

of Columbia treated the NGRI subject differently in two regards. First, court review of the decision to grant conditional release or discharge was required for NGRI subjects while other patients were discharged or conditionally released based upon the sole discretion of the superintendent of a hospital and, secondly, the standard for relief was different. NGRI subjects could not be released or discharged unless the court found the subject was not likely to endanger himself or others. The other patients were discharged if it appeared that they were not likely to injure themselves or others.

PRESIDENT: One minute is over.

SENATOR CULLAN: Obviously it was much easier for a civil committee to obtain release or discharge than for one found not guilty by reason of insanity. Now the point I am really making, and I will sum it in just a couple sentences, is that in U.S. v. Ecker, the Court of Appeals for the District of Columbia said, that you can use a different standard for discharging an individual who is found not guilty by reason of insanity than you can for discharging an individual who was a normal, civil committee. Now if it is logical and rational to make a distinguishing, to distinguish between those individuals on the standards for release than surely it is logical to treat these individuals differently on the standards of commitment because the act which justifies these individuals being treated differently on release was the criminal act or the antisocial conduct and that is much more closely related in time to admission than it is to release so very clearly if U.S. v. Ecker is a good case, and I think it is, and the rationale in that case is sound, then LB 213 is sound from an equal protection point of view. I think that the Attorney General did not consider U.S. v. Ecker in his opinions and I have not heard Senator Nichol distinguish U.S. v. Ecker. I think it is not on point but it is closely enough related to show that we can distinguish between those found not guilty by reason of insanity and those who are normal civil committees. Thank you for your courtesy and allowing me to put this in the record. I urge you to reject the Nichol amendment.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. Speaker and colleagues, I think you may all have understood what this debate is about after Senator Nichol's talk which he read from a prepared text and Senator Cullan's fine legal discourse and the excellent way in which he discussed and cited some citations. What we are really talking about here is litigation because I think we all know that the constitutionality of this act