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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 17, 2006

3:16 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

1 THE PRESIDENT: The Senate will
2 please come to order.

3 I ask everyone present to please
4 rise and repeat with me the Pledge of
5 Allegiance.

6 (Whereupon, the assemblage recited
7 the Pledge of Allegiance to the Flag.)

8 THE PRESIDENT: In the absence of
9 clergy, may we bow our heads in a moment of
10 silence, please.

11 (Whereupon, the assemblage
12 respected a moment of silence.)

13 THE PRESIDENT: Reading of the
14 Journal.

15 THE SECRETARY: In Senate,
16 Sunday, January 15, the Senate met pursuant to
17 adjournment. The Journal of Saturday,
18 January 14, was read and approved. On motion,
19 Senate adjourned.

20 THE PRESIDENT: Without
21 objection, the Journal stands approved as
22 read.

23 Presentation of petitions.

24 Messages from the Assembly.

25 Messages from the Governor.

1 Reports of standing committees.

2 Reports of select committees.

3 Communications and reports from
4 state officers.

5 Motions and resolutions.

6 Senator Robach.

7 SENATOR ROBACH: Yes, Madam
8 President. I move that the following bills be
9 discharged from their respective committees
10 and be recommitted with instructions to strike
11 the enacting clause: Senate Bill Number 4736,
12 please.

13 THE PRESIDENT: So ordered,
14 Senator Robach.

15 Senator Skelos.

16 SENATOR SKELOS: Madam President,
17 if we could go to the noncontroversial reading
18 of the calendar.

19 THE PRESIDENT: The Secretary
20 will read.

21 THE SECRETARY: Calendar Number
22 32, by Senator Volker, Senate Print 6325, an
23 act to amend the Mental Hygiene Law and
24 others.

25 SENATOR GONZALEZ: Lay it aside.

1 THE PRESIDENT: The bill is laid
2 aside.

3 Senator Skelos, that completes the
4 noncontroversial reading of the calendar.

5 SENATOR SKELOS: Time flies when
6 you're having fun. But if we could now go to
7 the controversial reading of the calendar.

8 THE PRESIDENT: The Secretary
9 will again read.

10 THE SECRETARY: Calendar Number
11 32, by Senator Volker, Senate Print 6325, an
12 act to amend the Mental Hygiene Law, the
13 Correction Law, the Criminal Procedure Law,
14 the Executive Law and the Family Court Act.

15 SENATOR GONZALEZ: Explanation.

16 THE PRESIDENT: Senator Volker,
17 an explanation has been requested.

18 SENATOR VOLKER: Madam President,
19 this is -- I'm trying to think about how many
20 years -- initially this bill or a bill, a very
21 similar bill was introduced by me in 1994
22 after the Kansas vs. Crane decision in the
23 Supreme Court. What this bill provides for,
24 and we have passed a similar bill on many
25 occasions, is for civil commitment of sexually

1 violent predators.

2 Now, this bill is the Governor's
3 program bill for 2006. And the reason I
4 mention that is the bill that we passed last
5 year, in 2005, was extremely similar except
6 that we've had some additions and corrections,
7 so to speak.

8 In fact, I noticed that one of the
9 oppositions to this bill is the Coalition for
10 the Homeless. I think the Coalition for the
11 Homeless really doesn't understand this bill,
12 as a lot of people don't, very honestly. In
13 fact, one of the things that we did this year
14 was to strike out a reference in the bill to
15 hospitalized patients. And really that was
16 talking about people who either were in jail
17 or were in a hospital situation in jail.
18 Because a lot of the mental health people
19 thought that that meant that we might be
20 putting sexually violent predators in local
21 hospitals. Well, of course, that was never
22 the intention.

23 The process that's involved here,
24 by the way -- and I read in the paper a lot of
25 people say, well, it's unconstitutional. No,

1 it's not. The process is constitutional.
2 It's been challenged several times. The
3 Kansas law has been upheld twice. In several
4 other states they have a very similar process.

5 The process involves psychiatrists,
6 it involves -- the Attorney General is the
7 precipitator. He gets the notice of who is a
8 potentially sexually violent predator that is
9 somebody who's about to leave jail.

10 One of the things I think that has
11 happened here is that the Governor, using
12 Article 9 of the Mental Hygiene Law, has
13 actually kept in people who are considered
14 mentally ill and has tried to use the Mental
15 Hygiene Law. The only problem with that is it
16 does not provide, in fact, the process and the
17 protections that are involved in this bill.

18 This bill provides all sorts of
19 protections, including counsel, psychiatric
20 evaluations by the person involved, review
21 every year of a person's status.

22 And what just happened with the
23 Governor was to me very, very important. And
24 I've spoken on this issue on a national -- in
25 national conferences. One of the arguments

1 against it is that we just do not have enough
2 mental health counseling and that we just do
3 not have the ability to deal with some of
4 these people.

5 The way you do it, and the only way
6 you're really going to deal with sexually
7 violent predators to try to deal with their
8 problem, is to spend a lot of money. And I'm
9 the first to say that. In fact, the New York
10 Times, in its usual candid style, was
11 criticizing civil commitment by saying it's
12 just too expensive, sort of.

13 Well, the Governor of this state
14 has ponied up. He's put up \$192 million,
15 \$130 million for a facility at Pharsalia,
16 which is now a minimum facility, and which is
17 part of the tremendous drop in inmates.

18 By the way, I noticed the
19 Governor's press release said that there's
20 63,100 inmates in the system. That was last
21 week. This week there are under 63,000 for
22 the first time. The New York corrections
23 system has gone from 74,000-plus to now 62,900
24 and something. The reason that's significant
25 is we're the only prison system in the country

1 that has a falling inmate rate and a falling
2 crime rate at the same time. I only mention
3 that because I think that's important.

4 My own personal opinion has been
5 for some time that what we should do in
6 New York is make ourselves a model for the
7 rest of the country in dealing with sexual
8 predators. And what the Governor has proposed
9 is just that. We're talking about a lot of
10 money and a lot of employees who are targeting
11 these people. In other words, once this whole
12 system is in place, we probably will be able,
13 in New York, to look at sexual predators and
14 their problems and try to deal with them in a
15 way in which no state in the union has been
16 able or willing to do. And that is critically
17 important, I think, if we're going to deal
18 with this kind of issue.

19 (Electronic noise interruption.)

20 SENATOR VOLKER: I just want to
21 point out something -- am I being bugged?

22 Anyways, I just want to show that I
23 have here the Level 3 sexual predators from my
24 district. This is the compilation of the
25 Level 3 sexual predators. One of them lives

1 within about three blocks of me.

2 The reason I mention this is -- and
3 of course Senator Dean Skelos here has been
4 working on Megan's Law, and we're very hopeful
5 that he can come to an agreement on that
6 extension. But the reason this is significant
7 is that some of these people are going to end
8 up in a situation where they may well need
9 civil commitment.

10 You know, where I figured out, by
11 the way, that this issue, if you look at the
12 development of the sexual predator issue, I
13 first found out when a young Senator from
14 Harlem, whose father was very close to me and
15 my father, asked me to go down to Harlem and
16 do a hearing on sexual predators. He shall
17 remain nameless, but I can only say that he
18 sits right in front of me now as the Minority
19 Leader. He asked me to do a hearing as part
20 of a series of hearings across the state.

21 And we went to Harlem and we sat
22 there and listened to people talk about abuse,
23 mostly children, but also abuse of women and
24 men. We had a women-hating psychologist, man,
25 and right after him we had a woman-hating

1 psychologist -- or a man-hating psychologist,
2 woman. I mean, it was the most incredible
3 hearing we had ever had. I remember there
4 were 32 witnesses. And Senator Paterson said
5 to me, "You know, we need psychologists right
6 now ourselves," after that was done.

7 And the reason I say that was
8 significant is you must remember society only
9 very, very recently has realized how serious
10 this problem is. We still haven't come to
11 grips, for instance, with clergy abuse. We
12 think it's the Catholic Church. We all know
13 that's not true. All the major religions have
14 a problem with it. We all know that, but no
15 one has really got into it yet. It's a very
16 serious problem that has been coming for
17 probably 30, 40 years.

18 But the civil commitment issue is
19 something -- we're talking about people,
20 mostly people that attack young children.
21 They're very sick people. This bill will
22 allow us a process -- not violation of civil
23 rights or anything of that nature -- a process
24 to be able to keep people in a place where
25 mental hygiene people can review them on a

1 regular basis and give them intensive
2 treatment that may lead to a breakthrough in
3 finding out how to deal with people who are
4 sexually violent predators. Because we're not
5 succeeding. There is no question we're not
6 succeeding well at all.

7 There's no question that this
8 issue, even though it involves a comparatively
9 small number of people -- and I keep this in
10 mind, obviously the violent people in this
11 state are much greater. But the numbers of
12 people who are being sexually abused is
13 extremely frightening.

14 And I will guarantee you this, that
15 we are and we have been a leader in criminal
16 justice. And whatever you can say about
17 George Pataki, he has been an enormous leader
18 in criminal justice. We have probably the
19 most respected criminal justice system in the
20 nation right now. We don't realize it because
21 of course the media in this state doesn't like
22 us and they don't want to tell that there's
23 anything good going on in New York. But
24 that's just the way it is. The rest of the
25 states look at us and they marvel.

