


FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

7 JUL -4 11 20

SENATE

RECEIVED BY: 

Senate Bill No. 1035

INTRODUCED BY SEN. MANNY VILLAR

EXPLANATORY NOTE

Article 351 of the Revised Penal Code (Act. No. 3815, as amended) which traces its origin to ancient Spain, penalizes:

- (1) a widow who marries within 301 days from the date of the death of her husband, or before having delivered if she is pregnant at the time of his death; or
- (2) a woman who, her marriage having been annulled or dissolved, marries before her delivery or before the expiration of the period of 301 days after the date of the legal separation.

This is crystal clear from the provision of Article 351, which states thus:

“Any widow who shall marry within three hundred and one (301) days from the date of the death of her husband or before having delivered if she shall have been pregnant at the time of his death, shall be punished by *arresto mayor* and a fine not exceeding Five Hundred Pesos (P500.00).

The same penalties shall be imposed upon any woman whose marriage shall have been annulled or dissolved if she shall marry before her delivery or before the expiration of the period of three hundred and one (301) days after the legal separation.” (emphasis supplied)

The aforementioned provision of law is intended to prevent confusion in connection with filiation and paternity, inasmuch as the widow might have conceived and become pregnant by her late husband (U.S. Dulay, 10 Phil. 305 cited in Luis B. Reyes, Revised Penal Code Vol. II p.915 12th ed.) Indeed, in conjunction therewith, Article 84 of the Civil Code before its repeal by Executive Order 209, as amended, denies the issuance of marriage licenses to such women.

This anachronistic provision smacks of pronounced discrimination against women. Besides, it must be distinctly observed that the present advances in medical technology allow the detection of pregnancy even almost at its inception.

In apparent recognition of this medical phenomenon, **Article 168 of Executive Order 209**, as amended, merely provides:

“If the marriage is terminated and the mother contracted another marriage within three hundred (300) days after such termination of the former marriage, these rules shall govern in the absence of proof to the contrary:

(1) A child born before one hundred eighty (180) days after the solemnization of the subsequent marriage is considered to have been conceived during the former marriage, provided it be born within three hundred (300) days after the termination of the former marriage;

(2) A child born after one hundred eighty (180) days following the celebration of the subsequent marriage is considered to have been conceived during such marriage, even though it be born within the three hundred (300) days after the termination of the former marriage.”

(Emphasis supplied)

Obviously, the reason for the law ceased.

While Article 351 aforesaid might not have resulted to any conviction, its constant threat of application hangs like a “Damocles Sword” over the heads of women.

This Bill seeks to remove this last vestige of discrimination against women from our penal statute books by repealing the three hundred and one (301) days penal prohibition to remarry and reducing the same to forty (40) days in fealty to customs and traditions.

Early passage of this Bill, is therefore, earnestly recommended.



MANNY VILLAR

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7 JUL -4 P1:30

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Senate Bill No. **1035**

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AN ACT

ABOLISHING THE THREE HUNDRED AND ONE (301) DAYS CRIMINAL PROHIBITION TO REMARRY AND ALLOWING THE REMARRIAGE OF A WIDOW OR A SEPARATED WOMAN FORTY (40) DAYS AFTER THE DEATH OF HER HUSBAND OR THE ANNULMENT OR DISSOLUTION OF HER PREVIOUS MARRIAGE, AMENDING FOR THIS PURPOSE ARTICLE 351 OR 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. Article 351 or Act No. 3815, as amended otherwise known as the "Revised Penal Code" is hereby further amended to read as follows:

"Any widow who shall marry within [three hundred and one days] FORTY (40) DAYS from the date of the death of her husband, [or before having delivered if she shall have been pregnant at the time of his death] shall be punished by *arresto mayor* and a fine of not exceeding Five Hundred Pesos (P500.00).

The same penalties shall be imposed upon any woman whose marriage shall have been annulled or dissolved, if she shall marry [before her delivery or] before the expiration of the period of FORTY (40) DAYS [three hundred and one days after legal separation] FROM THE DATE OF ANNULMENT OR DISSOLUTION OF HER MARRIAGE."

SECTION 2. This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,