

the credit of any judge in speaking of the opinion of another judge, be the latter never so incapable, or his court never so inferior. But to put it mildly, it shocks our sense of right that the subject of these strictures should be such a man as Mr. Justice Osler, whom learning and painstaking research in connection with cases coming before him is only equalled by his courtesy and consideration for others. There are those who might well follow his distinguished example in these respects.

Let us explain that it is not to our purpose to endeavour to impugn the conclusion arrived at by their lordships of the Privy Council in the *Toronto Railway Company's* case. We sufficiently apprehend the futility of enterprises of this sort to withhold our hand from them whether their lordships are right or wrong in their decisions; but we feel it incumbent on us as an organ of the legal profession in this country to denounce and displace the imputation so gratuitously placed upon the capacity of a Canadian judge, as well as the court for which he spoke, in delivering judgment in the *Kirkpatrick* case.

Now what is this matter in which Mr. Justice Osler has "done violence to the English language and the elementary principles of English law"? It is a matter touching the legal interpretation of the word "fixtures." Such being the case, it does not need the skill of a philologist to show that Lord Davey's talk about violence being done to our mother-tongue is baseless to the verge of maliciousness. No one ought to be better aware than Lord Davey himself, an Oxford "double-first" as he is, that the literal meaning of the word "fixture" is not only not its legal meaning, but that the legal meaning is sometimes the very antithesis of its common and literal meaning. When Judge Osler refers to "fixtures" in the *Kirkpatrick* case, he treats it as a term in legal technics—and what is more, Lord Davey knows that he does. How specious, then, to raise any question of etymological exactness!

So much for the "English language" element in Lord Davey's strictures. Now let us see how far Judge Osler has offended "elementary principles of English law." The case in which Osler,