

RECORD OF THE SENATE

MONDAY, NOVEMBER 16, 1992

OPENING OF THE SESSION

At 4:10 p.m., the Honorable Neptali A. Gonzales, President of the Senate, called the session to order.

The President: Binubuksan ang ika--36 na pagpupulong ng Senado.

NATIONAL ANTHEM

Inaanyayahan ang lahat na tumindig at aawitin ng Metropolitan Manila Authority Chorale ang pambansang awit, at pagkatapos ay isang makabansang awitin, ang "Pag-ibig sa Tinubuang Lupa."

Pagkatapos nito ay pangungunahan tayo sa panalangin ni Senadora Santanina T. Rasul.

Everybody rose for the singing of the national anthem.

After the singing, everybody remained standing for the opening prayer.

PRAYER

Senator Rasul:

Bismillah Hirahman Nirhahim

In the name of God, the Most Beneficent, the Most Merciful.

All praise be unto You, Almighty God, Lord of this world and hereafter.

Today, we enter another week of sessions to discuss all important matters that affect the nation.

Help us, Lord, to make the right decisions even as we formulate legislation for the good of our country and people.

Let us not act in haste, nor in fear, nor in anger.

Guide us, Lord, that we may decide and act in Your Name.

Amen.

* Arrived after the roll call

SUSPENSION OF THE SESSION

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

It was 4:17 p.m.

RESUMPTION OF THE SESSION

At 4:18 p.m., the session was resumed.

The President: The session is resumed.

ROLL CALL

The Secretary will please call the roll.

The Secretary:

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Rodolfo G. Biazon	Present
Senator Anna Dominique M. L. Coseteng	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	Present
Senator Gloria Macapagal-Arroyo	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present
Senator John H. Osmeña	Present
Senator Santanina T. Rasul	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present
Senator Wigberto E. Tañada	Absent
Senator Francisco S. Tatad	Present*
Senator Arturo M. Tolentino	Present
Senator Freddie N. Webb	Present
The President	Present

The President: Twenty-one Senators having answered the roll call, the Chair declares the existence of a quorum.

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: Because of the tight schedule between

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--paddling 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.