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if we cannot, we should probably kill him but the difference between 25 and 50 years and the difference in the types of conduct that could occur here just does not justify that broad a range. There is nothing that I can conceive of that a man could do under this statute where one man would get 25 years and another man would get 50 years. I think both of those offenses would be equally horrendous and the only question is, what's an appropriate limit of penalty and perhaps it would be death but we do not choose to provide death for this type of conduct, and as long as we don't, we have to find a reasonable range and I think the 25 years is a reasonable range and I think that there is no question that we have an obligation to determine a reasonable range and Senator Barnett is not even proposing that we eliminate any limits at all.

PRESIDENT: Senator Kime.

SENATOR KIME: Mr. Chairman, members of this body, I support the Kelly amendment of 25 years. 15 years means probably 8 or 10 years and the fellow is out. He may commit this crime of aggravated assault, a broken arm or a broken jaw or a knife wound or something like that. In cases like that, the judge has a little discretion there. He can add on there or he can use his own judgment. I certainly support the Kelly amendment.

PRESIDENT: Senator Kelly, are you ready to close argument by way of reply?

SENATOR KELLY: Mr. President, colleagues, just a comment that we do have a legislative record now in considerable depth of what this Legislature feels about the penalty as it effects LB 23. Senator Barnett stated that he didn't want to make it into the racial issue but it, along with any other and all other issues, cannot be overlooked in this very significant record. We are aware that sentencing is a sensitive matter and that the racial issue is in this sentencing problem. Now, also, so is the matter of sex. This has to be taken into consideration whether it is a man being raped or a woman being raped and by whom and under what circumstances but I believe what we are attempting to do in this discussion is to set a reasonable time recognizing that 25 years of a 20 year old man or woman is over half of their life, almost 2/3 of their life, so this is a severe penalty. Furthermore, I believe we are allowing the courts to look at this legislative intent that in coming from 50 to 25 years does not mean a softening of the penalty to be imposed for this horrendous crime. Subsection 1 states very clearly the items that this Legislature wants the judiciary to consider in arriving at the period of sentencing from 1 to 25. We certainly expect the judges to use their best judgment on that case and not allow any type of emotions, regardless of where those emotions come from, to run this on out to a severe penalty outside of the basis of fact of that case. The intent of my amendment is to be realistic and not to lower the penalty that we would inflict upon the actor in the case of sexual assault. I do request your support.

PRESIDENT: The question is, the adoption of Senator Kelly's amendment to Senator Chambers' amendment, the 25 year. Record your vote. Please vote. Have you voted? My