



CHIEF JUSTICE FULLER

The Green Bag

This article first appeared in the first issue of the original *Green Bag*. *Chief Justice Fuller*, 1 GREEN BAG 1 (1889). We have revised it for republication, with subtractions ~~stricken~~ and additions underlined. The changes are based on two sources contemporaneous with the article: (1) an editorial errata notice in the second issue of the original *Green Bag* and (2) some notes about the article in what appears to be Fuller's hand. See *The Green Bag*, 1 GREEN BAG 81 (1889); "Memorandum to correct errors in the article on Chief Justice Fuller in the 'Green Bag' for January 1889," Box 13, Melville W. Fuller Papers, Manuscript Division, Library of Congress. Fuller's notes are reproduced in their entirety on pages 463-464 below, and are available as high-resolution images at www.availableat.org. There are surely still errors – in the original, in the corrections called for by the *Bag*'s original editor and by Chief Justice Fuller, and in our execution of the corrections. Please do let us know if you catch any here (or, for that matter, anywhere in any issue of the *Green Bag*, ever). We know there was at least one more error, at least by modern standards: Horace W. Fuller, the editor of the *Green Bag* at the time, failed to disclose that he was a cousin of the subject of a story in his magazine – "a near relative," as a notice in the *New York Times* would later put it. *Horace W. Fuller Dead*, N.Y. TIMES, Oct. 27, 1901, at 4; see also Charles C. Soule, *The First Editor of "The Green Bag,"* 13 GREEN BAG 551 (1901), reprinted at 5 GREEN BAG 2D 199 (2002).

— *The Editors*

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As questions are frequently asked respecting the ancestors or progenitors of Melville Weston Fuller, the present Chief Justice of the United States, it may not be amiss to refer to a little of our New England history. About the year 1632 there came to this country Rev. Thomas Weld, ~~a graduate of Cambridge University, England,~~ a prominent and influential man, who became the first minister of the first church in Roxbury (now a part of Boston), and was “the preacher” there when Eliot the apostle was “the teacher.” He was graduated at Trinity College, Cambridge, England; was minister at Terling, Essex County, 38 miles from London, in 1624; and was excommunicated in 1631 by Archbishop Laud, at that time Bishop of London. He came over in the “William & Francis”; arrived at Boston on June 5, 1632; and was settled at Roxbury in July 1632. His children born in England were John (1625), Thomas (1626), and Samuel (1629); and Edmund was born in America (July 8, 1631). His son, Rev. Thomas Weld 2d, in 1642, was settled in Dedham, son of Rev. Thomas Weld, was born in England in 1626, and admitted freeman in Roxbury in 1654. In June 1650 he married Dorothy – daughter of Rev. Samuel Whiting of Lynn. Nothing is said in North’s History of Augusta about his being a minister (probably not) or of his living in Dedham.¹ and his son, Rev. Thomas Weld 3d, son of the above, was born on June 12, 1653, and was settled in Dunstable.² His first wife was Elizabeth Wilson (married Nov. 9, 1681). His second wife was Mary Savage. He died on June 9, 1702., and bBoth Thomas 2d and Thomas 3d were prominent and respected. The last-named of these was the father of the famous Habijah Weld, who for fifty-five years was the settled minister of Attleborough. He is described, in “Dwight’s Travels in New England,” as an orator of great virtue and power, a perfect Boanerges in the pulpit, and was honored and beloved by all

¹ Editors’ note: Chief Justice Fuller is probably referring to James W. North’s *The History of Augusta, from the Earliest Settlements to the Present Time . . .* (1870). Indeed, Fuller’s notes mostly follow North’s text pretty closely. See *id.* at 869-71.

² Editors’ note: Chief Justice Fuller writes that Weld 3d “settled in Barnstable,” but we can find no source to back that up, so we have not included it.

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who knew him. He was born Sept. 2, 1702; and as his father died ~~a few weeks after~~ nearly eight weeks before his birth, the mother gave him the Hebrew name "Habijah," which signifies, "God is my father." He married Mary Fox, daughter of Rev. John Fox.

Hannah Weld, one of the daughters of Habijah, married Rev. Caleb Fuller; and Elizabeth Weld, another daughter, married John Shaw, of Barnstable, in 1764, from whom the late Chief Justice Shaw, of the Supreme Court of Massachusetts, descended: so that the Chief Justice of the United States and the late Chief Justice of Massachusetts are both descendants of that celebrated Puritan preacher.

