



**REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE**

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JULY 27 TO OCTOBER 14, 1992**

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**SPECIAL SESSION
NO. 1**

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Legislative Operations, Secretariat of the Senate
under the supervision of
SECRETARY ANACLETO D. BADOY, JR.

My question is: Is this not similar to what the distinguished Senator is proposing?

Senator Macapagal-Arroyo. It is similar, Mr. President, but under present condominium laws, the situation described by the Gentleman from Tarlac is not included because the present condominium laws refer to interest in a building. So it does not refer to an interest in a subdivision wherein there will be a particular mansion assigned to a particular owner of the condominium corporation.

Senator Aquino. Mr. President, by design, one can make one entire long building that will occupy 10 hectares connected by walks or whatever. They can still be considered as one unit. But in practical usage — let us say, four hectares are specific for the foreign owners and 60 percent of it is for the Filipinos — I think it does not violate the land-use policy we have in our Constitution.

Senator Macapagal-Arroyo. Mr. President, that is precisely the point being raised by the Gentleman from Manila, that such an arrangement does violate the Constitution. That is why we have to look for the formulation which will not violate the Constitution.

Senator Aquino. Precisely, Mr. President, all I want to say here is, if we agree with the horizontal concept of the condominium, I think what Senator Macapagal-Arroyo is proposing falls within our constitutional requirements — if we agree with the horizontal concept, of course. If horizontally, we already disagree, I think this should be a subject of caucus.

Thank you, Mr. President.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 355

Senator Romulo. Mr. President, I move, therefore, that we suspend consideration of Senate Bill No. 355, the Condominium Act.

The President. Is there any objection to the said motion? [*Silence*] There being none, consideration of this bill is hereby suspended.

Senator Romulo. Mr. President, we are scheduled to resume consideration of Senate Bill No. 695, the Department of Energy bill, on Monday. The House has just passed on Third Reading its version of the Department of Energy bill.

In order to facilitate consideration of Senate Bill No. 695, the Department of Energy, may I ask that Senator Alvarez, who wish to give us some type of timetable, be recognized.

The President. Senator Alvarez is recognized.

Senator Alvarez. Mr. President, when we suspended consideration of this bill yesterday, it was agreed in principle that we would enter the proposed amendments from the Committee so that we would have an engrossed bill. However, there was no instruction to the Secretariat to this effect.

I will now propose, Mr. President, that we formalize this agreement, make instruction that the proposals of the Committee be engrossed so that it will facilitate the handling of this bill for its deliberation on Monday, and that the engrossed copy of the bill be made available even over the weekend.

Senator Romulo. Mr. President, may we ask the Chairman and the sponsor to coordinate these amendments so that we can work on them over the weekend.

Senator Alvarez. I will, Mr. President. So we will now furnish the Secretariat the proposed amendments from the Committee without approving them for consideration of the Chamber on Monday.

Senator Romulo. Thank you, Mr. President.

The President. All right.

BILL ON SECOND READING Senate Bill No. 176 — Hazing as a Crime

Senator Romulo. Mr. President, I move that we consider Senate Bill No. 176 in consolidation with Senate Bill No. 67, as reported out under Committee Report No. 18.

The President. Consideration of Senate Bill No. 176 is now in order.

With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 176, entitled

AN ACT INSTITUTING THE CRIME OF HAZING
AND AMENDING FOR THAT PURPOSE
SECTION ONE, CHAPTER ONE, TITLE EIGHT
OF ACT NO. 3815, AS AMENDED, OTHERWISE
KNOWN AS THE REVISED PENAL CODE.

The following is the full text of Senate Bill No. 176:

AN ACT INSTITUTING THE CRIME OF HAZING
AND AMENDING FOR THAT PURPOSE
SECTION ONE, CHAPTER ONE, TITLE EIGHT
OF ACT NO. 3815, AS AMENDED, OTHERWISE
KNOWN AS THE REVISED PENAL CODE

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section One, Chapter One, Title Eight of Act No. 3815, as amended, otherwise known as the "Revised Penal Code," is hereby amended by adding a new Article to read as follows:

ART. 252-A. HAZING. - ANY PERSON OR PERSONS COMPOSING AN ORGANIZATION, GROUP, FRATERNITY OR SORORITY, WHO INFLICT PHYSICAL, MENTAL OR PSYCHOLOGICAL PAIN AND SUFFERING, OR A COMBINATION THEREOF, ON ANY PERSON, INCLUDING RECRUITS OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE MILITARY ACADEMY, PHILIPPINE NATIONAL POLICE, CITIZENS MILITARY TRAINING, OR CITIZENS ARMY TRAINING AS PART OF INITIATION RITES, TRAINING AS A REQUIREMENT, FOR MEMBERSHIP IN SUCH ORGANIZATION, GROUP, FRATERNITY OR SORORITY, WHICH RESULTS IN DEATH, MUTILATION, SERIOUS PHYSICAL INJURIES, INSANITY OR PSYCHOLOGICAL DISORDER, SEXUAL ABUSE, SODOMY, OR LASCIVIOUS ACTS, OR OTHER INJURIES AS HEREIN PROVIDED, SHALL BE GUILTY OF HAZING. THE CRIME OF HAZING AS HEREIN DEFINED SHALL BE PUNISHED AS FOLLOWS:

1. WHEN DEATH, RAPE, MUTILATION, PERMANENT INSANITY OR MENTAL ILLNESS, OR PERMANENT PHYSICAL DISABILITY OR DEFORMITY RESULT FROM SAID HAZING, THE PERSON OR PERSONS WHO PARTICIPATED THEREIN SHALL SUFFER THE PENALTY OF *RECLUSION PERPETUA*, AND AN INDEMNITY OF AT LEAST FIFTY THOUSAND PESOS (P50,000.00), WITH IMMEDIATE DISMISSAL FROM THE SCHOOL OR INSTITUTION IN WHICH THEY ARE ENROLLED, OR FROM THE POLICE OR MILITARY SERVICE IN WHICH THEY BELONG, AS THE CASE MAY BE, AT THE TIME OF THE HAZING.

2. WHEN SERIOUS PHYSICAL INJURIES, TEMPORARY INSANITY OR MENTAL ILLNESS, OR SODOMY RESULT FROM SAID HAZING, THE PERSON OR PERSONS WHO PARTICIPATED THEREIN SHALL SUFFER THE PENALTY OF *RECLUSION TEMPORAL*, IN ITS MAXIMUM PERIOD AND AN INDEMNITY OF AT LEAST THIRTY THOUSAND PESOS (P30,000.00), WITH IMMEDIATE DISMISSAL FROM THE SCHOOL OR INSTITUTION IN WHICH THEY ARE ENROLLED, OR FROM THE POLICE OR MILITARY SERVICE IN WHICH THEY BELONG, AS THE CASE MAY BE, AT THE TIME OF THE HAZING.

3. WHEN LASCIVIOUS ACTS ARE COMMITTED OR THE PHYSICAL INJURIES INFLICTED ARE OF LESS SERIOUS OR SLIGHT NATURE, THE PERSON OR PERSONS WHO PARTICIPATED IN THE HAZING

SHALL SUFFER THE PENALTY OF *PRISION MAYOR* IN ITS MEDIUM AND MAXIMUM PERIODS AND AN INDEMNITY OF AT LEAST TWENTY THOUSAND PESOS (P20,000.00), WITH IMMEDIATE DISMISSAL FROM THE SCHOOL OR INSTITUTION IN WHICH THEY ARE ENROLLED, OR FROM THE POLICE OR MILITARY SERVICE TO WHICH THEY BELONG, AS THE CASE MAY BE, AT THE TIME OF THE HAZING.

4. THE PENALTY OF *RECLUSION PERPETUA* SHALL BE IMPOSED WHEN THE VICTIM IS BELOW TWELVE (12) YEARS OF AGE AT THE TIME OF HAZING.

5. CONSPIRACY TO COMMIT THE CRIME OF HAZING SHALL BE PUNISHED WITH *PRISION CORRECCIONAL* IN ITS MAXIMUM PERIOD TO *PRISION MAYOR*, IN ITS MINIMUM PERIOD, EVEN IF NO ACTUAL INJURY OCCURS TO THE NEOPHYTE OR MEMBER WHO WILL BE HAZED, OR THE HAZING ITSELF IS PREVENTED BY REASON OF CAUSES INDEPENDENT OF THE WILL OF THE PERPETRATORS.

THE MAXIMUM PENALTY HEREIN PROVIDED SHALL BE IMPOSED IN ANY OF THE FOLLOWING INSTANCES:

(A) WHEN THE RECRUITMENT IS ACCOMPANIED BY FORCE, VIOLENCE, THREAT, INTIMIDATION OR DECEIT ON THE PERSON OF THE RECRUIT WHO REFUSES TO JOIN;

(B) WHEN THE RECRUIT INITIALLY CONSENTS TO JOIN BUT UPON LEARNING THAT HAZING WILL BE COMMITTED ON HIS PERSON, IS PREVENTED FROM QUITTING AND IS MADE TO UNDERGO HAZING THROUGH FORCE, VIOLENCE, THREAT OR INTIMIDATION;

(C) WHEN THE RECRUIT, HAVING UNDERGONE HAZING IS PREVENTED FROM REPORTING THE UNLAWFUL ACT TO HIS PARENTS OR GUARDIANS, TO THE PROPER SCHOOL AUTHORITIES, OR TO THE POLICE AUTHORITIES, THROUGH FORCE, VIOLENCE, THREAT OR INTIMIDATION;

(D) WHEN THE HAZING IS COMMITTED OUTSIDE OF THE SCHOOL OR INSTITUTION; OR

(E) WHEN THE VICTIM IS OVER TWELVE (12), BUT UNDER EIGHTEEN (18) YEARS OF AGE.

THE OWNER OF THE PLACE WHERE THE HAZING IS CONDUCTED SHALL BE LIABLE AS AN ACCOMPLICE, WHEN HE HAS, EXPRESSLY OR IMPLIEDLY, GIVEN PERMISSION FOR SAID HAZING TO BE CONDUCTED THEREIN. IF THE HAZING IS HELD IN THE HOME OF ONE OF THE OFFICERS OR

MEMBERS OF THE FRATERNITY, GROUP, OR ORGANIZATION, THE PARENTS SHALL BE HELD LIABLE AS PRINCIPALS WHEN THEY HAVE, EXPRESSLY OR IMPLIEDLY, GIVEN PERMISSION FOR SAID HAZING TO BE CONDUCTED THEREIN.

THE SCHOOL AUTHORITIES WHO CONSENT TO THE HAZING OR WHO HAVE KNOWLEDGE THEREOF BUT FAILED TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING SHALL BE PUNISHED AS ACCOMPLICES FOR THE ACTS OF HAZING COMMITTED BY THE PERPETRATORS. THE OFFICERS, FORMER OFFICERS, OR ALUMNI OF THE ORGANIZATION, GROUP, FRATERNITY OR SORORITY, WHO ACTUALLY PLANNED THE HAZING, ALTHOUGH NOT PRESENT AT THE TIME OF THE HAZING, SHALL BE LIABLE AS PRINCIPALS. THE PRESENCE OF ANY PERSON DURING THE HAZING IS *PRIMA FACIE* EVIDENCE OF PARTICIPATION THEREIN AS A PRINCIPAL. A FRATERNITY OR SORORITY ADVISER WHO IS PRESENT AT THE HAZING SHALL BE LIABLE AS PRINCIPAL.

OFFICERS OR MEMBERS OF ANOTHER ORGANIZATION, GROUP, FRATERNITY OR SORORITY WHO KNOWINGLY COOPERATED IN CARRYING OUT THE HAZING BY INDUCING THE VICTIM TO BE PRESENT THEREAT SHALL BE LIABLE AS PRINCIPALS.

FOR PURPOSES OF THIS ACT, OFFICERS-IN-CHARGE OF THE TRAINING OF RECRUITS OF THE ARMED FORCES OF THE PHILIPPINES, THE PHILIPPINE NATIONAL POLICE, THE CITIZENS MILITARY TRAINING OR CITIZENS ARMY TRAINING SHALL NOT BE ENTITLED TO THE MITIGATING CIRCUMSTANCE THAT THERE WAS NO INTENTION TO COMMIT SO GRAVE A WRONG.

SEC. 2. This Act shall take effect upon publication in at least one (1) national newspaper of general circulation.

Senator Romulo. Mr. President, I ask that Senator Lina be recognized to sponsor this bill.

The President. Senator Lina is recognized.

SPONSORSHIP SPEECH OF SENATOR LINA

Senator Lina. Thank you, Mr. President.

Distinguished Colleagues, I rise today to sponsor Senate Bill No. 176, a measure designed to curb and to put a stop to so many deaths involving young people, students, and trainees in some military and police institutions, as a result of what we call the act of hazing.

Mr. President, while we Filipinos have been described as a people with short memories, I am sure many of us still remember the tragic and senseless death of Lenny Villa and the injuries suffered by his classmates at the Ateneo College of Law when said young men were subjected to hazing when they tried to apply for membership in a fraternity in that prestigious institution.

The publicity that cropped up after the death of this Lenny Villa did not discourage, Mr. President, these hazing activities in the country. In fact, after the death of Lenny Villa, there were six more cases of deaths due to hazing involving young and promising students, namely, Frederick Cahiyang of the University of Visayas in Cebu, Raul Camaligan in San Beda College, Felipe Narne of Pamantasan ng Arullo in Cabanatuan City, Dennis Cenedoza of the Cavite Naval Training Center, Joselito Mangga of the Philippine Merchant Marine Institute, and Joselito Hernandez of the University of the Philippines in Baguio City.

Naalaala ko po, Ginoong Pangulo, that after the death of Lenny Villa, the media were full of reports of groups that have been organized condemning the senseless and tragic death of Lenny Villa. There was a very strong clamor to put a stop to this activity called hazing, and that is the reason why this Representation filed a bill in the last Congress, which unfortunately, though reported out for Second Reading, was not discussed on the Floor of this Chamber in the last Congress because of the lack of time.

In this present Congress, the same bill as reported out by the Committee on Constitutional Amendments, Revision of Codes and Laws was refiled by this Representation, and another bill on the same subject matter was filed by the Gentle Lady from Quezon City and Iloilo, Senator Nikki Coseteng, urging that this Chamber immediately enact into law a measure that will criminalize the act of hazing.

Mr. President, in addition to the purpose of criminalizing the act of hazing in Senate Bill No. 176 and the other bill filed by Senator Nikki Coseteng, the bill also puts to task the authorities of the educational institutions, officials of said institutions, and also officials of military/police training institutions. They will be made liable either as accomplices or accessories for allowing hazing to be conducted within the institutions or with their knowledge or with their consent.

In addition to really discourage this act of hazing, even the owners of the houses or premises where hazing is conducted will also be put to task by making them liable if they knowingly allow the conduct of hazing within their houses or within their premises, or even by parents of the members of fraternities or sororities who resort to hazing as a precondition to membership of a new member of their associations.

The bill, Mr. President, increases the penalties that normally would be imposed on crimes of serious physical injuries, even slight physical injuries. We increase the penalties if said crimes or said results of an act are due to hazing.

Mr. President, the bill also included even those members who did not participate in the act of hazing but who were present during the hazing rites as principals or accomplices, depending on circumstances that we enumerated in the bill; if they did not do anything to stop the hazing or, at the very least, report to authorities the incident so that the hazing could be stopped.

These are the salient features of the bill, Mr. President. And we are very hopeful that if this bill is enacted into law, this will be a strong signal to officers and members of fraternities, sororities or any other associations that require hazing as a precondition to 's membership in said organizations or associations.

This bill if enacted into law will also send a strong signal to officials of police and military training institutions, including the Philippine Military Academy, that the State is definitely against any form of hazing that has resulted in the deaths of many of our young people and that it is an evil that has to be stopped.

Mr. President, in view of the foregoing, and in response to the clamor of families, friends, and sympathizers of the victims of hazing, I urge that this bill be approved.

Thank you, Mr. President.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 67

Senator Romulo. Mr. President, I move that we suspend consideration of Senate Bill No. 176 consolidated into Senate Bill No. 67, Hazing as a Crime bill.

The President. Is there any objection to the said motion? [Silence] There being none, the motion is approved.

Senator Romulo. Mr. President, printed copies of Senate Bill No. 704, "An Act Constituting the Legislative-Executive Development Council, Providing Funds Therefore and for Other Purposes" have just been distributed. They are now on the desk of the Senators. This is in accordance with Article VI, Section 26 (2) of the Constitution on the three-day rule.

MANIFESTATIONS OF SENATOR ROMULO (Inclusion of Coauthors of Various Bills)

Senator Romulo. Mr. President, may I manifest that upon request of Senator Herrera, Senator Sotto be made coauthor of Senate Bill Nos. 143, 146, 160, and 165.

The President. Is there any objection? [Silence] There being none, the request is granted.

Senator Romulo. At the request of Senator Angara, Senator Webb is made coauthor of Senate Bill Nos. 93, 104, 248, 249, and 255.

The President. Is there any objection? [Silence] There being none, the request is granted.

Senator Romulo. Mr. President, upon the written request of Senator Guingona, Senator Gloria Macapagal-Arroyo be made coauthor of Senate Bill No. 707.

The President. Is there any objection? [Silence] There being none, the request is granted.

Senator Romulo. Mr. President, upon request of this Representation, Senator Mercado be made coauthor of Senate Bill No. 625.

The President. Is there any objection? [Silence] There being none, the request is granted.

Senator Romulo. I manifest that Senator Coseteng be made coauthor of Senate Bill Nos. 19, 23, 27, 30, 38, 39, 80, 82, 87, 101, 151, 196, 413 and 697.

The President. Is there any objection? [Silence] There being none, the motion is approved.

ADJOURNMENT OF THE SESSION

Senator Romulo. Mr. President, as there are no other matters to be taken up in this morning's session, I move that we adjourn this session until Monday at three o'clock in the afternoon.

The President. Is there any objection? [Silence] There being none, the session is hereby adjourned until Monday at three o'clock in the afternoon.

It was 11:55 a.m.

CONGRESS OF THE PHILIPPINES
SENATE
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REPUBLIC OF THE PHILIPPINES
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SENATE

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SECRETARY ANACLETO D. BADOY, JR.

The President: Referred to the Committee on Ways and Means.

The Secretary: Letter from Miguel R. Arugay, Officer-in-Charge of Regional Office No. 02, Land Transportation Office, Department of Transportation and Communications, transmitting therewith the duly accomplished Report on the Result of Expended Appropriations for the quarter ending September 1992.

The President: Referred to the Committee on Finance.

The Secretary: Letter from Ana B. Paraguya, Principal II, of Salay National High School transmitting therewith the following:

Statement of Cumulative Allotments, Obligations Incurred and Balances as of quarter ending September 30, 1992;

Detailed Statement of Cumulative Obligations Incurred Obligations Liquidated/Disbursements and Unliquidated Obligations as of the quarter ending September 1992; and

Report on the Result of Expended Appropriations as of the quarter ending September 1992.

The President: Referred to the Committee on Finance.

The Secretary: Letter from Zorayda Amelia C. Alonzo, Chief Executive Officer of the Home Development Mutual Fund furnishing the Senate with a copy of the Pag-IBIG FUND 1991 ANNUAL REPORT.

The President: Referred to the Committee on Urban Planning, Housing and Resettlement.

The Majority Leader is recognized.

BILL ON SECOND READING
Senate Bill No. 355 - Expanding the Concept
of Condominium Act
(Continuation)

Senator Romulo: Mr. President, I move that we now resume consideration of Senate Bill No. 355 under Committee Report No. 15 on the Condominium Act.

We are still in the period of interpellations. May I ask that the Sponsor and Author of the bill, the distinguished Gentle Lady from Pampanga, Pangasinan, and Negros Occidental,

Senator Gloria Macapagal-Arroyo, be recognized.

The President: Senator Macapagal-Arroyo is recognized.

May the Chair know the parliamentary status of this bill?

Senator Romulo: Mr. President, we are still in the period of interpellations.

The President: Is there anybody who wants to interpellate the distinguished sponsor?

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a suspension of the session for one minute.

The President: The session is hereby suspended, if there is no objection. *[There was none.]*

It was 3:45 p.m.

RESUMPTION OF THE SESSION

At 3:48 p.m., the session was resumed.

The President: The session is resumed. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 355

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 355, the Condominium Act. The new bill is still being formulated. So we will await the formulation of said bill.

The President: Is there any objection? *[Silence]* There being none, the motion is hereby approved.

BILL ON SECOND READING
Senate Bill No. 176--Hazing as a Crime
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 176 as reported out under Committee Report No. 18.

The President: Resumption of consideration of Senate Bill No. 176 is now in order.

Senator Romulo: Mr. President, we are still in the period of interpellations. I move that the distinguished Gentleman from Manila, Nueva Ecija, and Laguna, Senator Lina, be recognized.

The President: Senator Jose D. Lina, Jr. is hereby recognized.

What is the parliamentary status of this bill?

Senator Lina: We are in the period of interpellations, Mr. President.

The President: Is there anybody who wishes to interpellate the distinguished Sponsor of this bill? [*Silence*]

Apparently, there are none.

The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I move for a one-minute suspension of the session.

The President: The session is suspended, if there is no objection. [*There was none.*]

It was 3:50 p.m.

RESUMPTION OF THE SESSION

At 3:52 p.m., the session was resumed.

The President: The session is resumed.

Senator Romulo: Mr. President, I ask that Senator Lina be recognized; and for the first interpellator, may I ask that Senator Webb be recognized.

The President: Senator Webb is recognized.

Senator Webb: Thank you, Mr. President. Will the Gentleman agree to some questions?

Senator Lina: Willingly, Mr. President.

Senator Webb: What are the elements that must concur before one can be held liable for hazing under this proposed bill?

Senator Lina: As to the elements, Mr. President, that

will make an act called hazing a criminal act, first, there is a requirement by a group, whether as sorority, fraternity, or any association to the effect that before a person can be part of that organization, group, sorority or fraternity, a physical initiation must first be passed or must be hurdled by the person.

Second...

Senator Webb: Mr. President, how about, for instance, if there is mental or psychological pain?

Senator Lina: First, there is a requirement that there will be a physical initiation. And as a result of that physical initiation, there is an actual physical, mental or psychological pain and suffering inflicted upon the person who wants to gain entry into the group, association, fraternity or sorority, including entrance into the Armed Forces of the Philippines, Philippine Military Academy, Philippine National Police, and Citizens Military Training.

