

from punishment, who has committed a criminal act—a partial degree of reason—a competent use of it, sufficient to discern the difference between good and evil; then upon the fact of the offence proved, the judgment of the law must take place." He properly hinges the whole case on moral discernment, or what has been called by writers on ethics, "a moral judgment," accompanied by freedom of will to accept or reject alternatives. Habit, or congenital bias, may manacle in bands of adamant many an unfortunate. For the former he is directly responsible, and Aristotle makes the essence of virtue to consist in "practical habits, *voluntary* in their origin." For the latter he is brought to account in law, if responsibility can be proved.

I have succinctly stated these views, at the present time, when the "insanity plea" is so commonly put forward, and because my views are not those commonly set forth in text books on such subjects. In a word I hold,

*Firstly*, that proof of a sense of right and wrong is only of secondary consideration, because conscience is in a sense subservient to observation, discrimination, and judgment. Dr. Alexander, in his "moral science," says, "All experience and history show that man may act under the influence of an erroneous conscience. The dictates of conscience are always in conformity with the practical judgments of reason. When these are erroneous, conscience is erroneous."

*Secondly*, inability to choose right from wrong is no plea, because in a popular and experimental sense that is common to all, and in a philosophical sense not true, because every volition we put forth we choose so to do, and in the act the *free* choice is done. If we are able to choose at all, then we avoid, voluntarily, the alternatives. The error and sophistry seem to lie in confounding freedom of will in intellectual acts, and moral decisions. The former is *always* free, but the latter may be fettered by passion, confirmed habit, or unhallowed desire.

*Thirdly*, impulse is insanity, pure and simple, only when accompanied by evidently irritational motives, or no motives at all, yet this insanity may be accompanied by a sense of right and wrong, and knowledge of penal consequences, and at the same time the agent not be guilty of crime, and punishable. For mental alienation does not mean loss of the faculty of reasoning, but the grouping together,