The father of Caleb Fuller was Rev. Daniel Fuller, who was born in Dedham on Apr. 20, 1699, graduated at Yale in 1721, studied for the ministry, married Lucy Goodrich on Aug. 7, 1723, and in 1725 preached in Windsor and afterwards at Wellington, Conn., and died Dec. 9, 1758. He was a distinguished citizen of Dedham, a large land-owner there; and in 1702, and for five years, was one of the selectmen of that town, and a representative of the town in the General Court in 1723 and 1724. His father, Thomas Fuller second, was born on June 23, 1662, ~~He~~ married Esther Fisher, ~~in 1668~~ in 1687, who was the ~~daughtersister~~ sister of the ~~great~~ proscribed patriot, ~~and bold captain~~ Daniel Fisher, of Dedham, who, in 1682, was the Speaker of the General Court, and was prosecuted by the British Government for sedition. ~~He was the,~~ and sister of the bold Captain Daniel Fisher, who "hated the tyrant" Sir Edmund Andros, then governor, and in the midst of an excited and turbulent mob in Boston seized Andros by the back of the neck and led him pale and trembling through the angry crowd, from the house of Mr. Usher to Fort Hill; thus securing him as a prisoner and saving him from further violence.

The grandfather of Rev. Daniel Fuller was Thomas Fuller, who in 1642 was a leading man in Dedham; a selectman of the town in 1663, and for fourteen consecutive years. He married Hannah Flower ~~ion~~ on Nov. 23, 1643, and died Sept. 28, 1690.

The Rev. Caleb Fuller graduated at Yale in 1758, was made A.M. in 1762, and was settled as a minister for some time in Hanover, N.H.; but owing to a weakness of the throat gave up preaching, and died there at a good old age, in 1815, honored and beloved. His

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son, Hon. Henry Weld Fuller, grandfather of the Chief Justice, was born at Middletown, Jan. 1, 1784; was a classmate and intimate friend of Daniel Webster at Dartmouth College, and was originally named for his grandfather "Habijah," but his name was afterwards changed to Henry Weld. He was a sound lawyer, and for many years and at the time of his death a judge of probate in Kennebec County, Maine. He married Esther Gould, a sister of the poetess, Hannah Flagg Gould, and died Jan. 29, 1841. The volume entitled "The Courts and Lawyers of Maine" says of him:—

"His practice was extensive and profitable, and he had one of the largest dockets in the county. He was much valued for his integrity, hospitality, warmth of heart, and kindness of manner. A man of great public spirit, and his death was a great loss to society."

He resided at Augusta, Maine, and was greatly interested in its growth.

Frederick Augustus Fuller, son of Henry W., was born at Augusta, Maine, Oct. 5, 1806; studied law at the Harvard Law School and with his father, and was a sound lawyer, and for a long time chairman of the County Commissioners of Penobscot County. He was the father of Chief Justice Fuller, and died Jan. 29, 1849. He married Catherine Martin Weston, a daughter of Hon. Nathan Weston, an eminent judge of the Supreme Court of the State of Maine, being associate justice from 1820 to 1834, and chief justice from 1834 to 1841.

Such are some of the antecedents of our new chief justice which tend to show the general characteristics of his ancestry. We will now come to the man himself.

Melville Weston Fuller was born in Augusta, Maine, on the 11th day of February, 1833. At the age of sixteen he entered Bowdoin College, graduating in 1853. He began the study of the law in the office of his uncle, George Melville Weston, at Bangor. He also attended a course of lectures at the Harvard Law School. In 1855 he commenced to practise in Augusta, entering into partnership with his uncle, Hon. Benjamin A.G. Fuller, with whom he also at the same

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time edited "The Age," then one of the leading Democratic papers in the State. In 1856 he was elected to the Common Council of Augusta, and became its president, performing also the duties of City Solicitor. Although but twenty-three years of age, he had already developed remarkable qualities as a lawyer and an enviable position at the bar of his native State was assured him, when he determined to go West. He therefore resigned his position in the Council, and before the year 1856 had closed he had settled in Chicago.

There his abilities were speedily recognized, and he at once established a practice which continued to grow until he soon stood in the foremost rank of the profession. His most famous case was that which was known as the "Cheney case," in which an ecclesiastical council undertook to discipline Bishop Cheney on a charge of canonical disobedience. Mr. Fuller appeared in defence of the Bishop, and displayed such a knowledge of ecclesiastical law and such a familiarity with the writings of the Church Fathers as to astonish even the well-trained church-men before whom the trial was had. His argument of this case before the Supreme Court of Illinois, to which tribunal the matter finally went, has been pronounced a masterpiece of forensic skill and eloquence.

His practice has been a general one; and a marked characteristic of his legal methods has been the thoroughness with which his cases have been prepared. Although possessed of quick perceptive faculties and working with facility and ease, he studied his cases closely and carefully, and always went into court fully armed for the contest. As a fluent, earnest, and convincing advocate he had few equals. Always dignified and courteous, never descending to unfairness or trickery, he won alike the respect of the court and the esteem of his associates at the bar.