So the first element is the requirement of the physical initiation, second, because of that, a person is inflicted actual physical, mental or psychological pain. Those are the two elements, Mr. President.

What we are trying to ban here is the act of physical initiation called hazing. At present, if a person suffers from physical pain or injury at the hand of another, the crime will either be physical injuries--slight or serious--or if death results, it can be murder. But now, we are making a differentiation as far as the act of hazing is concerned. If physical injury, whether serious or slight, or even murder occurs during the physical initiation or even rape or sodomy occurs, there will be a higher penalty.

Just to clarify these independent acts which result in physical injury or the other results that I have mentioned, they are already punished under the Revised Penal Code. But what we are trying to propose is to define a different crime called hazing, as a reaction of society to these present bad activities that are happening in our country which have victimized a lot of the youth of the land--this act called hazing which has resulted already in the loss of lives and injuries to many.

Senator Webb: Mr. President, will it be safe and will the Gentleman agree if I say that the pain and suffering one receives should be: One, part of hazing acts or rites; two, part of training; and three, a requirement for membership in an organization, group, fraternity or sorority? Will it be a safe statement to say that this now falls under the category of hazing and as such is punishable?

Senator Lina: Yes, Mr. President, although I must say at this point that the training of the Armed Forces of the Philippines, including the Philippine Military Academy, the Citizens Military Training or the Philippine National Police, even at this point, does include physical or even psychological suffering. And I was informed by Senator Biazon that in order to test the psychological preparedness of a trainee--in other words, he is already in training, he is already part of the organization, in order to prepare him, for his work, he is made to undergo some kind of physical exercises or training that can put a person under some heavy physical stress or even psychological stress, like obstacle training, when a trainee is really subjected to some kind of different preparation. But he is already inside the organization.

In effect, Senator Biazon is suggesting that it should be removed from the coverage of hazing because the trainee is already inside the organization.

At the appropriate time, we will introduce an amendment to delete the word "training" on line 13 of page 1 of the bill, so that the act of hazing as a criminal act will only be confined to the activities that are required prior to entry into an association called sorority or fraternity group or even institutions like the Armed Forces, the Philippine Military Academy, and the Philippine National Police.

Senator Webb: Mr. President, for instance, under what circumstances should an act be considered a crime punishable under the law on hazing, as an end-result of an action committed by a person or a group of persons? For instance, would sodomy be considered part of a crime of hazing? Would mental anguish or torture be part of this?

Senator Lina: In case of sodomy, Mr. President, during the public hearings that we conducted on this bill, there were reports that, in order for some individuals to be accepted to a fraternity, sodomy is part of the initiation. There were also reports that women neophytes are subjected to sexual assaults. In fact, recently, there were reports published in the papers that some 200 girls in one province were found to have been made to engage in sexual acts with their masters when they were recruits of a certain fraternity or sorority.

So it can happen that part of the initiation is forcing the neophytes to engage in sexual acts whether on the female or on the male; sodomy in the case of the male...

Senator Webb: Will the distinguished Gentleman be one with me in concluding that these vicious acts are now considered under the crime of hazing?

When the distinguished Gentleman said that it is a part,

that means that it is not a crime but rather a part of hazing.

Senator Lina: Now it will merit a higher penalty, if it is done in the course of hazing. But if not committed because of hazing, then it will have the same penalty as in the Revised Penal Code.

Senator Webb: Mr. President, if it is a corporation, or a group, or a fraternity which does the hazing, who will be held responsible therefor?

Senator Lina: Mr. President, since this is a criminal statute, only persons will be made answerable and penalties can be imposed only upon the persons. But if the question refers to the liability of the officers of a group, fraternity or sorority, then there are penalties that will be imposed upon the officers of the organization, group, fraternity or sorority.

For example, Mr. President, on page 4, lines 5 to 13, which reads:

The school authorities who consent to the hazing or who have knowledge thereof but failed to take any action to prevent the same from occurring shall be punished as accomplices for the acts of hazing committed by the perpetrators. The officers, former officers, or alumni of the organization, group, fraternity or sorority, who actually planned the hazing, although not present at the time of the hazing, shall be liable as principals.

So, here, Mr. President, the culpability of the officers, including the alumni of the organization, group, fraternity or sorority, is established. That is how the officers of the organization can be held liable under this bill in connection with this proposed crime of hazing.

Now, as to the school authorities, Mr. President, at the appropriate time, we will introduce the necessary amendment to pinpoint exactly who these school authorities are. Because the school authorities are couched in general terms and we have to be precise in pinpointing the responsible school authorities who will be made liable as accomplices for the acts of hazing.

Senator Webb: I shall be waiting for that, Mr. President. Because there was a case entitled *West Coast Insurance Corporation v. Hurd*. It was held that juridical sources or juridical persons cannot be proceeded against criminally. And as such, they cannot commit a crime for which a willful purpose or a malicious intent is required. Juridical persons, like a corporation, are not liable.

Ito po ang ikinatatapot ko rito, baka gamitin ng isang korporasyon para gumawa lamang ng hazing pagkatapos mahirap i-pursue ang kaso because they will now hide under the guise of a corporation.

Senator Lina: Yes, that is why we have to specify. Our intention is to get these people who are hiding behind an organization or a corporation to be indicted, to be included in the charge on these acts of hazing, including the owner of the establishment where the hazing activity is being conducted. This is, I would say, an insurance that the people who are really culpable and responsible for the crime of hazing are not spared. In one case, the owner of the establishment was not charged even if the owner of the establishment where the hazing was conducted gave or expressed permission for the use of his house. So in this proposed bill, even the owner of the house or the premise or compound where the hazing activity is being conducted is made liable, Mr. President.

On page 3, line 27, it reads:

The owner of the place where the hazing is conducted shall be liable as an accomplice when he has expressly or impliedly given permission for said hazing to be conducted therein.

So wala pong lusot ngayon. Talagang masusugpo natin itong hazing dahil ang mga nagmamay-ari ng lugar, whether it is a resort or not, even if it is a house or a private place, *kung doon ginawa ang hazing*, iyong owner, if he has given his express or implied permission, he is to be made as an accomplice, Mr. President.

So, *kung grupo, ang mga officers* will be held liable. *Kung institution*, the officers will also be held liable. It is a question at the appropriate time to name exactly who these people are to avoid any escape from responsibility.

Senator Webb: On that score, Mr. President, I certainly agree with the honorable Sponsor; but again, I am more insistent on a corporation. For instance, is a director or an officer of a corporation liable criminally for a corporate act performed by its officers and agents?

Senator Lina: In the normal hazing activities, Mr. President, this happens in case the sororities, fraternities, and some associations employ physical initiation before a member can gain entrance into the association. But for corporations per se engaged in business, I have no knowledge of any corporate entity that employs hazing as a requirement for employment. But if there are corporations that use this weird kind of activity, then we can include a provision in this bill

that officers of even corporations will be held as accomplices in the acts of hazing, in addition to the persons directly involved in the hazing activities--if that will encompass or really plug any kind of loophole that this law may have in case we do not include that provision.

If that is really necessary, Mr. President, at the appropriate time, we will accept any amendment to that effect.

Senator Webb: I hope we can do that, Mr. President, because there was a case, *People v. Montilla*, where it was held that they were not liable criminally for corporate acts performed by its officers and agents.

This is my fear here because if we do not inject it into the bill, I feel that, sooner or later, there will be corporations that will employ hazing. We are looking ahead of time now, Mr. President. Forgive me for being so persistent about this particular issue.

Senator Lina: That is indeed a forward-looking provision, Mr. President. That amendment will be welcome at the appropriate time.

Senator Webb: Mr. President, just one last question. This involves a situation where, for instance, we have Messrs. A, B, C, D, and E who are officers of X fraternity, whose bylaws require its prospective members to undergo moderate initiation rites.

For instance, Mr. G was recruited as a neophyte. Initiation ceremonies went on beyond moderation, resulting in the death of Mr. G due to the injuries inflicted upon him by A and B during said occasion. Messrs. C, D, and E were not present at the initiation rites nor did they participate in the plan to initiate Mr. G. My question is: Who is liable for the death of Mr. G? Will Messrs. C, D, and E be held liable even if they were not present during the initiation rites?

Senator Lina: If they were not present during the initiation rites and they also did not participate in the planning of the initiation rite, then they will not be held liable, Mr. President.

Senator Webb: In another occasion, I was saying that they were the ones who induced Mr. G to join the fraternity. Then, later on during the ceremonies, they were not present when Mr. G died because of the initiation rites.

Senator Lina: In that case, Mr. President, I think the person who induced the victim to enter the fraternity will be made liable, if they induced the victim to join the fraternity.

May I refer the distinguished Senator from Parañaque to page 4, lines 23 to 26 of the bill:

Officers or members of another organization, group, fraternity or sorority who knowingly cooperated in carrying out hazing by inducing the victim to be present thereat shall be liable as principals.

Senator Webb: Mr. President, so the important word here is 'present'. One has to be present during the initiation rite.

Senator Lina: If a person is present during the initiation rite, then it will be *prima facie* evidence of participation therein as a principal.

However, going back to the Gentleman's example, if the recruiter was not present during the initiation rite and the recruitee suffers physical injuries or even death, then the recruiter, I believe, must be held liable as a principal, Mr. President. That is something, I must admit, is not very clear--proper amendments will be introduced to address that particular case.

Again, during the period of amendments, whether by the committee or by the Gentleman, we will introduce needed amendments to cover that situation because page 4, lines 23 to 26 refers to officers or members of another organization who knowingly cooperated in carrying out the hazing by inducing the victim to be present thereat, Mr. President. That is a good question--what will be the liability of a recruiter who turned out to be not present during the hazing itself.

Senator Webb: Going back to that particular example, Mr. President. My last question is: For instance, in that same situation--and we are now talking of an act of a corporation, and again I am going back to this particular situation--can the persons involved, Mr. A and B, hide under the veil of corporate fiction? Because earlier, I made mention of the ruling in *People of the Philippines v. Montilla*, and I am trying to go back to that particular segment of the ruling because we now deal with persons who are involved in a corporation. Can they hide under the veil of corporate fiction?

Senator Lina: If they are officers, Mr. President, of the corporation and, as I said, we will enumerate the officers even of the school or even of this institution, and now the Gentleman is suggesting corporation, we will enumerate the officers that we will make answerable for the acts of hazing. And if these A and B, in the Gentleman's example, are officers of the corporation, even if they did not actually participate in the

hazing, but they were part of the planning group, and in fact they induced the recruitee to be present during the initiation, then they will be made liable.

Senator Webb: I certainly agree with the observation of the Gentleman because, in my own opinion, Messrs. A and B cannot hide under the veil of corporate entity because when a corporation's separate legal personality is used to defeat public convenience unjustly or wrongly, the law should protect the public. The law will regard the corporation as having no separate personality, distinct and separate from its members. Hence the corporation and the individuals composing it will be considered identical.

Senator Lina: Thank you very much for those comments, Mr. President.

Just to complete the picture, even conspiracy to commit the crime of hazing shall be punished. Even if no actual injury occurs to the neophyte or member who will be hazed or the hazing itself is prevented by reason of causes independent of the will of the perpetrators, the conspiracy to commit a crime of hazing itself is made a crime. So the officers of the corporation that had been referred to in the example by the Honorable Senator from Parañaque will also face criminal liability.

Senator Webb: Thank you very much, Mr. President.

The President: May the Chair be clarified on that point?

Is the Sponsor saying that one who merely invites or recruits to membership in a fraternity be held liable, notwithstanding the fact that he has no criminal knowledge or participation during the hazing itself?

Senator Lina: Mr. President, knowing that there will be physical initiation.

The President: That is the keyword. The keyword is "knowing". That means, he must have criminal knowledge or criminal participation. But the mere act of recruitment as well as invitation to membership--without more-- cannot be made a crime.

Is it not standard in our penal statutes that although corporations as such cannot be held criminally liable, because there is absence of malice, yet the officers who have knowledge of the same or who have participated are held criminally liable?

Senator Lina: Yes, Mr. President.

The President: All right. That is what the Gentleman meant when he said that in the proposed amendments these officers will be specified.

Senator Lina: Yes, Mr. President. So that there will be no confusion, they have to be qualified. Since this is a criminal statute, we can really pinpoint responsibility.

The President: One final point.

The criminal acts which constitute hazing resulting in death, injury or sufferings on the part of the victim are separate or independent crimes or offenses. Or, are they necessarily included in the crime of hazing so that one who is prosecuted for hazing can no longer be prosecuted anew for any of the offenses necessarily included therein on the ground of double jeopardy?

Senator Lina: Yes, Mr. President. If the charge is hazing and the result is death, then he can no longer be prosecuted for other crimes.

The President: And the penalties are made higher by comparison.

Senator Lina: Yes, Mr. President, it is increased.

The President: All right.

The Minority Leader please.

Senator Guingona: Mr. President, will the distinguished Gentleman yield for some questions?

The President: He may do so if he so desires.

Senator Lina: With pleasure to the Minority Leader.

Senator Guingona: May we know the definition of "hazing"?

Senator Lina: Mr. President, hazing is defined in the bill from line 5 to line 19. But to summarize, hazing is the infliction of physical, mental or psychological pain and suffering, or a combination thereof, by any person or persons composing an organization, group, fraternity or sorority on any person, including recruits of the Armed Forces of the Philippines, PMA, PNP, Citizens Military Training or Citizens Army Training, as part of initiation rites or as a requirement for membership in such organization, group or fraternity which results in death, mutilation, serious physical injuries, insanity or psychological disorder, sexual abuse, sodomy or

lascivious acts or other injuries as provided by the law.

It is defined here, Mr. President, and the elements are all included in this definition.

Senator Guingona: Under that definition which seems to be a little complex, is sexual abuse the means or the result of the intended crime?

Senator Lina: Mr. President, it is a result of the initiation rite which we hope to eliminate.

The initiation rite may result in all these specifications that I mentioned. It is so stated here, Mr. President--which may result in death, mutilation, sexual abuse and sodomy.

Senator Guingona: Yes, Mr. President, but how can there be hazing which will result in sexual abuse if there is no sexual abuse as a means?

In other words, I would just like to clarify what is the means and what is the result because this definition has a two part definition.

Senator Lina: Yes, I get it, Mr. President. The means is the infliction of physical, mental, psychological pain and suffering. So it is all included here. Those are the means, and the results are the ones at the bottom of the definition.

There must be an infliction of physical harm. Mental and sexual abuse are the results of physical harm, Mr. President.

Senator Guingona: So that hazing per se, which is a means to the initiation of an organization, is not an intended criminal offense even under this bill.

In order to be a criminal offense within the purview of this intended bill, it must result in either death, mutilation, serious physical injuries, insanity or psychological disorder, sexual abuse, sodomy or acts of lasciviousness, or other injuries as herein provided. If the hazing, in other words, does not result in any of those, then it is permissible.

Senator Lina: No, Mr. President. Conspiracy to commit hazing is already punishable. So that, even if there is no actual injury, the fact that a group, sorority, fraternity officers planned hazing, that is already constitutive of the crime of conspiracy to commit hazing. It is on page 3 of the bill, line 4 to line 10, "Conspiracy to commit the crime of hazing...even if no actual injury occurs to the neophyte or member who will be hazed, or the hazing itself is prevented by reason of causes independent of the will of the perpetrators."

Senator Guingona: Let us assume that it is a military organization and the sergeant initiates them into the military and he says: "You are all sons-of-a-gun. You are no good."

He insults them; he initiates them into the armed forces. But it does not result in physical pain, it does not result in mental disorder, it does not result in sexual abuse, is that hazing prohibited within the purview of this intended bill?

Senator Lina: That is not included, Mr. President. A mere verbal abuse is not included.

Senator Guingona: But it says here "anything which inflict mental or psychological pain". A person who insults another and calls him in a derogatory abusive language to instill into him the feeling of being rugged in the armed forces, would command that definition mental or physical or psychological pain.

Senator Lina: It does not result in any of those listed, Mr. President. Humiliation is not one of the results. A person may be so humiliated during initiation rite. But that is not what we are contemplating in this proposal.

Senator Guingona: That is why, I go back to the original question. The distinguished Gentleman is not punishing hazing per se, because the original intent and purpose of hazing in the more finer traditions of the past, is not intended to inflict pain. It is not intended to commit sodomy. It is not intended to result in death, or any of these. It is just to engender a feeling of separateness, exclusiveness distinct for being a member of a certain organization. No intent to kill, no intent to deflower, no intent to abuse. That is our concept of hazing before the abuses were committed and before death resulted in the recent past.

Senator Lina: The more generic term, Mr. President, is "initiation". That is the more generic and neutral term. But hazing already connotes infliction of physical pain, Mr. President.

Senator Guingona: So the Gentleman's definition here must result in any of these results: Death, mutilation, serious physical injuries, insanity or psychological disorder.

Senator Lina: Yes, Mr. President.

Senator Guingona: What is the meaning of psychological disorder?

Senator Lina: This means that the person either becomes psychotic or neurotic, Mr. President. There is a psychological

disorder, even amnesia, or lapses in memory as a result of the hazing, Mr. President. Of course, insanity has its own legal meaning, but psychological disorder is broad, to include psychosis, neurosis, and other forms of psychological disorder, Mr. President.

Senator Guingona: Most of these acts, if not all, are already punished under the Revised Penal Code.

Senator Lina: That is correct, Mr. President.

Senator Guingona: If hazing is done at present and it results in death, the charge would be murder or homicide.

Senator Lina: That is correct, Mr. President.

Senator Guingona: If it does not result in death, it may be frustrated homicide or serious physical injuries.

Senator Lina: That is correct, Mr. President.

Senator Guingona: Or, if the person who commits sexual abuse does so it can be penalized under rape or acts of lasciviousness.

Senator Lina: That is correct, Mr. President.

Senator Guingona: So what is the rationale for making a new offense under this definition of the crime of hazing?

Senator Lina: To discourage persons or group of persons either composing a sorority, fraternity or any association from making this requirement of initiation that has already resulted in these specific acts or results, Mr. President.

That is the main rationale. We want to send a strong signal across the land that no group or association can require the act of physical initiation before a person can become a member without being held criminally liable.

Senator Guingona: That is very commendable and I join the distinguished Sponsor for that rationale. But when a person is charged with hazing, it is basic that a criminal information shall contain but one charge. If a person is charged with hazing, may not the accused invoke the defense of two offenses, namely, homicide and hazing if this bill is passed?

Senator Lina: No, Mr. President. The crime that will be charged is hazing, but the penalties will differ depending on the result of the hazing. So there is only one crime.

The President: That, too, is the impression of the Chair. I think the constitutional principle being invoked by the Minority Leader refers to trust funds and not to special funds. I think we can check on that.

Senator Guingona: We can check on that, Mr. President, but my impression is that both laws creating the OPSF created special funds and not trust funds.

The President: Yes. In fact, this was already the subject of a prior interpellation--

Senator Guingona: Previously.

The President: --I think we admitted at that time that this is not a trust fund but a mere special fund.

Senator Guingona: Is it a special fund, Mr. President?

The President: Yes, it is.

Senator Guingona: That is the point.

The President: The constitutional provision that the Minority Leader is citing refers to trust fund which cannot be used for other purposes unless the purpose of the fund shall either have been already accomplished or abandoned.

Senator Guingona: May we know the difference between trust fund and special fund, Mr. President?

The President: Precisely, that is why I have posed the question of whether they are one and the same thing, because I think we can go into the Constitution.

The Gentleman may proceed with his questions.

Senator Guingona: Yes, Mr. President.

I think for purposes of enacting this bill, we can say that the purpose for which Republic Act No. 6952 has been enacted has already been complied with. Never mind the ...

Senator Maceda: For the nth time, Mr. President, I said I agree to that. But still the Section 1, which says that we are appropriating P5 billion from the OPSF, even if a new Section 4 will be added, will still have to go through because that is the only source of the P5 billion.

Senator Guingona: That is all right, as long as the purpose for which it has been previously appropriated has been fulfilled so that, at least, we comply with the

constitutional mandate.

Senator Maceda: The purpose of the PPSF has been fulfilled, we agree on that; but we cannot, at this point, agree to a statement that the purpose of the OPSF has been fulfilled.

Senator Guingona: The purpose of the fund is embodied in RA No. 6952.

Senator Maceda: That is correct, Mr. President. That is the PPSF, the standby fund.

Senator Guingona: Yes, Mr. President.

Senator Maceda: We have no problem there. Anything we want to do with that fund is fine. I am just bringing to the Gentleman's attention that of that P5 billion, that amount of P4.750.7 has been spent and the amount, in effect, that would be transferred is P249.3.

Senator Guingona: Yes, but that is treating it as a fixed item. As we interpret it, that fund has long been replenished. In other words, the P5 billion should now be returned because Caltex and Shell have already been paid. They have amply collected from the claims that they were here trying to lobby for.

Senator Maceda: Yes, Mr. President, in principle that is what the bill is all about. But how are we going to replenish the PPSF to make it P5 billion again so that it could be returned?

Senator Guingona: It has been replenished in the nature of the OPSF through the collections.

Senator Maceda: Does the distinguished Gentleman mean that the OPSF will now release P5 billion to the PPSF?

Senator Guingona: Yes.

Senator Maceda: From the PPSF, will it go to the Treasury?

Senator Guingona: It will go to the appropriation, if the distinguished Gentleman feels that it is a direct appropriation.

Senator Maceda: It is a technical point, as I said. I think whatever we can do by indirection we can do by direction, being the Legislative Body.

Senator Guingona: So that we will avoid constitutional questions.

penalty will be *reclusion perpetua*.

So that is the difference, Mr. President, between murder and the crime of hazing which results into death. If it is murder, it is *reclusion temporal* to *reclusion perpetua*; if it is committed as a result of hazing, it is the indivisible penalty of *reclusion perpetua*.

Senator Guingona: I join the laudable objectives of the distinguished Sponsor, Mr. President, but I am a little disturbed of the statement that the prosecution does not have to prove the elements of murder any longer when this bill is approved. All that the prosecution will have to prove is that there was an organization composed of person or persons who did certain acts, but these certain acts led to murder, to death, to serious physical injuries, to sodomy, and the prosecution will no longer have to prove the elements that resulted in those cases specified under Section 1 of the bill. I am afraid that they distort the basic rationale for the philosophy behind murder, homicide, serious physical injuries, acts of lasciviousness, because if that were so, then the basic elements of such acts would no longer have to be proven. That may be a dangerous departure from the basic tenets of the Revised Penal Code, Mr. President, and I hope that the distinguished Sponsor can enlighten us further.