1 I would hope that this mental
2 hygiene criminal justice initiative that we're
3 doing here with the hospital, with the mental
4 health money that we're setting up and so
5 forth, will become a model for the country and
6 that we will learn how to deal with people who
7 are sexually violent predators so that we can
8 find some cure for it but, in the meantime,
9 keep them where they belong, which is in a
10 place where they can't hurt anyone else.

11 THE PRESIDENT: Senator Duane.

12 SENATOR DUANE: Thank you, Madam
13 President. If the sponsor would yield,
14 please.

15 THE PRESIDENT: Senator Volker,
16 will you yield for a question?

17 SENATOR VOLKER: Oh, sure. I'm
18 sorry. I apologize. Yes.

19 THE PRESIDENT: You may proceed,
20 Senator Duane.

21 SENATOR DUANE: Thank you, Madam
22 President.

23 Does the bill allow for the civil
24 commitment of juveniles?

25 SENATOR VOLKER: The bill is not

1 specifically set up to allow for civil
2 commitment of juveniles. However, we do have
3 a process, as you know, for reviewing
4 juveniles. But it does not specifically deal
5 with the issue of juveniles.

6 What you mean by "juveniles" is
7 juvenile offenders?

8 SENATOR DUANE: Yes.

9 SENATOR VOLKER: No, it does not.

10 SENATOR DUANE: However, they
11 could be -- a juvenile offender, as opposed to
12 a youthful offender, could be committed under
13 this bill?

14 SENATOR VOLKER: Could be. But
15 you must -- I think, you know, like anything
16 else, you'd have to be an awfully bad
17 offender. It's possible it could happen, but
18 very unlikely.

19 The history, by the way, of civil
20 commitment is you really are looking for the
21 worst of the worst. Of course, we have
22 14-year-olds -- one 14-year-old murdered,
23 what, 16 people, I believe, at one time in
24 New York City and brought on the law that was
25 changed to lower some of the ages. So I think

1 we have to realize that some young people are
2 probably worse than all the adults put
3 together. But it's a rare occasion.

4 SENATOR DUANE: But youthful and
5 juvenile, I should say, as well as.

6 SENATOR VOLKER: Yeah. I don't
7 believe in Kansas that any -- I'm not aware
8 that anybody -- in fact, I'm not aware of
9 anywhere in the country that any juvenile has
10 been committed, civilly committed.

11 And I don't expect that's going to
12 happen in New York unless you have somebody
13 that's so dangerous -- and, by the way, that
14 could happen now. I mean, under Article 9 of
15 the Mental Health Law, technically speaking,
16 if a person is that mentally ill, even a
17 juvenile could be held even now in a mental
18 facility. They wouldn't be held in a prison,
19 but in a mental facility.

20 SENATOR DUANE: Through you,
21 Madam President, if the sponsor would continue
22 to yield.

23 ACTING PRESIDENT LITTLE: Thank
24 you. Senator Volker, do you continue to
25 yield?

1 SENATOR VOLKER: Yes, I certainly
2 do.

3 ACTING PRESIDENT LITTLE: Thank
4 you. The sponsor continues to yield.

5 SENATOR DUANE: Thank heavens the
6 switch was to another "Madam."

7 But I'm going to actually move on.
8 What are the requirements -- if a person who's
9 incarcerated is being considered for
10 commitment, what are the -- what's the
11 notification to that person?

12 SENATOR VOLKER: Well, what
13 happens is that 120 days before the release,
14 the Attorney General is to be notified that
15 this person is considered, by the Correction
16 Department and Mental Health or whatever, to
17 be a dangerous person. You then set up a
18 process that goes on for some time. You have
19 psychiatrists, you have a multidisciplinary
20 group that gets together.

21 Go ahead.

22 SENATOR DUANE: Through you,
23 Madam President, just for clarification, I
24 understand that the notification to the
25 Attorney General is 120 days before.

1 SENATOR VOLKER: Yes. Right.

2 SENATOR DUANE: But I'm
3 wondering, when is the person who's being
4 considered notified?

5 SENATOR VOLKER: Well, as soon as
6 that person is targeted -- that person, by the
7 way, now has the right to counsel. That
8 person has the right to have a psychiatrist of
9 his own choosing review his case.

10 The protections, the due process
11 ability is in this bill. And there is no way
12 that a person could be civilly committed
13 without a thorough review. He is entitled to
14 a jury trial if he so chooses. And as I say,
15 he's entitled to his own psychiatrist and his
16 own counsel.

17 SENATOR DUANE: Through you,
18 Madam President, if the sponsor would continue
19 to yield.

20 How is the person notified? What
21 is the process by which that person would
22 receive word that they are being considered?

23 SENATOR VOLKER: Well, I would
24 assume that it would traditionally be the
25 Attorney General, who is in charge of the

1 whole proceeding, would notify this person and
2 obviously notify -- make the formal
3 notification to this person. And he would
4 then be apprised of his right to counsel and
5 would be apprised of his right to a
6 psychiatrist.

7 Remember that, in the meantime, the
8 multidisciplinary group or whatever, Mental
9 Health and all the rest of them, have the
10 right to review him and actually have a
11 psychiatrist review him. He can then, as I
12 said, have his own psychiatrist.

13 He then would go before a judge and
14 they would advise him of all his rights, and
15 he can then move on to do what he wants to do.
16 He can ask for a jury trial, he can do
17 whatever he wants.

18 SENATOR DUANE: Through you,
19 Madam President, if the sponsor would continue
20 to yield.

21 SENATOR VOLKER: Yes. Yes.

22 ACTING PRESIDENT LITTLE: Thank
23 you. Senator Volker, do you continue to
24 yield?

25 SENATOR VOLKER: Certainly.

1 ACTING PRESIDENT LITTLE: Thank
2 you. The Senator yields.

3 SENATOR DUANE: I'm actually
4 going to ask this question sort of as a -- to
5 see if it's factual.

6 A person could be incarcerated and
7 the day after, potentially, the review could
8 begin even if that person was not even close
9 to their release point; is that correct?

10 SENATOR VOLKER: No, that's
11 incorrect. It's incorrect because the only
12 way you would do it is if the person was
13 within 120 days of his release.

14 SENATOR DUANE: So through you,
15 Madam President, if the sponsor would continue
16 to yield.

17 ACTING PRESIDENT LITTLE: Thank
18 you. Senator Volker, do you continue to
19 yield?

20 SENATOR VOLKER: Sure.

21 ACTING PRESIDENT LITTLE: The
22 sponsor yields.

23 SENATOR DUANE: So the sponsor is
24 saying that for everybody, the whole thing
25 starts for the incarcerated person and for the

1 people who will be preparing to make a
2 decision about what to do, for everybody it's
3 120 days; nothing happens before that?

4 SENATOR VOLKER: You see --
5 probably could. I guess the issue really is,
6 why would you do it? I mean, if they're
7 already in a mental facility -- and by the
8 way, they could be in a mental facility
9 also -- or in a correction facility, what
10 drives the process is the possibility that the
11 person is going to get out.

12 Now -- so I would suppose you could
13 do it beforehand. But you would -- I guess
14 you would ask why would you do it. Unless the
15 person exhibits such problems -- and one of
16 the issues that has been brought up is that we
17 do have some pedophiles and some people that
18 are in the prison system now that could be,
19 for instance, reviewed before their sentence
20 is up to determine where to put them. But
21 that could be technically done now.

22 It's just that, interestingly
23 enough, this would possibly provide more
24 rights to those people -- in other words, they
25 couldn't be put in this facility until they

1 went through a process.

2 In other words, you've got
3 somebody, for instance, who's in -- well,
4 let's say Attica. I'm just using that for
5 a -- and that person is a dangerous pedophile
6 and he creates a problem for the prison
7 system. One of the interesting issues is if
8 you were going to put him at this facility in
9 Pharsalia, for instance, I would assume the
10 only way you could do that would be to go
11 through a process of some kind to make sure
12 that that person would have to go there.

13 Because one of the things, Tom,
14 that's important here is -- we have one
15 facility, for instance, right now for just
16 DWIs. Which I happen to -- I had a part in
17 doing, because I thought it was a great idea
18 to keep them isolated. One of the things we
19 want to do with these people that are sexually
20 violent predators is give them the best
21 treatment we can but also isolate them,
22 because they're very dangerous people. And
23 they could be dangerous even to the inmate
24 population, which is something that I think
25 some people never think about.

1 SENATOR DUANE: The committee
2 that reviews the petitions for commitment, is
3 there a requirement that any of the members of
4 that committee have expertise in mental
5 health?

6 SENATOR VOLKER: The
7 multidisciplinary team is the commissioners of
8 correctional services, mental health, and
9 anybody that is -- and mental retardation.
10 Because, remember, mental retardation is also
11 involved here.

12 Quite clearly, these people have to
13 be expert in the mental health area, which is,
14 you know, the -- what you're doing here is
15 when you say "the commissioner," obviously you
16 mean the department itself has their people
17 there to review these people and be part of
18 this team that reviews the people that are
19 going for civil commitment.

20 SENATOR DUANE: And through you,
21 Madam President, if the sponsor would continue
22 to yield.

23 ACTING PRESIDENT LITTLE: Thank
24 you. Senator Volker, do you continue to
25 yield?

1 SENATOR VOLKER: I do, yes.

2 ACTING PRESIDENT LITTLE: Thank
3 you. The Senator yields.

4 SENATOR DUANE: Where would I
5 find the language in the bill about the
6 expertise in mental health for the reviewing
7 committee?

8 SENATOR VOLKER: Well, since you
9 have the people from Mental Health, when you
10 say "expertise," the Department of Mental
11 Health and the Department of Mental
12 Retardation are the people that are the
13 experts in the field.

