

fayettes of Hungary. Lafayette had great claims to your love and sympathy, but I have none. I came a humble petitioner, with no other claims than those which the oppressed have to the sympathy of freemen who have the power to help, with the claim which the unfortunate has to the happy, and the down-trodden has to the protection of eternal justice and of human rights. In a word, I have no other claims than those which the oppressed principle of freedom has to the aid of victorious liberty.

SIR ALEX. COCKBURN



SIR ALEXANDER JAMES EDMUND COCKBURN, English jurist and lord chief-justice, was born Dec. 24, 1802, and died at London, Nov. 20, 1880. He was educated at Trinity Hall, Cambridge, studied law at the Middle Temple, and was admitted to the Bar in 1829, up to this period being distinguished for cleverness rather than for industry. He soon, however, developed the latter quality and by 1841 had become Queen's Counsel, and in a few years acquired a considerable fortune in railway legislation. In 1847, he entered Parliament as Liberal member for Southampton, and for a time was solicitor-general. On June 28, 1850, he delivered a memorable speech before the Commons in defence of Palmerston's policy with reference to the claim of Don Pacifico and other British subjects upon the Greek government. A few hours later he denounced with great eloquence the cruelties which the government of Austria had inflicted upon the Magyar rebels. In 1851, Cockburn succeeded Sir John Romilly as attorney-general, and in 1856 became chief-justice of the court of common pleas, and in June, 1859, lord chief-justice of England. He was knighted in 1850. In 1873, he tried the famous Tichborne case, which lasted 188 days. His charge to the jury occupied twenty days in delivery and was a model of lucid statement of evidence. At the Geneva arbitration, in the famous "Alabama" case, he dissented from the award, believing that the responsibility of his government had not been proved. Cockburn was an able and eloquent lawyer, and uniformly courteous and generous to young counsel.

ON THE GREEK DIFFICULTY

[What was known about this time as the celebrated "Don Pacifico Case" originated as follows: Don Pacifico, a Jew of Portuguese extraction, was a native of Gibraltar, and therefore a British subject. He resided at Athens, where it was a time-honored custom to burn an effigy of Judas Iscariot at Easter. The police prevented this celebration in 1847, whereupon the mob, attributing the action to the influence of the Jews, wreaked their resentment upon Don Pacifico, whose house stood close to the spot annually chosen for the burning of Judas. His claim against the Greek government, side by side with that of Mr. Finlay, being ignored, the British government took upon itself to redress the wrongs of its subjects. The following speech was delivered in the House of Commons, June 28, 1850.]

I THINK, sir, as I was personally and pointedly alluded to in the course of the debate last night by the right honorable the member for the University of Oxford [Mr. Gladstone]; that the House will not consider me presumptu-

ous if I trespass for a short time upon its patience. I am anxious, sir, in the first place, if the House will indulge me for a moment, to set myself right with the right honorable gentleman. He was pleased in the course of his observations in the House last night to say that I had "sneered" at him. Now, I beg to assure the right honorable gentleman and the House that nothing on earth was further from my wishes or intentions than to show him the slightest disrespect or discourtesy. The right honorable gentleman, with his accustomed talent, threw down the gauntlet on the floor of this House and challenged a reply from any honorable member to the facts which he stated or to the principles of law which he then enunciated. I felt, sir, at the time, as truly and as fully convinced as I ever was of anything in my life, that the right honorable gentleman's facts were totally inaccurate, and that his law was utterly intolerable. I ventured, therefore, to accept the challenge which he so threw out, and I meant by my cheer on that occasion—a mode which I believe to be a perfectly parliamentary one of expressing that sentiment—to say that I was ready and anxious to accept the challenge of the right honorable gentleman, and I am now prepared to answer him, although I am fully conscious of the vast difference of ability and disparity of power which exists between us; for the right honorable gentleman, from his position, his high character, and, above all, his great abilities, is entitled to be treated with the utmost respect by every member of this House.

Having thus put myself right with the right honorable gentleman, I must take the liberty of saying this, that in all my experience I never heard such a series of misrepresentations and misstatements as those which were made by the right honorable gentleman; and I will undertake to prove this assertion, step by step, and position by position, if the House