Senator Lina: We only use the example of death occurring as a result of hazing, what the prosecution will have to prove, first, is whether the elements of the crime of hazing are present. That is the first that has to be proven.

Then, in the imposition of the penalty, it is necessary, Mr. President, that if there is sexual abuse--that is why the words "sexual abuse" is used here or "lascivious acts" or "physical injuries"--those will have to be proven by the prosecution. In short, we cannot impose the penalty. If the prosecution fails to prove that there is mutilation, that there is physical injury, these will have to be proven, that they occurred, so that the proper penalty will be imposed.

So if I was not able to express myself thoroughly and completely on that case, then I will repeat myself. The elements of hazing must first be proven.

Now, in the imposition of the penalty, before the proper penalty can be imposed, then the prosecution has to prove what is the result of the hazing; that there is death, there is mutilation, there is sexual abuse, there is insanity, there is psychological disorder. If any of these is proven by the prosecution, then the penalties will be imposed.

I think I will have to repeat myself on that, Mr. President. That is what I meant. I am not saying that when the crime of hazing per se, is proven that a requirement of physical initiation is present before a person can join an organization, that will be enough. That is not the entire picture. The crime of hazing has to be proven, and then in the imposition of penalty the prosecution has to prove what are the results, and the court will have to determine the appropriate penalties based on this law.

Senator Guingona: I hope the distinguished Sponsor will bear with us, Mr. President.

May I know the elements that the prosecution will have to prove when death occurs as a result?

Senator Lina: Mr. President, first, is the fact of death. It has to be established. The prosecution has to establish that a neophyte died. Second, he died in the hands of the masters. Whether the masters were present or not, there are qualifications under the law. And that one and two must go together, meaning, the death resulted from the initiation, to distinguish it from simple murder.

So in the case of the crime of hazing which results in death, first, the elements of hazing must be proven, and second, for the penalty to be imposed, say *reclusion perpetua* because there is death, the prosecution must prove the fact of death, and then the accused was present and part of the initiation.

Senator Guingona: Mr. President, these are the elements basically that have to be proven by the prosecution, even without hazing. In other words, the fact of death must be proven. The fact that the accused inflicted or caused the stabbing or the bludgeoning of the victim which resulted in death, all of these must be proven in the crime of homicide.

I just want to know what is the difference. Because when the charge is made later on, there may be two or more offenses in one information which would allow the accused to file a motion to quash.

Senator Lina: The difference, Mr. President, is in the penalty. The penalty that is to be imposed when all these results occur is higher, so that the crime of hazing which results in death, mutilation, serious physical injuries will merit a higher penalty.

Senator Guingona: Yes, but what would be the rationale for that imposition? Because the distinguished Sponsor has said that he is not punishing a mere organization, he is not

seeking the punishment of an initiation into a club or organization, he is seeking the punishment of certain acts that resulted in death, et cetera as a result of hazing which are already covered crimes.

The penalty is increased in one, because we would like to discourage hazing, abusive hazing, but it may be a legitimate defense for invoking two or more charges or offenses, because these very same acts are already punishable under the Revised Penal Code.

That is my difficulty, Mr. President.

Senator Lina: Mr. President, I think we have joined the issues and I can sense that we are practically on the same plane. But before I make a comment on the statements made by the distinguished Minority Leader, the other difference as far as this bill is concerned is that the owner of the establishment where the hazing is conducted is also made liable, either as a principal or as an accomplice. The school authorities who consented to the hazing activity will also be made liable. Even the parents of the officers or members of the fraternity or sorority who own the place will also be made liable. So that through this legislation, even the owners of establishments will have second thoughts before allowing anyone to use the place for hazing activities.

As to the difficulty perceived by the distinguished Minority Leader that there is no difference now as to the penalty between the crime of hazing and the specific crimes that result from the acts of hazing, there is a big difference, Mr. President, in that there can be conspiracy to commit the crime of hazing even if any of these results do not occur. That is one difference. And that the prosecution will be able to angle a higher penalty, if he chooses this specific crime of hazing as the basis for the prosecution and not the separate individual offense of murder, homicide, or serious physical injuries.

Again, I would like to stress that there is a need to do this so that we can send a strong message, as a matter of policy, to our organizations, young or old, that they should not resort to this activity called hazing.

Another point, Mr. President, is this, and this is a very telling difference: When a person or group of persons resort to hazing as a requirement for gaining entry into an organization, the intent to commit a wrong is not visible or is not present, Mr. President. Whereas, in these specific crimes, Mr. President, let us say there is death or there is homicide, mutilation, if one files a case, then the intention to commit a wrong has to be proven. But if the crime of hazing is the basis, what is important is the result from the act of hazing.

To me, that is the basic difference and that is what will prevent or deter the sororities or fraternities; that they should really shun this activity called "hazing." Because, initially, these fraternities or sororities do not even consider having a neophyte killed or maimed or that acts of lasciviousness are even committed initially, Mr. President.

So what we want to discourage is that so-called initial innocent act. That is why there is a need to institute this kind of hazing. *Ganiyan po ang nangyayari. Ang fraternity o ang sorority ay magre-recruit. Wala talaga silang intensiyong makamatay. Hindi ko na babanggitin at buhay pa iyong kaso. Pero dito sa anim o pito na namatay nitong nakaraang taon, walang intensiyong patayin talaga iyong neophyte. So kung maghihintay pa tayo, na saka lamang natin isasakdal ng murder kung namatay na, ay after the fact ho iyon. Pero, kung sasabihin natin sa mga kabataan na: "Huwag ninyong gagawin iyong hazing. Iyan ay kasalanan at kung may mamatay diyen, mataas ang penalty sa inyo."*

Iyan po ang diperensiya, G. Pangulo. Kaya, kailangan ito. Iyong hong kasalukuyang batas ay after the fact. Halimbawa, may namatay, mayroong nasugatan, saka mo pa lamang makakasuhan. Dito, kahit hindi pa nangyayari ay puwede na nating kasuhan. Iyan ang dahilan kung bakit gusto nating magkaroon nitong special na krimen na hazing para maintindihan ng mga kabataan at ng mga nakatatanda na gumagawa pa nitong physical initiation bago tanggapin ang isang neophyte sa kanilang organisasyon na iyong hazing mismo, the very act is already punishable. Magkakaiba lamang doon sa penalty depende sa resulta.

Senator Guingona: I join the lofty motives, Mr. President, of the distinguished Sponsor. But I am again disturbed by his statement that the prosecution does not have to prove the intent that resulted in the death, that resulted in the serious physical injuries, that resulted in the acts of lasciviousness or deranged mind. We do not have to prove the willful intent of the accused in proving or establishing the crime of hazing. This seems, to me, a novel situation where we create the special crime without having to go into the intent, which is one of the basic elements of any crime.

If there is no intent, there is no crime. If the intent were merely to initiate, then there is no offense. And even the distinguished Sponsor admits that the organization, the intent to initiate, the intent to have a new society or a new club is, per se, not punishable at all. What are punishable are the acts that lead to the result. But if these results are not going to be proven by intent, but just because there was hazing, I am afraid that it will disturb the basic concepts of the Revised Penal Code, Mr. President.

Senator Lina: Mr. President, the act of hazing, precisely, is being criminalized because in the context of what is happening in sororities and fraternities, when they conduct hazing, no one will admit that their intention is to maim or kill. So we are already criminalizing the fact of inflicting physical pain. Mr. President, it is a criminal act and we want it stopped, deterred, discouraged.

If that occurs, under this law, there is no necessity to prove that the masters intended to kill or the masters intended to maim. What is important is the result of the act of hazing. Otherwise, the masters or those who inflict the physical pain can easily escape responsibility and say, "We did not have the intention to kill. This is part of our initiation rites. This is normal. We do not have any intention to kill or maim."

That is the *palusot*, Mr. President. They might as well have been charged therefor with the ordinary crime of homicide, mutilation, et cetera, where the prosecution will have a difficulty proving the elements if they are separate offenses.

So I think the issues have been joined, Mr. President. If there may be differences in perception then, at the appropriate time, we are ready to accept any amendment.

I am very happy that the distinguished Minority Leader brought out the idea of intent or whether it is *mala in se* or *mala prohibita*. There can be a radical amendment if that is the point that he wants to go to.

If we agree on the concept, then, maybe, we can just make this a special law on hazing. We will not include this anymore under the Revised Penal Code. That is a possibility. I will not foreclose that suggestion, Mr. President.

Senator Guingona: Mr. President, assuming there was a group that initiated and a person died. The charge is murder. My question is: Under this bill if it becomes a law, would the prosecution have to prove conspiracy or not anymore?

Senator Lina: Mr. President, if the person is present during the hazing...

Senator Guingona: The persons are present. First, would the prosecution have to prove conspiracy? Second, would the prosecution have to prove intent to kill or not?

Senator Lina: No more. As to the second question, Mr. President, if that occurs, there is no need to prove the intention to kill.

Senator Guingona: But the charge is murder.

Senator Lina: That is why I said that it should not be murder. It should be hazing, Mr. President.

Senator Guingona: So if it is hazing, there is no need to prove conspiracy.

Senator Lina: Yes, Mr. President, in hazing, if those results occur...

Let me qualify that, Mr. President. I am not very clear about the example.

There is death which occurs in a hazing activity. The question is: Does conspiracy have to be proven? My answer is: Not anymore, Mr. President.

In fact, on page 4, the owner of the place where the hazing is conducted shall be liable as an accomplice when he expressly or impliedly gives permission for said hazing to be conducted therein.

It is already presumed, Mr. President, that he is part of the hazing. If the hazing is held in the home of one of the officers or members of the fraternity, group or organization, the parents shall be held liable as principals, when they have expressly or impliedly given permission for said hazing to be conducted therein.

On page 2, Mr. President, the person or persons who participated in the act of hazing when death, rape, mutilation, permanent insanity or mental illness or permanent physical disability result from said hazing, the person or persons who participated therein shall suffer the penalty of *reclusion perpetua*. And then there is also this provision that the school authorities who consented the hazing or have knowledge thereof but failed to take any action to prevent the same from occurring shall be punished as accomplices.

Now, those who are present during the hazing and the presence of any person during the hazing is *prima facie* evidence of participation therein as a principal.

So there is no need to prove conspiracy, Mr. President. There is no need to prove intent to kill. That is why this is different from the crime of murder--if there is death. Because in the crime of murder, intent to kill has to be proven.

I think, Mr. President, I have answered the question and, as I said, the issues have been joined.

The President: Can the Chair pose this question, that the presumption by express provision is only *prima facie*. And

therefore, it is a disputable presumption.

Senator Lina: Yes, Mr. President.

The President: So if one be present during the hazing, he can still prove that he has no knowledge that hazing that would result in death or infliction of harm will be committed.

For example, let us say, that one is a member of a fraternity. And then, there is a notice to them that initiation rites of new members will be performed in the residence of one of the officers of the said fraternity. All members are cordially invited. As a member of that fraternity, he then responded positively to the invitation and went there, not knowing however that some of the hotheaded or irresponsible members of the fraternity will commit the acts which would result in death, mutilation, serious physical injuries and mental derangement. Would that be a proper defense? He was present. How about those being present and yet, they tried to stop the commission of the acts that had resulted in death, mutilation, physical injuries, et cetera? Ought not a distinction be made with respect to that? I mean, will their mere presence there already condemn them to the penalty as provided for in this bill? It might appear too draconian.

Senator Lina: Mr. President, the bill says *prima facie* and therefore, it can be rebutted. The presumption is that, the persons present participated in the hazing.

The President: So what the Gentleman is trying to say is, mere presence establishes already a presumption, which if not rebutted, would prove complicity.

Senator Lina: Yes, Mr. President. That is specified on page 4 of the bill from lines 18 to 20. That the presence of any person during the hazing is *prima facie* evidence of participation therein as a principal. But we are working on a theory of conspiracy, Mr. President.

The President: Would the Gentleman also consider those who try to prevent it?

Senator Lina: Yes, Mr. President. That can be included in the language in the final form.

The President: Because sometimes, it is also not right that we punish a person for the irresponsible acts of others not having prior knowledge of the same and who, on the other hand, would even have done what he could in order to prevent it.

Senator Lina: Yes, Mr. President, I think there is

wisdom in that amendment. We will craft the language to convey that important idea.

The President: Yes. The Minority Leader.

Senator Guingona: Mr. President, my problem here is that the results of the hazing are, more or less, specified which correspond to existing criminal offenses. And the distinguished Sponsor has said that there is no need to prove some of the basic elements of those offenses. For example, in acts of lasciviousness, there is no longer any need to prove the bad intent. It is there and all who are present are presumed to have participated in the acts of lasciviousness.

Let us put it a bit further. The case of rape is charged, and there is no longer any need to prove conspiracy. Conspiracy is presumed, and there is no longer any need to prove that this is against the will of the victim. It is presumed, it may distort the basic concepts of the Revised Penal Code.

Although I agree with the lofty motives of the distinguished Sponsor, I am afraid that the crime of hazing which is basically the result comprises criminal offenses already established, unless there can be shown that there is a complex crime of hazing, complexed with homicide, complexed with acts of lasciviousness, complexed with insanity as a result of the acts. Because this is really what seems to be the thrust--that hazing is penalized, but it largely depends on the result, and the result is already specified under the different articles in the Revised Penal Code.

If the distinguished Gentleman now says that there is no need to prove conspiracy, there is no need to prove intent, then there is no need to prove the results of hazing. But this is not a complex crime because the distinguished Sponsor has said that initiation by itself is not illegal. If initiation by itself is illegal, and the resulting acts of the initiation results in death, serious physical injuries, et cetera, then perhaps, I would go along with the reasoning that there is no need to prove conspiracy, and there is no need to prove intent.

The President: The understanding of the Chair from the explanation made by the Sponsor is that if on the occasion or during an initiation rites, death has resulted, then it is not necessary to prove the elements of murder. In short, all that the prosecution has got to prove is the fact of death committed during or on the occasion of the initiation rites. Because the prosecution, therefore, does not have to prove any of the qualifying circumstances which would qualify a killing into murder.

That is the understanding of the Chair. I do not know

whether that is right.

Senator Lina: Yes, Mr. President. I think I have explained myself quite lengthily on that. But if we go one by one on the results, Mr. President, as I said, if death results, then the penalty is *reclusion perpetua*.

As already explained further by the Chair and to which I subscribe, that is the fact that has to be proved, and its connection with the hazing has to be proved. The intent to kill need not be proved because that is precisely the result that we want to punish.

As far as mutilation is concerned, the fact of mutilation has to be proved. In the law, Article 262 of the Revised Penal Code, mutilation means the lopping or the clipping of some part of the body. That is alleged and, therefore, that has to be proved if there is mutilation.

The other result is permanent insanity or mental illness. It is a matter of proof, Mr. President. This has to be proved that this is the result in order that the penalty can be imposed.

Serious physical injuries. We know that under the Revised Penal Code, there are serious physical injuries and there are less serious or slight physical injuries.

To qualify as serious or less serious, the prosecution has to prove that so that the penalty can be imposed. I do not see any difficulty there, Mr. President. The prosecution has to prove that it is a serious physical injury resulting from the hazing, ergo the penalty as the one specified under the law will be imposed.

The fact of conspiracy. I think I have already explained ~~■~~at, Mr. President. Those who are present in the initiation rite ~~≡~~ presumed to have participated therein. It is a matter of defense on the part of those who are present to say that they did not participate or to prove that they did not participate and that, in fact, they prevented the untoward incident from happening. But we are working on the theory that there is conspiracy, and it is up to the accused to wiggle out of it because it is only a presumption that they participated in the hazing.

Senator Guingona: Mr. President, assuming that there is death, am I to understand from the distinguished Sponsor that the charge of murder will not be made in the crime of hazing?

Senator Lina: I have already answered that, Mr. President. It is the crime of hazing that will be the proper charge, but that the penalty to be imposed is the penalty of *reclusion perpetua*.

Because in the bill, when the crime of hazing results in death, the penalty is *reclusion perpetua*. It is a separate crime, Mr. President.

Senator Guingona: When there is an offense or a result of hazing which is rape, will the prosecution not have to prove the elements of rape?

Senator Lina: It is sexual abuse, Mr. President. If it is rape, then we have to go by the traditional definition of rape. It has to be proved that there is sexual intercourse and that there is penetration up to that labia part, as we know it. It has to be proved in order that the penalty, as specified in the law, can be imposed. But it is the crime of hazing which results in rape.

Senator Guingona: But that is the difficulty, Mr. President, that the prosecution still has to prove all of these vital elements which are embodied in the results, and I think the results determine what is hazing, because the definition does not state what is hazing, except if it results in death, serious physical injuries, et cetera. So, we do not determine what is hazing unless there is a result and the results are already products of specific offenses enshrined in the Revised Penal Code.

Senator Lina: No, Mr. President. Hazing is already defined as the infliction of physical, mental or psychological pain or suffering inflicted by a person or group of persons on a person or persons as a requirement for membership in any organization--

Senator Guingona: Yes.

Senator Lina: --but which results, et cetera.

Senator Guingona: If they do not result, then there is no offense.

Senator Lina: Definitely, Mr. President, because if the physical pain has no result, it is no physical pain at all.

Senator Guingona: No. If it does not result in any of those acts specified in Section I, then there is no offense.

Senator Lina: Yes, we will accept that, Mr. President. There is no hazing, because no psychological pain, no physical pain results therefrom, ergo, there is no crime.

Senator Guingona: No. There is infliction of mental or psychological pain, but it does not result in death. It does not result in serious physical injuries. It does not result in any of these.

Senator Lina: No, Mr. President. Psychological or mental suffering is a means employed. So in the definition, it states that hazing is the infliction of physical, mental or psychological pain and suffering, which results-- *Ano iyong physical, psychological suffering? Pinaupo o pinatindig sa ledge ng fourth floor. Because of the trauma, nasira ang ulo. There is psychological disorder. Then the penalty is there. Pero kung walang resulta, di wala.*

Senator Guingona: So that the act of initiating is itself not a crime under the Gentleman's proposal.

Senator Lina: Because initiation, as I said already, is a generic term, Mr. President. It is a neutral term by itself. But what produces the crime of hazing is the physical pain or suffering which results into those things. But initiation per se--A neophyte is given one dozen roses. He is sent to a beautiful lady who is the crush of the master or the apple of the eye of the master--That is initiation. But there is no result into death or mutilation or psychological disorder. That is no crime. But if the initiation rite involves infliction of physical pain and naturally if there is infliction of physical pain, there will be some result, then that will be the crime of hazing.

Senator Guingona: Yes, Mr. President. The qualifying element is the result. My problem with that is that the results are embodied in some specific offenses. And when I asked him if there is a need to prove the elements of these specific offenses, the answer was no. There is no need to prove conspiracy, there is no need to prove intent, there is no need to prove the personalized doing which resulted in that act. So we have some difficulty there, although I go along with the lofty objectives of this bill.

The President: All right.

Senator Lina: Mr. President, I think I have already explained myself quite lengthily on this. If I have difficulty explaining myself and be understood then, maybe, I need to sit down with the distinguished Minority Leader so that I can expound some more on my thoughts and ideas on this bill.

But I did say that when the result is death, the intent to kill no longer need to be proved. But if it is permanent physical disability, in our Revised Penal Code, Mr. President, that is defined and, ergo, the prosecution has to prove that it is a permanent physical disability. I do not see any difficulty with that, Mr. President. It has to be proved.

Serious physical injuries? That is defined under the Revised Penal Code. Depending on the number of days that the person needs medical attention, the physical injury may either

be serious, less serious or slight. The prosecution has to prove the elements of that, Mr. President.

I think if we have to go one by one into the results, it can be explained, Mr. President, that the prosecution has to prove the elements of those specific results. Otherwise, they will not be called serious physical injuries if only one day is required by the doctor to have this person under medical care.

And I did not say that when the result is serious physical injury, the prosecution does not have to prove that it is serious physical injury. No. The prosecution has to prove that this accused or this victim has to spend this number of days, and so on, and so forth.

If it is sexual abuse, then there has to be proven that the victim was sexually abused. But after the determination of the evidence by the court, then the impossible penalty, as suggested in the law, will be the one imposed.

So I think there is a logical framework here in this bill, Mr. President.

Senator Guingona: I would like to have the privilege of sitting down with the distinguished Sponsor, Mr. President, because I do not see how conspiracy need not be proven in one offense and has to be proven in others. Intent, for example, does not have to be proved in death. It is presumed, and it has to be proven in serious physical injuries that the intent was to really inflict those injuries. There seems to be a confusion of a complex offense here which does not seem to exist, Mr. President.

If the crime of hazing were really punishable then, perhaps, those elements of conspiracy and intent need not be proven because all of these will be absorbed into the higher offense of hazing. But if hazing is by itself not an offense, and from the answers of the distinguished Sponsor they do not seem so because initiation, even hazing, as long as they do not produce these results is not a criminal offense, then there is no complex offense. And what are we punishing? Hazing as an offense.

So I feel that, perhaps, we should look into this more closely.

Thank you, Mr. President.

Senator Lina: Mr. President, I think I have answered the points raised by the distinguished Minority Leader. I did not say that hazing is not a crime. In fact, that is the purpose of this bill, to make hazing as a crime and the elements are explained

in the definition.

I have already answered the point of conspiracy, that there is a presumption involved.

Maybe we can see this bill in a better light at the appropriate time.

The President: Senator Roco and then after him, Senator Shahani.

Senator Roco: Mr. President, will the distinguished Gentleman yield for a few questions?

Senator Lina: Willingly, Mr. President.

Senator Roco: Mr. President, if it is any consolation to the Gentleman, I think everybody, including the Minority Leader, is in favor of the bill. I notice that almost all the members will be in favor of punishing hazing. But the wordings and the phraseology seem to lend itself to some misconstruction, at the very least.

Mr. President, will the Gentleman agree to just defining, in simpler words, what hazing is? This is not formal, subject to style. The following wordings may solve the difficulties raised by the Minority Leader and the Gentleman from Parañaque. It is something like this:

ANY PERSON OR GROUP OF PERSONS WHO, AS MEMBER OR LEADER OF A FRATERNITY, SORORITY OR SIMILAR ORGANIZATIONS, SHALL INFLICT PHYSICAL OR PSYCHOLOGICAL HARM OR INJURY UPON ANOTHER WHO IS SEEKING OR IS BEING RECRUITED INTO SAID ORGANIZATION SHALL BE PUNISHED FOR THE CRIME OF HAZING AND SHALL BE SUBJECT TO THE PENALTY OF *PRISION CORRECCIONAL* or whatever.

