The Senate resumed the consideration of the bill (S. 2518) to prescribe penalties for certain acts of violence or intimidation and for other purposes.

Mr. BYRD of West Virginia. Mr. President, my amendment No. 579 is pending before the Senate. I have already asked unanimous consent, and that consent has been granted. I hereby move to withdraw my amendment: And Senators will find on their desks the modification in part, which reads as follows:

On page 9, lines 11, 12 and 13, strike out ‘‘residing in such house at the time of such sale or rental, or who was the most recent resident of such house prior to such sale or rental: Provided, and insert in lieu thereof the following: ‘‘Provided, that such owner does not own more than three such single-family houses at any one time; Provided further, that in the case of the sale of any such single-family dwelling, such owner shall be entitled to sell in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this section shall be extended with respect to one such sale within any 24 month period; Provided further, That such bona fide owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; Provided further.’

Mr. President, under the language in the substitute by Mr. Dirksen, single-family housing is exempted from the “fair housing” provisions only if it is “sold or rented by an owner residing in such house at the time of such sale or rental, or who was the most recent resident of such house prior to such sale or rental.”

It will be noted that the language in the Dirksen substitute which I have just read would not exempt the owner of a single-family dwelling in the following situations, among others:

First, An owner, because of health reasons, must go to Arizona for a period of 2 years and desires to rent his single-family house located in an Eastern State. He rents his dwelling, but 3 months later the tenant moves out. The owner

The PRESIDING OFFICER. The Senator from Minnesota [Mr. Mondale], the Senator from Michigan [Mr. Hart], the Senator from Massachusetts [Mr. Brooke], the Senator from New York [Mr. Javits], all agree that these examples I have presented here today are pertinent and valid, and that such situations could very well occur, and I believe I am correct in saying that they, too, feel something should be done to deal with such situations. At the same time, I have heard reservations about the amendment and, of course, they can express those reservations.

I do hope that after they have done so, we can have a vote, that we will have to wait too long to reach a vote, and that Senators will vote on this amendment.

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

Mr. BYRD of West Virginia. Will the Senator permit me to yield on his time?

Mr. AIKEN. On my time, I have 59 minutes and 50 seconds remaining.

Mr. BYRD of West Virginia. My time is running short.

Mr. AIKEN. I can spare a little time. I am interested in the Senator’s amendment. I am wondering why it was necessary to raise the number of houses owned by one party to three. What is the logic in that? The bill itself, I believe, referred to one house, or four rooms.

Mr. BYRD of West Virginia. I have already discussed situations in which there would be at least two houses involved.

Mr. AIKEN. Yes.

Mr. BYRD of West Virginia. The Senator asked why I used the word “three.”

Mr. AIKEN. She is a good woman.

Mr. BYRD of West Virginia. The bill provides for four units, if the families live independently therein.

Mr. AIKEN. The Senator is correct.

Mr. BYRD of West Virginia. But Mrs. Murphy also has to live in one of those four units.

Mr. AIKEN. Yes.

Mr. BYRD of West Virginia. That confines its protective reach to three units other than the one in which she lives.

I use “three” as the number, in order to have parallel construction.

Mr. AIKEN. The amendment offered by the distinguished Senator from West Virginia would not permit ownership of three four-unit apartments.

Mr. BYRD of West Virginia. Will the Senator repeat his inquiry?
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Mr. AIKEN. Would the amendment of the Senator from West Virginia permit three four-family apartments houses?

Mr. BYRD of West Virginia. No. These are single-family dwellings.

Mr. AIKEN. Single-family dwellings.

Mr. BYRD of West Virginia. Yes.

Mr. AIKEN. I think that explains it. Mr. MONDALE, Mr. President, the Senator from West Virginia is correct.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. Gore in the chair). The Senate will be in order.

Mr. HOLLAND. Mr. President, before the Senator starts, I wonder if he would permit me, on my time, to ask a question of the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I yield myself 2 minutes.

