

**RESPONSIBILITY IN LAW,  
AN INQUIRY INTO  
THE MEANING OF LAW  
AND OF RESPONSIBILITY**

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Responsibility in law, an inquiry into the meaning of law and of responsibility by R. W. Rankine Wilson

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## RESPONSIBILITY IN LAW

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# RESPONSIBILITY IN LAW

AN INQUIRY INTO THE MEANING OF  
LAW AND OF RESPONSIBILITY

BY

R. W. RANKINE WILSON, M.A., B.C.L., LL.D.

OF LINCOLN'S INN AND THE MIDDLE TEMPLE  
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## PREFACE

IN the elaboration of this Treatise, the endeavour has been made to keep it within very modest limits, to state the arguments as concisely as possible, and to refer to well-known works either by way of illustration of the line of thought or of support to the views that are intended to be expressed. By these means it is hoped that the tediousness of a dry subject may be lessened to the reader, and at the same time that, by means of the many references in footnotes, it may be easy to follow out the processes of reasoning by which some of the conclusions have been arrived at.

To find an intelligible basis of Responsibility, beyond the mere legal conceptions of offence and punishment, it was necessary to proceed some way into the regions of mental science and philosophy. In doing so, the author hopes he may crave indulgence from critics, as he makes no pretensions to any special knowledge in systems of philosophy—if he has arrived at true conclusions, perhaps the fact of his not having followed the beaten track may be overlooked.



He wishes to return grateful acknowledgments to his friend Dr. Radford Potts of Oxford for encouragement and valuable criticism during the progress of his work, and to his kinsman Professor Rankine of Edinburgh for assistance in selecting cases from Scots Law.

The first seven chapters, to which some alterations and additions have since been made, have already appeared in the pages of the *Law Magazine and Review*.

OXFORD,

September 1, 1908.

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Treatment of the question—not yet arrived at a satisfactory solution : consider, first of all, what is meant definitely by Law and what by Responsibility: Austin's definition of Law discussed; its inadequacy: continuity and uniformity, the distinguishing features of law; its breach followed by catastrophe: universal and necessary law, by a true perception of which one gains "prescience and power": Knowledge comes to us by the interaction of the natural and the spiritual constitution of our being, whereby we have to find a true Psychology in which the natural and the spiritual in man are distinguished and in which we shall find law and responsibility explained: the conception of law is forced in upon us by the experience of an overmastering authority and by realising that its breach is followed inevitably by catastrophe; thus man came to make laws for himself, and catastrophe upon the community was averted by punishment of the individual: the conception of human law historically then is derived from the divine—a true conception of the existence of universal law, and thus man was led to perceive that to observe the law is to transcend it and to become free .. .. .	1

### CHAPTER II

The notion of Responsibility lies deep down within the recesses of philosophy and religion: a true philosophy

cannot be reached but through true religion—leading up through human Knowledge to the Word of God ; to deal with Responsibility on any other basis must prove inadequate : each man has to form for himself, or receive from others, his conception of religious truth ; and the only conclusive test of religious truth open to our finite intelligence is that which we apply to any ordinary branch of Knowledge : to reach a satisfactory foundation for Responsibility, we must find a psychological basis in the natural side of the constitution of man as commonly presented to us for analysis and a philosophical basis in the spiritual part of man which a more complete psychology of the human mind will supply. The attempt has been made to account for responsibility and justify the infliction of punishment on quite other grounds than these. Responsibility, as commonly understood, goes no further than the contemplation of liability to punishment under some moral or legal code ; in this view, the basis of Responsibility rests on a sanction no higher than the law of Nature, the law of retaliation : the law of England has already travelled beyond this view ; and it will be the object of this treatise to show in what farther direction the solution of the problem of Responsibility lies. Responsibility, in a legal sense, may be stated to be that condition in which a man is considered capable of acting up to the standard of what is required of him, either in a special capacity or in a general way ; but the notion of responsibility cannot be limited in this way without grave danger to the State : there is responsibility by the State as well as to the State ; and this responsibility the State may shift for a time on to the individual but cannot get rid of. This conception of law, as the realisation of an overmastering authority, universal uniform continuous, is vital ; no theory of Responsibility applicable to social and political conditions is possible apart from it : law cannot be broken but by catastrophe ; the breach is blotted out ; there must be reparation if law is to continue ; for every breach of law there must be atonement. Responsibility