Of late years Mr. Fuller has had an extensive practice in the Federal Courts; and it is a curious coincidence that in the first case heard before the late Chief Justice Waite when he went upon the bench (*Tappan v. Merchants National Bank*) Mr. Fuller, who succeeds him, was of counsel. That was in 1874; and since that time, and for some years before, scarcely a term has passed in which he has not had a case upon the docket.

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In 1861 he was a member of the convention called to revise the constitution of the State of Illinois, in which he took an active part and by his legal abilities rendered marked services. In 1862 he was elected to the Illinois legislature in which body he served one term.

Mr. Fuller is a man of scholarly habits, and some of his more important arguments are mines of philosophical research. He is familiar with several continental languages, and is a ripe scholar in the classics. He will bring to the high position to which he has been appointed a rare culture and such attainments as few lawyers possess. Socially he is a gentleman of courtly dignity and presence, with a kindly, amiable manner indicative of a warm heart and generous impulses.

The appointment of Mr. Fuller has been most favorably received by the legal profession throughout the country. Even his strongest political opponents were among the first to recognize his eminent fitness for the position. Called in the vigor of his manhood from the active practice of the bar, a lawyer of wide experience and command position in his profession, and a citizen of the highest personal character, he will undoubtedly prove a worthy successor of Jay and Marshall and Taney and Chase and Waite.

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Communications in regard to the contents of the Magazine should be addressed to the Editor.
HORACE W. FULLER, 15½ Beacon Street, Boston, Mass.

The Editor will be glad to receive contributions of articles of moderate length upon subjects of interest to the profession; also anything in the way of legal antiquities or curiosities, facetiae, anecdotes, etc.

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THE new field upon which we have entered with "The Green Bag" seems to be an attractive one to the legal fraternity, judging from the communications which have poured in upon

THE writer of the sketch of CHIEF-JUSTICE FULLER, which appeared in our January number, desires us to make the following correction in regard to DANIEL FULLER. In the paragraph concerning him, in place of the words, "He married Esther Fisher," it should read: "*His father, Thomas Fuller second, married Esther Fisher, in 1668, who was the daughter of the proscribed patriot, Daniel Fisher, of Dedham, etc., . . . and sister of the bold Captain Daniel Fisher, who 'hated the tyrant,' Sir Edmund Andros,*" etc.

Top of page 81 of the February 1889 issue of the Green Bag, with an errata notice in the right-hand column.

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Memorandum to correct errors in the article
on Chief Justice Fuller in the "Green Bag" for January 1889

- ① Rev Thomas Weld - First minister of Roxbury -
 was graduated at Trinity College, Cambridge Eng 1613
 was minister at Tooting, Essex Co. 38 miles from London
 in 1631
 was so communicated by Arch Bishop Laud at
 that time Bishop of London -
 Came over in the "William & Francis" arrived at
 Boston Nov. 5, 1632. was settled at Roxbury July 1632
 His children born in England were
 John, 1625 - Thomas 1626 Samuel 1629
 and Edmund born in America July 8, 1631
- ② Thomas Weld, son of Rev Thomas Weld,
 was born in England - 1626.
~~Admitted~~ Admitted fellowman in Roxbury 1654
 married June 1650 Dorothy - daughter of
 Rev. Samuel Whiting of Lynn -
 nothing said in Winth's Hist of Abington
 about his being a minister - (probably Weld told
 or of his family in Dedham)
- ③ Rev Thomas Weld son of the above was born Jan 12, 1653
 settled in Barnstable
 first wife was Elizabeth Holman m 9/1681
 second wife was Mary Savage
 He died June 9, 1702
 His son Hatijah was born Sept 2, 1702
 nearly eight weeks after his father's death
Hatijah Weld son of the above
 married Mary Fox - daughter of
 Rev John Fox
 Hatijah Weld's daughter Hannah
 married Caleb Fuller over

"Memorandum to correct errors in the article on Chief Justice Fuller in the 'Green Bag' for January 1889," Box 13, Melville W. Fuller Papers, Manuscript Division, Library of Congress, Washington, DC (this page and the next).

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Thomas Fuller } married Hannah Flower
 of Dedham Mass } Nov 23, 1683

Thomas Fuller } married Esther Parker
 son of the above } 1687
 was born June 23 1662 }
 (She had a brother Daniel, also)

Esther Parker was the daughter
 of the prominent patriot, Daniel Parker
 and sister to Daniel Parker who
 seized the person of Sir E. Andros

Rev. Daniel Fuller } married Lucy Goodrich
 son of the above } Aug 7
 was born in Dedham } 1723
 Apr 20 1699

Rev. Caleb Fuller married Hannah Weld
 Graduated }
 Yale 1758

J. W. Fuller son of the above }
 was born Jan'y. 1. 1784 }
 named Hadrjah Weld Fuller } married Esther Gould
 name changed to Henry Weld Fuller

J. A. Fuller son of the above } married Catherine Martin Weston