14 And remember, you're also in a
15 situation where you're going to have
16 psychiatrists involved, you're going to
17 have -- in fact, the person himself is
18 entitled to have his own psychiatrist.

19 And presumably an attorney could
20 ask for its own -- the own expert, that is,
21 the person's -- an expert to review himself.
22 Because the jury trial is a situation where
23 the attorney could ask for his own experts, if
24 he wished, to talk about this person's status.
25 So that is really inherent in the bill itself.

1 SENATOR DUANE: I guess the --
2 through you, Madam President, if the sponsor
3 would continue to yield.

4 SENATOR VOLKER: Yes.

5 SENATOR DUANE: Is it not
6 possible that you could have, for lack of a
7 better term, a civilian from the department as
8 opposed to a professional from the department?

9 SENATOR VOLKER: The answer to
10 that is no. I think the problem is, what's
11 the difference? I mean, remember what we're
12 doing here -- wait a minute, Tom. You know, I
13 know what you're saying. You're assuming that
14 this is some sort of a process on a local
15 level.

16 This is a process involving some of
17 the -- the biggest experts we have in the
18 field are going to be involved in this. And
19 you're going to have an attorney who could
20 protest, obviously, if the people involved are
21 not the people that should be reviewing these
22 people.

23 I mean, the whole idea of this is
24 to protect society at the same time you're
25 protecting the people themselves who are

1 involved here. And, you know, so you don't
2 have to say, hey -- at least it doesn't seem
3 to me -- tell mental hygiene they got to have
4 good people.

5 Well, they better have good people.
6 First of all, the attorney is going to make
7 sure that they -- that he knows if they don't
8 have good people, or the person. And the
9 psychiatrist for the individuals involved is
10 going to do that.

11 I mean, this is not a -- this is
12 not a process taken lightly. This is a very
13 serious process. So the answer is, quite
14 obviously, this is intended to make sure that
15 the person gets every possible consideration
16 when you're dealing with people who are going
17 to be kept for a long period of time.

18 SENATOR DUANE: And through you,
19 Madam President, if the sponsor would continue
20 to yield.

21 SENATOR VOLKER: Sure.

22 ACTING PRESIDENT LITTLE: Thank
23 you. Senator Volker, do you yield?

24 SENATOR VOLKER: Yes, I do.

25 ACTING PRESIDENT LITTLE: The

1 Senator yields.

2 SENATOR DUANE: Thank you, Madam
3 President.

4 And I want to preface my next
5 question by saying that I absolutely agree
6 with the sponsor and know his commitment to
7 this issue and the seriousness with which he
8 and other members of his conference and,
9 frankly, our conference as well have
10 approached this.

11 But it's a new area; that's why I'm
12 asking such specific -- and I apologize in
13 advance for how many questions, but I just
14 want to clarify as much as possible.

15 The issue the sponsor raised about
16 that it's a good thing to have a jury trial is
17 something that I wanted to ask why that is a
18 good thing, instead of having the person ask
19 to see a judge, who might have more experience
20 in the issue than lay -- well, I shouldn't say
21 laypeople, but potentially laypeople on a
22 jury. Why are they prohibited from having
23 that choice?

24 SENATOR VOLKER: I am not aware
25 that they are prohibited.

1 By the way, the answer, the
2 multidisciplinary panel and so forth, is on
3 page 7 of the bill. And it relates to the
4 process that is taken -- the person has a
5 right to a jury trial. He will go before a
6 judge. That's assumed. No one is saying that
7 he has to have a jury trial. But he has the
8 right to go before a judge.

9 And if you look on page 7 and
10 page 8, you'll see that there's a prosecutor
11 review committee, there's all sorts of
12 standards here that are set up to determine
13 probable cause and to determine whether the
14 person should then be reviewed to be able to
15 be determined whether that person -- in fact,
16 if you see 10(d), I'm just looking here, the
17 jury or the court, if a jury is waived, shall
18 determine beyond a reasonable doubt whether
19 the respondent is a sexually violent predator,
20 and so forth and so forth.

21 That's the applicable section. I
22 apologize, I didn't --

23 SENATOR DUANE: And through you,
24 Madam President, if the sponsor would continue
25 to yield.

1 SENATOR VOLKER: I do, yes.

2 ACTING PRESIDENT LITTLE: Senator
3 Volker yields.

4 SENATOR DUANE: When New York
5 State had a death penalty in effect, we had a
6 special group of attorneys whose
7 responsibility it was to be involved in the
8 defense of those who were eligible to be given
9 the death penalty.

10 And if I argued that this issue
11 almost rises to the level of the death
12 penalty -- I know it doesn't quite go there,
13 but if it almost rises to that level, why
14 isn't there a requirement that the appointed
15 counsel have that kind of training, expertise
16 in this field?

17 SENATOR VOLKER: Well, first of
18 all, Mental Health has a series of attorneys
19 who deal in this sort of thing.

20 The problem that you've got to
21 realize here is you're not going to have
22 anything close to the number of people that is
23 involved with the death penalty and the issues
24 that are involved there. And the protections
25 that are in this bill clearly are far greater

1 than anything that is involved in jury trials
2 and so forth involving normal criminal
3 proceedings.

4 You have the Correction Department
5 and the Mental Health Department involved
6 here, the people who treat people plus the
7 people that incarcerate them. You have the
8 attorney general involved. You've got all
9 sorts of different protections involved, which
10 frankly you don't have -- I suppose you have
11 local district attorneys and so forth. This
12 process is a different kind of process than
13 with criminal justice issues, of course.

14 And the appeal is already internal;
15 that is, the probable cause hearing and that
16 sort of thing. So all the evidence is there.
17 And you have psychiatrists on both sides.

18 I guess I have trouble -- the
19 attorney's job really is to make sure that the
20 person simply gets the correct procedures.
21 And, you know, it seems to me that there's
22 hardly any other area of the law where we
23 provide as many protections as we do here.

24 SENATOR DUANE: Through you,
25 Madam President, if the sponsor would continue

1 to yield.

2 SENATOR VOLKER: Sure. Yes.

3 ACTING PRESIDENT LITTLE: Thank
4 you. Senator Volker yields.

5 SENATOR DUANE: When I went
6 through the bill, I didn't see training
7 anywhere, whether it was judges or appointed
8 counsel. And so I'm just trying to pin down
9 whether there is any requirement for any
10 specific training for anyone who might be
11 involved in this civil commitment.

12 SENATOR VOLKER: I guess I'm not
13 sure what kind of training we would require.

14 Remember, Senator, we're in --
15 sexual predator treatment, like so much in
16 mental health today, is sort of in its
17 infancy. One of the problems, by the way,
18 with equating physical and mental health is
19 that we -- we do the best we can in mental
20 health.

21 And the professionals are in the
22 Office of Mental Health and the Office of
23 Mental Retardation. Those professionals are
24 probably better than anybody outside the
25 agencies. How you would -- the people who

1 would train these people would be the same
2 people who are dealing with these sexual
3 predators. So I'm not exactly sure what kind
4 of training you could do.

5 And the lawyers that are used in
6 this are generally lawyers who do mental
7 health defense and all that anyways. Because
8 they're people who would want to, and are paid
9 for, to do this sort of thing. Remember, the
10 person has the right -- unless he's
11 independently wealthy, which is a little bit
12 rare -- the person has the right to the state
13 paying for these lawyers.

14 So the people that would do this
15 would obviously be people who were involved in
16 mental health cases and in the expertise
17 that's involved here.

18 SENATOR DUANE: Through you,
19 Madam President, if the sponsor would continue
20 to yield.

21 SENATOR VOLKER: Sure.

22 ACTING PRESIDENT LITTLE: Thank
23 you. Senator Volker does yield.

24 SENATOR DUANE: Would I find
25 anywhere in the bill a requirement for an

1 independent psychiatric evaluation of the
2 respondent?

3 SENATOR VOLKER: Yes, absolutely.
4 That's in the bill. It says that the person
5 has the right to his own psychiatrist. And
6 it's specifically in the bill -- I can't
7 identify exactly where it is, but that's in
8 the bill ever since, by the way, we first
9 introduced it back in 1994. And one year I
10 passed three different civil commitment bills.

11 And I can assure you that the
12 requirement of a psychiatrist of your choice
13 is in this bill, as it's been in all the
14 bills.

15 SENATOR DUANE: Through you,
16 Madam President, if the sponsor would continue
17 to yield.

18 SENATOR VOLKER: Sure.

19 ACTING PRESIDENT LITTLE: Thank
20 you. Senator Volker yields.

21 SENATOR DUANE: Shockingly, when
22 I asked that question, I actually didn't mean
23 that the respondent's psychiatrist would be
24 independent. I would assume they would have
25 the agenda of wanting to be for the

1 respondent, and the psychiatrist for the other
2 side would want to be against the respondent.

3 I'm wondering if there is an
4 independent independent person in the middle
5 that could take each side with a grain of
6 salt.

7 SENATOR VOLKER: The requirement
8 is that the attorney general and the
9 multidisciplinary people and so forth have the
10 right and the duty to submit a psychiatric
11 evaluation. The other side then has the right
12 to their own psychiatric -- the person of
13 their choosing, they can be examined.

14 That really is -- I suppose if
15 there was some conflict, the attorney could
16 probably ask for another psychiatric
17 evaluation. But it seems if you had
18 psychiatric evaluations from the proponents
19 and the opponents, or whatever you could say,
20 it would seem to be enough. But I would
21 suppose there's nothing in here that says you
22 can't have a third party, but it only provides
23 for two psychiatric examiners.