I wonder if the Senator can tell us what would happen in the many cases in which Members of Congress, Members of the House of Representatives, and people serving in other government branches of the Federal Government—and the same thing can be multiplied many times on the State level—and in State governments, where those people have a home in Florida and they acquire a home in the Capital where they are serving, and where, for one reason or another, they may rent for a period of time the dwelling back in their original home State.

A situation similar to that happened in the case of the Senator from Florida in one instance and I am certain that many persons now serving in Washington are in a somewhat comparable situation.

Would the amendment of the Senator from West Virginia take care of that situation?

Mr. BYRD of West Virginia. The answer is yes.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield to me?

Mr. BYRD of West Virginia. I am glad to yield to the Senator from North Carolina on his time.

Mr. JORDAN of North Carolina. I have an entire hour and I do not mind squandering that time.

When the Senator from Florida brought up his question, it brought to my mind a case that could easily happen where a person would own three dwellings. I know we have people who have a home in Florida, a winter home, they have a home back where they came from, a home in the Capital where they are serving, and where, for one reason or another, they may rent for a period of time a place in the mountains of western North Carolina. He rents that place some time in the summertime because he is not there. He would be trapped unless this amendment were adopted, in the three room situation.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. JORDAN of North Carolina. Mr. President, would the Senator suspend while I ask a question?

Mr. President, may we have order?

Mr. BYRD of West Virginia. Yes.

Mr. JORDAN of North Carolina. Would the Senator suspend.

Mr. President, may we have order?

Mr. BYRD of West Virginia. The Senator and agree with him.

Mr. MONDALE. Mr. President, the Senator from West Virginia has observed that Senators Hart, Javits, Brooke, and myself attempted over the past day and a half to deal with this problem. I would want to clarify one thing. I think I speak for them when I say that none of us felt this exemption was necessary and, indeed, all of us believe that there should be no exemption for the sale of any home or the rental of any premises offered to the public whether through a broker or not. In answer to the Senator from Florida as the Dirksen substitute, we agreed to exempt the sale of rental of owner-occupied single-family dwellings when not sold through a broker after January 1, 1970. We did so reluctantly. We regret that it was necessary to do so. I still believe that one of the basic and fundamental objections to discrimination in the sale or rental of housing is the fact that through public solicitation the Negro father, his wife and children are invited to go up to a home and thereafter to be insulted solely on the basis of race.

So that what we are trying to do is to make an accommodation in light of the realities of the current legislative situation. But we were unable to do so.

The amendment of the Senator from West Virginia, as modified, is, in my opinion, much reduced in scope from that originally proposed. It would, however, for the first time, introduce into the Dirksen substitute an additional category of possible exemption; namely, the situation in which a Member of Congress who is not a Senator or Members of the House of Representatives, and who have no opportunity to vote for or against the bill, or to express in debate their sentiments thereon, who will be affected by this bill, who may be affected by our own votes in connection with this bill. We should try to find some reasonable way in which to deal with their situations, examples of which I have cited here today.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield further?

Mr. BYRD of West Virginia. I yield to the Senator from North Carolina on his time.

Mr. President, may we have order?

Mr. JORDAN of North Carolina. Mr. President, would the Senator suspend while we get order?

The PRESIDING OFFICER. The Senator will be in order.

Mr. JORDAN of North Carolina. Mr. President—

Mr. BYRD of West Virginia. Mr. President, would the Senator suspend while we get order?

The PRESIDING OFFICER. The Senator will not resume until we get order.

The Chair reminds the visitors in the galleries to please maintain quietude.

Discussion and debate is underway in the Senate of the United States and it deserves respectful attention.

The President may proceed.

Mr. MONDALE. Mr. President, the Senator from West Virginia is correct.

Mr. President, I use those examples because I am aware of that situation in the Nation's Capital. But I know of a number of people in the same situation in which the same thing would apply to them. It is not an unusual one. I am asking that this will affect a great many more people than one would think.

Mr. BYRD of West Virginia. I thank the Senator and agree with him.

