

1 I always thought that the major opposition to the indetermi-
2 nate sentence law was based on the constitutional objection
3 of due process rather than separation of powers. Is that
4 not correct?

5 MRS. BOTHE: Yes, there is a major case just
6 decided out of Prince Georges County where for three weeks
7 the subject of due process under the Defective Delinquent
8 Act was under discussion and decision. However, I said
9 that for A and C, more than for B.

10 MR. SCANLAN: If that is true, if it is true
11 there may still be some question about due process, whether
12 we put it in the Constitution or put it in the statute,
13 it wouldn't make any difference, if it was beyond the
14 legislative --

15 MRS. BOTHE: No. The constitutional issues of
16 the Defective Delinquent Act, which is very much -- you
17 pick up a copy of the Atlantic Reporter and there are
18 invariably six or seven applications from inmates of
19 Patuxent questioning the constitutionality of the law,
20 but not as to the power of the legislature to have enacted
21 an indeterminate sentence law, but merely as to the due