24 SENATOR DUANE: And through you,
25 Madam President, if the sponsor would continue

1 to yield.

2 ACTING PRESIDENT LITTLE: Thank
3 you. Senator Volker, do you continue to
4 yield?

5 SENATOR VOLKER: Sure. Yes.

6 ACTING PRESIDENT LITTLE: Yes.

7 SENATOR DUANE: Is there a
8 standard of care for the treatment of those
9 who are committed?

10 SENATOR VOLKER: This is a mental
11 health facility and basically a mental health
12 statute. Which, by the way, this is why it
13 didn't come out of my committee, because it
14 came out of Mental Health. Because the
15 facility that the Governor is putting the
16 money up for, although it is presently a
17 correction facility, it will really be run by
18 Mental Hygiene.

19 And anyone who is committed to the
20 care of mental health people has a standard of
21 care that is required. And as the former
22 chairman of Mental Health to my right reminds
23 me -- and by the way, Frank Padavan and I are
24 the only two people that were on the Mental
25 Health Committee since its inception, if I

1 remember right, way back when -- there is a
2 Mental Health Bill of Rights, there's all
3 sorts of protections, a quality of care
4 commission, as the creator of that reminds me,
5 to look at these kind of things.

6 And I can assure you one of the
7 thing that the quality of care commission will
8 probably be -- once this is operating, they'll
9 be looking at this -- these, because this is
10 going to be -- admittedly, this is breaking
11 new ground. And I would be willing to bet any
12 money that the quality of care commission is
13 going to be reviewing these facilities on a
14 regular basis.

15 SENATOR DUANE: And through you,
16 Madam President, if the sponsor would continue
17 to yield.

18 SENATOR VOLKER: Yes. Sure.

19 ACTING PRESIDENT LITTLE: Thank
20 you. The Senator yields.

21 SENATOR DUANE: On that issue of
22 the standards of care, is the parallel similar
23 to the Department of Corrections has oversight
24 over the health facilities in correctional
25 facilities, similarly the Office of Mental

1 Health would have oversight over its mental
2 health facilities?

3 SENATOR VOLKER: Yes. Yes.

4 The way this -- as I understand the
5 way this operates, the facility is going to be
6 built by separate money. And it's built on a
7 corrections site. But the actual operation of
8 the facility is going to be done by Mental
9 Health and by mental health professionals.

10 The reason this is going to be
11 expensive is because we are going to have a
12 lot of intensive care at these facilities --
13 and the Governor well knows that -- that this
14 is going to be and hopefully will be a class
15 setup that will deal with these people in a
16 way that no other state in the union has ever
17 done.

18 SENATOR DUANE: And through you,
19 Madam President, if the sponsor would continue
20 to yield.

21 SENATOR VOLKER: Yes. I do.

22 ACTING PRESIDENT LITTLE: Thank
23 you. The Senator yields.

24 SENATOR DUANE: Is there
25 different grades of the environment, or is

1 everyone thrown into the same -- like within
2 the facility, will there be less dangerous,
3 more dangerous, or will everyone just be
4 considered equally dangerous?

5 SENATOR VOLKER: Well, you know,
6 at this point, like anything else, I think,
7 these are people that are considered to be
8 sexually violent predators. And as to their
9 treatment in the facility, there may well be a
10 grade depending on how serious the offenders
11 are. But initially they'll all be confined,
12 they'll all have -- in one facility.

13 Keep in mind that we're separating
14 the sexually violent predators who are civil
15 committees, so to speak, they're separate from
16 anybody else. There's no other people that
17 are going to be in this facility but these
18 people. And they will have the best
19 treatment.

20 And obviously, if you have somebody
21 that's going to be violent or potentially
22 violent, you're probably going to have more
23 restrictions on those kinds of people because
24 they could be dangerous to everyone else also.

25 So I would assume that there will

1 be grades set up. But at this point it's a
2 matter of common sense as to what you're going
3 to do in this facility.

4 SENATOR DUANE: And through you,
5 Madam President, if the sponsor would continue
6 to yield.

7 SENATOR VOLKER: Sure.

8 ACTING PRESIDENT LITTLE: Thank
9 you. The sponsor yields.

10 SENATOR DUANE: As part of this
11 bill, I don't see that there's any kind of
12 additional resources or commitment to
13 providing treatment for those inmates who are
14 presently incarcerated.

15 Is there some kind of companion
16 legislation or budget item which would provide
17 for additional mental health services and
18 treatment for the -- for those who are -- for
19 sex offenders?

20 SENATOR VOLKER: The answer to
21 that is yes.

22 The Governor, in fact -- I'm just
23 looking for it here. Of the \$192 million that
24 the Governor proposed, \$130 million is for the
25 actual facility. The rest of the money is to

1 provide for beefing up facilities in the
2 meantime and to keep people separated and to
3 provide additional employees for both OMRDD
4 and Mental Health.

5 That amounts to, let's see --
6 35 million will be made available for
7 renovation of current OMH facilities to meet
8 the short-term needs, and 27 million in new
9 operating for OMH in connection with the
10 treating and housing of these people while the
11 new facility is being built.

12 So these people will be separated.
13 In the meantime, keep in mind, of course, that
14 this process will take a little bit to get up
15 and running anyways, so that there won't be a
16 lot of people that are going to be involved
17 here initially.

18 So the Governor is providing 35 and
19 27, which I think is \$62 million in additional
20 money to deal with these people initially
21 until the new facility is up and running.

22 SENATOR DUANE: Through you,
23 Madam President, if the sponsor would continue
24 to yield.

25 SENATOR VOLKER: Yes.

1 ACTING PRESIDENT LITTLE: Thank
2 you. The Senator yields.

3 SENATOR DUANE: So the new money
4 is specifically -- the new treatment money is
5 specifically for those who are, for lack of a
6 better expression, on the road to being
7 civilly confined?

8 SENATOR VOLKER: Yes. These are
9 for people who are going to be or could be
10 civilly confined.

11 The idea is this is entirely
12 separate money. One of the problems OMH was
13 concerned about is that they would have been
14 asked, with their present budget, to deal with
15 some of these people. And the Governor has
16 committed that in his budget bill -- in fact,
17 there's a budget bill that has this language
18 in it -- that the Governor will provide the
19 money to handle these people in the meantime
20 until the new facility is up and running.

21 SENATOR DUANE: And through you,
22 Madam President, if the sponsor would continue
23 to yield.

24 SENATOR VOLKER: Yes.

25 ACTING PRESIDENT LITTLE: Thank

1 you. The Senator continues to yield.

2 SENATOR DUANE: The other states
3 that do this, have a similar civil commitment
4 law are Kansas and Washington State; is that
5 correct?

6 SENATOR VOLKER: Yeah, I think
7 there's one other that's tripping in. My
8 counsel tells me there's a couple more too.
9 But the ones that have been operating are
10 Kansas and Washington State, because those
11 were the oldest pieces of legislation
12 involved.

13 SENATOR DUANE: And through you,
14 Madam President, if the sponsor would continue
15 to yield.

16 SENATOR VOLKER: Yes, I yield.

17 ACTING PRESIDENT LITTLE: Thank
18 you. The Senator continues to yield.

19 SENATOR DUANE: Thank you. Has
20 anyone ever -- well, I guess maybe there's two
21 or three that have been released from Kansas.

22 SENATOR VOLKER: Yes.

23 SENATOR DUANE: Any from
24 Washington?

25 SENATOR VOLKER: I really don't

1 know. There's not a lot of people, if I'm not
2 mistaken, in Washington.

3 And Kansas is -- the story in the
4 New York Times told about how some Kansas
5 legislators were complaining because it was
6 costing them too much. Of course, you have to
7 keep in mind the whole Kansas correction
8 budget is one facility --

9 SENATOR DUANE: I just want to
10 correct something. It's actually, I think,
11 Kansas, no one has gotten out. Washington
12 State, maybe a couple of people have been
13 released.

14 SENATOR VOLKER: Yeah, could well
15 be.

16 I think the people that are in
17 Kansas -- this is just from what I
18 understand -- are really such people that they
19 really never envisioned they would ever get
20 out. I mean, they don't have a lot of people,
21 and I think they -- and, by the way, they
22 don't have the kind of treatment, I do not
23 believe, that we're talking about doing here.

24 So we would certainly be hopeful
25 that we could get some real progress in mental

1 health and sexual predators with the proper
2 treatment.

3 SENATOR DUANE: Thank you. Thank
4 you.

5 Madam President, on the bill.

6 ACTING PRESIDENT LITTLE: Thank
7 you. Senator Duane, on the bill.

8 SENATOR DUANE: My concerns about
9 this bill are several, frankly. And I would
10 like to get them on the record in the hope
11 that if there's more discussion about this
12 bill, in the unlikely case the Assembly
13 doesn't pass this exact bill, that some of
14 these things might get into the discussion
15 about another bill.

16 I'm very concerned about the
17 possibility of the commitment of young people,
18 youthful and juvenile offenders. And I would
19 like to see language which would differentiate
20 what would happen between adults, youthful and
21 juvenile offenders, because in my mind they're
22 all different -- although, in my mind,
23 juvenile and youthful are similar, but I
24 realize that's not how New York's law is
25 written.

