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some first...whether factually some cases that could have been prosecuted as first degree murder were prosecuted as second degree murder which, as you pointed out, is not capable of or not susceptible of being punished by death; whether maybe manslaughter was a charge. The reason for going through all of the homicide cases, I suggest, is in order to analyze and evaluate the exercise of prosecutorial discretion, plea bargaining and all the other factors which affect justice. And it was in...I have been quoting repeatedly from portions of State v. Lotter, which came...was rendered by the Supreme Court in November of last year, and I should clarify that some things I've quoted have...were from...

PRESIDENT MAURSTAD: One minute.

SENATOR BRASHEAR: ...Justice Connolly's concurring opinion. But he points out that when the court narrowed, through the Moore case and the Palmer case, the fact that it would not consider whether we were being fair, scrupulously fair and equal in our treatment of defendants, when we only compare a death sentence to a death sentence there is no comparison. In fact, Justice Connolly writes, a death sentence cannot be greater than or disproportionate to another death sentence. Regardless of the aggravating circumstances present, the penalty imposed will always be the death penalty; according to State v. Welsh, will never be greater than the penalty imposed in other similar cases when those cases are limited to those in which death has been imposed.

PRESIDENT MAURSTAD: Time. Thank you, Senator Brashear. Further discussion, Senator Price.

SENATOR PRICE: Mr. Lieutenant Governor and members of the body, this is a real interesting discussion that we're having and I am leaning towards supporting the moratorium, although I have been supportive of the death penalty. But at this point I will yield my time to Senator Chambers.

PRESIDENT MAURSTAD: Senator Chambers.

SENATOR CHAMBERS: Thank you, Madam Price. Members of the Legislature, as Senator Brashear was saying, the reason we need