
Read January 19, 1854.

It too often happens, among biographers and genealogists, that erroneous dates and lineages, given by the first writer, are adopted without inquiry by those who follow him. Generations are thus not unfrequently omitted in pedigrees, and members of a family, bearing the same christian name, become confounded with each other. Puzzling as every one engaged in such investigations must have found this practice in private descents, errors of this description are magnified in importance, when they have reference to persons of note and position; involving as they must do the difficulty of connecting the real parties with the facts that relate to them.

As one of the great objects of this Society is to eradicate any misconception that may have crept into our national history, and to establish the truth where it can be found, I have thought that the Members might feel some interest in the rectification of an error which almost universally prevails, with regard to the relationship that existed between two eminent individuals, dignitaries, one of the ecclesiastical, and the other of the judicial, bench in the reign of Henry VIII.

The first of these was Dr. Richard Fitz-James, successively Bishop of Rochester, Chichester, and London, whose name holds a prominent place in the archives of the University of Oxford, as a munificent benefactor to Merton College, over which he presided for nearly a quarter of a century. The other was Sir John Fitz-James, who, after holding for four years the office of Lord Chief Baron of the Exchequer jointly with that of a Puisne Judge of one of the other Courts (a practice of which there are frequent instances in those times), was raised to the post of Lord Chief Justice of England, and filled it for thirteen years, during a period which comprehended the disgrace of Cardinal Wolsey, and the trials of Bishop Fisher and Sir Thomas More. How far he was implicated in those proceedings would be an inquiry foreign to my present object; but that object is invested with a deeper interest, by the high and responsible position which he held, and the trying scenes in which it was his fortune to act.
The family of Fitz-James was a very ancient one. One of its members is named as early as the reign of Edward III. as possessing property in Somersetshire, the county in which we find the Bishop's grandfather, James Fitz-James, was settled. That gentleman acquired the family estate of Redlynch by his marriage with Eleanor, daughter and heir of Simon Draycott; and his son, John Fitz-James, the Bishop's father, married Alice, daughter of John Newburgh of East Lullworth, in Dorsetshire, esquire. As the Draycotts and Newburghs were second to none of the gentry of England in possessions and high blood, and as the Chief Justice's valuable estate of Redlynch had been in the family for at least two generations before him, I must acknowledge that I cannot agree with Lord Campbell in calling him "of obscure birth;" but should rather describe him as coming of honourable and opulent parentage and ancestry.

The received opinion with regard to the relationship between these clerical and legal personages is, that the Chief Justice was the elder brother of the Bishop; and that both, together with a third, named Alured, or Aldred, were the children of John Fitz-James by his wife, Alice Newburgh. They are so described in all the authorities. Fuller calls this Alured, "Brother to this judge, and to Richard, Bishop of London." Anthony Wood says, that the Bishop, "with his brother, Sir John Fitz-James, Lord Chief Justice of England, were the chief founders of the school-house in Brewton, in Somersetshire, near which town (at Redlynch, as 'tis said) they were both born." Hutchins, in his History of Dorsetshire, describes the Chief Justice's father as Sir John Fitz-James, who by his wife Alice, the daughter of John Newburgh of East Lullworth, Esq. "had Sir John (the Judge), Richard, Bishop of London, who died in 1521, and Aldred, the ancestor of the Lewston line." And Chalmers repeats the description of Anthony Wood.

In collecting the details for a memoir of the Chief Justice, it soon became apparent to me that all the preceding accounts were erroneous, and that Chief Justice Sir John Fitz-James, instead of being the Bishop's elder brother, was his nephew.

In the first place, there was no doubt about the date of the Bishop's death. That event happened in January, 1521-2; when, according to Anthony Wood, he was "in a good old age." The same authority states that he became a student at

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d Fuller's Worthies (1811), vol. ii. p. 283.
f Chalmers's Biograph. Dictionary.
and Lord Chief Justice Sir John Fitz-James.

Oxford in 1459. Presuming therefore that he could not then have been much younger than fourteen, his birth would be placed about the year 1445. On his becoming Bishop of Rochester in 1496, he would thus be 51; on his being advanced to the Bishopric of Chichester in 1503, he would be 58; and on his translation to the See of London, two years afterwards, he would be 60. The age of 77 at his death in 1522 would thus well accord with the author's description.

If then the Bishop was 77 in 1522, it is apparent that his elder brother must at that date have been 78 or 79 at the least, a period of life at which it can scarcely be supposed that any one would be selected for the first time to fill a judicial position. Yet in that very year Sir John Fitz-James was raised from the rank of a Serjeant to that of a Judge of the King's Bench; and, if he were the elder brother of the Bishop, he must have been 82 or 83 when he was advanced to the Chief Justiceship in 1526, and 95 or 96 when he resigned his office in 1539.

The extreme improbability of this led to further investigation. There is no doubt that John Fitz-James, the husband of Alice Newburgh and the father of the Bishop, had an elder son named John. John the father died in 1476, in possession of Redlynch and other property in Somersetshire: and John Newburgh, the brother of Alice, by his will dated in 1485, leaves a legacy "to John Fitz-James, my nephew, son and heir of John Fitz-James and Alice my sister."

