

Canada Law Journal.

VOL. LVI.

TORONTO, JUNE, 1920.

No. 6

THE LAW FROM A PREVENTIVE STANDPOINT.

BY HON. MR. JUSTICE HODGINS, ONTARIO.

While the science of the law has its juristic side, the one most characteristic of its qualities, it is also properly described as the conscience of the nation, for in its statutes and customs and in its methods and principles there will be found reflected the conception by its citizens of the relation of the State to the individual, the municipality to the individual and that of each individual to his fellow.

In the Criminal Code and in various other enactments, if we study them with a view of understanding why they became law, we shall ascertain with certainty the standards of morality in its broadest sense set up by the nation, for breaches of which it feels itself entitled to exact a penalty.

In the commercial world, where the tremendous volume of business needs, for its smooth and satisfactory working, a body of law that shall be certain, comprehensive and simple, we find many codifications of the law: the Bank Act, the Bills of Exchange Act, the Sale of Goods Act (not yet in force here), the Bankruptcy Act (just coming into force), the Merchants Shipping Act, and other illustrations which will occur to you. All of these reflect in some way or other what is considered to be reasonable and fair in business transactions, modified by those occasional regulations which are necessary to prevent violations of the rules so laid down, under the guise of right. These are such things as estoppels, *res judicata*, *stare decisis*, and other rules of evidence with which you are more or less familiar.

Our ideas of what a community is, what duties it imposes upon us and what private rights must be curtailed for the benefit of the whole body are to be found in our Municipal Act and cognate statutes.