

tions concerning many of its provisions. As a result, they have recommended to this committee, in a letter dated September 13, 1963, that the bill not be enacted in its present form.

The chairman has already incorporated that letter into the record.

The CHAIRMAN. That is correct. It has already been incorporated into the record.

Mr. TOBRINER. Title IV of H.R. 7525 has the effect of including the crime of robbery in the group of crimes embraced within the term "crime of violence," as specified by the first section of the act approved July 8, 1932. In view of the fact that the term "crime of violence" as presently defined in such section includes murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary, it appears that the addition of the crime of robbery in this group of crimes is merely the correction of an oversight. The Commissioners favor this change in existing law.

Title V consists of seven sections (excluding sec. 506). Six of these sections amend a variety of existing laws, while the seventh enacts in statutory form an existing District of Columbia police regulation prohibiting the making of false or fictitious reports to the Metropolitan Police Department. The sections of this title have virtually nothing in common with one another, except that several of the sections either specifically or in effect change existing law so as to provide for the imposition of mandatory minimum sentences upon convictions of certain specified offenses. On this aspect of the general problem, the Commissioners question the effectiveness of a mandatory minimum penalty, in the belief that any such penalty not only deprives the courts of discretion in the sentencing of offenders, but also many, in its effect, be self-defeating. If the mandatory minimum penalty be considered excessive by a jury, the jury may tend to acquit the defendant rather than subject him to what it considers an excessively high penalty. In view of this, the Commissioners question whether a mandatory minimum penalty, or an increase in an existing mandatory minimum penalty, will operate so as to affect materially the crime situation in the District. Accordingly, my comments respecting the sections of title V which would have the effect of establishing a mandatory minimum penalty, or increasing an existing mandatory minimum penalty, should be considered as including the foregoing general comment concerning the efficacy of mandatory minimum penalties.

The CHAIRMAN. Do you have someone who is going to testify on this subject of mandatory minimum sentence in more detail? My understanding is that Mr. Clemmer, Director of the District of Columbia Department of Corrections, will testify in detail as to how the present penalties work under the various code sections.

Mr. TOBRINER. Yes; that is under his jurisdiction, in the Department of Corrections.

The CHAIRMAN. I will then withhold those questions, and ask them of him.

Mr. TOBRINER. Yes.

Section 803 of the act of March 3, 1901, presently provides that every person convicted of any assault with intent to kill or commit