This second John, clearly the Bishop's elder brother, would, according to the previous calculation, be then about 42 years old. The Bishop evidently survived him, for in his will, dated in 1518, he bequeathed to a third John, "John Fitz-James, senior, my nephew," a share in the residue of his goods.

This "John Fitz-James, senior, my nephew," was undoubtedly the future Judge. That he was called "senior," not only shows that John, the Bishop's elder brother, was then dead, but also, as will be presently shewn, that there was a fourth John then living.

The Chief Justice had a son named John—this fourth John—who died in the lifetime of his father, namely in 1533; and by the Chief Justice's will, dated in 1538, it is apparent that he was then without male issue. He speaks only of daughters, and shews his anxiety to preserve his name in connexion with the family estate, by leaving Redlynch, under certain conditions, to his "cosyn," Nicholas Fitz-James, and his heirs male, and, in default of them, to the heirs male of his "cosyn" Alured. These were probably the sons of the Bishop's younger brother Alured, and thus would be properly described by the Chief-Justice as his

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\(c\) Testamenta Vetusta, p. 597.
On the Relationship between Richard Fitz-James, Bishop of London,
cousins, if he were, as now suggested, the Bishop's nephew; while, if he had been
the Bishop's brother, they must have been, and would have been described in his
will as, his nephews.

The will of the Chief Justice exhibits further internal evidence to the same
effect. In it he speaks of the Bishop in a much more deferential manner than
would be natural for him to do of a younger brother; but exactly as he might be
expected to mention a dignified uncle. He bequeaths to various persons cups that
he had "of my Lord Bishop;" and one of these cups, which he gives "to my cousin
Richard Blewett," he says, "my said Lord of London bequeathed to my aunt,
his [Blewett's] grandmother;" this aunt being no doubt the Bishop's sister.

Some documents in the British Museum afford additional corroboration of the
point I am advocating. Among the Harleian MSS. (99, p. 32) is a receipt dated
28 November, 8 Henry VIII. 1516, (more than a year, therefore, before the date
of the Bishop's will), by "John Fitz-James the elder, one of the executors of
Thomas, late Erle Ormond, for 30l. rent of Sir William Walgrave, knt.;" and in
the same collection (6989, p. 31) there is an autograph letter from the Chief
Justice, in answer to an application from Thomas Cromwell to give to his nomination
the place of Clerk of Assize. Both of these have the signature "John Fitz-
James," obviously in the same handwriting. It is not mere resemblance, but
actual identity; for the signature is peculiar and every stroke is the same. Thus
the "John Fitz-James, senior, my nephew," in the Bishop's will, the John Fitz-
James the elder, Lord Ormond's executor, and the Lord Chief Justice, are unquestionably brought into one.

Lastly, an examination of the Records in the Prerogative office affords such
confirmation as to remove all remaining doubt. There is a will of John Fitz-James
of Redlynch, proved in 1510, in which the Bishop is mentioned as his brother,
and a John Fitz-James as his son; and he makes them both his executors, together
with his wife Isabell. These are the second and the third John. Next we have
the will of Isabell the widow, which was proved in October, 1527. This is witnessed
by "John Fitz-James the elder, Chief Justice of the King's Bench," who in his
attestation calls the testatrix his mother-in-law, and by "Master John Fitz-James
the younger," being the fourth John. Lastly comes the will of this "Master
John," in which he is described of Templecombe. It constitutes his father the
Chief Justice one of the overseers, and was proved in 1533, five years before the
date of the Chief Justice's will, by his widow Elizabeth. This Elizabeth is, no
doubt, the person mentioned in the Chief Justice's will as his "daughter Eliza-
beth Fitz-James;" and her will was proved in 1551.

It seems to me, therefore, that the strictest critic cannot require stronger
and Lord Chief Justice Sir John Fitz-James.

evidence to prove the case; and that henceforth the old lineage will be discarded, and the Chief Justice be recognised as the nephew, instead of the brother, of Bishop Fitz-James; removing thus all difficulty with regard to his age in the different steps of his legal career.

Lord Campbell, in his Life of the Chief Justice, has not fallen into the mistake I have been noticing. Indeed, his lordship does not seem to have been aware that any relationship existed between the Judge and the Bishop, whether as brother or nephew. A knowledge of either connexion would no doubt have prevented him from ascribing obscurity of birth to the Chief Justice, as he would then have seen that Godwin distinctly speaks of the Bishop as "nobili ortus prosapiâ." This, however, is of minor importance; but there are some other statements in his lordship's memoir, from which I am unfortunate enough entirely to dissent. I of course refrain from discussing them here, feeling that the Society of Antiquaries is the last place into which such controversies should be introduced; and I only allude thus slightly to them now, lest my silence should be construed as precluding me from a future inquiry into their foundation.

I cannot conclude this short, and I fear somewhat uninteresting, paper without acknowledging my great obligation to two Fellows of this body, both of whom afford excellent illustrations of the peculiar utility of a society like this; for, while they are industriously employed in their own pursuits, they are ever ready to give their aid in the investigations of their brethren: I mean Mr. Robert Cole—who has kindly supplied me with the later wills of the family—and Mr. David Jardine, to whom I am indebted for the discovery and the collation of the documents preserved among the Harleian MSS.