1 I am very concerned about the
2 requirements for notifying someone who's being
3 considered for commitment. In a criminal
4 case, well, the police and even the DA can do
5 an investigation and then an indictment
6 happens and then the defendant knows they
7 better get an attorney.

8 However, this is not a criminal
9 situation, this is a mental health issue. And
10 it seems to me that everyone should be able to
11 start together, the person who's liable to be
12 civilly committed at the same time that the
13 state is thinking about civilly committing
14 them. It strikes me that it would be fairer
15 and level the playing field.

16 And I know that's an odd thing to
17 say when you're talking about who the people
18 are who are falling under this. But for lack
19 of better terminology, that's what I'm going
20 to call it, that both sides should have the
21 same notification to prepare.

22 I also think that we need to be
23 more specific about the training for those who
24 are going to adjudicate and those who are
25 going to, frankly, on both sides prosecute, if

1 you will, or fight for civil commitment and
2 those who are going to be on the side of the
3 person who is liable to be civilly committed.

4 And I also think that it may be
5 better to -- and I understand that it doesn't
6 say that you can't -- that it seems like a
7 good thing that you get a jury. But I'd like
8 to see language which makes it clearer that
9 you could just have it go before a judge.
10 Particularly if, at the end of the day, the
11 judge is the person who has more training in
12 this issue, similar to the special way that we
13 treat or we had been treating death penalty
14 cases.

15 And I think we have to put all of
16 this, the requirements about what happens when
17 someone is incarcerated as the preparations
18 are made for the civil commitment process --
19 there is no public sympathy, obviously, for
20 sexual predators. And I think then we have --
21 as legislators, even if it's distasteful, it
22 is our job to make sure that in an atmosphere
23 of no public sympathy at all, that the rights
24 of the person who's going into this process
25 are protected.

1 Because I don't think there would
2 be -- there will be very little public
3 scrutiny of making sure that that person has
4 adequate representation and defenses,
5 et cetera. So even if the public does know,
6 it's probably not helpful. So I think we have
7 to be extra careful to make sure that we build
8 in those protections, even if it seems like a
9 distasteful thing for us to do.

10 I also think that -- and again,
11 this is, you know, I'm not -- I wouldn't be a
12 hundred percent trustful of the psychiatrist
13 who is speaking for the respondent, and I
14 wouldn't be a hundred percent confident in the
15 psychiatrist for the agency. I'd like to have
16 an independent person.

17 And I also think that it puts the
18 psychiatrist -- it puts both psychiatrists on
19 both sides in a difficult position, because
20 neither one of them would like to be
21 responsible for allowing someone to be
22 released who could turn out to have not been
23 rehabilitated.

24 So having an independent person who
25 is more -- who could take the heat I think

1 would make for a fairer process, as well as
2 just having an independent evaluator to be
3 skeptical of what both sides have to say.

4 I also -- you know, the Department
5 of Corrections' health facilities are -- there
6 is no outside monitoring agency. In other
7 words, the Department of Health doesn't
8 monitor it. Corrections monitors its own
9 health facilities, which I think is very
10 problematic. And to have OMH monitor itself
11 on this I also think is problematic.

12 I think we always need to have an
13 outside monitor, an outside auditor, because
14 it's unlikely that an agency is going to find
15 a lot of fault with itself, certainly in a
16 public way.

17 And then just a few final points.
18 You know, it does look to me like Article 9 of
19 the Mental Health Law already has provisions
20 for the confinement of the dangerously
21 mentally ill. And even if that hasn't always
22 worked, it still does exist in the law.

23 In one of the visits I made to one
24 of our correctional facilities, I had the
25 opportunity -- it was at Green Haven -- I had

1 the opportunity to speak with the deputy
2 commissioner in charge of all addiction
3 services, and I asked him about if there was
4 treatment in the facilities, in addition to
5 alcohol and drug treatment, for sexual
6 addiction treatment. And tragically, that was
7 considered to be a big joke.

8 So if we think that these people
9 are addicted to violent sexual behavior or
10 sexual behavior towards children, if we
11 believe that these are behaviors similar to
12 addiction behaviors, then we need to provide
13 treatment in facilities as well. And that is
14 not happening. Maybe with the new money it
15 will happen, but I am skeptical about that.

16 Also -- and I'm sorry, I forget
17 whether it was Woodbourne or Sullivan -- I saw
18 a group of inmates who were developmentally
19 disabled, mentally retarded, who were
20 basically children with adult bodies. Some of
21 them had been convicted of inappropriate
22 sexual behavior because, frankly, they had no
23 one really to watch over them to make sure
24 that when they -- that they didn't sexually
25 act out inappropriately because they didn't

1 know any better.

2 They have no place to go. There's
3 no place to release them to. It was pretty
4 tragic to watch who were very -- who were
5 basically extremely gentle, mentally retarded
6 or developmentally disabled people be locked
7 up in their cells with no hope of ever being
8 released because there's no place for them to
9 go.

10 And I know that we're going to do
11 something in this legislative session on civil
12 confinement, but I still think that we have to
13 provide treatment. There is no data that says
14 that all sexual predators are incurable. In
15 fact, there's data that shows that some are.
16 And yet no difference is made in this bill
17 between that.

18 You know -- and I guess, finally --
19 and again, I know we're going to do something
20 on civil confinement. I hope it's not this.
21 I hope it's a different bill, obviously. But
22 I think we need to keep in mind that
23 90 percent, maybe 95 percent of the sex
24 offenses that are perpetrated -- and I know
25 that, you know, one in the public eye is too

1 many. But all of the others are never
2 recorded, never treated.

3 I mean, for instance, we underfund
4 rape crisis centers. The most recent tragedy,
5 which, you know, I can barely get through the
6 articles in the paper about what happened in
7 Brooklyn -- there's nothing that we're doing
8 to prevent those things, only things to
9 prevent them from happening in the future.

10 And there's nothing, actually, that
11 would prevent -- there still isn't enough that
12 would prevent the recurrence, for instance, of
13 what happened to that little girl after the
14 first time that it happened. And I think that
15 that happens way too often.

16 And if we're going to do this,
17 which will take care of a small percentage of
18 people so that they won't reoffend, our work
19 has not even -- it's just the tiniest bit of
20 our work is accomplished.

21 Because all of those cases that are
22 not reported, all of those cases of, you know,
23 adults in the family, family friends, uncles,
24 people in positions of authority who
25 perpetrate these crimes against children, or

1 what happens in homes between married couples
2 or people who are living together, we're only
3 touching the tip of the iceberg with what
4 we're trying to do here.

5 And it's my hope that, even after
6 the public focus is off this legislation, when
7 we do pass something this session that we will
8 not forget to go back and take care of the
9 tremendous number, the exponentially larger
10 number of cases that we have done woefully
11 little to prevent.

12 Thank you, Madam President.

13 ACTING PRESIDENT LITTLE: Thank
14 you, Senator Duane.

15 Is there any other Senator wishing
16 to be heard?

17 Senator Klein.

18 SENATOR KLEIN: On the bill,
19 Madam President.

20 ACTING PRESIDENT LITTLE: Thank
21 you. On the bill.

22 SENATOR KLEIN: First, I'd like
23 to commend and congratulate Senator Volker for
24 his commitment to this very, very important
25 issue.

1 And I think it's certainly
2 appropriate that we're passing a civil
3 commitment bill today at the same time that
4 we're taking up Megan's Law. I have been
5 saying that for some time now, that over the
6 last ten years I think Megan's Law is giving
7 us sort of a false hope that we're truly
8 protected in our community.

9 And I think time and time again
10 what we're reading about is that we're
11 releasing Level 3 sexual predators after they
12 serve very long jail times, they register on
13 the Megan's Law registry, as they're required
14 to do under law, and that's it. But what
15 we're really doing is releasing ticking time
16 bombs into our community, waiting for them to
17 commit another crime.

18 Unfortunately, that's happened
19 several times in areas that I represent.
20 Earlier in the year, back in June, at the
21 Galleria Mall in White Plains, a young woman
22 named Connie Russo was murdered by a Level 3
23 sexual predator named Philip Grant.
24 Unfortunately, I think Mr. Grant has the
25 dubious distinction of sort of becoming the

1 poster boy for civil confinement.

2 Philip Grant was someone who served
3 25 years in prison. He was serving a prison
4 term for rape, a rape which he committed in
5 the Bronx. He served 23 years for the rape;
6 they tacked on another two years because he
7 tried to kill someone, when he was in prison,
8 with an ax. This was someone who was denied
9 parole nine times. So clearly the parole
10 board knew that this was someone who was not
11 ready to join society once again.

12 But yet Mr. Grant was released into
13 the community. He went from homeless shelter
14 to homeless shelter. He refused any type of
15 medical treatment or evaluation. Believe it
16 or not, he did register, as he was supposed to
17 under Megan's Law, even reregistered after the
18 90-day requirement, again under the law. He
19 snuck into the Galleria Mall, stole a knife
20 out of a store, waited in the parking lot of
21 the mall, and killed the first person that
22 came in.

23 Again, another horrible example
24 which happened a little more recently, in the
25 Throgs Neck section of the Bronx that I

1 represent, is a man named Sheldon Becker.
2 Sheldon Becker also served a very long prison
3 sentence for rape. He was released back in
4 June. He went to live with a very good friend
5 of his. Just a couple of weeks ago, this man
6 raped and killed his friend's daughter.

7 Again, someone who was released
8 into the community. This was someone who was
9 so not being rehabilitated and so not ready to
10 join society that he didn't even show up at
11 his own parole hearing. But finally they let
12 him out because he just refused to show up and
13 the time elapsed and he was just released
14 again onto the streets of the Bronx.