Mr. President, everybody I have been listening to has been trying to catch the elements. So the elements will be: There are persons who belong to a fraternity; they inflict physical or psychological harm upon another who is seeking to join or is being recruited.

So with those four elements--and those seem to be the answers of the Gentleman, Mr. President--we now have a definition of hazing. That, by itself, is subject to whatever penalty--*prision correccional* or whatever the Gentleman would propose. Will that be a satisfactory middle ground?

Senator Lina: The question is premised, Mr. President,

on the fact that the phraseology of the bill leaves much to be desired.

Senator Roco: No, no.

Senator Lina: Definitely, during the period of amendments, Mr. President, all suggestions are welcome to improve and refine the bill. But I reserve the judgment on some things. If it is being proposed, I will consider and most probably accept, especially coming from a brilliant Colleague like Senator Roco.

Senator Roco: I will have no more questions after this, Mr. President.

In any event, I am really trying to be as supportive as possible to the Gentleman.

Senator Lina: The definition that has been proposed, Mr. President, can be accepted if that is the proposal.

Senator Roco: Did I hear the Gentleman correctly when he said that, first, of course, there must be a person or a group of persons; second, they must belong to an organization of whatever kind; and third, they inflict physical or psychological harm upon somebody, upon another, who is either trying to become a member or who is being recruited into the membership? I guess, Mr. President, from the answers of the distinguished Sponsor, those seem to be the elements of the crime of hazing.

Senator Lina: We are willing to accept that, Mr. President, with the inclusion of the recruits for the Philippine Military Academy, for the Philippine National Police and others because many deaths have been reported due to hazing in these institutions.

The President: We have to include also those who are not being members or officers of any fraternity or organization at present who participated during the hazing. Otherwise, they would not be liable.

Senator Roco: Yes, Mr. President. If we establish that generic definition, then the variations can cover. So if hazing results in death or whatever it is, then the penalty shall be this. If hazing results in insanity or whatever it is, then the penalty shall be this. If hazing is participated in by non-members of the organization, then I leave to the Gentleman the recommendation of whether he wants that to be aggravating or mitigating. Maybe it should be aggravating. Maybe it should increase the penalty. Because if we do that in simpler terms, Mr. President, maybe the difficulties raised by the Minority Leader

and Senator Webb may no longer arise.

Senator Lina: That is acceptable. If this is the period of amendments, Mr. President, it is accepted. Looking at the bill, it is structured in such a manner that the results are already included in the enumeration of the results. If that will clarify the bill further and refine the definition, in the period of amendments, that would be most welcome.

Senator Roco: In which case, Mr. President, may I then ask some substantial questions.

On page 2, when we speak of immediate dismissal from the school or institution in which they are enrolled, it seems to indicate that the dismissal can only be done as a result of final conviction--when there is already a final judgment. Is that the intention of the Sponsor or do we want to allow precisely the schools--if they are schools--to be able to dismiss, expel or suspend the student even before final judgment? This has arisen, Mr. President, in the celebrated case of Villa. It became a litigable issue.

So could I have a clarification on the intention of the Sponsor as regards dismissal from the universities or colleges?

Senator Lina: That is actually what we envisioned, Mr. President. The school must exercise its authority and, therefore, the school administrative proceedings can go on independent of what the courts will say.

So we really need to improve this particular provision, and that is also true as far as No. 2 and No. 3 are concerned.

Senator Roco: Yes. I thought, Mr. President, that has to be clarified.

The other substantive question, Mr. President, I would like to be clarified on what has been caught on by the Senate President and the Minority Leader--the question of being principal.

The parents, it says on page 4, shall be held liable as principals when they have, expressly or impliedly, given permission for said hazing to be conducted therein. Presumably, "therein" apparently refers to the home.

Senator Lina: Yes.

Senator Roco: What kind of principal would he be categorized in, Mr. President? How will the parent under this Section be categorized--as a principal by direct participation or as a principal by inducement or whatever?

Senator Lina: By indispensable cooperation.

Senator Roco: By indispensable cooperation.

Senator Lina: Because the hazing could not have been held without his cooperation by providing the place for the hazing.

Senator Roco: But the Senate President, I think, has suggested that, since this is part of the Penal Code and is, therefore, a felony, when the mind is not criminal, there can be no crime.

Will the Gentleman now have this definition of "principal" by indispensable cooperation even upon a parent who merely allowed permission of the hazing not even knowing what kind of hazing may have been going on? Is this the intention of the Sponsor to enlarge, therefore, the liability in the definition on the concept of "principal" by indispensable participation?

Senator Lina: Mr. President, that really has to be clarified. We have already defined hazing in the first part of the bill, and we anticipate the amendment that we have initially accepted to be coming from the distinguished Senator from Bicol, so that when it is stated here that the parents expressly or impliedly gave permission for said hazing, it is knowledge of that hazing as defined. But if that needs to be clarified further to the effect that there is knowledge of the hazing as defined in this Act, then it will even improve the phraseology of the bill.

I accept the idea that the parents who own the place must have knowledge of the fact and the idea of hazing as defined in the bill.

Senator Roco: I am glad, Mr. President, that the Sponsor would allow us some suggestions later on.

Now altogether on a different matter, Mr. President, and this is out of curiosity. When the Sponsor suggested this penalizing or criminalizing of hazing, what penal law or philosophy is he following? Does he feel that penalty is to deter, or penalties are actually part of retribution?

Senator Lina: Mr. President, it is more on deterrents.

Senator Roco: So does the Gentleman believe that penalty is actually to deter? Because if he does, then one can wonder why he resists this capital punishment if penalty is to deter.

Senator Lina: Yes, Mr. President. I will qualify that. What I intended or what I thought was a noble idea to accomplish was to have a specific crime that answers this particular problem. In that sense, if there is a law that punishes a certain act, then the people whom we want to stop from committing that act will be stopped or discouraged from committing that act. It is in the sense that I said when I decided to file this bill. It is in the context of deterring, it is the idea of deterring these people not because of that penalty, but because there is a specific crime that covers that kind of act. That is the context of my answer, because there is no crime of hazing at this point. Now, if we institute the crime of hazing, then the would-be hazers will be discouraged because there is already the crime of hazing.

Senator Roco: But the experience of society does not seem to support that conclusion, Mr. President, as kidnapping is a crime, and nobody seems to be deterred.

Senator Lina: The problem is not in the crime itself being punished but it is in the law enforcement, Mr. President, and in the administration of justice.

Senator Roco: Yes, Mr. President. They are already far appalled in terms of the bill. I would support the bill with the clarity of the definition of hazing, and maybe everybody in the Hall will be supporting it as well under those conditions.

Thank you, Mr. President.

Senator Lina: Thank you very much. *Salamat po*, Mr. President.

The President: Senator Shahani is recognized.

Senator Shahani: Mr. President, I know our Colleague is quite tired, but I would like to assure him my questions will be brief, so I wonder whether he would at this stage entertain a few questions from me.

Senator Lina: Willingly, Mr. President. *Hindi pa naman ho tired.*

Senator Shahani: Mr. President, on page 3, subsection c, there is reference there to the recruit having undergone hazing, he is prevented from reporting the unlawful act to his parents or guardians. As is well known, silence is part of the initiation rites, and it is possible that the victim will not be willing to report what has happened to him or to her. This is especially true in the crime of rape, even the victim will not admit that she has been raped, and even the parents would not want to admit that that crime has been committed.

What happens then if there is silence on the part of the victim herself or himself?

Senator Lina: Mr. President, when there is silence on the part of the recruit who has undergone hazing but the parents know, then the parents can file the case.

This is similar to the proposed bill on rape which the distinguished Senator from Pangasinan filed. The crime of rape will no longer be classified under crime against chastity but already under crime against persons. Therefore, it does not depend anymore on the victim to file the case, but any member as part of the bill on rape, a responsible member of the barangay can file the rape case.

The same is true here, Mr. President. If the recruit decides to be silent, but the parents or anyone, who saw or witnessed the hazing or have knowledge of the hazing, can file the case.

This section, Mr. President, is an aggravating circumstance. It is included in this enumeration of instances when the maximum penalty shall be imposed.

So, first, on the intention of the question. When the recruit decides to be silent, his parents, brothers, anyone who has knowledge of the commission of the crime can report it and be a complainant, Mr. President.

Senator Shahani: But in the actual text of this bill, the burden is still on the recruit because it says here:

WHEN THE RECRUIT, HAVING UNDERGONE HAZING IS PREVENTED FROM REPORTING...

It is actually still the victim who will have to report.

Senator Lina: Mr. President, if the distinguished Senator can refer to lines 11 to 12 of the bill, the context of this Section is this:

THE MAXIMUM PENALTY HEREIN PROVIDED SHALL BE IMPOSED IN ANY OF THE FOLLOWING INSTANCES: . . .

(C) WHEN THE RECRUIT, HAVING UNDERGONE HAZING IS PREVENTED FROM REPORTING....

So the penalty is higher. This does not refer to the instance that it is the recruit himself who will file the case. *Iyon ho ang context nito.*

Senator Shahani: I am really thinking more of the rape victim, Mr. President. In other words, if she decides to remain silent. And I do not see any reference here really where others... Because in the previous rape bill, it is only the victim or the parents who can report a rape case.

Senator Lina: In the Revised Penal Code, since this will be an amendment, Mr. President, it is presumed that this is not a private offense. When we say this is not a private offense, anybody can file, the witnesses, those who saw the crime, the parents, the guardians can file the charge. That is why, it is not necessary, Mr. President, to make that distinction at this point.

In the rape case, it is a private offense. So there is this difficulty, indeed, if the rape victim decides to remain quiet. But as far as this is concerned, it is understood that this is not a private offense, Mr. President.

Senator Shahani: I hope that is clear, Mr. President. I think that still is a question in my mind.

Also on lines 27 to 29, there is reference here as to the owner of the place where the hazing is conducted.

This has been raised by others, but I would like to raise this question again: Suppose the owner is ignorant that hazing has taken place and that there are cases when it is really kept secret, because that is part of the code of initiation and silence is a very important dimension in hazing, what happens then, Mr. President?

Senator Lina: They will not be held liable. There must be criminal knowledge. The owner of the place, whether the school authorities or the parents of the neophytes are only liable if they have knowledge and they expressly or impliedly have given their permission for said hazing to be conducted therein.

Senator Shahani: Thank you, Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, I ask that we suspend the session so that we can go into a caucus to discuss certain matters.

The President: Can we close the period of interpellations?

Senator Romulo: Mr. President, I move that we close the period of interpellations.

The President: Is there any objection? [*Silence*] There being none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, I move that we suspend the session so that we can go into a caucus.

The President: Is there any objection? [*Silence*] There being none, the motion is approved.

Let us repair to Room No. 410 for a short caucus.

It was 6:02 p.m.

RESUMPTION OF THE SESSION

At 6:48 p.m., the session was resumed.

The President: The session is resumed. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 176

Senator Romulo: Mr. President, before we adjourn I move that we suspend consideration of Senate Bill No. 176, Hazing as a Crime, under Committee Report No. 18.

The President: Is there any objection to this motion? [*Silence*] There being none, the motion is approved.

ADJOURNMENT OF THE SESSION

Senator Romulo: Mr. President, there being no other matters to be taken up in this session, I move that we adjourn this evening's session until three o'clock tomorrow afternoon, Wednesday.

The President: Is there any objection? [*Silence*] The Chair hears none; the motion is approved. The session is hereby adjourned until three o'clock tomorrow afternoon.

It was 6:49 p.m.

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suspend consideration of this bill? [Silence] There being none, the same is hereby approved.

BILL ON SECOND READING
Senate Bill No. 176--Hazing as a Crime
(Continuation)

Senator Romulo: Mr. President, I ask that we now resume consideration of Senate Bill No. 176 as reported out under Committee report No. 18, in consolidation with Senate Bill No. 667.

The President: Resumption of consideration of Senate Bill No. 176, in consolidation with Senate Bill No. 667, is now in order.

Senator Romulo: Mr. President, we are still in the period of amendments.

I ask that the distinguished Gentleman from Manila, Nueva Ecija and Laguna, Senator Joey Lina, be recognized.

The President: Senator Lina, Jr. is hereby recognized.

Senator Lina: Thank you, Mr. President.

We distributed copies of the proposed Committee amendments, and these Committee amendments are already inserted in the bill as prepared by the Bills and Index Division. We traced the discrepancy between the copies that were distributed much earlier to the Members of the Chamber and the amendments that we were trying to introduce this morning to the fact that the original copy of the Committee Report was retyped by the Bills and Index Division, and unfortunately, in the process of retyping the same, the numbering of the lines differed. So there was discrepancy as to the placements of the amendments that we were trying to introduce this morning as compared with the copy on file of each Senator. What we did was to use the Bills and Index Division's copy as the basis of the proposed amendments of the Committee.

May I begin introducing amendments, Mr. President.

The President: Just for the record, the Chair has been furnished with a new copy of Senate Bill No. 176, in consolidation with Senate Bill No. 667, with the notation at the top right-hand margin, which says: "With proposed Committee amendments as of November 16, 1992." Is the distinguished Sponsor referring to this bill?

Senator Lina: Yes, Mr. President.

The President: Therefore, we will use it hereafter as the basis of the proceedings as far as this bill is concerned.

Senator Lina: Yes, Mr. President.

The President: And were all the Members of the Senate furnished with a copy of this bill, together with the amendments?

Senator Lina: Yes, Mr. President.

The President: All right, the Gentleman may then proceed.

COMMITTEE AMENDMENTS

Senator Lina: On page 1, Mr. President, delete line 5 to line 17 with the exception of "ART. 252-A. HAZING", and add a new paragraph as on lines 17-A to the following page 17-J. It reads:

THE CRIME OF HAZING IS COMMITTED BY ANY PERSON OR GROUP OF PERSONS WHO, AS MEMBER OR LEADER OF A FRATERNITY, SORORITY OR SIMILAR ORGANIZATIONS, SHALL INFLICT PHYSICAL OR PSYCHOLOGICAL PAIN AND SUFFERING UPON ANOTHER WHO IS SEEKING MEMBERSHIP IN, OR IS BEING RECRUITED TO JOIN SAID FRATERNITY, SORORITY OR SIMILAR ORGANIZATIONS.

This is an additional paragraph, Mr. President:

THE TERM "SIMILAR ORGANIZATIONS" SHALL ALSO APPLY TO THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE, PHILIPPINE MILITARY ACADEMY, CITIZEN'S MILITARY TRAINING, OR CITIZEN'S ARMY TRAINING.

And if I may proceed:

THE CRIME OF HAZING AS HEREIN DEFINED SHALL BE PUNISHED AS FOLLOWS:

If my Colleagues will note it, Mr. President, the committee redrafted the definition of "hazing" from line 17-A to line 19 on page 1-A.

The President: Is there any objection to this amendment?

Senator Maceda: Mr. President.

The President: The President Pro Tempore is recognized.

Senator Maceda: Mr. President, to begin with I would like to thank the distinguished Sponsor for making deletions on some of the matters that I have previously raised in connection with the definitions of "permanent or temporary insanity or mental illness." However, for the record, I would like to find out what he means by psychological pain.

Senator Lina: By this we mean, Mr. President, any other act that causes grave and serious fear of an imminent threat to the life or physical integrity of the recruit or trainee. One example is Russian roulette. This is a usual practice by some fraternities where a real pistol is used. Whether it is blank or a real bullet is inserted, this is a game that is played, and the nozzle of the gun is pointed to the head of a trainee or a recruit or a neophyte.

As we found out, and some experiences show, whether in connection with fraternity or whatever group, sometimes an accident does happen which results in physical injuries or even death of the neophyte.

Number two, according to a doctor who appeared during our public hearing, Dr. Calleja, such kind of practices create mental aberration which may not be experienced or present immediately after the hazing but leaves a kind of injury in the mental process of the individual.

Another example is asking a neophyte to stand on a ledge of the fourth floor of a building and made to turn around several times, and then asked to jump, even assuming that he will jump, not outside of the building, but inside the building. But, again, such a practice, according to the doctors who appeared before the committee, produces some kind of mental aberration that can even lead to insanity, Mr. President.

Another one, making a neophyte stand on a chair, and then with the simulation of hanging. There is a noose that is placed on the neck of a neophyte; then it is placed and tied to a high place, then a neophyte is asked to jump to possibly simulate hanging.

These practices, Mr. President, are done. And according to the experts who testified before our committee, these practices produce mental trauma which can lead to serious damage on the part of the neophyte.

That is what we want to capture in this phrase "psychological pain and suffering" to differentiate it from direct physical harm, because that is usual--padding a neophyte

whether in a fraternity or a sorority or slapping a neophyte. That is direct physical harm, but there are other acts that are being employed such as those that I have already mentioned.

Senator Maceda: Mr. President, I am really trying to determine whether we will present an amendment to delete this or not. The question really is: Considering that the penalties in this bill are quite heavy, would it not be better if the said definition of "psychological pain and suffering" is incorporated in the bill?

Senator Lina: In fact, I have already prepared a paragraph to define further what is meant by "PSYCHOLOGICAL PAIN AND SUFFERING." If I may be allowed to read this and if this is acceptable to the distinguished President Pro Tempore, then this can be inserted as a second paragraph to the paragraph that is part of the reformulated definition.

It goes this way:

IN LIEU OF DIRECT PHYSICAL HARM,
ANY OTHER ACT THAT ENGENDERS OR
CAUSES GRAVE AND SERIOUS FEAR OF AN
IMMINENT THREAT TO THE LIFE OR TO THE
PHYSICAL INTEGRITY OF THE RECRUIT OR
TRAINEE SHALL ALSO CONSTITUTE AN
ESSENTIAL ELEMENT OF THE CRIME OF
HAZING

and the phrase "PSYCHOLOGICAL PAIN OR SUFFERING" will be deleted, Mr. President.

Senator Maceda: Mr. President, I would like to have a copy of that. In the meantime, we can go ahead with the rest of the bill because I think the paragraph being proposed needs a little study. Since it is really a technical matter, from my viewpoint, I am not in a position now to accept or reject the same.

Senator Lina: Yes, Mr. President. We will do that and we will type it. But, maybe, we can already approve the first paragraph at the appropriate time and after distributing the copy of the alternate definition, to include the concern of the distinguished Senator.

Senator Biazon: Mr. President.

The President: Senator Biazon is recognized.

Senator Biazon: Thank you, Mr. President,

Pending a more accurate definition of "PSYCHOLOGI-

CAL PAIN AND SUFFERING" as raised by the Gentleman from Ilocos Sur and Laguna, I would like to also hold in abeyance a subsequent recommendation to delete the definition of the term "SIMILAR ORGANIZATIONS" on line 17 (g), especially as it refers to the Armed Forces of the Philippines, the Philippine National Police, the Philippine Military Academy, the Citizens Military Training or Citizens Army Training.

Depending on the definition of the term "PSYCHOLOGICAL PAIN AND SUFFERING", this Representation would like to propose an amendment by deleting the organizations that I have just mentioned for the simple reason that the business of defending the country from internal and external threats require a testing of the stability under pressure of members that will join these organizations.

So I would like to defer my recommended amendments pending the availability of a more accurate definition of "psychological pain and suffering" as raised by the distinguished Gentleman from Ilocos Sur and Laguna. Because if the present statement holds, as it is written now here, my recommendation would be to delete the organizations that I have mentioned from the term "similar organizations," and instead mention some organizations.

Senator Lina: I understand the concern of the former Chief of Staff and former Superintendent of the Philippine Military Academy, Mr. President, and I have already explained the circumstances, concrete cases that would fall under the phrase "psychological pain and suffering." But it is undeniable that there are hazing activities in the Philippine Military Academy which have already resulted in several deaths of cadets and serious physical injuries likewise.

In the Philippine National Police Academy, there have also been reported cases of deaths resulting from hazing. Meaning, there is direct physical harm inflicted upon the trainee or the recruit. In addition to the direct physical harm, there are other methods of hazing being employed.

I understand that we have to put under proper tests individuals who wanted to enter the police force and the Armed Forces of the Philippines, to make sure that they have the mental toughness required to engage in combat and other activities in defense of the country and the people. But these activities that I mentioned being employed right now, I think, should be curtailed. That is the objective of this bill.

Now, if an amendment can be introduced to exclude activities that are proper in the training of policemen and military men, then, at the appropriate time, maybe we can craft an

exception or a qualification of what will not be considered as hazing when they pertain to physical tests, or whatever, that pertain to pure military and police training. But, I think, the distinguished Senator Biazon also agrees with the intent of the bill to curtail direct physical harm being employed by the senior officials on the plebes in the Philippine Military Academy.

Iyon po ang gusto naming makober, Mr. President. *Iyong* direct physical harm, *iyong* unnecessary and illogical acts, being required of neophytes or recruits, like the examples that I have already mentioned, which are somehow innocent in the sense that no harm is intended when a person is asked to jump outside of a building, when in fact he is already facing inside. But accidents do happen, and the malefactor can escape responsibility by saying that he did not intend to commit a wrong because, anyway, there is now a law that prohibits this kind of action.

So I am just presenting it to my dear Colleague, Mr. President. I think I have explained what I want to capture in the definition. Anyway, when this is questioned, then the courts can refer to the discussions in this Chamber to find out the rationale behind this particular phrase in the definition of hazing. But to remove it will be setting aside such practices in the Philippine Military Academy, which I hope have already been stopped at this point in the Philippine Police Academy. These are practices that have been resorted to. And if we do not include in the term similar organizations--Armed Forces of the Philippines, PMA, National Police and even CMT or CAT--then they can escape from this, Mr. President.

Senator Biazon: Mr. President, per study, the mortality rate of recruits in the Philippine Military Academy or the cadets in the first month ranges from five to 10 percent.

When I say mortality rate, this has nothing to do with the physical extinction of life of the cadets, but rather resignations from the academy. And the resignations are not results of physical harm inflicted upon the body of the cadets, but rather the failure of the cadets to adjust to the regimented life of the military.

If we will include "psychological pain or suffering" as an element of a crime, it is indeed very probable that the regimentation required in the life of a cadet will not be there anymore.

As a matter of fact, Mr. President, studies also show that prior to the entry of any cadet to the academy, there is already some form of screening. Because the thought of a regimented life in the academy had prevented many young men to take a

free education in the academy, not to apply anymore. If we are going to remove this practice, as required by a regimented life in the academy, then maybe we are going to remove the system of screening.

