

RECORD OF THE SENATE

TUESDAY, NOVEMBER 17, 1992

RESUMPTION OF THE SESSION

At 10:14 a.m., the session was resumed with the Honorable Neptali A. Gonzales, Senate President, presiding.

The President: The session is hereby resumed.

The Majority Leader is recognized.

Senator Romulo: Mr. President, may I ask the Secretary to read the Second Additional Reference of Business.

The President: The Secretary is directed to do so.

SECOND ADDITIONAL REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Secretary:

10 November 1992

Honorable Neptali A. Gonzales
Senate President
Senate, Manila

Dear Senate President Gonzales:

I have the honor to endorse as an administration measure Senate Bill No. 827, entitled

AN ACT DEFINING KIDNAPING FOR RANSOM,
DECLARING THE SAME AS A HEINOUS
CRIME AND PRESCRIBING THE
PENALTIES THEREFOR.

My best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

The President: Referred to the Committee on Rules.

The Secretary:

13 November 1992

Honorable Neptali A. Gonzales
President
Senate of the Philippines
Old Congress Building
Manila

Sir:

I hereby endorse as a priority Administration Bill the attached Senate Bill entitled

AN ACT RESTORING THE TAX AND DUTY
EXEMPTION PRIVILEGES OF THE ARMED
FORCES OF THE PHILIPPINES
COMMISSARY AND EXCHANGE SERVICE.

Best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

The President: Referred to the Committees on Ways and Means; and National Defense and Security.

The Secretary:

November 6, 1992

The Honorable
The President of the Senate
Manila

Sir:

The Department of Foreign Affairs has recommended that the Republic of the Philippines accede to the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, also known as the "Ramsar Convention," and that the said Convention be submitted to the Senate for its concurrence in accordance with Article VII, Section 21, of the Constitution.

The said Convention, which consists of 12 Articles, recognizes wetlands habitat (areas of marsh, fen, peatland and water) as part of the common heritage of mankind and provides for their protection and wise-use. It was adopted at the International Conference on the Convention of Wetlands and Waterfowl held in Ramsar, Iran on February 2, 1971, where the Philippines participated as an observer. The Convention entered into force in late 1975 and now has 57 contracting parties. Accession to the Convention by the Philippines is made possible pursuant to Article 9 thereof, which provides in part that the Convention shall be open for accession by States.

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 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.

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.