

finding in punishment a retributory element, an attempt on the part of the state to obtain a *quid pro quo*, that we require to attribute any such unaccountable power to the individual. All a judge is concerned to know is that the individual has acted with full self-consciousness. The instinct to take vengeance, however useful it may have been in a militant state of society, does not find a place in the civilization of the present time.

The prevalent view of the present age is that punishment is not retribution for past crime; but that its purpose is to prevent future wrongdoing. What is aimed at, and what is felt to be the only justification of punishment, is the reformation of the criminal, and the protection of society. This later end is accomplished in two ways; namely, by freeing society from those who violate its laws, and by deterring others from following their example. The second duty which the state owes to its citizens, that of education, is becoming more and more prominent in dealing with the criminal class. These are regarded as a class who require some special attention on the part of the state, not as wilful and deliberate offenders upon whom the state is called to take vengeance.

There are two conditions under which it is possible to say that if the individual cannot help doing the act, he should not be punished. Firstly, if the act is not the expression of the character of the individual, if it has been extorted from him by an external agency, he is not justly considered dangerous and separated from the rest of society. Nor has he shown that he requires that special treatment which the state deals out to those who do not realize themselves in conformity with the required norm. Secondly, if his character were fixed and unalterable, all efforts toward reform would be in vain, and it might be a question as to how far the state is justified in using him as a 'means' to deter others. But punishment obtains its final justification from the fact that the offender can be induced to act differently. That is, through the help of the means provided by the state, he can become