Now, Mr. President, there are laws that cover the inflicting of direct physical harm upon any one, whether he is a recruit to a new organization or not. I think that these are sufficient, because there had been convictions in the Academy of those cadets who inflicted direct physical harm upon another. However, in sororities, fraternities and even in the CMT in colleges and universities, that is something else. I am referring to the military training.

Senator Lina: I do not think I get it correctly, Mr. President, that Senator Biazon would want to exclude totally the military and police institutions from the operation of a bill that will make hazing a criminal act. Because if I correctly understood him, direct physical harm is also prohibited as part of the recruitment process in the PMA and also in the police academy. The difficulty only is as far as the phrase "psychological pain or suffering" is concerned.

On the second paragraph of the proposed amendment, I suggest that we suspend consideration until after we shall have gone over the other portions of the bill since he is also awaiting a more accurate definition or qualification of the phrase "psychological pain or suffering." Maybe we can work out a compromise formula, Mr. President.

Senator Biazon: Thank you, Mr. President.

The President: May the Chair pose one or two questions for purposes of clarification.

There are certain initiation rites for secret organizations or nonsecret organizations like, for example, the Katipunan where, in order to emphasize loyalty to the cause, a cut is being made on the arm to draw blood and to sign whatever oath that may be required. Would that be hazing within the meaning of this bill?

Senator Lina: Truthfully, yes, Mr. President. Any infliction of physical harm to the neophyte. In fact, in the latter portion of the bill, even slight physical injury or when no injury at all attended the initiation, but the fact that there is direct physical harm but no direct injury results, the infliction of the physical harm is a constitutive element of the act of hazing. Therefore, cutting a portion of the body will fall under this proposed definition.

The President: But in this case, the initiate is aware that

this will be required of him when he joins it and that the wound is inflicted by himself.

Senator Lina: In that case, if the wound is inflicted on the person voluntarily without being forced, I am afraid, if there is qualification, it would be best to specify the acts that would be excluded. There is no way by which we can expand the exception, Mr. President. It may go to a certain point where a finger will already be cut voluntarily by the recruit or by the neophyte.

If we will use the cutting to draw blood as an exception, for example, then the next step is to exempt also the cutting of a finger, *Yakuza* style, although it is a punishment. There may be other organizations that impose even mutilation as a condition before a member is accepted.

Mr. President, I understand those kinds of exceptions which, if not excepted, may be considered as too stringent and too harsh that it may actually be a curtailment of people to organize freely. I can understand that.

If we start qualifying without specifying the act, then the range may be so wide already as to exempt other acts that have been mentioned already, as an example, the cutting of a finger or even the cutting of a fingernail to show loyalty. But that is already a practice, I think, society must scoff at because no public good is promoted in those acts.

But I can understand. Maybe pricking the finger to draw blood which will be used for signature of a covenant or a pact, I understand, can be excused. But I do not know where it will stop if we qualify the act without specifying which acts are allowable. That is my difficulty.

The President: I recall that during the last campaign, there is a farmers' organization who chose a number of candidates. And the candidates were informed that they have to sign in their own blood. That is why during the time of the signing ceremonies, blood was extracted from the veins by doctors and nurses with which they signed the declaration.

Now, would that come within the purview of this act?

Senator Lina: No, Mr. President, because that act in which the Chair and the other Members of this Body and I participated in does not refer to a requirement for membership in an organization, sorority or fraternity. So, that is not covered.

The President: Would the clause "other organizations" include religious cults?

Senator Lina: Yes, Mr. President, or "similar organizations" refers to secret or nonsecret society as long as the infliction of physical harm has something to do with the requirement for membership in that organization.

The President: If that is in itself a part of its religious belief or practice, would this bill, insofar as it applies to them, be an interference upon the free use and the free exercise of one's chosen religion?

Senator Lina: Mr. President, I think in this case the government will have to assert itself on the basis of its power to regulate activities of people. It should be regardless of religion or creed, because members of society are the ones to be protected. And notwithstanding religious beliefs or convictions, the Government will have to impose its will when the public good needs to be served.

The President: Would the Gentleman not make a distinction between the degree of the pain or injury to which a person voluntarily and willingly submits himself, or those which are involuntary in nature?

Senator Lina: Since the Chair opened up these very good points of the degree of harm versus the right of the organization to have some ceremony which is not really going to put the life of a person in danger or even cause serious or even less serious physical injuries, as I said, Mr. President, I will not be averse to a kind of ceremony, like pricking of the finger of a person so that a small amount of blood can be deduced from it and used for signing purposes. Maybe, if we can craft the appropriate language, I am willing to accept that so that we do not become very harsh.

What we really want to prevent is death, serious physical injuries, rape, less serious physical injuries, even sodomy and those acts absent direct physical harm will cause severe mental aberration which will affect the mental stability of a person. We just have to look for the language to capture the spirit of the Chair's concern.

The President: Thank you.

Senator Guingona: Mr. President.

The President: The Minority Leader is recognized.

Senator Guingona: Mr. President, just a few questions, if the distinguished Sponsor...

Senator Lina: On the proposed amendments, Mr. President.

Senator Guingona: Yes, Mr. President.

We have some difficulties on the "other similar organizations." I understand that the original purpose of the bill was really to curb the abuses in schools and organizations. But the phrase "other similar organizations" would expand it to socio-civic-religious organizations, like the Knights of Columbus; it would expand it to religious organizations, like The Trappists; it would expand it to the PMA and the PNP. So I was wondering whether the distinguished Sponsor would reconsider, in view of the manifestation of others, to just confining it to the original intent of schools, colleges and universities.

Senator Lina: Mr. President, the bill, as originally filed, already referred to recruits of the Armed Forces of the Philippines, Philippine Military Academy, Philippine National Police, Citizens Military Training or Citizens Army Training, because there are cases already in the Philippine Military Academy, in the Philippine National Police Academy, and in the Citizens Military Training, the seniors training in school, hazing is practiced.

A Letran student--the name escapes me at the moment--was seriously injured when one of his officers--he is undergoing this ROTC or the equivalent of it right now--asked him to do something. Because of the order of his superior, he suffered serious physical injuries. There are many recurring cases, Mr. President.

If I may go back to the PMA, there are recurring cases of cadets hazed to death or to serious physical injuries. In fact, some say that some had lost their sanity because of the severe psychological pain or suffering that they received at the hands of their senior officers.

So this practice in these institutions we would like to curtail also, even as we said that we consider some physical activities without any direct physical harm undertaken in the PMA, PNP. For example, the obstacle course, or to drill for one hour or two hours, these are physical activities which are not being curtailed, Mr. President. Sending a cadet on a mission in a forest, for example, how to survive in a forest, is excluded from this definition.

Senator Guingona: Supposing it were a special marine combat unit or a scout ranger group, which by its very nature is designed to toughen the members to endure an assault for purposes of defending the Republic, and the very nature of the membership entails punishment so that they can be tested whether they will endure the physical hardships. These are the nuances that I am afraid of, including religious organizations,

where for example, the members are required to fast as a means of enabling them to have a better spiritual perspective, and they do this voluntarily. But it is a psychological preparation for them in order to enable them to become members of a Trappist organization, and some of them may fall in the process. They may not be able to withstand the initiation required, and the phrase "and similar other organizations" would apply to them.

Senator Lina: Mr. President, in the first place, fasting is not covered under the purview of the definition. In fact, fasting is healthy. Physicians even require people who are overweight to go on fasting, and even those who are normal beings physically fit, sometimes undergo fasting. It is not unhealthy to go on fasting.

The definition refers to direct physical harm inflicted by a person on another as a requirement for membership in the organization. So, I think we are already limited by that, Mr. President--direct, physical harm.

Hitting a person by a fist, by a *dos-por-dos*, by a belt and asking him to do something that will put his life in actual imminent danger. These are the practices that we are curtailing. So, those practices of the religious organization mentioned by the distinguished Minority is excluded from the purview of the definition.

Senator Guingona: I am glad to hear that, Mr. President. If that is so, then perhaps, the distinguished Sponsor will agree to deleting "the infliction of by psychological pain" because according to him, the only consideration is infliction of direct physical pain which is very understandable.

Senator Lina: Yes, Mr. President, we suspend consideration on the approval or disapproval of the phrase "psychological pain or suffering" pending the submission of the definition which I advanced in lieu of the "psychological pain or suffering." A definition as to what is "psychological pain or suffering" will constitute of will be submitted later and, therefore, I request that we go back to this phrase "psychological pain or suffering" after.

Senator Guingona: Those are my reservations, Mr. President, "psychological pain or suffering" and the phrase "other similar organizations".

Thank you, Mr. President.

Senator Lina: Mr. President, at this point, it is quite clear that direct physical harm is one element that is acceptable to my Colleagues and it is really the "psychological pain or

suffering" that still is not yet acceptable. So we have already agreed to suspend consideration of that phrase after submission of the proposed definition to cover "psychological pain or suffering".

Senator Aquino: Mr. President.

The President: Senator Aquino is recognized.

Senator Aquino: Will the Gentleman answer a few questions, Mr. President?

Senator Lina: Yes, on this proposed definition, Mr. President.

Senator Aquino: How about moral pain, should that not be included here? If one is forced to do something against his morals. So moral pain could be included here.

Senator Lina: Yes, Mr. President, like--it is both moral and physical--rape. If rape is committed as part of the hazing, then a higher penalty is imposed.

If sodomy and acts of lasciviousness occur in the initiation rites, then a higher penalty is imposed.

So, it is, Mr. President, but we do not need to put that in the definition itself because it can be covered under direct physical harm.

Rape is a direct physical harm. Sodomy is a direct physical harm. Acts of lasciviousness, when there is a direct contact between the initiator and the neophyte, is covered on page 2 to page 3, even up to page 3 (a) or page 4 of the bill.

Senator Aquino: Let us assume the initiators are, let us say, nonCatholic, and one is told to go to a Catholic Church and dirty the place or something to that effect. It is something against what one believes in.

So moral does not only mean one's own standards of morality, but, maybe, what is asked or expected of one as a practising Catholic.

Senator Lina: The act that I want to prohibit is actually criminal in nature, Mr. President. The example used by the distinguished Senator from Tarlac may be a violation of one's religious beliefs, but that is not a criminal act which an initiator wants a neophyte to perform. And it is very difficult to encompass even the noncriminal acts.

Beliefs can vary from one person to another. Religious

beliefs even among members of the same church may even vary. Even members of the Catholic Church vary as far as their interpretation of whether death penalty is allowed or not.

Mahirap po iyong mga beliefs to be a basis for the prohibition in the bill that we are trying to pass, Mr. President.

Senator Aquino: Another point, Mr. President, when the victim is over 12 but under 18.

It says here under number 5, page 3: "When the victim is over twelve (12) but under eighteen (18)", why under 18, Mr. President? Suppose the victim is over 18, does that mean it is all right to subject him to hazing?

Senator Lina: No, Mr. President. The context of that sentence read by the distinguished Senator from Tarlac refers to the imposition of the maximum penalty. So that if the victim is younger or lower than 18 years of age, there is a higher penalty. The maximum penalty will be imposed.

There is a distinction between above 18 and under 18. It is for purposes only of imposing the maximum penalty.

If the recruit is 18 and below, there is a higher penalty because the presumption is that the victim's discernment is not yet developed, and, therefore, the initiator has somehow taken advantage of that fact.

Senator Aquino: But if they are over 18?

Senator Lina: Then there is a penalty.

Senator Aquino: They are more responsible.

Senator Lina: Yes, Mr. President. In other words, they could have discerned the activity much better compared to a person below 18. But still, if the victim is 18 and above, the initiator will still be liable.

Senator Aquino: I remember, Mr. President, the Gentleman authored the age of majority.

Senator Lina: Eighteen already.

Senator Aquino: For both male and female.

Senator Lina: That is correct, Mr. President, because we believe that an 18-year old has already developed his maturity as a person. He can discern and therefore if he becomes a victim of hazing, his initiator will not be imposed a maximum penalty.

Senator Aquino: This has nothing to do with hazing, but I will solicit the Gentleman's opinion, Mr. President, in this particular case. So, the hiring of the age requirement for women who want to work in Japan, for instance, from 18 to 23, maybe should be returned back to 18.

Senator Aquino: Yes, Mr. President. But it seems there is another purpose for the increasing of the age from 18 to 23.

Senator Lina: Mr. President, I only brought that out, because right now the opposite effect of the intention is what is happening. So many are cheating in their affidavits of their ages, so much TNTs happening now in Japan. I hear the figure has gone up to some 30,000 who are now TNTing.

Senator Lina: They want to be older so that they will qualify under the POEA rule.

Senator Aquino: That is the change in the affidavits here of their birth certificates.

Senator Lina: Yes.

Senator Aquino: But those who are already there refuse now to come back, because they are afraid they cannot return.

Senator Lina: They want to be older, so that they can go.

Senator Aquino: No. I am talking about those who are already there. When they heard this ruling, they refused to come back because they are afraid they will not be able to go back to their jobs. So, they have just decided to go on hiding. But that is another story, Mr. President.

I would like the Gentleman to know that I agree basically with the concept of making hazing a crime, especially those who are inflicted physical injury, and sometimes have resulted to death.

Maybe it is the matter of the proper definition of hazing and the proper sanctions.

Thank you, Mr. President.

Senator Lina: Thank you very much, Mr. President.

Maybe we can move to other paragraphs, because we are in the period of Committee amendments.

The President: Please do so.

Are there any other Committee amendments?

Senator Lina: Yes, Mr. President.

These are minor amendments now. I think the more crucial part is the definition.

On page 2, line 1, delete the word "PERMANENT".

The President: Is there any objection? [*Silence*] The Chair hears none; the amendment is hereby approved.

Senator Lina: On page 2, the same page, line 3 and line 12, as an omnibus amendment, change "RESULT" to RESULTS.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: One page 2, line 3, add THE between "FROM" and "SAID".

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 6 to 10, delete the phrase "WITH IMMEDIATE DISMISSAL FROM THE SCHOOL OR INSTITUTION IN WHICH THEY ARE ENROLLED OR FROM THE POLICE OR MILITARY SERVICE IN WHICH THEY BELONG, AS THE CASE MAY BE, AT THE TIME OF THE HAZING."

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 11 to 12, delete the phrase "TEMPORARY INSANITY OR MENTAL ILLNESS".

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, line 6, place a period after the amount "(P50,000.00)".

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 16 to 20, delete all the words after the figure "(P30,000.00)" and place a period after such figure.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 26 to 30, delete all the words after the figure "(P20,000.00)" and place a period after such figure.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 3, starting with line 1, insert a new paragraph 5 to read as follows:

WHEN NO ACTUAL INJURY IS SUSTAINED BY THE NEOPHYTE OR MEMBER OF THE HAZING ITSELF IS PREVENTED BY REASON OF CAUSES INDEPENDENT OF THE WILL OF THE PERPETRATORS, THE PENALTY OF PRISION CORRECCIONAL IN ITS MAXIMUM PERIOD TO PRISION MAYOR IN ITS MINIMUM PERIOD SHALL BE IMPOSED.

The President: Is there any objection?

Senator Guingona: Mr. President.

The President: The Minority Leader is recognized.

Senator Guingona: May we just be enlightened, Mr. President.

The essential element of hazing is causing of direct physical harm.

Senator Lina: Infliction of physical harm. I think that is already accepted, Mr. President.

Senator Guingona: Now, this section...

Senator Lina: What is being contemplated, Mr. President, is everything is set. The fraternity members are already around; the sorority members are already around together with the neophytes; paddles have already been prepared; belts are prepared and the objective is indeed to haze, to inflict physical harm. But it is prevented. It does not happen, or the hazing itself is prevented by reason of causes. The police came. The crime of hazing is still there.

Senator Guingona: Mr. President, I think that assumes that the members will inflict pain when there is no pain inflicted. And this provision says that the arrival of the police, for example, prevented. That may not be in consonance with the definition of the crime of hazing which is the infliction of physical pain.

So, perhaps, this can be eliminated, Mr. President.

Senator Maceda: Mr. President.

The President: The Senate President Pro Tempore is recognized.

Senator Maceda: Yes. With the permission of the Gentlemen on the Floor, I was going to raise a similar point in connection with the next paragraph which is Subsection 6.

I think the explanation being given by the Sponsor is it is in effect a conspiracy. So, actually No. 5 and No. 6, either one or the other, could be deleted.

If the Sponsor would like to insist on the interpretation he has given in No. 5, meaning to say everything is there but it is prevented, then it is really a conspiracy that did not materialize.

Senator Lina: I am willing to withdraw that paragraph 5, Mr. President.

The President: Is there any motion to delete?

Senator Lina: I move to delete that, Mr. President.

The President: From what lines?

Senator Lina: From lines O (A) to O (F), Mr. President.

The President: Is there any objection to the said motion? [Silence] There being none, the same is approved.

Senator Lina: So that No. "6" will be No. 5, Mr. President, and the other numbers will have to be changed to conform to the amendment.

On page 3, Mr. President, between lines 7 and 8, insert the following paragraph:

THE PERSON OR PERSONS CHARGED UNDER THIS PROVISION MAY IMMEDIATELY BE DEALT WITH ADMINISTRATIVELY BY THE SCHOOL AUTHORITIES IN WHICH THEY ARE ENROLLED OR BY THE POLICE, MILITARY, OR CITIZENS ARMY TRAINING AUTHORITIES IN WHICH THEY BELONG, AS THE CASE MAY BE, EVEN BEFORE CONVICTION.

This was raised by Senator Roco, Mr. President, that the bill, as originally worded in the Committee Report, may convey the idea that the school authorities cannot do anything prior to the judgment of the criminal case.

So we inserted this paragraph to convey the idea that the school authorities themselves are not barred from imposing disciplinary action.

The President: Is there any objection to this Committee amendment? [Silence] There being none, the same is approved.

Senator Lina: On page 3, lines 29 to 30, delete the comma after the word "HAS" and the phrase "EXPRESSLY OR IMPLIEDLY GIVEN PERMISSION FOR SAID HAZING TO BE", and to insert, in lieu thereof, the following phrase, ACTUAL KNOWLEDGE OF THE HAZING. This will make sure, Mr. President, that actual knowledge of the hazing will be an essential element before those who will be held liable can be convicted. There must be actual knowledge of the hazing.

Senator Biazon: Mr. President.

The President: Senator Biazon is recognized.

Senator Biazon: Thank you, Mr. President.

May the distinguished Sponsor relate the definition of "owner of the place" in relation to the Philippine Military Academy, the Philippine National Police Academy, and the training centers of the Armed Forces?

Senator Lina: I beg your pardon?

Senator Biazon: Mr. President, on line 27, may the distinguished Sponsor relate the definition of "owner of the place" to the Philippine Military Academy, the Philippine National Police Academy, and other military and police training centers? Is this in reference to any of the Commanders and, if there is any reference, at what level will liability be determined?

Senator Lina: Mr. President, that is covered on page 4, line 5 of the bill, the school authorities, including faculty members who consent to the hazing. So, the qualification is, "who consent to the hazing or who have actual knowledge thereof but failed to take any action to prevent the same from occurring."

So, if the concern is about PMA, for example, which is considered a school, it is the authorities who consent to the hazing or who have knowledge thereof but failed to take any action.

Senator Biazon: So, the compelling element, Mr. Pres-

ident, is consent?

Senator Lina: Yes, Mr. President.

Senator Biazon: Thank you, Mr. President.

The President: Any further Committee amendments?

Senator Lina: Yes, Mr. President.

On page 3, line 30, actually it is page 3(A) in the bill--

The President: Line 30?

Senator Lina: Yes, Mr. President. That is on page 3(A). Insert after the word "THEREIN" the phrase, BUT FAILED TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING.

The President: Is there any objection to this Committee amendment? [Silence] There being none, the amendment is approved.

Senator Lina: So that, Mr. President, from line 27 to line 30 on page 3(A), it will read as follows for clarity: THE OWNER OF THE PLACE WHERE THE HAZING IS CONDUCTED SHALL BE LIABLE AS AN ACCOMPLICE, WHEN HE HAS ACTUAL KNOWLEDGE OF THE HAZING CONDUCTED THEREIN BUT FAILED TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING.

On page 4, line 2, delete the comma after the word "HAVE", Mr. President.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, lines 3 to 4, Mr. President, delete the phrase "EXPRESSLY OR IMPLIEDLY, GIVEN PERMISSION FOR SAID HAZING TO BE" and to insert, in lieu thereof, the following phrase: ACTUAL KNOWLEDGE OF THE HAZING.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 4, insert after the word "THEREIN" the following phrase: BUT FAILED TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 5, insert after the word "AUTHORITIES" a comma and the phrase INCLUDING FACULTY MEMBERS.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 6, insert between the words "HAVE" and "KNOWLEDGE" the word ACTUAL.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 12, delete the phrase "AT THE TIME OF HAZING" and insert, in lieu thereof, the following phrase: WHEN THE ACTS CONSTITUTING THE CRIME OF HAZING WERE COMMITTED.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 13, delete "DURING THE HAZING" and insert, in lieu thereof, the following phrase: WHEN THE ACTS CONSTITUTING THE CRIME OF HAZING WERE COMMITTED.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 15, insert after the word "PRINCIPAL" the phrase UNLESS HE CAN PROVE THAT HE HAS NO ACTUAL KNOWLEDGE OF THE HAZING, OR EVEN IF HE HAS, HE PREVENTED THE OCCURRENCE OF THE SAME.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 16, delete the phrase "AT THE HAZING" and in lieu thereof, insert the phrase WHEN THE ACTS CONSTITUTING THE CRIME OF HAZING WERE COMMITTED AND FAILED TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina: On page 4, line 17, delete the word "AN-

OTHER'' and replace it with the word AND.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 4, lines 26 and 27, insert the paragraph:

THIS ARTICLE SHALL APPLY TO THE PRESIDENT, MANAGER, DIRECTOR OR OTHER RESPONSIBLE OFFICER OF A CORPORATION ENGAGED IN HAZING AS A REQUIREMENT FOR EMPLOYMENT IN THE MANNER PROVIDED HEREIN.

This is the point raised by Senator Webb, Mr. President.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: Mr. President, we have suspended consideration of the phrase "PSYCHOLOGICAL PAIN OR SUFFERING" and the second paragraph of the definition of the term "SIMILAR ORGANIZATIONS." Maybe we can tackle that during the period of individual amendments.