Mr. MONDALE. Mr. President, the Senator from West Virginia has observed that Senators Hart, Javits, Brooke, and myself attempted over the past day and a half to deal with this problem. I would want to clarify one thing. I think I speak for them when I say that none of us felt this exemption was necessary and, indeed, all of us believe that there should be no exemption for the sale of any home or the rental of any premises offered to the public whether through a broker or not. In answer to the Senator from Florida as the Dirksen substitute, we agreed to exempt the sale of rental of owner-occupied single-family dwellings when not sold through a broker after January 1, 1970. We did so reluctantly. We regret that it was necessary to do so. I still believe that one of the basic and fundamental objections to discrimination in the sale or rental of housing is the fact that through public solicitation the Negro father, his wife and children are invited to go up to a home and thereafter to be insulted solely on the basis of race.

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Mr. JORDAN of North Carolina. Mr. President, the Senator from West Virginia seeks to do so by limiting the scope of his exception to single-family dwellings, by limiting this to an owner who owns no more than three homes, by letting it to sales not in excess of one for every 2 years, by capping the limit of the three units of such sale not only that property in fact rests in the name of that owner, but also the property in which he has entitlement.

In my opinion, all of these efforts substantially restrict the impact of the proposal offered by the Senator from West Virginia. But, and I must be frank, I see no reason to do it. One of my colleagues said, "We have to get people out of this fix." I do not see it that way. I do not
see that we are granting anything or giving anything. We are merely removing from that transaction—and hopefully from the transactions covered within the scope of the Dirksen substitute—the right to deny someone the opportunity, along with all other Americans, to bid for and to purchase a home or on the rental of premises without regard to color.

So far as I am concerned, it makes utterly no difference that a broker is not used. It is a sale or rental. It is still an insult. It is still discrimination. In my opinion, it is still a moral outrage. But, that decision has been made, and I fear that the additional step, although much reduced in scope, might contain—not that it has, with the passage of the author, but because we have not had time thoroughly to explore the matter—other possibilities for circumvention which we are unable to uncover on the basis of exploring it fully in the limited time we have now.

I express my great appreciation to the Senator from West Virginia for his almost unimaginable patience with me during this past day and a half. I know that I speak also for the other sponsors of the amendment, and that I am speaking still reluctantly, the opposition of the language, too, that I think we should explain; namely, that under the Dirksen substitute there is a definition of a person who is in the business of selling or renting dwellings. It appears on page 10 of the star print, and provides in subsection (c) that—

that a person shall be deemed to be in the business of selling or renting dwellings if—

(1) no sale or rental of premises, participated as principal in three or more transactions . . .

Mr. President, it is quite clear that this means where a person sells an owner-occupied home, not through a broker, three or more times in a single year—that is, keeps moving—so that under the definition of this statute, a person in the business of the sale or rental of dwellings.

The subpart (2) puts a person in that category if he has, within the preceding 12 months, participated as an agent to sell someone else's home or to rent someone else's premises in two or more transactions.

The amendment of the Senator from West Virginia would, as it is presented, incorporate and be related to those two provisions of the Senator's amendment to conform to the terms of the amendment as modified by the Senator from West Virginia—to participate in the real estate business of selling or renting—I think the law is quite clear that he would, if he sold his own home three times or more in a single year, or rented someone else's premises, or sold someone else's premises, or sold someone else's premises twice in two or more transactions.

The amendment that the words "bona fide" owner—

Mr. BYRD of West Virginia. May I yield on the Senator's time?

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

Mr. BYRD of West Virginia. May I yield on the Senator's time?

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

Mr. BYRD of West Virginia. Mr. President, I have attempted by my language to obviate the situation to which the Senator has referred, in which a real estate operator would attempt to utilize this language as a gimmick and sell house after house, or transact rental after rental, and thus circumvent the purpose and intent of the legislation.

