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THE ADMINISTRATIVE PROCESS OF CRIMINAL JUSTICE

By

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[Readers will find this article throwing up new dimensions as to Reform of Criminal Justice.]

—Honry. Editor.

The administration of criminal law consists in the processes of criminal justice which precede and follow conviction. Before an alleged criminal can be punished and treated as a criminal his criminality must be officially established by the processes of criminal justice. The treatment or the post-conviction processes of criminal justice consists of the official determination of the modes by which the criminals are to be treated and the ends may be either incapacitation, deterrence or reformation. In order to enforce criminal law the crime is to be detected, the criminal must be identified, apprehended and prosecuted and the prosecution must result in conviction in order to subject him to punishment or treatment. In other words, treatment must be preceded by conviction, conviction must be preceded by prosecution, prosecution must be preceded by apprehension, apprehension must be preceded by identification and identification must be preceded by discovery of crimes which have been committed.

The administration of criminal law is thus a practical activity and the role of this activity is to serve the ends of criminal justice. That is criminal law is administered in order to achieve the ends of criminal justice. These administrative processes of criminal law can be divided in different categories and each of these processes serve a subordinate administrative purpose. No society discovers crime, identify and apprehend criminals, prosecute and convict them only for the sake of doing these things. These processes are only means of achieving certain ends. Discovery of crimes is a means to identify and apprehend criminals which, in turn, is a means to their prosecution which, in turn, is a means to their conviction. However, apart from the ultimate ends of criminal law, economy in use of public funds may also be one of the objects in selecting these administrative processes. The extent to which the proper expenditure of the national income will be served or dis-served by various alternative policies is an important element in choice. No programme for the determination of methods of treatment, no set criteria for their evaluation, can ignore this obvious multiplicity of treatment.¹ Similarly, the administration of criminal law may also be guided by such interests as the protection of citizens against arbitrary action of officials and the protection of innocent who may be prosecuted. It is perhaps inevitable that in the enforcement of criminal law some persons who are in fact innocent should be charged with crime and that some officials should abuse their powers. As a result certain devices have been developed to safeguard the innocent citizens and a series of constitutional guarantees and rights of the accused and a series of procedural requirements have been adopted.²

1. See, Ferri, Criminal Sociology (Mod. SCI. Tr. 1917)—Saleilles. The individualisation of punishment. (Mod. Cr. Sc. 1911). Ch. VI.

2. See, National Commission on Law observance and enforcement. Report on prosecution. Washington : Government Printing Office. 1931, p. 20.