The Committee amendment is through, Mr. President. I just would like to manifest that the removal of paragraph 5 may not be in order, because precisely paragraph 5 refers to that situation when the means employed is psychological pain or suffering because there is no physical harm inflicted.

I just thought about it. But anyway, we will tackle it during the period of individual amendments, and I will reintroduce that as an individual amendment.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, I now move that we close the period of Committee amendments.

The President: There are still reservations for Committee amendments.

Senator Lina: On the definition, Mr. President.

Senator Romulo: Yes, that will be individual amendment already, Mr. President.

The President: Is that the understanding of the Sponsor?

Senator Lina: No, Mr. President.

Senator Romulo: I withdraw my motion, Mr. President, and instead may I ask the Secretariat to ensure that clean copies of Senate Bill No. 176, together with the amendments approved, be on the table of each Senator tomorrow morning at ten o'clock.

Senator Maceda: Mr. President.

The President: The Senate President Pro Tempore is recognized.

Senator Maceda: Mr. President, with the indulgence of the Sponsor, we did not object to--I am referring to page 4, on the amendments on line 15, 15-A, 15-B. The sentence goes like this, starting on line 13: "THE PRESENCE OF ANY PERSON DURING THE HAZING..." meaning to say that there is already hazing taking place, "IS *PRIMA FACIE* EVIDENCE OF PARTICIPATION THEREIN AS A PRINCIPAL." That was the old. Now, we inserted an amendment: UNLESS HE CAN PROVE THAT HE HAS NO ACTUAL KNOWLEDGE OF THE HAZING...

It does not seem correct factually when we start by saying: "HIS PRESENCE DURING THE HAZING", and then how can he be now allowed to prove that he has no actual knowledge of the hazing when we are already saying he is present during the hazing?

The President: What does the distinguished Sponsor say?

Senator Lina: Maybe we can reconsider this, Mr. President. This particular portion of the bill...

Senator Maceda: I guess the old formulation is correct, Mr. President. It is a matter of evidence, but the presence is *prima facie* evidence.

Senator Lina: Yes, Mr. President. Put a period after the word "PRINCIPAL" on line 15. I think this refers to another paragraph. This was wrongly placed.

So by reconsidering, Mr. President, after the word "PRINCIPAL" insert a period and delete the phrase "UNLESS HE CAN PROVE THAT HE HAS NO ACTUAL KNOWLEDGE OF THE HAZING" et cetera, and up to the word "HAS".

The President: So the Sponsor is seeking a reconsideration of the approval of that particular amendment.

Senator Lina: Yes, Mr. President. I think we can

immediately tackle this.

The President: Is there any objection to the reconsideration of this amendment previously approved? [*Silence*] There being none, the same is approved.

Senator Lina: The amendment that will be introduced now, Mr. President, is, after the word "PRINCIPAL", place a comma, not a period "UNLESS HE PREVENTED THE OCCURRENCE OF THE SAME".

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 176

Senator Romulo: Mr. President, we shall resume consideration of the Committee and individual amendments of this bill tomorrow morning. May I therefore move that we suspend consideration of Senate Bill No. 176 until tomorrow.

The President: Is there any objection? [*Silence*] There being none, the consideration of Senate Bill No. 176 is hereby suspended.

SPECIAL ORDERS

Senator Romulo: Mr. President, may I move that we transfer to the Calendar for Special Orders Senate Bill No. 317, entitled:

AN ACT GIVING ONE REPRESENTATION TO THE WOMEN SECTOR IN THE SOCIAL SECURITY COMMISSION, AMENDING FOR THE PURPOSE SECTION 3-A OF REPUBLIC ACT NO. 1161, AS AMENDED.

The President: Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Romulo: Mr. President, tomorrow, in addition to Senate Bill No. 176 on Hazing, we shall also continue Senate Bill No. 252, The Book Publishing Act, as well as Senate Bill No. 32, Tax Evasion; Senate Bill No. 355, Condominium Act; and Senate Bill No. 925, the Municipal Libraries Act.

In the afternoon, Mr. President, we shall take up Senate Bill No. 891, the Death Penalty/Heinous Crimes, as well as Committee Report No. 31 on the Granting of Amnesty.

SUSPENSION OF THE SESSION

There being no other matters to be taken up in this evening's session, I move that we suspend the session until ten o'clock tomorrow morning.

The President: Are there any objections? [*Silence*] There being none, the session is hereby suspended until ten o'clock tomorrow morning.

It was 7:10 p.m.

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time, was willing to also undergo drug-testing.

The NARCOM gave the Actors' Guild 90 days in order that they can persuade the members of their organization to voluntarily undergo drug-testing.

Now, 90 days have elapsed. I think it is about time that we know what happened to that 90 days that was given to the Actors' Guild in the light of recent developments where there are accusations that certain actors are allegedly committing certain crimes because of drug addiction.

Another thing is that, it is also important to know kung ano na ang nangyari doon sa agreement nila about the morality clause, because this is a very important aspect in the campaign against illegal drugs, considering the significant and peculiar influence of popular actors and actresses on their fans. That is why we would like to convene the meeting this coming Friday for that report.

May I also mention here, Mr. President, that as a result of all these hearings and investigations, the records of the Senate will show that there are about 15 or 17 bills filed, if I am not mistaken, which are intended to help in our drug campaign, especially in strengthening the government's capability to fight drug menace.

So I would like to assure our Colleagues here that it is never the intention, as pointed out by Senator Sotto, to look into the personal affairs of certain actor or actress. And it was never the intention to compel them--because, in the first place, we cannot compel anybody--to undergo drug testing. But, as pointed out by Senator Sotto, he merely suggested that in the case of Robin Padilla.

Mr. President, I would just like to put this in the proper perspective because, if we will recall, this is part of our response in 1989 to the alarming drug problem in our country, especially the involvement of international syndicates in drug-trafficking. In fact, as a response to that, we did not only create the Ad Hoc Committee on illegal drugs. In the private sector also, we organized the Citizens Drug Watch, which is now in the forefront of the campaign against illegal drugs.

I hope that this is properly understood, Mr. President. It is unfortunate that, as we continue with this campaign and investigation on those involved in the drug-trafficking, whether they are in government or private citizens, that, in fact, just this morning Senator Tito Sotto warned us of certain sectors in the movie industry which were raising P3 million, just to discredit certain Senators and the Ad Hoc Committee on Illegal Drugs. I am not surprised about this because I, myself,

already received poison-pen letters, things like that. But I think the Senate should not waver in its commitment to strengthen the government's position and capability to fight the drug menace.

Thank you, Mr. President.

The President: Senator Tolentino is recognized.

**STATEMENT OF SENATOR TOLENTINO
(In Support of the Anti-drug Campaign)**

Senator Tolentino: Mr. President, I am afraid that a statement I made in the press has caused this little commotion in the Senate. But I did not charge anybody. I just said, I am cautioning the Senate that we may be violating certain human rights if we should try to make Mr. Padilla submit to a drug test. It was reported in the papers that we would call his doctor who has made a blood examination, I understand.

I am very happy to hear the statements made by our Colleagues, and I want to assure them and our Chamber that this Representation is fully behind the campaign against illegal drugs, not only in the Senate but even outside of the Senate.

In fact, Mr. President, I would like to congratulate our distinguished Colleagues who have been showing a lot of interest in this campaign, and I assure them that they will find in this Representation a very willing supporter of this campaign.

I am actually preparing a letter now, to be addressed to the Chairman of the Ad Hoc Committee, precisely for certain matters which I believe might help us in the campaign against illegal drugs. I understand there is going to be a meeting of the committee sometime later this week, and I will send that letter so that it can be in the hands of the committee when it meets later this week--I understand, on Friday.

Thank you very much, Mr. President.

The President: All right. The Majority Leader is recognized.

**BILL ON SECOND READING
Senate Bill No. 176 - Hazing as a Crime
(Continuation)**

Senator Romulo: Mr. President, I ask that we now resume consideration of Senate Bill No. 176 under Committee Report No. 18, on hazing as a crime. We are still in the period

of amendments. I ask that the distinguished Senator from Manila, Nueva Ecija and Laguna, the Sponsor and Author of the bill, Senator Lina, be recognized.

The President: Senator Lina is recognized.

Senator Lina: Thank you, Mr. President.

The parliamentary status is that we are still in the period of Committee amendments. We suspended consideration of the reformulation of the definition of hazing on page 1.

On page 1, line 8, the amendment is to insert the word DIRECT between the words "INFLICT" and "PHYSICAL". So it will read: "SHALL INFLICT DIRECT PHYSICAL".

The President: Is there any objection to the amendment? [Silence] There being none, the amendment is approved.

Senator Lina: On the same page, line 8, Mr. President, between the words "PHYSICAL" and "OR", insert the word HARM. So that, the phrase will now read: "SHALL INFLICT DIRECT PHYSICAL HARM".

The President: Is there any objection to the amendment? [Silence] There being none, the amendment is approved.

Senator Lina: On page 1, lines 8 to 9, after the word "HARM", delete the phrase "OR PSYCHOLOGICAL PAIN AND SUFFERING".

The President: Is there any objection to the Committee amendment?

Senator Mercado: Mr. President.

The President: Senator Mercado is recognized.

Senator Mercado: Mr. President, while the term "psychological pain" is concededly vague, I am not too sure whether the solution would be to omit the phrase. I think the intent was to prevent harm, which is not physiological, but that which is mental. We suggest that we use the term PSYCHIATRIC DISORDER, instead of "psychological pain."

Psychiatric disorders, of course, can be at various levels. It can be personality disorders, like neurosis; or it could be in severe form, psychosis such as schizophrenia, where an individual is no longer in touch with reality. The term "psychiatric disorder" can capture the intent of preventing mental illness as a consequence of the act of hazing.

So this Representation would object to the deletion of the phrase and, instead, the same should be redefined.

May I add, Mr. President, that psychiatric disorders can be determined by doctors. And the doctor can determine the causal relation, if there is any, between the act of hazing, that particular experience, and the personality disorder or the psychosis that is a consequence of the hazing.

Senator Lina: Mr. President, I agree with the observation just made by Senator Mercado. In fact, we proposed the deletion of the phrase "or psychological pain or suffering", but it will be defined in this manner and it will be the next amendment that I will read, if Senator Mercado will care to listen to the amendment,--

Senator Mercado: We would like to listen, Mr. President.

Senator Lina: --so as to capture the intent that we conveyed during the period of interpellations on why we included the phrase "or psychological pain and suffering."

On page 1, line 11, after the word "ORGANIZATION", a new sentence will be added: IN LIEU OF DIRECT PHYSICAL HARM, ANY OTHER ACT THAT ENGENDERS OR CAUSES GRAVE AND SERIOUS FEAR OF AN IMMEDIATE THREAT TO THE LIFE OR TO THE PHYSICAL INTEGRITY OF THE RECRUIT OR TRAINEE, SHALL ALSO CONSTITUTE AN ESSENTIAL ELEMENT OF THE CRIME OF HAZING.

So that if no direct physical harm is inflicted upon the neophyte or the recruit but the recruit or neophyte is made to undergo certain acts which I already described yesterday, like playing the Russian roulette extensively to test the readiness and the willingness of the neophyte or recruit to continue his desire to be a member of the fraternity, sorority or similar organization or playing and putting a noose on the neck of the neophyte or recruit, making the recruit or neophyte stand on the ledge of the fourth floor of the building facing outside, asking him to jump outside after making him turn around several times but the reality is that he will be made to jump towards the inside portion of the building--these are the mental or psychological tests that are resorted to by these organizations, sororities or fraternities. The doctors who appeared during the public hearing testified that such acts can result in some mental aberration, that they can even lead to psychosis, neurosis or insanity. This is what we want to prevent.

So since the phrase "psychological pain or suffering" may not be clear enough, Mr. President, and many interpreta-

tions can be made out of it which will defeat the very purpose of this provision, then we thought of defining what we meant by the phrase "psychological pain or suffering." That is the amendment that we will propose after the phrase "psychological pain or suffering" is deleted.

Senator Mercado: Mr. President, I am afraid that that particular amendment would not sufficiently cover what we want to prevent.

The so-called psychological tests that the Sponsor is mentioning are actually tests of courage, of how the neophyte will behave under stress; but we are not capturing what we want to prevent, which are effects that may not be seen or manifested during the initiation rite.

There are also things that can be done to a neophyte that can cause mental disorder. If somebody is hounded, set up for circumstances that will cause severe stress and mental anguish, we might have a patient who will snap later as a consequence of this hazing. But that will not be part of what is contemplated in the amendment being proposed by the Sponsor.

Mr. President, I propose that the phrase PSYCHIATRIC DISORDER be used instead. A competent doctor can determine whether or not there is a causal relation between the hazing activity and the psychiatric disorder that can range between a personality disorder, as I mentioned, a neurosis or something like schizophrenia, where the patient is no longer in touch with reality.

The President: So instead of deleting the clause or the phrase "or psychological pain and suffering", the Gentleman would substitute it with OR CAUSE PSYCHIATRIC DISORDERS.

Senator Mercado: Yes, Mr. President, PHYSICAL PAIN OR PSYCHIATRIC DISORDER.

SUSPENSION OF THE SESSION

Senator Lina: May I move for a suspension of the session.

The President: All right. The session is suspended, if there is no objection? [*There was none.*]

It was 10:45 a.m.

RESUMPTION OF THE SESSION

At 10:53 a.m., the session was resumed.

The President: The session is resumed.

Senator Lina, the distinguished Sponsor, is recognized.

Senator Lina: Mr. President, Senator Guingona wants to clarify the proposed amendment of Senator Mercado.

The President: With the permission of the two Gentlemen on the Floor, the Minority Leader is hereby recognized.

Senator Guingona: Mr. President, may I just inquire from the proponent of the amendment to the amendment if the psychiatric disorder should have a direct causal relationship with the infliction of direct physical harm.

Senator Mercado: Yes, Mr. President. Our intent is to punish the perpetrators of the act of hazing that causes the psychiatric disorder which is a direct consequence of the act of hazing. But I would like to hasten to point out that in psychiatric disorders--the effects of an act of hazing may not be seen or manifested immediately unlike that as a consequence of direct physical contact. So the patient, for example, the neophyte may go through the hazing experience and come out seemingly looking unaffected psychologically, but may later on develop signs of, say, paranoia, which may later on worsen into a more serious personality disorder.

We may not be able to set the limits and establish the parameters under which we can determine causal relations, but I believe we should indicate that what we are speaking of is the psychiatric disorder that is a consequence of the hazing that may not be manifested immediately during the hazing period but may emerge some time later.

Senator Guingona: So that in case of the initiation, when there is a very scary movie shown, and as a result of that, two or three months later, the one initiated who viewed the very scary film develops psychiatric disorder, this is not to be taken as within the purview of this bill because there was no direct physical harm.

Senator Mercado: Mr. President, while we speak of psychiatric disorders as a consequence of physical harm, may I hasten to add that there could be psychiatric disorders that are a consequence of mental torture. The master may not beat up the neophyte, but may set up circumstances wherein he puts the student or neophyte under severe stress and then the student will snap.

When one tortures a person mentally, he does not have to touch the person.

On the example cited by the Minority Leader, it is for the doctors to determine whether, in his example, the movie that was seen was the real cause of the personality disorder that manifested itself later. Because it may be that this person is already predisposed to having personality disorders, to begin with, and there are only a few trigger mechanisms that caused the deterioration of the mental state, and they may not be the hazing activity itself.

What I am trying to say is that, we leave it to the competent medical authorities to establish the causal relation, but it is important for us to make a statement that as a consequence of physical pain or mental torture, if one causes psychiatric disorder whether on the level of psychosis in its worse form, he will be held liable because the psychiatric disorder, I believe, is just as serious as physical pain inflicted.

Psychiatric disorders are very difficult to deal with and sometimes may take a lifetime to be able to cure.

Senator Guingona: That seems to be a problem for us, Mr. President, because in criminal law, we know that the basic principle is cause and effect. Unless we specify the acts that were the direct causal factors which resulted in the psychiatric disorder, it may be unfair to the public that we adopt a crime which cannot be pinpointed as the cause of the effect.

It is true that a medical team of experts may be able to establish this, but in reality, since all of us, I understand, suffer from some degree of mental psychiatric disorders in varying degrees, and there are 60 degrees of psychiatric disorders, we would not be able to pinpoint against the opinion of experts to another which was really the direct cause.

Senator Mercado: We agree, Mr. President. Senator Biazon, I believe wants to interject an amendment here. Earlier, he has intimated that he would be happy if a phrase AS A DIRECT CAUSE OF, referring to the hazing activity, be included. I think that would be the solution to the problem that has been articulated by the Minority Leader.

SUSPENSION OF THE SESSION

Senator Lina: Mr. President, may I again move for a one-minute suspension, in view of the manifestation by Senator Mercado.

The President: The session is suspended, if there is no objection. [*There was none.*]

It was 11:01 a.m.

RESUMPTION OF THE SESSION

At 11:21 a.m., the session was resumed.

The President: The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 176

Senator Romulo: Mr. President, while the authors and the other coauthors and cosponsors are working on a formula for certain amendments to Senate Bill No. 176, may I move that we suspend consideration of Senate Bill No. 176 until this afternoon.

The President: Is there any objection? [*Silence*] There being none, the motion is approved.

BILL ON SECOND READING Senate Bill No. 252 - Book Publishing Industry (Continuation)

Senator Romulo: Mr. President, I ask that we now resume consideration of Senate Bill No. 252, as reported out under Committee Report No. 28.

The President: Resumption of the consideration of Senate Bill No. 252 is now in order.

Senator Romulo: Mr. President, we are still in the period of interpellations. I ask that the distinguished Senator from Aurora and Quezon, Senator Edgardo Angara, be recognized.

The President: Senator Angara, Chairman of the Committee on Education, Arts and Culture is recognized.

Senator Romulo: Mr. President, in the session yesterday, there were still two Senators who requested time to interpellate, Senator Rasul and Senator Coseteng.

SUSPENSION OF THE SESSION

Senator Angara: May we have a one-minute suspension, Mr. President?

The President: The session is suspended, if there is no objection. [*There was none.*]

It was 11:23 a.m.

consideration of Senate Bill No. 929 until tomorrow.

The President: Is there any objection? [*Silence*] Hearing none, consideration of this bill is hereby suspended.

BILL ON SECOND READING
Senate Bill No. 176--Hazing as a Crime
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 176 as reported out under Committee Report No. 18.

The President: Resumption of consideration of Senate Bill No. 176 is now in order.

Senator Romulo: We are still in the period of amendments when we suspended consideration of this bill. The Sponsor and the committee would formulate the Committee/individual amendments. I believe they are now ready, Mr. President. I ask therefore that Senator Lina be recognized.

The President: Senator Lina, the Author of this bill, is hereby recognized.

COMMITTEE AMENDMENTS

Senator Lina: Mr. President, after the powwow yesterday between and among Senators Mercado, Guingona and this Representation, an agreement was reached to define the crime of "hazing" in this manner.

"THE CRIME OF HAZING IS COMMITTED BY ANY PERSON OR GROUP OF PERSONS WHO, THROUGH FORCE, VIOLENCE, THREAT, INTIMIDATION, TORTURE OR ANY OTHER MEANS, SHALL CAUSE PHYSICAL HARM OR PSYCHIATRIC DISORDER UPON ANOTHER PERSON SEEKING MEMBERSHIP IN, OR BEING RECRUITED TO JOIN AN ORGANIZATION.

THE TERM 'ORGANIZATION' SHALL MEAN ANY FRATERNITY, SORORITY, OR CLUB OR THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE, PHILIPPINE MILITARY ACADEMY, OR OFFICER AND CADET CORPS OF THE CITIZENS MILITARY TRAINING, OR CITIZENS ARMY TRAINING.'

That is the reformulated definition, Mr. President.

The President: So what we are amending are lines 5 to 15 of page 1.

Senator Lina: Yes, Mr. President.

The President: Is there any objection to this amendment? [*Silence*] There being none, the amendment is hereby approved.

Did I see the hand of Senator Biazon?

Senator Biazon is recognized.

Senator Biazon: Mr. President, will the Gentleman take some proposals?

The President: Is this intended to reopen this definition of "hazing" because the amendment has already been approved so that we can have a reconsideration of its approval?

Senator Biazon: An addition to what we discussed with Senator Lina yesterday, Mr. President.

Senator Lina: Maybe during the period of individual amendments, Mr. President, I am sure Senator Biazon and I... We have already an initial talk, but we still could not craft the amendment that he wants to introduce.

This refers, Mr. President, to the training programs of the Armed Forces of the Philippines which are considered regular and which may cause physical harm or even psychiatric disorder, and the clear provision that these are exempted from this operation of this article needs to be introduced.

But the definition, the way it is worded now, speaks of force, violence, threat, intimidation, or torture or any other means. These are not present, unless the PMA or the armed forces and the various services make hazing a part of the program the way it is defined. And the way it is defined, immediately conveys the idea that those without the torture, without the intimidation, without the force, and other similar means, that will not be considered hazing.

But if the good Senator would like to further clarify that and make it crystal clear that the training programs which may cause physical harm in the process of the recruitment or training or even psychiatric disorder when, I understand that the psychological stability of the cadet is being tested in order to find out whether he is fit to be a soldier or a policeman or a future officer of the armed forces, if the recruit fails the test, then he is out of the school, like the PMA.

During the period of individual amendments, I am most willing to accommodate an amendment to that effect if only we can have the language that will form part of this definition.

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Senator Blazon: Thank you, Mr. President.

Senator Lina: Thank you very much, Mr. President.

On page 2, line 3, put an S after the word "RESULT". We have already approved this, Mr. President, during the last session. Unfortunately, it was not incorporated in the clean copy. It is a matter of adding an S.

The President: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: On page 2, line 5, delete the phrase "AN INDEMNITY", and in lieu thereof, insert the phrase A FINE.

The President: Is there any objection?

Senator Herrera: Mr. President.

The President: Senator Herrera is recognized.

Senator Herrera: Mine is not an objection, Mr. President. But I would like to be enlightened why in the case of Senate Bill No. 891, heinous crime will have a penalty of *reclusion perpetua* and here also, we have *reclusion perpetua*. Are these considered also as heinous crimes?

Senator Lina: I would like to explain, Mr. President.