May I say that my original amendment provided for one sale within a 12-month period; and after lengthy discussion with the Senator from West Virginia, and the other Senators named, I yielded to the extent that I doubled that time period, so it is now a 24-month period as set forth in my amendment.

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

Mr. BYRD of West Virginia. Yes. Mr. MONDALE. The Senator's idea was to make it financially impossible for a person to be in the business and do that. I admit the Senator did it at our suggestion.

Mr. BYRD of West Virginia. Yes. Mr. MONDALE. The Senator's idea was to make it financially impossible for a person to be in the business and do that. I admit the Senator did it at our suggestion.

Mr. BYRD of West Virginia. Yes. Also, at the suggestion of the Senator, I added this language, and I want to read it again, because, in my judgment, we are really splitting hairs if we think that, in view of this language, sham transactions could occur:

Provided further, That such bona fide owner does not own, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time.

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

Mr. BYRD of West Virginia. May I yield on the Senator's time?

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

Mr. BYRD of West Virginia. Mr. President, it seems to me that in such a situation his wife would be making a voluntary agreement with the husband to let him use these proceeds.

Mr. BROoke. The Senator means that if the wife gets the proceeds, the proceeds are not really the wife's proceeds, but the proceeds belong to the husband?

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Mr. BROoke. The Senator means that if the wife gets the proceeds, the proceeds are not really the wife's proceeds, but the proceeds belong to the husband?
Mr. MONDALE. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. MONDALE. Would the Senator include in his interpretation of the meaning of his amendment, interest held by an individual through a corporate structure or corporate structures, or could a person circumvent the meaning of the Senator's proposal by the creation of multiple corporate ownership?

Mr. BYRD of West Virginia. We are talking to individuals, while, it seems to me, eliminates companies, partnerships, corporations, et cetera.

Mr. MONDALE. In other words, it is the Senator's interpretation of his amendment that a corporation—corporate ownership—cannot come within the meaning of his exemption?

Mr. BYRD of West Virginia. Absolutely, and in my original language I used the language "private individual." I do not know how that ever fell out of it.

Mr. MONDALE. May I suggest that it be put back in?

The ACTING PRESIDENT pro tempore. May the Chair inquire out of whose time the time for this debate is coming?

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

Mr. MONDALE. Mr. President, I have now spent some time on the discussion of the technical details of this amendment. I think the discussion reflects the fact that it is difficult to know precisely what we are dealing with. The negotiations of the past day and a half were all directed at trying to understand the purposes and trying to limit the application in such a way that it could not be circumvented. What the amendment represents is the product of those efforts.

But the one thing that I want to make absolutely clear is that we do not believe that anyone selling or renting property to the public should be permitted to discriminate. We are opposed to all of that. We made certain compromises which are embodied in the Dirksen substitute. When fully effective, the Dirksen substitute will cover approximately 80 percent of the housing in this country. Our original proposal covered approximately 96 or 97 percent, excluding the famous "Mrs. Murphy." This would shelve the exceptions further. We do not know by how much; it could be exceedingly modest. But we have no way of really evaluating that.

The fundamental point that we must make, the fundamental point that we want totally understood, is that we see no reason whatsoever for permitting anyone to discriminate in the sale or rental of housing, or for expanding these exceptions in any way.

There is another amendment that may be brought up. It would prohibit a broker from discriminating but would let the owner continue to discriminate. That still maintains the assertion of a principle that we find unacceptable. The idea that somehow from inclusion within the bill all kinds of dire consequences would occur, that the provisions of the bill are not valid, is all right. It simply removes the opportunity to insult and discriminate against a fellow American because of his color, and that is all. What we are determined to do is to remove this blight from America.

Mr. ERVIN. Mr. President, the truth about the bill is that it gives to men of one race the freedom to deny to men of other races their freedom.

Mr. MONDALE. Mr. President, what the bill does is to make race irrelevant, which is the foundation of this country.

Mr. ERVIN. Mr. President, it does nothing of the kind. The whole bill is based on race. What is being done is to make race the central feature of the bill, instead of making race irrelevant.

