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as long as it is humanly possible, but I don't like the idea of stripping one man's body to patch up another.

As doctors become more skilled in performing transplants how can we be sure our loved ones and relatives who die from accidents will be returned to us with their vital organs intact. People will lose confidence in a doctor if they think he won't do the very best he can to save a patient.

I hope you will introduce legislation about transplants. I think it is necessary and the sooner the better.

Sincerely,

Mrs. DORRIS J. THOMPSON.

AMERICAN MEDICAL ASSOCIATION,
Chicago, Ill., January 19, 1968.

HON. WALTER F. MONDALE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR: I have read of your proposal to create a "National Commission on the Ethical and Social Implications of Health Science Research and Development."

I would not want it thought that the ethical, medical, moral, social and legal aspects of medical advance have been neglected. The clergy, members of the medical profession, members of the legal profession, philosophers and others have had this matter under consideration and review for many years.

Notably, the World Medical Association adopted the Declaration of Helsinki in 1964. In 1966, this document was endorsed by the American Medical Association and six other medical groups. In 1966, The American Medical Association drafted and approved Ethical Guidelines for Clinical Investigation to complement the Declaration of Helsinki. The American Medical Association has printed and distributed many thousands of copies of the Declaration and the Ethical Guidelines.

The AMA Judicial Council will hold its regular biennial Congress on Medical Ethics this October in Chicago. A considerable portion of this forthcoming program will be devoted to discussions of "postponement of death," "artificial means to prolong life," "clinical investigation," "human experimentation," and "organ transplants."

The AMA Committee on Medicine and Religion has been most active in encouraging discussions on the moral aspects of these subjects. It has conducted or participated in many joint meetings of physicians and clergymen throughout the country to discuss these subjects. The Committee has been most active and most successful in encouraging the development of Committees on Medicine and Religion at state and county level.

The AMA Law Division and the AMA Department of Medical Ethics have participated in a number of multi-discipline discussions of the legal and ethical aspects of all these subjects.

I trust my calling these facts to your attention will be accepted in the spirit in which my letter is written.

Sincerely,

E. G. SHELLEY, M.D.,
Chairman, Judicial Council.

ST. PAUL, MINN.

HON. SENATOR MONDALE.

DEAR SENATOR MONDALE: You have expressed your concern about organ transplants in humans. I am enclosing a letter on it and would urge you to read the book "The Unexplained" by Allen Sprogett. Since you are proposing laws on it, I am sure you want to know everything possible on the subject.

"There is much discussion about transplanting physical organs. If you received another's brain, would you be you or become the donor?"

"We are composed of two parts—the physical body, which includes the brain, and a non-physical force that is the true I, the mind.

"Physical substances follow definite behavioral patterns and laws and their reactions are predictable in advance. Not so our minds or our thoughts. The real I, ego, or psyche, as you prefer. It is unpredictable, weightless, shapeless, and not subject to physical laws of time and space. It is free to roam the universe at will. It is a very definite, powerful force which exercises power over the physical. This power seems to come from the subconscious which some theologians believe is the center of the soul. Since the subconscious is a permanent recorder of all our thoughts, psychiatrists probe it to effect cures.

"Many leading parapsychologists believe this power of the subconscious is common to everyone and comes from one source, or as St. John stated, 'In the beginning was the word (Intelligence) and the word was God.' Everyone's thoughts then are recorded on each one's subconscious and those who have the ability to let their subconscious dominate at times have the gift of prophecy.

"Some of your readers may have seen the power of the subconscious by watching Ted Serios on T.V. By concentrating on an object, he can produce its image in his eyes and a picture can be taken of the object by a T.V. or regular camera by focusing on his eyes, even with a lead plate between.

"A picture was taken of the Legislative Council of British Columbia at Victoria, Canada. One member, Charles Good, who had a great desire to be there, was bedridden and not present. When the picture was developed, his face appeared with the rest. 'The Unexplained,' page 183.

"There are verified cases of people's mind leaving their body during operations and etc., where the patient watched the operation and described the details after regaining consciousness. Jung, a co-worker of Freud, tells of such an experience. 'The Unexplained,' page 188.

"As there is no scientific proof that man has ever come from anything other than man, the first two humans reproducing physically without divine consent and assistance saddled all their descendants with a degenerate physical body. Our minds being non-physical had to come from a non-physical source which rules out evolution as the source of man's mind.