In Senate Bill No. 891, it is not the *reclusion perpetua* that is defined in the Revised Penal Code. It is a modified *reclusion perpetua* in Senate Bill No. 891 to distinguish it from the *reclusion perpetua* that is presently in the Revised Penal Code. It is actually 30 years uninterrupted service in the Senate Bill No. 891, whereas, *reclusion perpetua*, although it has been interpreted to mean 30 years, there can be good conduct allowance. So that if the prisoner has been penalized with the penalty of *reclusion perpetua* under the present law, with good conduct time allowance, he can be free after 21 years, five months and 18 days. But in Senate Bill No. 891, it is an uninterrupted 30 years. So there is a difference, Mr. President.

Senator Herrera: Then, what is, therefore, the rationale if listening to his sponsorship speech on Senate Bill No. 891, the intention was to give a chance to rehabilitate the criminal? If one is punished by *reclusion perpetua* under Senate Bill No. 891, and he has a good behavior, why can he not be released like under this bill, if he is punished of *reclusion perpetua*, if the yardstick there is that he has a good behavior for a certain number of years?

Senator Lina: Because when the death penalty was abolished, and all the death sentences were commuted to *reclusion perpetua*, there resulted a distortion in the gradation of penalty in the Revised Penal Code, Mr. President.

So there is need to distinguish these previous crimes that had death penalty as the imposable penalty from the other crimes which were considered not as grave as the original crimes that had death penalty.

Senator Herrera: Does the Gentleman not see the injustice if one commits hazing which results in physical deformity, assuming that two of his fingers were cut off and that resulted in a physical deformity, one will be sentenced to *reclusion perpetua*? And here is a murderer who raped, murdered and asked ransom, he will also be punished only for *reclusion perpetua*.

I think there is something wrong in putting this particular crime of hazing on the same level with heinous crimes.

Senator Lina: Mr. President, we are not going to belabor that point. We are ready to remove permanent physical disability or deformity from enumeration number one on page 2. But definitely, death, rape, mutilation, insanity or mental illness will have to be punished with *reclusion perpetua*.

Even under the Revised Penal Code, permanent physical disability, when it is the result on the person who is the victim, is treated on a higher scale.

Senator Herrera: My point is, if the penalty for a heinous crime is *reclusion perpetua*, I do not see the balance if the Gentleman imposes the same penalty in the case of hazing, even if it will result in death but there was no intention to kill. For example, if one under hazing was asked to drink two bottles of rum and then he died as a result of that as part of initiation, under this bill, he will be punished with the penalty of *reclusion perpetua*.

In the other bill, which is Senate Bill No. 891, one who kidnapped for ransom, and then raped, and later murdered, will only be punished also of *reclusion perpetua*. I can see the injustice here, Mr. President.

Senator Lina: Mr. President, I think I have explained it a while ago that this *reclusion perpetua* in Senate Bill No. 891 is not the *reclusion perpetua* presently being imposed under the Revised Penal Code. It is a modified *reclusion perpetua*.

It is redefined in Senate Bill No. 891 when it pertains to heinous crimes, and hazing is not considered one of the 14.

To be concrete, under the Revised Penal Code, the *reclusion perpetua* can even go down to 21 years, 5 months and 18 days. This is under the Revised Penal Code.

As it is defined in Article 27 of the Revised Penal Code, "Any person sentenced to any of the perpetual penalty shall be pardoned after undergoing the penalty of 30 years, unless such person, by reason of his conduct or some other serious cause, shall be considered by the Chief Executive as worthy of pardon."

That is the Revised Penal Code definition of the *reclusion perpetua*. We are redefining it in Senate Bill No. 891 in connection with those 14 offenses, Mr. President.

So I think nine years' difference between this penalty when there is good conduct allowance and the penalty in Senate Bill No. 891 is a whale of a difference.

Senator Herrera: Anyway, I said I raised the issue of wisdom and justification. The other is, we might become inconsistent if we have to take these two bills. On the other side, on Senate Bill No. 891, we are saying we have to protect human dignity, human rights.

And here, in this case of hazing, even if one has no intention to kill but in the height of the hazing required the neophyte to drink two bottles of rum, but because of his physical constituents, he died, the participants to the hazing will suffer the same penalty. A little variance like that definition under Senate Bill No. 891 of *reclusion perpetua* and the one in the Penal Code does not meaningfully differ in substance.

I am just pointing this out, because I think we have to be consistent.

Senator Lina: Yes. I think I have already explained the variance, Mr. President. I am very thankful to Senator Herrera for pointing a seeming inconsistency. But I think I have already explained my position on the matter, and the inconsistency is not present when we did compare Senate Bill No. 891 and this bill.

The President: Is there any further committee amendment?

Senator Lina: Yes. Mr. President, on page 2, line 7, again a matter of putting S after the word "RESULT".

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 10 to 11, delete the phrase "AN INDEMNITY" and in lieu thereof, insert the phrase A FINE.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, line 17, delete the phrase "AN INDEMNITY" and in lieu thereof, insert the phrase A FINE.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 24 to 28, delete after the word "PERIOD", the comma and the phrase "EVEN IF NO ACTUAL INJURY OCCURS TO THE NEOPHYTE OR MEMBER WHO WILL BE HAZED OR THE HAZING ITSELF IS PREVENTED BY REASON OF CAUSES INDEPENDENT OF THE WILL OF THE PERPETRATORS."

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 2, lines 29 to 34, the entire paragraph is reformulated to read as follows: THE RESPONSIBLE OFFICIALS OF THE SCHOOL OR OF THE POLICE, MILITARY OR CITIZENS ARMY TRAINING ORGANIZATION, MAY IMPOSE THE APPROPRIATE ADMINISTRATIVE SANCTIONS ON THE PERSON OR PERSONS CHARGED UNDER THIS PROVISION EVEN BEFORE THEIR CONVICTION.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 3, lines 8 to 10, delete the phrase...

The President: Before that, is there any reason why paragraph (A) shall be considered as a qualifying circumstance to authorize the imposition of the maximum penalty, when it is itself a component of the crime itself as it is now defined because of the amendment? This is a regular component of the crime of hazing as now defined.

Senator Lina: Yes.

The President: And yet under this provision, it is now considered a qualifying circumstance for purposes of imposing the maximum penalty.

Senator Lina: What paragraph is this, Mr. President?

The President: Paragraph (A). These are lines 3 to 5. "FORCE, VIOLENCE, THREAT, INTIMIDATION OR DECEIT", these are the regular components or elements of the crime of hazing.

Senator Lina: Yes. Let me explain, Mr. President, that the force, violence, threat, intimidation or deceit on the person of the recruit--This is what has happened in one school here in Metro Manila where the student by force was brought out of the classroom and he was brought to an isolated place even if he does not want to go with the person. Then, because he was forced to go there, he allows himself to be hazed or he was forced to join the organization.

The President: In short, the key words are, "who refuses to join"?

Senator Lina: Yes, Mr. President.

The President: All right. Is there any other Committee amendment on page 3?

Senator Lina: On page 3, lines 8 to line 10, delete the phrase "AND IS MADE TO UNDERGO HAZING THROUGH FORCE, VIOLENCE, THREAT OR INTIMIDATION" because that is already an essential element of the crime, Mr. President.

Senator Herrera: Mr. President.

The President: Senator Herrera is recognized.

Senator Herrera: Mr. President, I would like to call the attention of the Chamber that on page 2, line 31, the penalty of *reclusion perpetua* shall be imposed when the victim is below 12 years of age at the time of the hazing. But under Senate Bill No. 891, if one kills a child 12 years old or below, his penalty will also be *reclusion perpetua*. Under this Section 4, even if it will be slight physical injury, if the neophyte or the victim is 12 years or below, the penalty is *reclusion perpetua*. But under Senate Bill No. 891, if one kills a boy who is 12 years old, the penalty is also *reclusion perpetua*. I cannot see the justice, the fairness there.

Under this particular provision, *kahit less serious, kahit pa act of lasciviousness, reclusion perpetua. Patayin mo ang batang 12 years old, under Senate Bill 891, reclusion perpetua pa rin.*

Senator Lina: Mr. President, there is nothing in this bill that says acts of lasciviousness will be punishable with *reclusion perpetua*. The bill is here, and there is nothing to that

effect, that acts of lasciviousness...

Senator Herrera: Under paragraph 4, the Gentleman mentioned here that the penalty of *reclusion perpetua* shall be imposed when the victim is below twelve (12) years of age.

Senator Lina: But the Senator said that acts of lasciviousness are punishable by *reclusion perpetua* when they are committed in line with hazing. There is nothing in the bill. I just would like to clarify that, Mr. President.

But it is true. In paragraph 4, the penalty of *reclusion perpetua* shall be imposed when the victim is below 12 years of age at the time of hazing. Anyway, we are not yet discussing Senate Bill No. 891, Mr. President. That will be the proper time when we will really have to dissect the bill itself. We have not even had any interpellation on Senate Bill No. 891 but, I think, the comment of Senator Herrera is fair and I have already explained the difference. If this is discussed in the light of Senate Bill No. 891, this is not considered a heinous crime.

So the *reclusion perpetua* is the *reclusion perpetua* as defined in Article 27 of the Revised Penal Code which I have already read. But in Senate Bill No. 891, *reclusion perpetua* is redefined. It is a much graver penalty. If I have to repeat myself in explaining the difference, then I will do so, Mr. President.

Now, twelve years of age...

Senator Herrera: May I now have the Floor?

Mr. President, even with that variance we can immediately see the injustice here. Because if one kills a boy who is 12 years old, under Senate Bill No. 891--and I would insist that we have to discuss this in relation to that--the perpetrator will be punished with *reclusion perpetua* as defined in that bill.

Under this bill, even if one commits or inflicts less serious injury but the victim is 12 years old, the penalty is still *reclusion perpetua*, with a slight variation of the *reclusion perpetua* as defined in Senate Bill No. 891.

Even with that variation, Mr. President, there is still that injustice.

Senator Lina: Mr. President, maybe during the period of amendments, with due respect to the distinguished Senator, he may introduce the amendment that he wishes to introduce so that we can go ahead, because we are in the period of Com-

mittee amendments. This is the time I have to introduce the Committee amendments. But after we have closed the period of Committee amendments, then we can go to the period of individual amendments.

If there is a provision here which the distinguished Senator from Cebu and Bohol would like to amend, then we can agree or disagree whether to accept or not. That will be the proper time, Mr. President.

Senator Herrera: Mr. President, at this stage, when the Sponsor is proposing Committee amendments, we would like to be enlightened on what is really the justification of the Committee to propose those amendments in preparation for the amendments that I will propose during the individual amendments.

Senator Lina: Mr. President, I am not introducing an amendment on the paragraph that the Senator from Cebu and Bohol had adverted to. He was the one who brought up paragraph 4, so I do not know how to respond. I cannot introduce an amendment which I do not want to propose. Maybe, during the period of amendments on that particular point, if the distinguished Senator would like to have it amended, then we can tackle it at that time. In the list of Committee amendments that I prepared today, there is no proposal to amend paragraph 4 of Section 1.

The President: Let us correct that. It is not paragraph 4. It is paragraph 5. It is on page 3.

Senator Lina: Yes, Mr. President. On the penalty for...

The President: The maximum penalty imposable.

Senator Lina: No, Mr. President. The Senator from Cebu and Bohol adverted to the penalty of *reclusion perpetua*--

Senator Herrera: That is on page 2, Mr. President.

Senator Lina: --that shall be imposed when the victim is below 12 years of age. This is what he is questioning, Mr. President.

The President: I thought we are on page 3.

Senator Lina: That is another point, Mr. President. We are already on page 3. It is all right if Senator Herrera wants us to go back to page 2, but I am not proposing any Committee amendment on page 2.

Senator Herrera: Mr. President, we are proceeding on a page-by-page discussion. Since the Chair is asking our opinion whether we will agree to what the distinguished Sponsor is proposing, I am saying that I am just calling the attention of the distinguished Sponsor that we will have to reconcile this with Senate Bill No. 891 to abbreviate the discussion.

Senator Lina: I am sorry, I cannot understand it, Mr. President. We are talking of a bill that is yet to be discussed so we cannot decide on these two bills together. This bill is already in the period of Committee amendments.

Senate Bill No. 891 is still in the period of interpellations. We should decide each bill one by one. If the provision of this bill is too onerous and will rank injustice in some sectors of society, in the period of amendments, I will consider the matter at the proper time.

Senator Herrera: Mr. President, to abbreviate the discussion, I will see to it that I will not interrupt the distinguished Sponsor. I am just calling his attention to make sure that the committee is consistent in its position in all the bills reported out by it.

Thank you, Mr. President.

Senator Lina: Thank you, Mr. President.

Mr. President, we have yet to approve the amendment on page 3, from lines 8 to 10.

The President: Will the Gentleman repeat the proposed amendment?

Senator Lina: To delete the phrase, "...and is made to undergo hazing through force, violence, threat or intimidation" because these are already essential elements of hazing, Mr. President.

The President: Is there any objection to this amendment? [*Silence*] There being none, the amendment is approved.

Senator Lina: On page 4, lines 22 to 25, delete the phrase, "FOR PURPOSES OF THIS ACT, OFFICERS-IN-CHARGE OF THE TRAINING OF RECRUITS OF THE ARMED FORCES OF THE PHILIPPINES, THE PHILIPPINE NATIONAL POLICE, THE CITIZENS MILITARY TRAINING OR CITIZENS ARMY TRAINING" and, in lieu thereof, insert the phrase, ANY PERSON CHARGED UNDER THIS PROVISION.

The President: Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Lina: That will be all, Mr. President.

The President: May the Chair ask these questions: What is really the maximum penalty imposable for hazing under this bill?

Senator Lina: *Reclusion perpetua*, Mr. President, as defined in Article 27.

The President: Does not the Gentleman think it proper that because of that paragraph (E), lines 18 and 19, should already be deleted in the face of the fact that under page 2, lines 19 and 21, there is already a provision that the penalty of *reclusion perpetua* shall be imposed when the victim is below 12 years of age?

Senator Lina: Is this on lines 18 to 19, Mr. President?

The President: Lines 18 to 19. It is treated as a qualifying circumstance, and yet on page 2 there is already a definite imposition of *reclusion perpetua* which is actually the highest imposable penalty.

Senator Lina: Yes, Mr. President, that is very logical. We will delete that.

The President: Will the Gentleman make a formal amendment?

Senator Lina: I so move, Mr. President. I will adopt it as a Committee amendment. I move that lines 18 to 19 of page 3 of the bill be deleted.

The President: Is there any objection to the motion? [*Silence*] There being none, the amendment is approved.

Senator Romulo: Mr. President, I move that we close the period of Committee amendments.

The President: Is there any objection? [*Silence*] There being none, the period of Committee amendments is hereby terminated.

Senator Romulo: Mr. President, I ask that we now consider individual amendments, if any.

The President: On page 1, is there any individual amendment?

Senator Herrera: Mr. President.

The President: Senator Herrera is recognized.

Senator Herrera: Mr. President, may I ask that we postpone discussion on this bill until next week.

The President: Is there any objection?

Senator Lina: I will not be averse to that, Mr. President, but we discussed the rent control bill. May we know the reason for the request?

Senator Herrera: For the simple reason, Mr. President, that on a matter of consistency I feel we have also to consider the other bills. Because eventually, when we approve these two bills, *kailangang* consistent *iyong ating* penalties to be imposed.

Senator Lina: With due respect to the Senator from Cebu and Bohol, Mr. President, that will mean that this bill will not be discussed and approved by this Body until we discuss Senate Bill No. 891.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a one-minute suspension of the session.

The President: The session is suspended, if there is no objection. [*There was none.*]

It was 6:22 p.m.

RESUMPTION OF THE SESSION

At 6:23 p.m., the session was resumed.

The President: The session is resumed.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 176

Senator Romulo: Mr. President, I ask that we suspend consideration of Senate Bill No. 176 on the crime of hazing. We should resume this tomorrow.

The President: Is there any suggestion from the Majority Leader that, in view of a major amendment to the definition of

the crime of hazing, new copies embodying all the Committee amendments should be prepared and distributed to the Members?

Senator Romulo: Yes, Mr. President. The bill with the Committee amendments and other amendments thereof would be prepared so that when we take this up tomorrow, then it would be clear to all after they have read the clean copy.

Thank you, Mr. President.

The President: Thank you.

BILL ON SECOND READING
Senate Bill No. 252--Book Publishing Industry
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 252 as reported out under Committee Report No. 28.

The President: Resumption of consideration of Senate Bill No. 252 is now in order.

Senator Romulo: Mr. President, we have closed the period of interpellations. We are now in the period of Committee amendments.

I ask that the distinguished Gentleman from Aurora and Quezon, Senator Edgardo Angara, be recognized.

The President: The Chairman of the Committee on Education, Arts and Culture is hereby recognized for purposes of Committee amendments.

COMMITTEE AMENDMENTS

Senator Angara: Thank you, Mr. President. I wish to submit the Committee amendments to Senate Bill No. 252.

On page 3, line 15, delete the word "through the establishment of".

The President: Is there any objection to the said amendment? [Silence] There being none, the amendment is approved.

I understand that the Committee amendments have been reduced to writing.

Senator Angara: Yes, Mr. President. We anticipated a clean copy being asked, so we had the Committee amend-

ments incorporated in a new draft, which we are to distribute later. We will do it after all the Committee amendments have been approved.

The President: The Gentleman may then proceed.

Senator Angara: Thank you, Mr. President.

On page 3, after line 20, insert a new subparagraph (6) and renumber the succeeding subparagraphs accordingly. The new subparagraph (6) will read as follows:

(6) TO PROMOTE THE TRANSLATION AND PUBLICATION OF SCIENTIFIC AND TECHNICAL BOOKS AND CLASSIC WORKS IN LITERATURE AND THE ARTS.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara: This reflects, Mr. President, the amendment of Senator Shahani.

On page 4, line 5, after the word "Cultural" insert the words ORGANIZATION (UNESCO).

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara: On page 4, between lines 8 and 9, insert a new subparagraph which will read as follows:

(11) TO PROMOTE WHENEVER APPROPRIATE THE USE OF RECYCLED/ WASTE PAPER AND OTHER INEXPENSIVE LOCAL MATERIALS IN THE MANUFACTURE OF BOOKS TO REDUCE THE COST OF SUCH LOCALLY PRODUCED BOOKS.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara: This reflects the amendment of Senator Mercado, Mr. President.

On page 5, line 10, after the word "books" insert the words OR OTHER PERIODICALS SUCH AS APPROPRIATE OR SELECTED COMICS AS INSTRUCTIONAL OR TEACHING MATERIALS.

The President: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara: On page 5, lines 20 to 28, the first

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recommending that the Bill be referred to the Committee on Constitutional Amendments, Revision of Codes and Laws.

Sponsor: Senator Roco

The President: To the Committee on Constitutional Amendments, Revision of Codes and Laws.

The President: The Majority Leader is recognized.

Senator Webb: Mr. President.

The President: Yes, Senator Webb is recognized.

Senator Webb: I take pleasure in informing the Body that Senator Maceda and Senator Coseteng would like to be coauthors on Senate Bill No. 349, entitled

AN ACT PROMOTING VOLUNTARY BLOOD DONATION, PROVIDING FOR AN ADEQUATE SUPPLY OF SAID BLOOD, REGULATING BLOOD BANKS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

The President: All right, let that be entered in the record.

Senator Webb: And also Senator Romulo, Mr. President.

The President: Likewise.

Senator Romulo: Mr. President, we wish to inform the Chamber that the President has certified House Bill No. 3192, entitled

AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY 1 TO DECEMBER 31, 1993, AND FOR OTHER PURPOSES.

Therefore, Mr. President, at the proper time today we shall move for the voting on the Second and Third Reading of the General Appropriations Bill.

In the meantime, Mr. President, there is a need to put together the amendments that have been proposed at the last session, so that there will be a meeting of the Committee on Finance to take care of these amendments.

SUSPENSION OF THE SESSION

Therefore, may I move for a one-minute suspension of the session.

The President: The session is suspended, if there is no objection. [*There was none.*]

It was 11:41 a.m.

RESUMPTION OF THE SESSION

At 12:00 p.m., the session was resumed.

The President: The session is resumed.

The Majority Leader is recognized.

BILL ON SECOND READING Senate Bill No. 176--Hazing as a Crime (Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 176, as reported out under Committee Report No. 18.

The President: Resumption of the consideration of Senate Bill No. 176 is now in order.

Senator Romulo: We are still in the period of amendments. I ask that the Sponsor and Author, the distinguished Senator from Manila, Nueva Ecija, and Laguna, Senator Jose D. Lina, Jr., be recognized.

The President: Senator Jose D. Lina, the Sponsor of this bill, is hereby recognized.

Senator Lina: Thank you, Mr. President.

During the last time that we took up this measure, Senator Ernesto Herrera raised some questions in conjunction with the penalties that the bill imposes on the perpetrators of the act of hazing. In view of his manifestation, the Committee now proposes the amendments. The amendments are quite long, but are simple and self-explanatory. The thrust of the amendments is to make the penalties jibe with the gradation of the penalties now appearing in the Revised Penal Code.

These are the amendments, Mr. President, On page 1...

The President: Before Senator Lina proceeds, it is understood that what we are using as basis of our proceedings now and hereafter is the latest copy of Senate Bill No. 176, with the following notation appearing at the left upper corner of the same, which reads: "With approved Committee amendments as of November 18, 1992." Is the understanding of the Chair correct?

Senator Lina: Yes, Mr. President.

The President: The Gentleman may proceed with the Committee amendments now.

COMMITTEE AMENDMENTS

Senator Lina: On page 1, lines 16 to 17, delete the sentence "THE CRIME OF HAZING AS HEREIN DEFINED SHALL BE PUNISHED AS FOLLOWS:", in lieu thereof, insert this sentence: THE PERSON OR PERSONS WHO PARTICIPATED IN THE HAZING AS HEREIN DEFINED SHALL SUFFER.

The President: Is it SHALL SUFFER?

Senator Lina: Yes, Mr. President. Then, there is an enumeration of the penalties.

The President: Is there any objection to the proposed Committee amendment? [Silence] The Chair hears none; the amendment is hereby approved.

Senator Lina: Before I read the reformulated paragraph, I would like to explain further that the amendments, as I said earlier, will conform to the language of the Revised Penal Code to obviate any misunderstanding, Mr. President.

On page 2, lines 1 to 18, to reformulate subparagraphs Nos. 1 to 3, as follows:

"1. THE PENALTY OF *RECLUSION PERPETUA*, IF DEATH, RAPE, SODOMY OR MUTILATION RESULTS THEREFROM."