Mr. HOLLAND. Mr. President, I yield myself 5 minutes, or so much thereof as I may need.

I think there is entirely too much talk about race and color and too little talk about individual freedom, which I have lived through two periods when my home was occupied by others. One was when I was serving 4 years as the Governor of my State, at its capital, when I was glad to lease my little home to one who was serving in the Air Force at a little airfield just outside my hometown.

Since that time, and since I came to the Senate, we have had one of our children there for 3 years, because of a critical situation in that family, and we have had another there.

Our house is not for sale, and never will be, Mr. President, as long as I live, because we have lived there for nearly 50 years. It is our home. Our children have been born there. We have added to it room by room as the children came along. We accumulated neighbors, some of whom came there because of us, we think. We live there in peace and harmony.

Our house is not solely a question of race. We would not sell to a convicted felon. We would not sell to a notorious gambler. We would not sell to anybody who did not conform to the high standard of morals and the high tone of the neighborhood where we live in our little home.

I see nothing wrong, either, about our remembering that right here in the Capital, in the legislative department, more than 500 Members of Congress are in somewhat the same situation, because most of us retain our homes back where we have been. Wherever there are in other departments, I do not know, because I have no means of knowing. How many thousands there are in State capitols, serving in the same way, I do not know. How many hundreds of thousands there are in the Armed Forces and in the Foreign Service, the AID program, and other programs, who are away from home right now, I do not know. This is a confused and widely scattered group, and I do not think there is any reason to right to rent their homes or to lease their homes.

We may not want to rent or lease our homes. Most of us do not want to do so. But hundreds of thousands of Americans, right now, who are away from home, do want to lease their homes and not lose
any rights in them, including the right to sell them to persons of their own choosing.

This is not a question of color. This is not a question of race. The fact is that there is no legislation which reflects property rights, and individual preferences of many kinds, but they seem to be forgotten because we have, just now, the fetish of trying to be a little fairer—and I hope we can lawfully be fairer—to a minority race.

What we have in the question of color and race in the debate, and we have understated, in my humble judgment, the fact that there are such things as property rights, individual rights, and individual preferences when it comes to selling or leasing one's property, especially our homes.

An individual who owns a home owes a strong moral obligation to his neighbors and friends among whom he has lived for a period or for decades. I do not think we can ignore this fact.

I hope that the amendment of the Senator from West Virginia will be adopted, because I think it will take care of one difficult problem in connection with the general objectives of the bill.

Mr. BYRD of West Virginia. Mr. President, I want to be absolutely fair to the minority race. I hope that the amendment of the Senator from West Virginia will be adopted.

I hope I may have the attention of my good friend, the Senator from West Virginia [Mr. Byrd], who I think has done a very fine job in the U.S. Senate. However, I must say that I can see no reason why we should say that the privilege of selling or renting property is any more important that the privilege to acquire property. We have then created an inequity between two groups that I think is wrong. It is for that reason that I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, of the Senator from West Virginia.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

So the amendment (No. 579), as modified, of Mr. Byrd of West Virginia was agreed to.

Mr. BYRD of West Virginia. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. HOLLAND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUILDUP OF AMERICAN FORCES IN VIETNAM

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I hope I may have the attention of my colleagues.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. FULBRIGHT. Mr. President, I do not wish to detain the Senate too long, but I wish to raise an issue. While it is not directly related to the business before the Senate, I believe it is indirectly related to it. I have intended to wait until we had completed action on the pending bill, but it is taking much longer than the leadership or I had expected.

There are rumors—or more than rumors—I am quite certain from the news that has come to us through the press and elsewhere, that very significant decisions are being considered by the executive branch of our Government. Decisions involving a major new buildup in our armed forces in Vietnam. I think of the wake of our recent defeats and difficulties in Vietnam—not only a buildup of troops, but also there is the possibility of the extension of the war beyond the geographical limits of Vietnam.

I believe these pending decisions raise a basic and most important constitutional issue which must concern Mem-