"Our body is a prison holding our mind, and transplanting a brain, if possible, would not have any effect on the real 'I'.

"For further pursuit of the subject: Spragget, Allen, 'The Unexplained'; Fodar, Nandor, 'Mind Over Space'; Jung, Carl G., 'Memories, Dreams, Reflections'; Montgomery, Ruth, 'A Gift of Prophecy.'

Sincerely,

LEO MURPHY.

COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK,
New York, N.Y., February 13, 1968.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I have read in Science magazine that you introduced a bill to create a Commission on the Ethical and Social Implications of health science research and development. Should such a Commission come into being or should you need any additional support for the enactment of such a bill, I would be happy to try to lend you a hand. I have been very concerned over some of the social implications of medical research being done and worried about how we may on the one hand maintain maximum freedom for intellectual work and basic research and on the other curb to some degree undesirable side-effects on society. Let me use this opportunity to congratulate you on your continued effort on behalf of such important issues.

Sincerely,

AMITAI ETZIONI.

INTERFERENCE WITH CIVIL RIGHTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business, which the clerk will state.

The LEGISLATIVE CLERK. A bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

The Senate resumed the consideration of the bill.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, out of my time, and I hope it will not be too long before we are able to have Senators come to the Chamber.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 28 Leg.]

Aiken	Hart	Muskie
Bartlett	Javits	Pearson
Byrd, W. Va.	Kuchel	Stennis
Carlson	Lausche	Talmadge
Gore	Mansfield	Williams, Del.
Harris	Mondale	Young, Ohio

Mr. BYRD of West Virginia. I announce that the Senator from Minnesota [Mr. MCCARTHY], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Connecticut [Mr. RIBICOFF] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. MORTON] is necessarily absent.

The Senator from Illinois [Mr. DIRKSEN] is absent by leave of the Senate because of death in his family.

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be ordered to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

Allott	Fannin	McClellan
Anderson	Fong	McGee
Baker	Fulbright	McGovern
Bayh	Griffin	McIntyre
Bennett	Gruening	Metcalfe
Bible	Miller	Miller
Boggs	Hartke	Monroney
Brewster	Hatfield	Montoya
Brooke	Hayden	Morse
Burdick	Hickenlooper	Moss
Byrd, Va.	Hill	Mundt
Cannon	Holland	Murphy
Case	Hollings	Nelson
Church	Hruska	Pell
Clark	Inouye	Percy
Cooper	Jackson	Proty
Cotton	Jordan, N.C.	Proxmire
Curtis	Jordan, Idaho	Randolph
Dodd	Kennedy, Mass.	Russell
Dominick	Kennedy, N.Y.	Scott
Eastland	Long, Mo.	Smathers
Ellender	Long, La.	Smith
Ervin	Magnuson	Sparkman

Spong Tower Yarborough
 Symington Tydings Young, N. Dak.
 Thurmond Williams, N.J.

The PRESIDING OFFICER. A quorum is present.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute, for the purpose of making an announcement that if Senators do not think enough of being on the floor to offer their amendments once the Senate comes into session, it is the intention of the leadership, if a break occurs, to move for a final vote on the pending substitute.

Mr. ALLOTT. Mr. President, I yield myself 1 minute.

I appreciate the situation in which the distinguished majority leader finds himself. We all feel that he is a man of extreme fairness, but I think we must also consider other factors. For example, I am in a position at this moment where I have two committees in session.

It is not entirely the fault of the Senators that they are not present on the floor. The reason why I was not on the floor was that I was at a meeting of the Committee on Interior and Insular Affairs, and there is a meeting of the Appropriations Subcommittee on Public Works being held downstairs which I am also required to attend. I want the RECORD to show why I was not present, because it is not a matter of lack of interest or anything else that some Senators are not here.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. MANSFIELD. I think I should point out that at the instigation of the distinguished minority leader, no committees have been given permission to meet during the discussion of the pending business except, of course, the Appropriations Committee, which always has that permission.

Mr. ALLOTT. Nevertheless, Mr. President, the Interior Committee is in session.

Mr. MANSFIELD. Senators ought to realize that nearly 60 amendments regarding the pending bill are still at the desk, and if one Senator cannot be present because of committee business, at least some of the others can.

Mr. HANSEN. Mr. President, I should like to point out that I, too—

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. HANSEN. I yield myself 1 minute.

I should like to point out that I, too, was attending a meeting of the Committee on Interior and Insular Affairs, the chairman of which is the Senator from Washington [Mr. JACKSON], for whom I have the greatest respect. That committee is of real importance to the State of Wyoming, and I assure the distinguished majority leader that it was not because of my lack of interest in what is before the Senate, but because of my feeling of continuing responsibility to my State and its reclamation problems that I felt it necessary to be at this meeting this morning.

I say to the distinguished majority leader that I am sorry indeed for my absence, as well as for the absence of others.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. MANSFIELD. Mr. President, I fully appreciate the situation in which the distinguished Senator from Wyoming finds himself. All I have to say is that objection has been raised against the meeting of any committees during the discussion of this important pending business. The Senator from Wyoming and the Senator from Colorado [Mr. ALLOTT] are both here doing their jobs under great difficulties and at some sacrifice, and I applaud them for it.

Mr. HANSEN. Mr. President, I yield myself one-half minute. I wish this word could be conveyed to the chairman of the various committees. I should like very much to be present here, and I was deeply disturbed when the committee meetings were called. If the word can be conveyed to the chairmen of the committees, I will be here.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. MANSFIELD. All committee chairmen will again be notified.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute of the Senator from Illinois.

Mr. BYRD of West Virginia. Mr. President, I call up my amendment No. 590, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from West Virginia [Mr. BYRD] proposes an amendment as follows:

On page 23, line 22, strike the period and insert a comma and the following words: "Provided, That the said plaintiff is not financially able to assume said costs and attorney's fees."

Mr. BYRD of West Virginia. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. Will the Senator withhold until order is restored? The Senate will be in order.

The Senator from West Virginia may proceed.

Mr. BYRD of West Virginia. I yield myself 2 minutes.

I have discussed this amendment with the distinguished floor manager of the bill, the Senator from Michigan [Mr. HART], and with the distinguished Senator from Minnesota [Mr. MONDALE]; and as I understand it, it would be agreeable with those two Senators if I am permitted to modify my amendment to make it read thus:

Provided, That the said plaintiff, in the opinion of the court, is not financially able to assume said attorney's fees.

This would eliminate the word "costs" from my original amendment, and make it apply to that situation in which the complainant has succeeded in his case, but is financially able to assume the attorney's fees.

It is my feeling that in view of the fact that there are provisions for punitive damages in certain cases, as well as for actual damages, and in view of the fact that the victorious plaintiff, in many instances, would be financially able himself to assume the attorney's fees, we

should not allow him attorney's fees when he is, in the opinion of the court, able to assume them.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. I yield.

Mr. BROOKE. Does this place a burden on the court to find the financial ability of each plaintiff that comes before it in these cases? Had the Senator considered that burden?

Mr. BYRD of West Virginia. I think it might put a slight burden on the court, but it would not constitute a prohibitive burden and I would rather have it placed there.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD of West Virginia. I yield myself 1 additional minute.

I would rather have the burden of determination placed upon the court than to place the financial burden upon the defendant, especially when the plaintiff is financially able to pay his own attorney's fees.

Mr. MONDALE. Mr. President, as I understand the modified amendment of the Senator from West Virginia, it still retains the basic objective that we had in mind, namely, that if an indigent or impoverished plaintiff is aggrieved and must bring an action, he will still be able to go to an attorney and say, "If we are successful, the court may award fees."

We do not want to be in a position where that person, because he cannot afford attorneys' fees, cannot bring the action. Therefore, we have no objection to the amendment.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. BROOKE. Of course, when the plaintiff goes to the attorney he must say, "If we are successful, the court may award fees." He cannot say, "The court will award fees," but must say "may," because it is still up to the determination of the court, is it not?

Mr. MONDALE. That is correct.

Mr. BROOKE. To award fees, in the final analysis?

Mr. MONDALE. That is correct; but that was true in the original provision; it was discretionary with the court. This adds the financial finding requirement. It is a little more burdensome. I think we must concede that the court has great latitude to make determinations under the amendment.

Mr. BROOKE. The "may" in the original version was not restricted to a finding of financial ability?

Mr. MONDALE. That is correct.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to modify my amendment by inserting, after the word "plaintiff" on line 3, the words "in the opinion of the court", and by striking the words "costs and" on line 3.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none, and the amendment will be modified accordingly.

Mr. HART. Mr. President, I think it important to note that section 212 (b) and (c), as these provisions now stand, do reveal a clear congressional intent to

permit, and even encourage, litigation by those who cannot afford to redress specific wrongs aimed at them because of the color of their skin. Of course, a court must judge what fees are appropriate, as well as what damages may apply. But this section should not be read as permitting courts to deny court costs solely at its discretion. We cannot permit unwitting enforcement of this provision to shut the courthouse doors to those whose rights are violated simply because they lack the funds to protect those rights.

Moreover, the evolving pattern of legal representation is of critical importance in understanding this section. Frequently indigent plaintiffs are represented by legal associations, acting as "private attorneys general" in the vindication of important constitutional and statutorily created rights. It would be most anomalous if courts were permitted to deny these costs, fees, and damages to an obviously indigent plaintiff, simply because he was represented by a legal association. I think it should be clearly understood that this representation in no way limits a plaintiff's right of recovery. Indeed, such representation may be evidence of his indigency.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from West Virginia.

The amendment (No. 590) was agreed to.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator from Michigan [Mr. HART] and the Senator from Minnesota [Mr. MONDALE] for accepting my modified amendment.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL in the chair). Without objection, it is so ordered.

AMENDMENT NO. 544

Mr. ALLOTT. Mr. President, I call up my amendment No. 544.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 11, line 7, after the word "rent" insert the following: "after the making of a bona fide offer, or".

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. ALLOTT. I yield myself such time as I need.

First, Mr. President, I ask unanimous consent that the amendment be modified in accordance with the way it is now written and has been read. There are minor modifications, but the page and line numbers also have to be changed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLOTT. Mr. President, this amendment is applicable to page 11, line 7. In essence, it would make the penalty

provisions of the proposed legislation applicable only where there is a refusal to sell or rent after a bona fide offer has been made.

In other words, I want to negate any possibility of undue harassment or pressure upon a seller or lessor. Upon the basis of sheer equity alone, a party should not be placed in jeopardy or found guilty of a violation of this act merely for refusing to sell or rent when the person who approached him was not in a position to make or did not make a bona fide offer.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. MONDALE. The Senator said "sell or rent." I understand that this provision applies exclusively to rentals. Is my understanding correct?

Mr. ALLOTT. No. It applies to sale or rental—the first four words only of line 7.

It will be noted that the latter part of paragraph (a) is not conditioned upon a bona fide offer, because the amendment as offered concludes with the word "or" rather than "and."

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. MONDALE. As I understand the intent of the amendment, as modified, offered by the Senator from Colorado, it is this: When a person really wants to rent a particular leasehold or when he wants to buy a particular piece of property, he is clearly within the protection of this measure. But when the offer is in effect a phony one, when he has no intention, when it is not a good safe offer, because he is on a lark or whatever, when it is a contrived sort of situation with which he would never go through, he would not be protected. Is that the distinction that the Senator seeks to make?

Mr. ALLOTT. The Senator has stated it very clearly and plainly. That is the distinction that is sought to be made.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ALLOTT. I should like to finish my discussion with the Senator from Minnesota first.

Mr. MONDALE. Am I also correct in my understanding that this determination can be made on the basis of the facts in each instance, and it has no relationship to underlying statute of fraud laws in particular States?

Mr. ALLOTT. No, I do not believe it would necessarily have to go so far as a binding contract. But if it was not in fact a bona fide offer, with the capability of going through with the contract, then the proposed seller or lessor, would not be in a bind by reason of it. So I believe that this amendment would clear up a necessary feature.

Mr. MONDALE. When the Senator uses the word "capability," he means that the offerer had no intention of going through the bargain, that it was not a bona fide good faith offer to rent or buy?

Mr. ALLOTT. That is correct. And I believe the words "bona fide" are so well established throughout the body of the law that we need not define them further.

Mr. MONDALE. We have no objection.

Mr. ALLOTT. I yield now to the distinguished Senator from Pennsylvania.

Mr. SCOTT. I am glad that no objection has been voiced, because it seems to me that we should foreclose any area in which there might be an opportunity for agitation for agitation's sake, or harassment, or general orneriness.

As the distinguished Senator has pointed out, this is an area in which there might be a totally phony or false approach, without any intention to consummate a sale. I congratulate the Senator on offering what I believe is an excellent perfecting proposal.

Mr. ALLOTT. I thank the Senator very much. He has put his finger on the crux of the matter.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield to the Senator, on his time.

Mr. COOPER. I believe that the amendment the Senator has offered—which I hope will be accepted and agreed to—is one of the most substantial amendments offered to date. Without its adoption, numerous situations might arise in which a renter or an owner could be prosecuted and could be caused all kinds of trouble, when the person offering to rent or to buy had no intention of renting or buying and had no capacity to do so.

It has been agreed in this discussion that capability means willing and able to buy. I wish to go one step further. What about a situation where Mr. Jones, who owns a house or wishes to rent a house, is approached by a man, Mr. Smith, who wants to buy, intends to buy, and has the capability to buy. He can pay cash or he can provide reasonable security. Of course, payment is important to the seller or the person who wishes to rent. Concurrently, a third person, Mr. Brown, comes along who would like to buy the property but does not have the cash to buy the property, he cannot get a loan, and cannot give security to the seller. Would Jones be discriminating if he sold to Smith instead of Brown?

Mr. ALLOTT. I think that is encompassed here. For example, if the senior Senator from Colorado were to go out to McLean, Va., and make an offer to buy some of those very expensive homes, it obviously would not be a bona fide offer in which I would have financial capability of performing if the offer were to be accepted. Therefore, it would not be a bona fide offer. There has to be bona fideness as an element of capability of performing the offer that is being made.

Mr. COOPER. That is my view. I hope there will be interpretation in connection with this point. The bill before us would protect a person who is discriminated against. It also should protect owners who are giving up some of the privileges they have held throughout the years. They should not be subjected to action by capricious, non-bona-fide offerors.

I hope the situation will be interpreted by the manager of the bill.

Mr. ALLOTT. I think that bona fide means a man has to be ready, willing and able to perform. Without these three elements it would not be a bona fide offer capable of enforcement if accepted. I

would be happy to have the comment of the manager of the bill.

Mr. MONDALE. Mr. President, I suppose the question of the offerer's capacity to make good on an offer to rent or buy would have a bearing on the good faith in which the offer was made.

If a person who earned \$3,000 a year bid on a home costing \$200,000, I assume that would raise a question as to the good faith of the offer.

Yet, one of the realities of the real estate industry is that there is a great variance as between individuals and how much of their resources they would allocate to rent or purchase a home as against other families.

As long as it is understood that the objective that the amendment seeks to reach is one where the offerer makes a good faith, bona fide offer with the intent to purchase or rent, and that the offer is made with some reasonable capacity to fulfill the offer, if it is accepted, then I would think we have no objection, but if we enter into a highly detailed burden of proof about his actual bookkeeping capacity in a technical sense to deliver, then I think we have to take another look at it.

Mr. ALLOTT. I wish to say to the manager of the bill that this question could not and would not arise until such time as some person had made an offer which was refused by a man who owned property, and a complaint is brought against such owner under the provisions of this bill, or against him under applicable State law, if he were in our State. At that time regardless of what we write into the bill—and I think we are just defining the area—the court, the court and the jury, or the administrative board would have to look into all of the elements as to whether it was a bona fide offer.

The Senator cited an extreme case of the man who had \$3,000 and who made an offer on a \$200,000 house. Under those facts, when the question is submitted to an administrative board or a court, the court has to determine whether the man had made a bona fide offer and was ready, willing, and able to perform. There is a gray area connected with the question of ability. Certainly, if this particular man wanted to put 50 percent of his monthly income into the purchase of the house, whereas another man would be unwilling to put more than 25 percent of his monthly income into the purchase of a house, that is his business, and the court would deal with it fairly.

Mr. MONDALE. Mr. President, we will accept the amendment because the court would deal with it in any event and the word "bona fide" is well understood through judicial decisions. The court would make its decision on the basis of the standard understanding of that word. On that basis, we accept it.

Mr. HRUSKA and Mr. PEARSON addressed the Chair.

Mr. ALLOTT. Mr. President, I had promised to yield to the Senator from Nebraska first on his time.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

It has been my observation on several earlier occasions that this bill involves and seeks to impose revolutionary

changes in some fundamental, long-established rules of real property.

There has been some discussion here today in connection with the word "bona fide." What is a bona fide transaction? The courts hundreds of years ago met that question and they said: "Unless a transaction pertaining to real estate or title therein is in writing we will not even take jurisdiction." The statutes of frauds of most of the States with which I am familiar, provide that unless a contract or agreement is in writing, it is not enforceable. An oral agreement will not serve as the basis to institute or maintain an action in courts involving title.

Is it the intention of the distinguished Senator from Colorado to decimate that centuries-old rule with reference to real estate title and say that on the basis of an oral statement by one man, which would be refutable only by an oral denial by the other, we are going to determine real estate titles?

This issue has been thrashed out by long experience and by perhaps wiser heads than are now in this Chamber. It was decided that you cannot tamper with real estate on the basis of an oral transaction. If writing is not required by this amendment we will be flying in the face of the experience of centuries and the property titles will be undermined.

What observation would the Senator have on that inasmuch as he would strike out the words "in writing" from his amendment?

Mr. ALLOTT. Mr. President, I yield myself such time as I need. It is true I would have preferred to have the words "in writing" contained in this amendment. It has been pointed out by the manager of the bill, however, that when two parties deal with each other it might never occur to a man to make an offer in writing and, therefore, this need not be done.

I would like to point out to the Senator that he is entirely correct in his remarks about the question of the statute of frauds. The statute of frauds is applicable so far as I know in every State of the Union and as much applicable in the State of Colorado as in the State of Nebraska. However, we are not really dealing here with the statute of frauds per se; rather, we are dealing with violation of a new right which is set up in the bill by this proposed legislation. We are not at this point dealing with whether the man made enforceable contract, whether the man can be said to have violated the principles of the act with respect to discrimination by reason of the fact that he did or did not make a bona fide offer for it.

Mr. HRUSKA. Mr. President, will the Senator from Colorado yield on such of my time as I may need?

Mr. ALLOTT. I yield.

Mr. HRUSKA. What a contradiction in words, Mr. President. It is said that this does not deal, per se, with the statute of frauds or with titles. Let me say that it goes further than that, because the statute of frauds pertains to civil actions. This section makes of it a crime, and then does more. It provides the basis for implementing the enforceable provisions which begin on page 17,

line 7. In other words, there is a basis for an action affecting title because there was a violation of law—there was discrimination, and the action is based, in many conceivable instances, only on the discussions, oral in character, before they are reduced to writing.

Mr. MONDALE. Mr. President, will the Senator from Colorado yield?

Mr. ALLOTT. I yield.

Mr. MONDALE. I thought the Senator from Nebraska stated that the provisions we are dealing with could be made the basis for crime. The Senator from Nebraska should be advised that there is no criminal provision in the fair housing section on that.

Mr. HRUSKA. But it makes it unlawful. It is a crime not in the sense of meeting with sanctions but certainly—well, technically perhaps I overstated it, but it makes it unlawful to do so.

Mr. MONDALE. We are prepared to accept the amendment.

Mr. PEARSON. Mr. President, will the Senator from Colorado yield?

Mr. ALLOTT. I yield.

Mr. PEARSON. I am pleased that the manager of the bill will accept the amendment. It provides here that it shall be unlawful to refuse to sell. There is no problem with that. Also, to refuse to rent—I can see how that would be subject to clear, persuasive proof. But, to refuse to negotiate, the third part here, in the exchanges which are inherent in any negotiation I would find it difficult to proceed under this act. For that reason, and in relation to that part, in addition to the point made by the sponsor of the amendment, I think that this amendment of a bona fide offer would give a great deal of value to proceeding under that part which deals with parties who refuse to negotiate as to sale or as to rentals. I merely make that point in support of the Senator from Colorado.

Mr. ALLOTT. I thank the Senator from Kansas very much.

Mr. President, I am ready to vote.

Mr. MONDALE. Mr. President, could we have the clerk read how the modified amendment appears in section 204(a)?

The PRESIDING OFFICER. The clerk will state the amendment.

The ASSISTANT LEGISLATIVE CLERK. On page 11, line 7, after the word "rent" insert the following: "after the making of a bona fide offer, or".

Mr. CASE. Mr. President, I ask unanimous consent that my administrative assistant, Frances Henderson, may be permitted the privilege of the floor during consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Colorado, as modified.

Mr. LONG of Louisiana. Mr. President, what was the request?

The PRESIDING OFFICER. On agreeing to the amendment of the Senator from Colorado.

Mr. LONG of Louisiana. I thank the Chair.

Mr. HRUSKA. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The ques-

tion is on agreeing to the amendment of the Senator from Colorado.

Mr. HRUSKA. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 1 minute.

Mr. HRUSKA. Mr. President, to recapitulate, under the present law, in all the States that I know of, an oral offer involving real estate, orally accepted, cannot affect real estate title. Now it is proposed to make an oral offer, orally rejected, the sole basis of a court action which can affect the title to real estate.