15 What I'm saying here today is that
16 I think we really need to have a civil
17 confinement law. I think we tried every other
18 avenue. Longer prison sentences seem not to
19 work in this situation. And I think it's
20 incumbent upon us, before we release these
21 people back into society, they're evaluated.

22 You know, I heard some of the
23 debate so far today, and I know I've read some
24 of the memos by the groups who oppose this
25 legislation. And I personally don't

1 understand why. The psychiatric community, I
2 know, had some opposition memos. I know that
3 I would want someone on the field of
4 psychiatry to evaluate this person to
5 determine whether or not they're safe to go
6 back into society before they're released.
7 They're going to be one of the final says in
8 this, and I think this is important.

9 After these horrible instances, I
10 held a hearing in Westchester earlier in the
11 year and I had people really from both sides
12 of the issue testify. But I must say that
13 overwhelmingly the people who testified at
14 this hearing were in favor of civil
15 confinement.

16 One of the people who testified was
17 a gentleman by the name of Kip Cornwell. He's
18 a law professor at Seton Hall University and
19 he's director of New Jersey's Institute for
20 Law and Mental Health. He is really one of
21 the foremost experts on civil confinement and
22 helped draft the New Jersey law.

23 And what he said was very, very
24 interesting. And I remember one of the
25 questions that was posed to him: Well, do you

1 really believe that many of these individuals,
2 especially a Level 3 sexual predator, can be
3 rehabilitated? And his answer was no, that in
4 some cases you can have all the treatment
5 there is, and all of the best doctors, and
6 sometimes you're not going to actually cure
7 this person.

8 So I think, unfortunately, the only
9 answer is that a person like this has to be
10 civilly confined after they serve their prison
11 sentence. I think if you look at the numbers,
12 it bears out what I'm saying. A Level 3
13 sexual predator is four times more likely to
14 commit the same or similar crime when they're
15 released from prison. It's one of the also
16 horrible crimes that as these individuals get
17 older, in many cases, they even have a greater
18 proclivity to commit these crimes.

19 So I think the only answer is to
20 have a constitutional process. And everyone
21 knows, and I know Senator Volker talked about
22 it earlier, the seminal case in this area was
23 the Kansas law. They were the second in the
24 nation to pass civil confinement. They've
25 become the most famous because their law was

1 challenged twice by the United States Supreme
2 Court, and it was found constitutional, as not
3 a violation of double jeopardy.

4 Because what's happening is after
5 someone serves a prison sentence, I think the
6 safeguards are in place to determine whether
7 or not that person is civilly confined
8 certainly is something that's going to pass
9 constitutional muster. So I'm hopeful that I
10 think the politics is gone. The bantering
11 back and forth between the Senate and the
12 Assembly also will come to an end. Because I
13 think it's high time that we pass civil
14 confinement in New York State.

15 I vote for this bill. I urge my
16 colleagues to do the same. And I'm hopeful
17 that the Assembly will follow through and pass
18 civil confinement as well.

19 ACTING PRESIDENT LITTLE: Thank
20 you, Senator.

21 Senator Sabini.

22 SENATOR SABINI: Thank you, Madam
23 President. On the bill.

24 ACTING PRESIDENT LITTLE: On the
25 bill.

1 SENATOR SABINI: I want to
2 congratulate Senator Volker and say that I
3 support this bill, as I have in the past, but
4 with a new fervor.

5 And that is that I had the
6 privilege of attending the public forum that
7 Senator Klein sponsored in Bronxville. And to
8 witness the relatives, the sons and nephew of
9 Connie Russo, and obviously the sorrow they
10 had and obviously the anger they had that this
11 was allowed to happen to someone just going
12 home from work at night -- as millions of
13 New Yorkers do -- but, further, that this
14 sleeper agent, this ticking time bomb, was
15 within feet of tens of thousands of
16 respectable New Yorkers and even driven there
17 by the County of Westchester every day from
18 his homeless shelter. Because they have a
19 policy of bringing people, after the shelter
20 experience, to a more populated area where
21 they feel they can better fit in and eat and
22 stay warm. That, in effect, Westchester
23 supplied car service for him to commit this
24 crime.

25 And to see their anger -- it's not

1 the same kind of case, but, you know, we have
2 Kendra's Law in New York now. Many of us from
3 Queens remember that Kendra Webdale was a
4 woman who, when she got out of college, was a
5 reporter at the Queens Tribune and interviewed
6 some of us who were in public life. And then
7 to read about what happened to her --
8 different set of circumstances, different kind
9 of crime. But again, to think that there are
10 people in our society who are, in effect, in
11 our neighborhoods who are just waiting for the
12 opportunity to do this.

13 Now, I believe I'm a civil
14 libertarian. But when you go through the
15 levels of actions that are required to be
16 civilly confined, between a multidisciplinary
17 review, an attorney general's review, a
18 hearing, a jury trial -- this is after you've
19 committed a crime and served your sentence.
20 If you've gotten that far and that many people
21 think that maybe you're a danger to society,
22 I'm going to side with them.

23 That may sound simplistic, and I
24 don't like to be simplistic on these matters.
25 But the fact of the matter is that we all have

1 a right to sort of conduct our lives and
2 expect the government to protect us. And if
3 the government knows, in our heart of hearts,
4 that there are people out there who are
5 capable of these things that we're letting do
6 these things because we as lawmakers haven't
7 set up a framework to protect its citizenry,
8 then shame on us.

9 So as I said, I've supported this
10 before, but I want to comment Senator Volker
11 and also Senator Klein for having that forum
12 and bringing the Russo family there to sort of
13 underline why this is important and why it's
14 important that as New Yorkers we're allowed to
15 live our lives on a day-to-day basis and be
16 protected from people that experts will tell
17 us, and experts will review under this law,
18 shouldn't be in the street.

19 Thank you, Madam President. I'll
20 vote aye.

21 ACTING PRESIDENT LITTLE: Thank
22 you, Senator Sabini.

23 Senator Liz Krueger.

24 SENATOR LIZ KRUEGER: Thank you,
25 Madam President. On the bill.

1 ACTING PRESIDENT LITTLE: Thank
2 you. On the bill.

3 SENATOR LIZ KRUEGER: Thank you.

4 Well, I suppose I want to point out
5 that I agree both with Senator Duane's
6 concerns and Senator Klein's support for
7 Senator Volker's bill. Because we know, as
8 Senator Volker articulated and Senator Klein
9 has continued to articulate both in the
10 Assembly and the Senate, that the state has
11 needed to do something more to protect its
12 citizens.

13 But it is also true that Senator
14 Duane highlighted, in his questioning of
15 Senator Volker, many of the concerns that I
16 have that we should not walk away in passing
17 this bill -- and I will vote for this bill --
18 with the illusion that we really ended a
19 problem if we pass this bill.

20 And the fact is what we don't hear
21 anything about this week with this
22 legislation, although questions have been
23 raised, is where is the additional services
24 that are needed. What do we do with the fact
25 that, while this might address a problem for

1 some number of people who are found guilty of
2 sex offense crimes, those in the area of
3 working with victims will tell us that up to
4 90 percent of the young people who are victims
5 of sex crimes know their perpetrators, they
6 are the victims of incest, and those
7 perpetrators are not being found guilty and
8 they're not going through our criminal justice
9 system or our treatment or civil confinement
10 system. And perhaps most disturbingly, those
11 victims are not getting treatment. And we are
12 doing very little to prevent the continuing
13 rate of attacks on them.

14 And as some of us have raised
15 before, we are not addressing the problems of
16 going after, in an effective way, prosecution
17 of people who we know are committing these
18 crimes. I support ending the statute of
19 limitations on rape, and we have not moved
20 through the Legislature on that bill. We
21 don't have the money, at least in my city, to
22 provide adequate treatment for victims of
23 sexual attack. We have rape centers that are
24 closing their doors. We have hospitals that
25 are saying they don't have the resources to

1 treat the victims of sexual assault who are
2 coming to them. And we have the ongoing
3 problem, of course, that people don't come
4 forward and report that they have been the
5 victims of sexual offense.

6 So I worry that with this
7 legislation we should not do announcements we
8 have solved the problem. We have addressed,
9 and perhaps not eloquently enough, one
10 subissue for one subuniverse of offenders who
11 have been caught and are considered such
12 extreme predators that there should be a
13 process that is gone through that hopefully
14 meets our constitutional standards and assures
15 equal treatment under the law for everyone.

16 But we heard just, I believe, last
17 week in the city about the caseloads for
18 parole officers being so high that they argue
19 we are not monitoring the criminal justice
20 system at all near what the expectation is of
21 the public when people do get out of prison.

22 We know that we are not, in fact,
23 doing everything we can to prevent sexual
24 assault, although I understand that the
25 Capital District Center for Sex Offender

1 Management in the district of Albany has some
2 excellent models that we should be exploring
3 and replicating statewide.

4 I know that we aren't training our
5 staff well enough. I know we aren't providing
6 the services in our hospitals, in our police
7 systems to ensure we decrease the number of
8 victims. We encourage victims to come
9 forward, we get them help, and we provide
10 treatment in jails.

