

April 14, 1980

LB 993

enment, of humanity, but it did not vote mine and I hope that we can get enough votes, just like we did for a state trooper when we passed a special act of the Legislature to give some money and some other considerations. We certainly can give it to this individual who has been victimized, victimized by the state.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I want to rise in reluctant support of the Kelly motion because I think I have a slightly different theory for the recovery of Mr. Soukup and I think most of you are aware that I made an attempt to amend the LB 993 list of claims in committee and failed to do so. And so if I am forced between doing nothing and doing what the Kelly amendment suggests, I am going to support the Kelly amendment. Let me just say that the precedent we set today, and we are setting one, is that an individual may be taken at a very tender age, kept under state care, at age 21 when he has a right to a hearing, when he has a right to a review of his case, may be ignored and at that time may be held against his will without the offering of a voluntary commitment for over six years, and at the end of that time, at the end of that involuntary incarceration for six years, he may be then released without the state acquiring any responsibility for its wrongdoing. The record is clear and I sat through that hearing with great attention. Joe Soukup was entitled to a hearing at twenty-one. He was entitled to either being held through an involuntary commitment or through a voluntary commitment and the state did neither. In fact, Soukup was held for six years contrary to state law and the precedent that you tell me today is that that's acceptable, that's all right. The state has no responsibility. The state has committed no wrong when it holds somebody for six years contrary to its own procedures. Now I am not talking about a guilty or innocent plea or somebody lies on the stand or some innocent person gets convicted of a crime where you follow the procedures. I am talking about where the individual doesn't get a trial and is held for six years, where there is no appeal procedure for six years. That is the kind of wrong that occurred in the Soukup case. Not that the procedure apparently had some faults in it and there was some bad testimony but they forgot the procedure entirely and what should have been there, the equivalent of a trial in the case of a criminal conviction, the equivalent of a trial didn't occur at all and we think it is fine, we think it is acceptable and

10104