will grant me its indulgence and forbearance. I feel, however, the great difficulty in which I am placed in entering upon this debate. If I go into the details of the case for the purpose of showing the fallacies, both in the statements and arguments of the right honorable gentleman, I shall be told, by and by, because I have the misfortune of belonging to a legal profession, that it was a *nisi prius* mode of conducting my argument. I think, however, that the manner in which the discussion of this subject has been conducted, both in this House and in another place, has given us abundant evidence that it is not those only who practise in Westminster Hall who are possessed of the power of arguing in *nisi prius* fashion. For of all the pettifogging proceedings which I have ever known during my experience, this is the worst. It was so commenced elsewhere, and in the same spirit it has been conducted here. If honorable gentlemen choose to introduce this subject to Parliament, and make a grave accusation against her Majesty's government, and then conduct it, not upon the great principles of natural honor, but by raising questions of minute details and technicalities, by grossly perverting facts and distorting evidence, and by an utter misrepresentation of what were the true principles that ought to govern this case, let them not be astonished if those who belong to the legal profession, whose habits are to criticise and investigate with logical strictness every species of evidence, to minutely analyze facts as well as study the broad principles of municipal and national law, stung to the quick by the manifest injustice of this proceeding, should rush into the discussion; and above all, let not the charge come from them that the men having these acquirements are treating the subject in a *nisi prius* spirit.

I am now speaking for the interest of my profession; and I

must say that I never heard an observation more ungracious, or made in worse taste, than that which fell from the right honorable baronet the member for Ripon [Sir F. Graham], following, as it did, on the admirable speech of my honorable and learned friend, the member for Oxford [Mr. William Page Wood], than which a more masterly analysis of facts and a more convincing speech in point of argument and of law I never heard. It certainly never was surpassed in this House or in any other place. It altogether demolished the whole case against the government in all that respected Greece. And yet the right honorable baronet, because he found he was unable to grapple with the arguments of my honorable and learned friend, nor even tried to do so, said: "Oh, it is not fair to deal with this great question upon such narrow ground, or with reference to the case of Greece alone—it is all founded upon blue-books, a pack of rubbish; mere *nisi prius*. Let us come to that which is the great issue to be decided by the House, the foreign policy of the government." Now, that certainly strikes me as being a very odd position for the right honorable baronet to take, when it is considered that the verdict which has been passed by the other House of Parliament against her Majesty's government, and in consequence of which verdict they are requested to resign, proceeded entirely, not upon the question of the general policy of the government, but exclusively and distinctly upon the line pursued by them in respect of Greece. The right honorable baronet then went into the whole of the foreign policy of the country, leaving out of view the whole of the Greek case. The right honorable baronet was followed by the right honorable gentleman for South Wiltshire [Mr. Sidney Herbert], and he followed exactly in the same track, threw the Greek question overboard, and took his stand upon

the foreign policy of the government. Then came the right honorable gentleman the member for the University of Oxford, whom I suppose we are now to consider as the representative of Lord Stanley in this House: "Gladstone *vice Disraeli*,"—am I to say, "resigned" or "superseded"?

There are therefore two questions before the House. The right honorable baronet the member for Ripon, and the right honorable member for South Wiltshire, boldly come forward and take up the question of the whole foreign policy of the government; while the right honorable gentleman the member for the University of Oxford, arguing his case upon the *nisi prius* style, takes his stand upon the Greek question only. Which of these two different positions is the House to consider? Is it the right honorable baronet the member for Ripon, or that of the right honorable gentleman the member for the University of Oxford? It is a matter of perfect indifference to me. I am prepared to go into both. But I must say this, that I do not think, if you sever your cases for the prosecution, if the honorable gentlemen will allow me to use so technical a phrase, and shift the ground of your accusation from one point to the other, I claim as a right that we may be fairly heard upon both. And do not tell us when we meet you on the Greek case that it is all mere *nisi prius*, but allow us to show you what the facts are, and what the nature of your arguments, and I will undertake to say that we will demolish your whole case, nor leave you a leg to stand upon.

Her Majesty's government have, it appears, interfered in the affairs of Greece for the purpose of redressing certain wrongs sustained by the subjects of this empire; and the point in dispute is whether they were justified in the course which they took upon that occasion. Now, as it is impossible to dis-

pute that in this instance the subjects of her Majesty have sustained wrong—a fact which no one has attempted to deny—they were most unquestionably entitled to redress from the government of the country in which they happened to be at the time they sustained such wrong; but if the laws of that country where the wrongs were perpetrated afforded no means of redress, they became unquestionably entitled to redress from the government of that country; and if the government would not redress those wrongs, it was not only the right, but the bounden duty of the government of this country to interfere on behalf of its subjects, and to obtain redress for the wrongs which they had suffered. I take it to be a fundamental principle in the policy of nations that it is the right and duty of a State to protect its subjects against injuries sustained at the hands of other States, or subjects of such States. This has been the principle upon which nations have acted in all ages. The noble lord who addressed the House the other night [Lord Palmerston] referred to the great principle that the Roman State never allowed a Roman citizen to be injured. But what said the right honorable member for the University of Oxford to that? He said that it was because Rome exercised a universal dominion over the world; because it considered a Roman citizen as superior to the subjects of all other States, and by its universal supremacy and power was enabled to tyrannize over other countries, and obtain redress for the wrongs sustained by its citizens even in cases where they were not entitled to such redress. I dissent from that position altogether. I say that it was not after the Roman empire had become established, and had obtained its supremacy over the whole world, that that position was first taken up by the Roman State. It was a principle upon which it acted from the very earliest ages of the empire, and there-

