

In the belief that the above language will better protect the rights of persons detained as material and necessary witnesses, the Commissioners strongly recommend that it be used instead of the present amendatory language contained in section 302 of H.R. 7525.

TITLE IV

Title IV has the effect of including the crime of robbery among the crimes contained in the definition of "crime of violence" set forth in the first section of the act approved July 8, 1932 (sec. 22-3201, District of Columbia Code, 1961 edition). The Commissioners favor the enactment of this title of the bill.

TITLE V

Section 501 has the effect of establishing a mandatory minimum sentence of not less than 2 years' imprisonment upon conviction of the offense of assault with intent to kill or to commit rape, or to commit robbery, or mingling poison with food, drink, or medicine with intent to kill, or willfully poisoning any well, spring, or cistern of water. For the reason set forth below concerning the efficacy of mandatory minimum sentences, the Commissioners question this section of the bill.

Section 502 amends section 823 of the act approved March 3, 1901 (31 Stat. 1323; District of Columbia Code, sec. 32-1801), now captioned "Housebreaking," to define the offense of "burglary" and to further define such offense as either "first degree" or "second degree," depending on whether the offense occurs in an occupied place of residence, and should any such resident be in occupancy at such time the offense is that of burglary in the first degree. Any other breaking and entering, or entering without breaking, of the various specified premises is defined as burglary in the second degree. The Commissioners favor the enactment of this section of the bill. The Commissioners note, incidentally, that the penalty for burglary in the first degree is imprisonment for not less than 20 years nor more than life, as compared with the present penalty for housebreaking of imprisonment for not more than 15 years. While the Commissioners do not object to the enactment of section 503, they question so much thereof as establishes mandatory minimum sentences, for the reason set forth below.

Section 503 amends section 810 of the act of March 3, 1901, defining the offense of robbery, so as to provide a mandatory minimum sentence of not less than 5 years in place of the present mandatory minimum sentence of not less than 6 months. Again for the reason set forth below concerning the efficacy of mandatory minimum sentences, the Commissioners question this section of the bill.

Section 504 of the bill generally relates to bribing or offering to bribe persons participating in athletic contests, and the acceptance or agreement to accept such bribes by such persons. This section amends existing law (act approved July 11, 1947; 61 Stat. 313; sec. 22-1513, District of Columbia Code, 1961 edition) having a somewhat similar effect, and providing for a penalty upon conviction of imprisonment for not less than 1 year nor more than 5 years and a fine of not more than \$10,000, as compared with the penalty set forth in subsection (a) of the new section 869e of imprisonment for not less than 1 nor more than 10 years, and a fine of not less than \$3,000 nor more than \$10,000. Inasmuch as section 504 appears to add nothing to existing law except insofar as penalties are concerned, and inasmuch as the Commissioners are informed that there appears to be no need for a change in existing law, the Commissioners see no need for section 504.

Section 505 makes it mandatory (rather than at the discretion of the judge, as under existing law) that when any person commits a crime of violence when armed with or having readily available any pistol or other firearm, he shall, in addition to the punishment provided for the crime, also be punished by the penalties prescribed in section 2 of the act of July 8, 1932 (sec. 22-3202, District of Columbia Code, 1961 edition). Further, section 505 adds to such section 2 language prohibiting the court from suspending sentence upon conviction of a crime of violence when armed with or having readily available any pistol or other firearm, or from giving the defendant a probationary sentence. The Commissioners question the desirability of removing from the judges the discretion they have under existing law.

Section 506, amending section 872 of the act approved March 3, 1901 (District of Columbia Code, sec. 22-2001), is identical with the purview of H.R. 5989 of the 88th Congress, except for certain additions on which the Commissioners will comment in the next paragraph. The provision of existing law amended by section 506 reads as follows: