

The CHAIRMAN. I am wondering if you are consistent, though, where you object to minimums in relation to the other sections—why do you not object to a minimum sentence for robbery?

Mr. TOBRINER. Because we think that in the case of robbery, which is a felony, that the minimum sentence currently prescribed is one which any court would normally give.

The CHAIRMAN. That is written into the statute?

Mr. TOBRINER. It is written into the statute, but I feel that it is a de minimis matter, and the Commissioners have no strong feelings about this item of 6 months under the robbery section.

The CHAIRMAN. The burden of your argument up to date on the House passed bill is to oppose a minimum sentence?

Mr. TOBRINER. We do, sir, but I say that a sentence of 6 months on a conviction for robbery is so minimal that I do not feel, if that were permitted to stay in the statute that it would constitute any real interference with judicial discretion.

The CHAIRMAN. If there were a minimum sentence of 6 months for these other crimes you would then have no objection?

Mr. TOBRINER. That would depend upon the nature of the crime. I would say that generally would be true. I do not believe that constitutes any substantial impairment in the case of a felony in the court's discretion, which we believe should reside and remain with the judges.

The CHAIRMAN. Under the present sentencing system for burglary, if I understand it correctly, the present sentence for housebreaking is imprisonment for not more than 15 years. Is that the sentence that the judge would give, or would he impose one of 10 or 5 years?

Mr. TOBRINER. It would be within his discretion to give anything.

The CHAIRMAN. He can and does specifically set the sentence in the District of Columbia?

Mr. TOBRINER. Yes, sir.

The CHAIRMAN. Is that correct?

Mr. TOBRINER. Yes, sir. We have an indeterminate sentence law, if that is what you are driving at.

The CHAIRMAN. That is what I am driving at. The offender is convicted of housebreaking and he is before the judge for sentencing. Now, my question is, what type of a sentence can the judge impose?

Mr. TOBRINER. My recollection is, subject to correction, is that he sentences him for not less than nor more than.

The CHAIRMAN. So the judge himself then has a statute to which he can go permitting him to set the minimum?

Mr. TOBRINER. Within the confines of the sentence prescribed for the individual crime for which the sentence is imposed.

The CHAIRMAN. That is in the District of Columbia?

Mr. TOBRINER. I will have to refer to some of my lawyer friends here about that.

The CHAIRMAN. I am just trying to find out exactly how it works.

Mr. TOBRINER. I think that is true. Is Mr. Acheson here at the moment? Is that correct, Mr. Acheson?

The CHAIRMAN. Would you like to come forward? Maybe this is more properly in your province.

Mr. ACHESON. I will touch on that in my testimony.

The CHAIRMAN. We will ask you the question then at that point. Thank you.