

1 appear for the State. The case went to the Court of  
2 Appeals, and the Court of Appeals in an elaborate opinion  
3 held that the discovery rules were not applicable in  
4 criminal cases, as they were in civil cases.

5 That is one illustration, but that would be  
6 a very broad use of discovery. That is the kind of thing  
7 that we are talking about.

8 MRS. BOTHE: Does the Committee or anyone know  
9 whether any State constitution, and I am not speaking  
10 now of laws and rules of court, allows for discovery in  
11 criminal cases?

12 PROFESSOR ASPER: I have no idea.

13 THE CHAIRMAN: Judge Shook wrote a rather  
14 lengthy opinion in which she reviewed a great many deci-  
15 sions in other States, and my recollection is that there  
16 is a considerable body of professorial comment, may I  
17 say, law reviews, and whatnot advocating this, but I  
18 think it hasn't been translated into actual rules or  
19 statutes except perhaps in very few instances.

20 MRS. BOTHE: I was just thinking perhaps it  
21 was taking much too big a bite to ask the Committee at