

*THE PRIVY COUNCIL AND CANADIAN JUDGES.*

If there is one thing more than another that has taught those who dwell in the "British dominions beyond the Seas" respect for the Bench of the mother-land it is the dignified courtesy of its occupants both in demeanor and speech. Rare lapses from the splendid traditions of judicial behavior in England have indeed been known to us—such as, for instance, when Lord Westbury proclaimed his malevolent delight in reversing his great rival and predecessor Campbell's decisions, asserting that all that was required to enable one to do so was the knowledge of a "few elementary rules of law." But such instances of what the French call *grossièreté* have happily been few, and pale their insignificant fires in the brighter atmosphere of refinement which envelops the history of the judiciary as a whole. Unfortunately, however, in the halls of justice, as well as in other public spheres, the civilization of modern England, cultured as it is, ever and anon discloses some faint "intimations of the savage," which serve to remind us that man's progress toward the ideal of conduct is a slow and arduous one. Eternal vigilance may be said to be the price of good manners as well as of liberty.

The above reflections were engendered by reading the report of the judgment of the Judicial Committee of the Privy Council in *Toronto Railway Co. v. City of Toronto*, ante p. 753. This judgment purports to have been written by Lord Justice Davey, and contains the following extraordinary criticism upon one whose reputation as a judge is second to none among the personnel of the Canadian Bench at the present time:—

"Their Lordships are always disposed to treat with great respect an unanimous decision of the Court of Appeal in Ontario on the construction of one of their own statutes, but they cannot accede to the argument addressed to them, *or adopt the reasoning of Mr. Justice Osler in Kirkpatrick's case without doing violence to the English language, and to elementary principles of English law.*"

We leave it to the dispassionate consideration of our readers to say if the above expressions as italicized by us would redound to