fore it was that the great orator was entitled triumphantly to exclaim, with all the noble pride and triumph of a Roman, "Quot bella majores nostri suscepti erint, quot cives Romani injuria affecti sunt, navicularii retenti, mercatores spoliati, esse dicerentur." It was not only before they had established universal dominion over the world that they adopted this principle, but it was at a period of their history when they had to fight their battles for empire with other States upon almost equal terms, that they invariably asserted that first right and duty of a State to protect its citizens, and to obtain redress for their wrongs when they sustained any at the hands of other States. That course, I take it, was not unknown to this country either in one of the most glorious periods of its history. What is it that, in spite of all the dark shades that rest upon his character, has made the memory of Cromwell illustrious? What but that he would suffer no Englishman to be injured by any State or potentate, no matter how great? But, after all, can the proposition be denied that the government of a country is bound to obtain redress for and to afford protection to its citizens when injured? The right honorable gentleman the member for the University of Oxford did not dispute that position; but he qualified it by saying that British subjects living in foreign states, and sustaining any wrong there, either from the government of the country or any of the subjects of that State, are bound to have recourse to the tribunals of the country for redress, and if redress can be obtained from such tribunals they are not to call upon the country of which they are the subjects to interfere. I cheerfully assent to that proposition, and I will undertake to make it perfectly manifest that in neither of the cases which have led to the interference of this country was there the slightest or most remote probability—

looking to the law of Greece, and the condition of its tribunals—that any English subject, however injured, could succeed in obtaining redress from the tribunals of that country.

Now I will take in the first place the case of Mr. Finlay. I do not intend to cite blue-books upon this subject—the whole matter is capable of being placed before the House in a very short and succinct form. Mr. Finlay, it appears, was the proprietor of some land in Athens. That gentleman, with some other inhabitants at Athens, was anxious, when King Otho was in possession of the actual sovereignty of Greece, to induce the king to fix the seat of government at Athens; and accordingly Mr. Finlay, with those other inhabitants, presented a memorial to the government of Greece proposing to give or sell the land which belonged to them to the government upon certain terms, in order that it might be made applicable for the establishment of the necessary public buildings in Athens, with the view of inducing the government to fix it there. But they coupled their offer of the land with these conditions, that the land to be taken should be scheduled and set out within six months from the time of taking possession of it. When the government came to Athens, the land of many of the individuals which had been thus offered to the government was taken. Mr. Finlay's land, however, was not so taken. The land taken by the Greek government of the other individuals was paid for according to a price which the parties had agreed upon; and it is easy to understand that the inhabitants of a city like Athens, possessing property, and being desirous of bringing the government to Athens, should be perfectly willing to dispose of a portion of their land at a lower rate, if by so doing they could attain their object, as the existence of the government at Athens would

have the effect of enhancing the value of the remainder of their property. Mr. Finlay's land was not, however, taken upon this ground; it was taken some time after by the arbitrary command of the king, without law or ordinance, or without anything whatever which could give a sanction to such a proceeding—nothing except the arbitrary and absolute will of the sovereign.

That is a matter of fact upon which I defy any man to dispute. That being done, what was the consequence? Mr. Finlay's land was taken and converted into the palace garden of the king. Mr. Finlay applied for compensation in 1836; and according to the statement of Sir Edmund Lyons—who, I apprehend, notwithstanding the insinuations of the right honorable gentleman the member for the University of Oxford, is in every way worthy of credit—the proceedings of Mr. Finlay toward the Greek government were characterized by the most gentlemanly moderation and forbearance; yet for six long years (until 1842) Mr. Finlay continued, from time to time, to put forward, kindly and temperately, his demand for compensation. Do you tell me that the delay arose from any dispute as to the amount of compensation which should be given to that gentleman? He could not obtain even the slightest answer to his communications. But in 1842, when this injustice became too grievous to be patiently borne any longer, Mr. Finlay addressed the noble lord who was at the head of foreign affairs of this country—not the present lord, but the Earl of Aberdeen—who instructed Sir Edmund Lyons to apply to the Greek government, and to enforce by all means in his power the legitimate demands of Mr. Finlay. What was the result? After a great deal of difficulty and delay the king of Greece proposed to issue a commission to inquire into the claims of Mr. Finlay. But of whom was it proposed that