"2. THE PENALTY OF *RECLUSION TEMPORAL* IN ITS MAXIMUM PERIOD, IF IN CONSEQUENCE OF THE HAZING THE VICTIM SHALL BECOME INSANE, IMBECILE, IMPOTENT OR BLIND.

"3. THE PENALTY OF *RECLUSION TEMPORAL* IN ITS MEDIUM PERIOD IF IN CONSEQUENCE OF THE HAZING THE VICTIM SHALL HAVE LOST THE USE OF SPEECH OR THE POWER TO HEAR OR TO SMELL, OR SHALL HAVE LOST AN EYE, A HAND, A FOOT, AN ARM, OR A LEG OR SHALL HAVE LOST THE USE OF ANY SUCH MEMBER, OR SHALL HAVE BECOME INCAPACITATED FOR THE ACTIVITY OR WORK IN WHICH HE WAS HABITUALLY ENGAGED.

"4. THE PENALTY OF *RECLUSION TEMPORAL* IN ITS MINIMUM PERIOD IF IN CONSEQUENCE OF THE

HAZING THE VICTIM SHALL BECOME DEFORMED, OR SHALL HAVE LOST ANY OTHER PART OF HIS BODY, OR SHALL HAVE LOST THE USE THEREOF, OR SHALL HAVE BEEN ILL OR INCAPACITATED FOR THE PERFORMANCE OF THE ACTIVITY OR WORK IN WHICH HE WAS HABITUALLY ENGAGED FOR A PERIOD OF MORE THAN NINETY (90) DAYS."

Let me pause for a while, Mr. President. I am going to read all the amendments because they come in a package, and there is a logical sequence that we follow. So, it is better if I read the entire amendment.

"5. THE PENALTY OF *PRISION MAYOR* IN ITS MAXIMUM PERIOD IF IN CONSEQUENCE OF THE HAZING THE VICTIM SHALL HAVE BEEN ILL OR INCAPACITATED FOR THE PERFORMANCE OF THE ACTIVITY OR WORK IN WHICH HE WAS HABITUALLY ENGAGED FOR MORE THAN THIRTY (30) DAYS.

"6. THE PENALTY OF *PRISION MAYOR* IN ITS MEDIUM PERIOD IF IN CONSEQUENCE OF THE HAZING THE VICTIM SHALL HAVE BEEN ILL OR INCAPACITATED FOR THE PERFORMANCE OF THE ACTIVITY OR WORK IN WHICH HE WAS HABITUALLY ENGAGED FOR TEN (10) DAYS OR MORE, OR THAT THE INJURY SUSTAINED SHALL REQUIRE MEDICAL ATTENDANCE FOR THE SAME PERIOD.

"7. THE PENALTY OF *PRISION MAYOR* IN ITS MINIMUM PERIOD IF IN CONSEQUENCE OF THE HAZING THE VICTIM SHALL HAVE BEEN ILL OR INCAPACITATED FOR THE PERFORMANCE OF THE ACTIVITY OR WORK IN WHICH HE WAS HABITUALLY ENGAGED FROM ONE (1) TO NINE (9) DAYS, OR THAT THE INJURY SUSTAINED SHALL REQUIRE MEDICAL ATTENDANCE FOR THE SAME PERIOD.

"8. THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MAXIMUM PERIOD IF IN CONSEQUENCE OF THE HAZING THE VICTIM SUSTAINED PHYSICAL INJURIES WHICH DO NOT PREVENT HIM FROM ENGAGING IN HIS HABITUAL ACTIVITY OR WORK NOR REQUIRE MEDICAL ATTENDANCE."

That would be one single amendment, Mr. President.

The President: All right. That would mean the deletion of lines 1 to...

Senator Lina: Lines 1 to 18, Mr. President.

The President: Is there any question? Any objection? Yes, Senator Biazon.

Senator Blazon: Mr. President, on page 2, line 7, do I understand that sodomy is going to be included as a punishable act in this law?

Senator Lina: Yes, Mr. President. And we do recognize that it does not appear as a crime punishable under the Revised Penal Code. That is one loophole in the Revised Penal Code. So, we are introducing the concept for the first time in the Revised Penal Code.

The President: Is it the understanding of the Chair that sodomy as such, without more, is not punishable? But it becomes punishable only in the computation of the penalty when it results from or was committed on the occasion of hazing.

Senator Lina: Yes, Mr. President.

Senator Blazon: Mr. President, the act of sodomy, not being an offense under our existing laws, can only be considered as a perversion and, therefore, is bordering on a question of morality. Will the Gentleman have any objection, if sodomy is modified by a phrase "without consent"?

Senator Lina: Mr. President, this bill does not make sodomy a crime. Sodomy is referred to in this bill as a result from the act of hazing. So, per se, sodomy is not being punished as a crime, but it is being referred to merely as a result of the act of hazing. As we know, sodomy is an oral or anal copulation between persons who are husband and wife, or consenting adult members of the opposite sex, or between a person and an animal, or coitus with an animal. That is the definition of sodomy. So, I do not think we will be having any problem if we identify this act as a result from hazing.

There are testimonies to the effect, Mr. President, as reported in some newspapers, that indeed sodomy was resorted to by some initiators during the act of hazing. Whether with or without consent, it results in some instances. So if we do not include sodomy, then that kind of result will not be covered when we pass this law. The perpetrator of the act of hazing can say that it is not covered by the act of hazing, and therefore, even if sodomy is done, then the penalty will not be any higher.

Senator Blazon: Mr. President, this Representation has no objection to the inclusion of sodomy as one of the conditions resulting from hazing as necessary to be punished. However, the act of sodomy can be committed by two persons with

or without consent.

To make it clearer, what is being punished here is the commission of sodomy forced into another individual by another individual. I move, Mr. President, that sodomy be modified by the phrase "without consent" for purposes of this section.

Senator Lina: I am afraid, Mr. President, that if we qualify sodomy with the concept that it is only going to aggravate the crime of hazing if it is done without consent will change a lot of concepts here. Because the results from hazing aggravate the offense with or without consent. In fact, when a person joins a fraternity, sorority, or any association for that matter, it can be with or without the consent of the intended victim. The fact that a person joins a sorority or fraternity with his consent does not negate the crime of hazing.

This is a proposed law intended to protect the citizens from the malpractices that attend initiation which may have been announced with or without physical infliction of pain or injury, Mr. President. Regardless of whether there is this announcement that there will be physical hazing or whether there is none, and therefore, the neophyte is duped into joining a fraternity is of no moment. What is important is that there is an infliction of physical pain.

The bottom line of this law is that a citizen even has to be protected from himself if he joins a fraternity, so that at a certain point in time, the State, the individual, or the parents of the victim can run after the perpetrators of the crime, regardless of whether or not there was consent on the part of the victim.

Senator Blazon: Mr. President, by virtue of the changing morality in the world where there are certain acts which previously were unacceptable to society and now are changing to be acceptable; since sodomy is an act between two individuals, and if the plain commission of sodomy with or without consent will be made punishable, then, in some future time, we might be really encroaching into the rights of certain individuals or the rights of some people to assume certain acts as acceptable to their society or to their group.

Therefore, Mr. President, if sodomy is acceptable to what we may call the "perceived victim," and yet the perceived victim wants it to be done to himself, then I think this act must not be made punishable.

So, Mr. President, to make it clearer, sodomy should be clarified or modified by a phrase "without consent." So that if sodomy is committed without consent of the perceived

victim, then it must be an offense. But if it is committed with the consent of the perceived victim, then it cannot be made punishable, Mr. President.

Senator Lina: Mr. President, I understand the position taken by the distinguished Gentleman from Cavite and Metro Manila. It is correct that a society sometimes adopts new mores, traditions, and practices.

In this bill, we are not going to encroach into the private proclivities of some individuals when they do their acts in private as we do not take a peek into the private rooms of couples. They can do their thing if they want to make love in ways that are not considered acceptable by the mainstream of society. That is not something that the State should prohibit.

But the sodomy in this case is connected with hazing, Mr. President. Such that the act may even be entered into with ~~consent~~. It is not only sodomy. The infliction of pain may be ~~done~~ with the consent of the neophyte. If the laws is passed, that does not make the act of hazing not punishable because the neophyte accepted the infliction of pain upon himself.

If the victim suffers from serious physical injuries, but the initiator said, "Well, he allowed it upon himself. He consented to it." So, if we allow that reasoning that sodomy was done with the consent of the victim, then we would not have passed any law at all. There will be no significance if we pass this bill, because it will always be a defense that the victim allowed the infliction of pain or suffering. He accepted it as part of the initiation rites.

But, precisely, Mr. President, that is one thing that we want to prohibit. That the defense of consent will not apply ~~because~~ because the very act of inflicting physical pain or psychological suffering is, by itself, a punishable act. The result of the ~~act~~ act of hazing, like death or physical injuries merely aggravates the act with higher penalties. But the defense of consent is not going to nullify the criminal nature of the act.

So if we accept the amendment that sodomy can only aggravate the offense if it is committed without the consent of the victim, then the whole foundation of this proposed law will collapse.

Senator Blazon: Thank you, Mr. President.

Senator Lina: Thank you very much.

The President: Is there any objection to the committee amendment? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: On page 2, lines 19 to 21, delete subparagraph No. 4, which reads: "THE PENALTY OF *RECLUSION PERPETUA* SHALL BE IMPOSED WHEN THE VICTIM IS BELOW TWELVE (12) YEARS OF AGE AT THE TIME OF HAZING."

The President: Is there any objection to the amendment that calls for the deletion of lines 19 to 21 on page 2? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: On page 2, line 22, delete the number 5.

The President: Is there any objection to the proposed amendment? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: On page 3, line 13, delete the word "or" after the word "intimidation".

The President: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: On page 3, line 15, after the word "institution", replace the period with a semicolon and add the word OR.

The President: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: On page 3, lines 15 and 16, insert a new subparagraph (E) which reads: WHEN THE VICTIM IS BELOW TWELVE (12) YEARS OF AGE AT THE TIME OF THE HAZING.

Let me explain for the record, Mr. President, that what we removed earlier was the imposition of the penalty. Now, in this particular amendment, we are making the fact that the victim is below twelve (12) years at the time of the hazing as an aggravating circumstance.

The President: Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Lina: To have a better and more logical presentation, the Committee proposes the following amendments on page 4, from lines 1 to 21. This is just a rewording, Mr. President, so that the matter is presented more clearly.

The first paragraph shall now read as follows: THE SCHOOL AUTHORITIES, INCLUDING FACULTY MEMBERS, WHO CONSENT TO THE HAZING OR WHO HAVE ACTUAL KNOWLEDGE THEREOF, BUT FAILED

TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING. SHALL BE PUNISHED AS ACCOMPLICES FOR THE ACTS OF HAZING COMMITTED BY THE PERPETRATORS.

The President: Is there any objection? [*Silence*] There being none, the amendment is hereby approved.

Senator Lina: The second paragraph, Mr. President, shall read as follows:

THE OFFICERS, FORMER OFFICERS, OR ALUMNI OF THE ORGANIZATION, GROUP, FRATERNITY OR SORORITY WHO ACTUALLY PLANNED THE HAZING ALTHOUGH NOT PRESENT WHEN THE ACTS CONSTITUTING THE CRIME OF HAZING WERE COMMITTED SHALL BE LIABLE AS PRINCIPALS. OFFICERS OR MEMBERS OF AN ORGANIZATION, GROUP, FRATERNITY OR SORORITY WHO KNOWINGLY COOPERATED IN CARRYING OUT THE HAZING BY INDUCING THE VICTIM TO BE PRESENT THEREAT SHALL BE LIABLE AS PRINCIPALS. A FRATERNITY OR SORORITY'S ADVISER WHO IS PRESENT WHEN THE ACTS CONSTITUTING THE CRIME OF HAZING WERE COMMITTED AND FAILED TO TAKE ANY ACTION TO PREVENT THE SAME FROM OCCURRING SHALL BE LIABLE AS PRINCIPAL.

The President: Is there any objection to this amendment? [*Silence*] There being none, the amendment is hereby approved.

Senator Lina: The third paragraph shall read as follows:

THE PRESENCE OF ANY PERSON WHEN THE ACTS CONSTITUTING THE CRIME OF HAZING WERE COMMITTED IS *PRIMA FACIE* EVIDENCE OF PARTICIPATION THEREIN AS A PRINCIPAL UNLESS HE PREVENTED THE OCCURRENCE OF THE SAME.

The President: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina: That completes the Committee amendments, Mr. President.

The President: All right. Are there individual amendments?

Senator Romulo: Mr. President, there are individual amendments.

Mr. President, may I move that we close the period of

Committee amendments.

The President: Is there any objection? [*Silence*] There being none, the period of Committee amendments is hereby closed.

Senator Romulo: Senator Biazon, Mr. President, is requesting that that he be allowed to give his individual amendments this afternoon.

SUSPENSION OF THE SESSION

May we have a one-minute suspension of the session, Mr. President?

The President: The session is suspended, if there is no objection. [*There was none.*]

It was 12:27 p.m.

RESUMPTION OF THE SESSION

At 12:28 p.m., the session was resumed.

Senator Romulo: May we resume the session, Mr. President.

The President: The session is resumed.

Senator Biazon: Mr. President,

The President: Senator Biazon is recognized.

BIAZON AMENDMENT

Senator Biazon: Mr. President, on page 1, line 15. After line 15, I propose to add the following:

PROVIDED, THAT THE PHYSICAL, MENTAL AND PSYCHOLOGICAL TESTING AND TRAINING PROCEDURE AND PRACTICES TO DETERMINE AND ENHANCE THE PHYSICAL, MENTAL AND PSYCHOLOGICAL FITNESS OF PROSPECTIVE REGULAR MEMBERS OF THE ARMED FORCES OF THE PHILIPPINES AND THE PHILIPPINE NATIONAL POLICE AS APPROVED BY THE SECRETARY OF NATIONAL DEFENSE AND THE NATIONAL POLICE COMMISSION DULY RECOMMENDED BY THE CHIEF OF STAFF, ARMED FORCES OF THE PHILIPPINES, AND THE DIRECTOR GENERAL OF THE PHILIPPINE NATIONAL POLICE SHALL NOT BE CONSIDERED AS HAZING FOR PURPOSES OF THIS ACT.

The President: What does the Sponsor say?

Senator Lina: Subject to refinement and style, Mr. President, maybe we should not start with the word "PROVIDED." It will just be a direct statement that the psychological, et cetera, shall not be covered. With that amendment in style, Mr. President, I accept the amendment of Senator Biazon.

The President: Is the counter-proposal of the Sponsor acceptable to the main proponent?

Senator Biazon: It is accepted, Mr. President.

Senator Lina: Thank you, Mr. President.

The President: Is there any objection to this amendment subject to refinement in style? [Silence] There being none, the amendment is hereby approved.

Any further individual amendments?

The Majority Leader is recognized.

Senator Romulo: Mr. President, since there are no other individual amendments, may I move that we close the period of individual amendments.

The President: Is there any objection? [Silence] There being none, the period of individual amendments is hereby closed.

APPROVAL OF SENATE BILL NO. 176 ON
SECOND READING, AS AMENDED

Senator Romulo: Mr. President, I move that we vote on Senate Bill No. 176, as amended, on Second Reading.

The President: We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, please say Aye. [Several Senators: Aye] As many as are opposed, please say Nay. [Silence] Senate Bill No. 176 is approved on Second Reading.

Senator Tañada: Mr. President.

The President: Senator Tañada is recognized.

Senator Tañada: Before we suspend our session for the day, Mr. President, I am now ready with my correction on page 66 of the Journal of December 10.

On page 66, of the *Journal* for December 10, Mr. President, if I may present my correction.

The President: Yes.

Senator Tañada: The first paragraph, should read as follows:

"With respect to the Committee amendment on the Department of Trade and Industry, specifically the Philippine Trade Training Center exempting it from complying with the requirement subjecting the PTTC's use of income from fees and charges to Section 35, Book VI of EO 292, otherwise known as the Administrative Code of 1987, Senator Tañada requested to be clarified on the matter and wondered what could be the compelling reason that the PTTC should be exempted from the said requirement."

The President: Enter the correction in the *Journal*.

Senator Tañada: On page 67, Mr. President, the second paragraph should read as follows: "Senator Macapagal-Arroyo then proposed an amendment to the amendment of Senator Tañada, restoring the budget of the Philippine Trade Training Center to the 1992 level, which is P20 million, to which Senator Tañada agreed, stating that it was the exemption of the PTTC from the requirement of Section 35, Book VI of EO 292 that he was really objecting to. He explained that this Committee amendment would make the PTTC a very special case, considering that other agencies with the same privilege are required to comply with Section 35, Book VI of the Revised Administrative Code."

The President: Enter the corrections in the *Journal*.

Senator Lina: Mr. President.

The President: Senator Lina is recognized.

Senator Lina: Mr. President, I would just like to manifest that Senators Biazon, Aquino and Webb are coauthors of the bill on hazing.

The President: Make that of record.

Senator Romulo: Mr. President, this afternoon, we shall act on House Bill No. 3192, the budget for 1993. The parliamentary situation is that, we shall consider this bill for Second and Third Readings, as this is a certified bill.

We shall also take up, Mr. President, the Sponsorship Speech for Senate Bill No. 578, as reported out under Com-

mittee Report No. 39.

SUSPENSION OF THE SESSION

There being no other matters to be taken up in this noon's session, I move that we suspend the session until four o'clock this afternoon.

The President: Is there any objection? [*Silence*] There being none, the session is hereby suspended until four o'clock this afternoon.

It was 12:35 p.m.

RESUMPTION OF THE SESSION

At 4:33 p.m., the session is resumed.

The President: The session is resumed.

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, the Second and Third Readings of the General Appropriations Bill, may we defer that in the meantime as the amendments are being typewritten.

BILL ON SECOND READING

Senate Bill No. 578 - Women Below 18 as Models for Advertisement

Mr. President, I move that we consider Senate Bill No. 578 as reported out under Committee Report No. 39.

The President: Consideration of Senate Bill No. 578 is now in order.

With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary: Senate Bill No. 578, entitled

AN ACT PROHIBITING A WOMAN BELOW 18 YEARS OF AGE FROM DIRECTLY ENGAGING AND/OR BEING USED AS A MODEL FOR ADVERTISEMENT OR PROMOTION OF LIQUOR, INTOXICATING DRINKS AND CIGARETTES AND PROVIDING PENALTIES THEREOF.

The following is the full text of Senate bill No. 578:

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act prohibits a woman below eighteen (18) years of age from personally consenting, presenting, or engaging herself to be used as a model for advertisement or promotion of liquor, intoxicating drinks and cigarettes appearing in newspapers, magazines, posters, billboards, television, theater screens, live shows, or other similar means.

SEC. 2. The same prohibition is likewise applicable to the following:

- a) Owner, dealer, promoter and agent of the liquor, intoxicating drinks and cigarettes who induces, hires, or employs women below eighteen (18) years old to effect the advertisement and promotion; and
- b) A relative by affinity or consanguinity within the 3rd civil degree, of the woman below eighteen (18) years of age, who forces, induces, promotes or facilitates the inclusion of the latter in any advertisement or promotion of liquor, intoxicating and cigarettes.

SEC. 3. A person who violates the provisions herein shall pay the fine of Five thousand pesos (P5,000.00) or imprisonment of thirty (30) days or both.

If the person who violates any provision of this Act is a relative by affinity or consanguinity within the 3rd civil degree, of the woman below eighteen (18) years of age, the penalty shall be a fine of Ten thousand pesos (P10,000.00) and imprisonment for fifteen (15) days.

SEC. 4. This Act shall take effect upon its approval.

Senator Romulo: Mr. President, to deliver the sponsorship speech, may I ask that the distinguished Gentle Lady from Pangasinan, Senator Leticia Ramos Shahani be recognized.

The President: The Lady Senator from Pangasinan, Senator Leticia Shahani is hereby recognized.

SPONSORSHIP SPEECH OF SENATOR SHAHANI

Senator Shahani: Thank you, Mr. President.

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These proposals will be crucial to the successful implementation of the programs of this Administration.

(Sgd.) FIDEL V. RAMOS

The President: Referred to the Committee on Rules.

RESOLUTION

The Secretary: Proposed Senate Resolution No. 251, entitled

RESOLUTION DIRECTING THE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE CONDUCT AND EVALUATION OF THE BIDDING, THE NEGOTIATIONS AND TRANSACTIONS LEADING TO THE AWARD OF THE BIDS OF THE OECF ASSISTED PROJECT - MACTAN (CEBU) INTERNATIONAL AIRPORT.

Introduced by Senator Osmeña.

The President: Referred to the Committee on Accountability of Public Officers and Investigations.

BILL ON THIRD READING
Senate Bill No. 176--Hazing as a Crime

Senator Romulo: Mr. President, I move that we vote on Third Reading on Senate Bill No. 176. Copies of the bill were distributed to all the Members of the Senate on December 14, 1992.

The President: Voting on Third Reading on Senate Bill No. 176 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. [There was none.]

The Secretary: Senate Bill No. 176, entitled

AN ACT INSTITUTING THE CRIME OF HAZING AND AMENDING FOR THAT PURPOSE SECTION ONE, CHAPTER ONE, TITLE EIGHT OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS "THE REVISED PENAL CODE."

The President: The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 15

Senator Alvarez	Senator Osmeña
Senator Biazon	Senator Rasul
Senator Gonzales	Senator Romulo
Senator Guingona	Senator Sotto
Senator Lina	Senator Tafiada
Senator Maceda	Senator Tatad
Senator Mercado	Senator Tolentino
Senator Ople	

NO - 0

ABSTENTION - 0

RESULT OF VOTING

The President: With 15 affirmative votes, no negative vote, and no abstention, Senate Bill No. 176 is approved on Third Reading.

BILL ON SECOND READING
Senate Bill No. 925--Municipal Libraries and Barangay Reading Centers
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 925 as reported out under Committee Report No. 33.

The President: Resumption of consideration of Senate Bill No. 925 is now in order.

Senator Romulo: Mr. President, we are still in the period of amendments. I ask that the distinguished Lady from Mindanao, Senator Santanina Rasul, be recognized.

The President: Senator Rasul is recognized.

COMMITTEE AMENDMENTS

Senator Rasul: Thank you, Mr. President.

Mr. President, for the record, the amendments submitted have been distributed twice already. So, I feel certain that the distinguished Members of this Chamber are already familiar