Thus, I say again, this is completely contrary to the laws on real estate as they have existed for many, many generations.

Mr. BROOKE. Mr. President, will the Senator from Nebraska yield to me, on my own time?

Mr. HRUSKA. I yield to the distinguished Senator from Massachusetts.

Mr. BROOKE. Is the Senator saying that negotiations must be in writing? As I understand the law, the statute of frauds says that a contract to sell land must be in writing. I think that every State in the Union abides by that.

Mr. HRUSKA. This has to do with a contract of sale.

Mr. BROOKE. We are talking about negotiations. Is it the position of the distinguished Senator from Nebraska that negotiations must be in writing?

Mr. HRUSKA. The way I understand "to refuse to sell" or "to refuse to negotiate" involves the ultimate issue of sale under this bill. It is upon refusal to sell that the action is based. But under the statute of frauds, the ultimate issue of sale has to be in writing before a court will take jurisdiction of it.

Mr. BROOKE. The statute of frauds would cover the purchase and sale agreement or the selling of property, but not the negotiations.

Mr. HRUSKA. This involves purchase and sale. It is when there is a refusal to sell that an action affecting title may be brought.

Mr. BROOKE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Colorado [Mr. ALLOTT].

The amendment, as modified, was agreed to.

Mr. ALLOTT. Mr. President, I move that the vote by which the amendment as modified was agreed to be reconsidered.

Mr. CASE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 568

Mr. DOMINICK. Mr. President, the State of Colorado is doing so well today that I call up my amendment No. 568, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the Record at this point.

The amendment offered by Mr. DOMINICK, is as follows:

On page 17, line 8, before the word "Within" add the following new sentence: "Upon receipt of such a complaint the Secretary shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice."

Mr. DOMINICK. Mr. President, the amendment refers to page 17, line 8. That reference is to the Dirksen substitute as originally introduced. In the star print, my amendment refers to page 17, line 13.

I hope that the Senator in charge of the bill will accept my amendment. It is a very simple one. If I may have the attention of the Senator in charge of the bill—

Mr. MONDALE. I am listening.

Mr. DOMINICK. My amendment provides if anyone complains that he is being discriminated against, and files a complaint with the Secretary, the Secretary must serve a copy of it or send a copy of it to the one who is complained against.

At the moment, there is no requirement that the one who is allegedly exercising discrimination will receive a copy of the complaint.

It would strike me that the very least we could do, before any investigation is carried on, is to let the one who is supposedly in error know what he is in error about. That is the easiest way to do it. It is the same procedure that was used in the 1964 Civil Rights Act.

It is my hope that the Senator in charge of the bill will accept my amendment.

Mr. MONDALE. Mr. President, we would like to have a moment or two to explore and analyze the Senator's amendment before we decide. Thus, I observe the absence of a quorum.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, on page 18 of the Dirksen substitute, starting with line 10, it is quite clear that the Secretary is required to provide a copy of the complaint to the compliance in order to give him a chance to answer. Therefore, since we interpret the statute to require this provision in any event, we think the amendment by the Senator from Colorado clarifies it and obviates any confusion or difficulties. We are glad to accept the amendment.

Mr. DOMINICK. I thank the Senator from Minnesota.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Jones, one of his secretaries.

INTERFERENCE WITH CIVIL RIGHTS

The Senate resumed the consideration of the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MONTOYA in the chair). Without objection, it is so ordered.

THE AMERICAN INDIAN—MESSAGE FROM THE PRESIDENT (H. DOC. No. 272)

The PRESIDING OFFICER. The Chair lays before the Senate a message from the President of the United States, on the American Indian. Without objection, the message will be printed in the Record, without being read, and will be appropriately referred.

The message was referred to the Committee on Interior and Insular Affairs, as follows:

To the Congress of the United States:

Mississippi and Utah—the Potomac and the Chattahoochee—Appalachia and Shenandoah. The words of the Indian have become our words—the names of our states and streams and landmarks.

His myths and his heroes enrich our literature.

His lore colors our art and our language.

For two centuries, the American Indian has been a symbol of the drama and excitement of the earliest America.

But for two centuries, he has been an alien in his own land.

Relations between the United States Government and the tribes were originally in the hands of the War Department. Until 1871, the United States treated the Indian tribes as foreign nations.

It has been only 44 years since the United States affirmed the Indian's citizenship: the full political equality essential for human dignity in a democratic society.