11 And I also know, as Senator Duane
12 just said, that we risk very seriously in the
13 State of New York, unless we do this right --
14 and this bill I don't believe gives us the
15 funding to do it right -- we risk having civil
16 confinement in a mental health system which
17 already has unbelievably vulnerable people
18 living there. Senator Duane described his
19 visit to, I believe, two sites where, if we
20 simply put our most dangerous predators in our
21 institutions, we risk doing greater harm to
22 people in the institutions and pretending that
23 we solved the problem when we simply moved a
24 problem.

25 So I will vote for the bill. But I

1 will hope that, in conference between the
2 Senate and the Assembly, that we will move
3 forward with some of the issues that are not
4 addressed in this bill that I believe our
5 colleagues in the Assembly have attempted to
6 address through a series of bills that may or
7 may not have moved through their house yet.

8 But as we had one conference
9 committee off of last week's bill, I hope that
10 we will continue to work together in both
11 houses to ensure that we simply don't pass
12 freestanding one-house bills and say there's a
13 victory for the people of New York, but,
14 rather, we ask the very tough questions about
15 very tough issues.

16 Because of course this is one of
17 those very, very difficult issues. And it's a
18 scary issue. And so we have to make sure that
19 we don't simply pass one one-house bill and
20 say we've taken care of the problem, because
21 with this bill we will not have taken care of
22 the problem, we will have dealt with one
23 complex piece of a very, very large and
24 complex set of issues.

25 Thank you, Madam President.

1 ACTING PRESIDENT LITTLE: Thank
2 you, Senator Krueger.

3 Senator Schneiderman.

4 SENATOR SCHNEIDERMAN: Thank you,
5 Madam President. Very briefly.

6 I also -- I do intend to support
7 this bill. I think that having the option to
8 continue confining the most dangerous sex
9 offenders after they get out of prison with
10 appropriate due process should make our
11 communities safer. But you have to do it
12 properly. You have to do it carefully. And I
13 have some concerns about this bill that I want
14 to voice.

15 I do commend those who have moved
16 it forward to this point, and I am hopeful --
17 in fact, I'm quite optimistic that we're going
18 to see the Assembly pass a set of bills and
19 move forward hopefully to a conference
20 committee, as Senator Krueger has indicated.

21 I particularly want to single out
22 Senator Klein, who held the first public
23 hearing last year, before the Assembly held
24 its hearings, to really jump-start the process
25 and bring us, I believe sincerely, to where we

1 are today.

2 It is important that we pass a bill
3 that can pass both houses, and it's important
4 that we pass a bill that can withstand a legal
5 challenge. So I don't think that any of these
6 concerns that are being voiced here should be
7 trivialized. I think this is a very difficult
8 area of law. The law in this country, and one
9 of the reasons for the founding of this
10 country, is the principle that you do not lock
11 people up for things that they may do, you
12 only lock people up for things that they have
13 done.

14 And when we get into an area of
15 prediction, it's always difficult. There are
16 exceptions to this. There are other
17 commitment statutes, as Senator Volker has
18 articulated. But I think there are some
19 things that need to be noted.

20 First of all, I realize some people
21 in this house believe that you have some sort
22 of a moral obligation to put a poison pill
23 relating to civil litigation into every piece
24 of legislation. But let's get this
25 poison-pill anti-trial-lawyer provision out of

1 this legislation. It's not going to pass the
2 Assembly. Everyone in this state, whether
3 you're working on civil-commitment issues or
4 you're working on law-enforcement issues or
5 medical issues or mental health issues, should
6 be held to the same standard of care.

7 This bill creates a good-faith
8 exception for the actions of public officials.
9 That's not going to fly. Let's stop kidding
10 around with that and get it out of here.

11 I would urge my colleagues here
12 that we can learn from the Governor's example.
13 You don't hear me say that a lot. But the
14 Governor realized that his bill could be
15 better. He's introduced a bill since 1997,
16 and he realized it could be improved. And one
17 of the things that was on display this morning
18 was his commitment to separate those who might
19 be confined under this legislation from the
20 general mental health population. As Senator
21 Duane and Senator Krueger have pointed out,
22 this is a serious concern.

23 So let's follow the Governor's
24 example. There are ways we can make this bill
25 better. Some of them were in the package of

1 bills that the Assembly rolled out at the end
2 of last year. Again, I take nothing away from
3 those who would take credit for forcing the
4 Assembly to act on this issue. But let's look
5 at what they've done and see if we can improve
6 our bill.

7 I mean, one of the provisions in
8 the Assembly bill deals with longer prison
9 terms for the worst sex predators. That's
10 something that is actually in a bill by
11 Assemblyman Gianaris. One of the provisions
12 that the Assembly deals with that we don't
13 deal with is talking about where you get the
14 money for counsel, talking about where you get
15 the money for treatment, providing for sexual
16 abuse prevention curriculums in the school and
17 sex abuse prevention training videos for
18 parents.

19 There is more we can do. As
20 Senator Duane has noted -- and if you take one
21 thing away from this, let's be honest with the
22 people of the State of New York -- we are not
23 doing anything about the overwhelming majority
24 of those who cause these traumatic experiences
25 for our children, for our families, for our

1 constituents. This bill does not provide the
2 treatment money, this bill does not provide
3 resources for parole and probation officers
4 who are overburdened, this bill does not deal
5 with the overwhelming portion of this problem.
6 It deals with a narrow portion. We should
7 address that.

8 But let's look at some of the
9 bigger issues that it raises. If we go to a
10 conference committee, let's go to a conference
11 committee on the overall issue of what we do
12 about sexual predators in this state, not just
13 passing a narrow bill to take the very worst
14 offenders and put them in civil confinement.

15 Finally, I want to note that I do
16 think there's a due process problem with the
17 bill. And, Senator Volker, this is meant in
18 all good conscience to advise you, because
19 obviously, if we pass a bill that won't pass
20 the other house, we're not doing anything. If
21 we pass a bill that's get struck down in the
22 courts, we aren't doing anything.

23 And your problem -- you know, with
24 all due respect to some people who've opined
25 on whether this proposed legislation complies

1 with the prohibitions of Kansas v. Hendricks,
2 I don't think your problem is the U.S. Supreme
3 Court, ladies and gentlemen. I think you've
4 got the highest court in the state to get past
5 on this issue before you get to the U.S.
6 Supreme Court. I don't think the Supreme
7 Court has gotten more liberal since 1996. So
8 I think the U.S. Supreme Court is not the
9 issue.

10 I do, however, think you might have
11 an issue with the Court of Appeals of this
12 state, for the following reason. I agree with
13 Senator Sabini that there are substantial
14 protections in place in this legislation
15 before someone gets civilly confined. You
16 have a panel, you have a hearing, you have a
17 right to a trial by jury, you have the
18 attorney general reviewing the file. I think
19 you have a good argument that you have
20 adequate protections before people go in under
21 this bill.

22 I would note, however, the dramatic
23 gap between the procedures approved in Kansas
24 v. Hendricks and the procedures provided in
25 this bill to let someone out if they can

1 demonstrate that they are no longer in need of
2 civil confinement.

3 The Supreme Court said very, very
4 clearly in *Kansas v. Hendricks*, in approving
5 the Kansas statute, this is approved because,
6 among other things, this statute permitted
7 immediate release upon a showing that the
8 individual is no longer dangerous or mentally
9 impaired. There is a provision in the Kansas
10 statute that you immediately get out.

11 Now, in the New York statute that
12 is being proposed here -- and Senator Volker
13 discussed this, but very, very briefly -- you
14 don't get an immediate relief if you can
15 demonstrate this. What you get is every year
16 you have to be evaluated and then, after the
17 evaluation, the commissioner, whichever
18 commissioner has jurisdiction, determines
19 whether or not -- and this is the language of
20 the statute -- "The commissioner shall review
21 such records and reports, along with the
22 findings of the psychiatric examiner, and make
23 a determination in writing as to whether the
24 person no longer is a sexually violent
25 predator. The commissioner's written

1 determination shall be provided to the court
2 that committed the person under this article."

3 The actual psychiatric evaluation
4 doesn't go to the prisoner, doesn't go to the
5 court. You have the commissioner holding the
6 keys. The commissioner once a year has to
7 read a psychiatric evaluation and determine if
8 a person is a sexually violent predator. That
9 means this all comes down to, essentially, a
10 discretionary act of the commissioner.

11 The only remedy for this, if a
12 commissioner wouldn't let someone out -- and I
13 note that the immediacy which was specifically
14 noted in the Supreme Court decision is not
15 provided here. This just provides that once a
16 year someone gets examined and the
17 commissioner decides if he or she believes
18 this person is a sexually violent predator.

19 If the commissioner does not decide
20 that, you can't get out. You can make a
21 petition; you can file, I guess, an Article 78
22 proceeding that this was wrongfully decided.
23 It is a very, very steep climb. It is not
24 anything like the substantial due process
25 considerations that are given to the person

1 who would be confined on the way in.

2 I would urge you, my colleagues,
3 that we have to have a better system for
4 letting people out who can demonstrate that
5 they no longer pose a threat to society, as
6 was done in Kansas.

7 So under this statute as proposed
8 by Senator Volker, it's hard to get someone in
9 to civil confinement, but it is virtually
10 impossible for anyone civilly confined to get
11 out. It's very, very difficult, and it's very
12 much subject to the discretion of the
13 commissioner.

14 So in addition, this statute
15 provides that once your initial petition to
16 get out is denied, if a person has previously
17 filed a petition for discharge, then the court
18 shall deny the subsequent petition unless the
19 petition contains facts upon which a court
20 could find that the person's mental
21 abnormality has so changed as to warrant an
22 evidentiary hearing.

