal fees. *The Hull Baby Case* detailed facts Hull said had been suppressed during the trial; she claimed, for example, that Charles Hull—motivated by a strong desire to produce a male heir and win his father’s promised inheritance before his brother, Edgar—had convinced her to begin trying to procreate before they were legally wed. Then, when she gave birth to a baby boy a few weeks shy of their nine-month wedding anniversary, Charles Hull took the baby—his own son—away from his mother and installed him at the Home for the Friendless for the remainder of the full nine months to avoid scandal and his wealthy father’s reproach. According to Hull, she had indeed visited the Home for the Friendless, as had been alleged during the trial, but she had done so to retrieve her own, legitimate child. She admitted faking a birth in Kansas City after the real thing had occurred in secret at her home in Independence but insisted that her husband had had full knowledge of this chicanery. Hull said that

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42. “Can’t Find the Baby,” *Leavenworth Times*, August 9, 1877.
43. Ibid.

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The Hull Baby Case
the plan had gone afoul when Edgar Hull had found out about the unusual circumstances surrounding the birth of his nephew and pursued the writ of habeas corpus to disinherit the child. Hull explained that her husband’s severe drinking problem—unknown to her at the time of their marriage—had enabled Edgar to turn Charles against her and led to his abandonment of her and the child.44

Hull also implicated the Home for the Friendless in the wrongdoing described in her book. She claimed that it was far from a benevolent charity for women but rather functioned as a hub of prostitution and what we would today call sex trafficking. According to Hull, the corrupt matron of the institution, Mary Perkins Blair-Smith, forced the women living there to become prostitutes. Some men purportedly paid to have their mistresses secretly delivered of illegitimate children at the home, where such children could then be disposed of without the news of their existence reaching a man’s “wronged wife and innocent children.” The women incarcerated in the Home for the Friendless in this manner had no recourse for the injustices perpetrated against them; they were abandoned by a society that demanded strict sexual propriety of women but made them easy sexual prey by offering them so few economic opportunities. In making these allegations against the home, Hull urged the legislature of Kansas to “thoroughly investigate and cleanse their State” of this sinful place.45 The home refuted these allegations, which appear to have never been taken very seriously by the authorities, in a letter to the Daily Commonwealth, a Topeka newspaper.46

The accusations Hull made against her husband and his family in her book may seem far-fetched, and it is certainly true that she did not make them under oath. Yet her version of events is quite similar to Wiley’s, with the important distinction that she claimed to have given birth to the child herself and shifted the responsibility for much of the lying and wrongdoing to her husband. It is possible that she would not have wanted to make these allegations at the time of the trial if she was still hoping to reunite with her husband. The involvement of the Hull family in requesting the writ of habeas corpus on Wiley’s behalf, as well as the family’s responsibility for Wiley’s legal fees, lends some credibility to Hull’s claims—although it is also possible that the family was simply motivated to disinherit a child to which it had no relation and a woman who had endeavored to deceive. But it is at least possible that Hull was telling the truth and that she was the victim of an eminent family’s efforts to take away her child and cut her off from any possibility of financial support.

Soon after the trial, Carrie Hull filed for divorce, alleging her husband’s drunkenness, abandonment, and adultery. A judge granted her the divorce but awarded her only a nominal amount—$300 plus the household effects—in alimony.47 Kansas law would have protected her right to any property she had brought to the marriage or acquired during it, but Hull had not brought any such property, nor had she acquired any independent of her husband or his family. She would also have been entitled to child support had she been able to retain custody of the baby Chas. In September 1878, Hull filed a lawsuit against her brother-in-law for damages in the sum of $40,000, but a judge dismissed the case in November because Hull was unable to come up with the necessary security costs to proceed with it.48 True to Judge Brewer’s predictions, the divorced and childless Hull was left almost as destitute as Wiley.

The available historical records indicate that Hull never again saw the baby Chas. In 1880, she was reported to be living in Pueblo, Colorado, where she had opened a restaurant, one of the few economic enterprises available to women during this time (although, as this author has argued elsewhere, it was not a particularly lucrative option for female proprietors, mostly because of their limited access to credit).49 Kansans remained interested in her story—in 1880, several newspapers reported that she had run off with another woman’s husband in Pueblo and soon thereafter published her vigorous refutations that she had done any such thing.50 Hull continued to insist in these publications that the child taken from her in 1877 had been her own.

44. Hull, The Hull Baby Case, 53–54, 94, 102; “Can’t Find the Baby.”
46. The paper provided its own defense of the home, stating, “The management of the Home has been such that it needs no defense before the people of Kansas,” “Carrie E. Hull,” Daily Commonwealth (Topeka, KS), October 13, 1880.
50. The Valley Republican (Kinsley, KS), October 16, 1880.
There are many unanswered questions in the case of the Hull baby. Who was the real mother? What ultimately happened to the baby Chas? If Hull did obtain the baby from Wiley, did her husband know about the deception? For the historian, the answers to these questions are less important than what the case does make certain: the ultimate lack of opportunities available to women in Kansas during this period and the low measure of their worth, despite the measures the state had enacted to give them a greater share of citizenship. As wealthy and privileged as she was, Carrie Hull was still ultimately expected by her husband’s family to act as a “breeder,” producing a male heir on demand. Perhaps this pressure was so great that it led her to illegally obtain a baby and pass it off as her own biological child. Either way, once her husband abandoned her, she lost what chance she had of keeping the baby in addition to her socioeconomic status. Impoverished and single, Hester Wiley was looked down upon by society. She may have been forced to give a child up for adoption due to her inability as a single mother to support it. The Hull Baby Case—an ultimately tragic tale—thus provides a revealing glimpse of the relative powerlessness of Kansas women in the late nineteenth century.