23 So again, there's a steep slope for
24 the public authorities to go through to get
25 someone in, but there's a steeper slope for a

1 confined person to go through to get out. I
2 thinks that's a constitutional infirmity. I
3 think that's something that has to be cleaned
4 up if we want the statute to actually become
5 law, survive a legal challenge, and do
6 anything to protect the people of this state
7 that it is intended to protect.

8 Many of us have heard the stories
9 of what's happened, we have children
10 ourselves, we are concerned about the issue of
11 sexual predators. We'd like to do something.
12 Most of us, I think, in our candid moments
13 acknowledge that this does not solve the
14 problem, this deals with a very narrow group
15 of people. We need more funding, we need more
16 treatment, we need a better way to deal with
17 people.

18 And Senator Duane was right on when
19 he noted that the most recent scientific
20 evidence is that in fact a significant number
21 of people who fall into this category can be
22 cured, over time, with treatment. And with
23 advances in science, we can only hope for
24 more.

25 So let's look at the issue broadly.

1 Let's get out the poison pills. Let's take an
2 honest look at the Assembly's proposals to see
3 if we can improve as we hopefully go into
4 conference committee.

5 And let's not pass a bill that has
6 an unconstitutional prohibition on people
7 being able to immediately get out on a showing
8 that they're no longer dangerous. That is not
9 in the New York statute, ladies and gentlemen,
10 and that has to be changed before a final bill
11 is passed.

12 I hope I will have the chance to
13 vote on a final bill during this session. I
14 hope we will get the Assembly to a conference
15 committee on this. It's the right way to go.
16 I will vote for this bill, subject to all of
17 these concerns, in the hope that we move the
18 process along and that we're able to actually
19 reach agreement on this.

20 Again, I commend all those who are
21 struggling with this very, very difficult
22 area, those who favor this and those who
23 oppose it, for raising these issues. This is
24 not an easy area of law or policy. But I am
25 going to vote aye.

1 Thank you, Madam President.

2 ACTING PRESIDENT LITTLE: Thank
3 you, Senator.

4 Senator Savino.

5 SENATOR SAVINO: Thank you, Madam
6 President.

7 First, I'd like to commend Senator
8 Volker for bringing this bill. You know,
9 about a week ago there was an article in the
10 newspapers, in all the newspapers, which
11 showed the results of a poll by the Sienna
12 College that said that the people of the State
13 of New York were very dissatisfied with their
14 state government. They felt that we were not
15 responsive to them, that we did not address
16 their needs, and we were not acting in their
17 interests.

18 And I would say that perhaps today
19 we are taking a step in changing that opinion,
20 because I think we are addressing a need that
21 the people of the State of New York for many
22 years have felt was a serious threat to their
23 life and/or health.

24 I hear the concerns of my
25 colleagues, Senator Schneiderman, Senator

1 Krueger, and Senator Duane, and their eloquent
2 discussion here about what's not being
3 addressed. And they're absolutely right that
4 more needs to be done. But I think for too
5 long we have looked at this particular arena
6 of the criminal justice system and the mental
7 health system and erred on the side of caution
8 with respect to the predator and not to the
9 victim.

10 And while we struggle with how we
11 find the funding to provide the mental health
12 services and how we address those issues, the
13 first thing we have got to do is protect the
14 future victims so that they are not victims at
15 all. So if we have to begin by civilly
16 confining people who we have seen in the past
17 have demonstrated that they are a danger to
18 others, then that is where we start as we
19 grapple with the other issues that have been
20 raised here today.

21 As I said, this is an ever-evolving
22 area of the mental health and criminal justice
23 area. And it is a mental health issue, but it
24 is a mental health issue that results in
25 criminal behavior, and we cannot continue to

1 ignore that.

2 So I stand in support of this
3 legislation. And I think we can continue the
4 discussion on how we provide more mental
5 health services, provide more money, deal with
6 this issue as this continues to evolve.

7 We've come a long way. When
8 Senator Marchi first came to the Legislature
9 fifty years ago, if a man was arrested for
10 sexually assaulting a woman, the woman was as
11 much on trial as the man was. She had to
12 prove that she hadn't done something to entice
13 that man into attacking her. We know better
14 now.

15 Twenty years ago we would have
16 looked at some of these sexual predators and
17 thought that there were things that provoked
18 them. We know better now. We know it's not
19 about sex, we know it's about violence, we
20 know it's about power over your victim. And
21 we've got to protect the people who are the
22 potential victims and provide justice to those
23 who have already been victimized.

24 So I stand in support of this
25 legislation. Thank you.

1 ACTING PRESIDENT LITTLE: Thank
2 you, Senator Savino.

3 Is there any other Senator wishing
4 to be heard?

5 The debate is closed.

6 The Secretary will ring the bell.

7 Read the last section.

8 THE SECRETARY: Section 22. This
9 act shall take effect immediately.

10 ACTING PRESIDENT LITTLE: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT LITTLE: Senator
14 Volker, to explain his vote.

15 SENATOR VOLKER: To explain my
16 vote.

17 I just want to thank my colleagues
18 for their comments, and especially Senator
19 Schneiderman.

20 This is a bill -- quite obviously,
21 this is not the final bill, although we'd like
22 to think we could finish up quickly. But I
23 expect that we probably will go to a
24 conference committee within the next --
25 depending on how this works out. From the

1 beginning, we had talked about the fact we
2 needed to do Megan's Law first and get that
3 out of the way, get that done, and then we
4 believe civil confinement must be dealt with.

5 I think Senator Schneiderman makes
6 a point, and we're certainly going to look at
7 the exit issue. This is the Governor's bill.
8 And although there have been considerable
9 changes in it, it's something we will look at.

10 I just want to point one thing out
11 that Senator Duane said. Senator Duane, there
12 is treatment in prisons for sexual problems.
13 In fact, the prison you were in, there isn't
14 any. But I can tell you from experience -- I
15 have been in a number of prisons, as you can
16 imagine, and we do have treatment for people
17 that have sex problems. In fact, some of them
18 can't get out on parole until they do have
19 treatment.

20 In fact, I had one individual whose
21 mother came to me and asked me why her son was
22 not allowed out. And the reason was he
23 refused to do a program in the prison system
24 as regards to trying to help them with certain
25 sexual evaluation problems.

1 We do have them. They're not in
2 every prison. But frankly, New York has done
3 a great deal more in both drugs and alcohol
4 and in dealing with sexual problems.

5 But I'm the first to admit to you
6 the problem is I question whether there's
7 hardly enough money in the world to do all the
8 things that we should really do. And it's
9 easy to say that we're not dealing with the
10 problems. But what we are really doing, I
11 think, is trying to deal the best we can. And
12 that's what this bill is all about as far as
13 civil commitment is concerned.

14 I vote aye.

15 ACTING PRESIDENT LITTLE: Thank
16 you. Senator Volker will be recorded in the
17 affirmative.

18 Senator Nozzolio, to explain his
19 vote.

20 SENATOR NOZZOLIO: Thank you,
21 Madam President and my colleagues. I ask
22 permission to explain my vote.

23 First, I wish to congratulate
24 Senator Volker for again putting this measure
25 before this house. That the measure is indeed

1 needed. And, Senator Volker, thank you for
2 your consistent leadership.

3 The Senate Committee on Crime
4 Victims, Crime and Corrections conducted
5 hearings on this important matter this year
6 and during the past 12 months took testimony
7 from a lot of individuals. But the individual
8 I'd like to thank the most for helping us with
9 this particular legislation was not a
10 New Yorker but a man by the name of Mark
11 Lunsford.

12 Mark Lunsford is a truck driver
13 from Florida who lost his daughter at the
14 cruel hands of a sexual predator. And that
15 grief that Mark Lunsford had helped channel
16 through this legislation. And that before he
17 helped us, though, he helped Florida establish
18 this very same type of civil confinement for
19 sexual predators.

20 Sixteen other states have supported
21 this type of legislation. New York, don't kid
22 yourself, is not at the forefront; we're
23 behind the curve. But thanks to Senator
24 Volker's persistence, we will be establishing
25 the proper procedures to ensure that those who

1 are committing sex crimes and crimes against
2 children don't get out in the street to do it
3 again.

4 Senator Skelos said this many years
5 ago when Megan's Law was first established:
6 Once a sex predator, always a sex predator.
7 And that measure certainly is something that
8 is recognized by this legislation, this needed
9 legislation. And that I certainly am pleased
10 this house is supporting it.

11 Thank you, Madam President. I vote
12 aye.

13 ACTING PRESIDENT LITTLE: Thank
14 you. Senator Nozzolio will be recorded in the
15 affirmative.

16 The Secretary will announce the
17 results.

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 32 are
20 Senators Duane and Montgomery. Ayes, 56.
21 Nays, 2.

22 ACTING PRESIDENT LITTLE: The
23 bill is passed.

24 Senator Maziarz, that completes the
25 controversial reading of the calendar.

1 SENATOR MAZIARZ: Thank you very
2 much, Madam President.

3 Is there any further business at
4 the desk?

5 ACTING PRESIDENT LITTLE: No,
6 there is not.

7 SENATOR MAZIARZ: In that case,
8 Madam President, there being no further
9 business, I move that we adjourn until
10 Wednesday, January the 18th, at 11:00 a.m.

11 ACTING PRESIDENT LITTLE: On
12 motion, the Senate stands adjourned until
13 Wednesday, January 18th, at 11:00 a.m.

14 (Whereupon, at 4:55 p.m., the
15 Senate adjourned.)

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