



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 32
Wednesday, October 6, 2010

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 32
Wednesday, October 6, 2010

CALL TO ORDER

At 3:41 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

Sen. Gregorio B. Honasan read the prayer of Sen. Lito Lapid, to wit:

Atin pong ituon ang ating mga sarili sa Panginoon.

Pinakamamahal na Panginoon, ang Inyong abang lingkod, sampu ng aking mga kasamahan dito sa Senado, ay nag-susumamo na nawa ay dinggin Mo ang aming mga panalangin na magampanan namin nang tapat ang aming sagradong tungkulin bilang Inyong mga mambabatas sa Kapulungang ito.

Biyayaan Ninyo Po kami ng Inyong Banal na Espiritu upang mabigyan ng kaliwanagan ang aming mga puso at diwa upang makapagbalangkas kami ng mga panukalang batas na alinsunod sa Inyong dakilang kagustuhan at kalooban.

Idinadasal Po namin na sana ay tuluyang manatili sa Kapulungang ito ang Inyong Banal na Espiritu ng kapaya-

paan upang sabay-sabay naming gabayan ang aming bansa tungo sa daan ng kaunlaran, kaginhawaan at pagkakaisa.

Panginoong Maykapal, iisa lamang ang pintig ng aming puso, ang mapaglingkuran Kayo nang tapat sa pamamagitan ng paglilingkod namin sa aming Inang Bayan at sa sambayanang Pilipino.

Ang lahat ng ito ay hiniling namin sa pangalan ng Inyong mahal na Anak na si Hesus.


Siya nawa.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

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|----------------------|-------------------|
| Arroyo, J. P. | Legarda, L. |
| Drilon, F. M. | Osmeña III, S. R. |
| Ejercito Estrada, J. | Recto, R. G. |
| Enrile, J. P. | Sotto III, V. C. |
| Escudero, F. J. G. | Villar, M. |
| Guingona III, T. D. | Zubiri, J. M. F. |
| Honasan, G. B. | |

With 13 senators present, the Chair declared the presence of a quorum.



Senators Cayetano (A) and Lapid arrived after the roll call.

Senators Cayetano (P), Marcos and Pangilinan were on official mission abroad.

Senator Defensor Santiago was on sick leave.

Senators Angara, Lacson and Revilla were absent.

Senator Trillanes was unable to attend the session as he was under detention.

At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

APPROVAL OF THE JOURNAL OF SESSION NO. 31

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 31 (October 5, 2010) and considered it approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senator Sotto acknowledged the presence in the gallery of councilors from the city of San Juan headed by former Vice Mayor Leonardo Celles and students from San Juan de Dios Educational Foundation Inc.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

PRIVILEGE SPEECH OF SENATOR SOTTO

Availing himself of the privilege hour, Senator Sotto voiced his objection to the proposal of the Department of Education to add two more years to basic education.

The full text of his speech follows:

Yesterday, we celebrated World Teachers' Day. Yesterday, too, our Department of Education proposed to add two more years to basic education, in a program dubbed as "K+12," or Kindergarten plus 12 years.

I know there have been studies made prior to this announcement. I grant them good intentions, but as a senator of the Republic,

I must voice the sentiments of those whom I heard about the issue and whose views I share.

I oppose the addition of two years to basic education.

First, there is no clear benefit to adding two years to basic education. The second-year college student today is as unemployed as the high school graduate, not because of any lack of intelligence or skill, but because our economy cannot generate enough jobs as there are job-seekers.

Second, the already burdened parents who cannot, even now, afford to bring their children to high school will have a harder problem with the approval of K+12. More years in school translate to more expenses for two more years. *Lalong magiging mahirap masambit ng mga magulang ang mga katagang, "Kahit papaano, napagtapos ko ang aking mga anak ng high school."*

Third, our national budget is unable to fund the present numbers of years in basic education. *Dadagdagan pa natin?* Adding two years to basic education will further increase our budget deficit. We need quality education, not quantity of years in education. We need more schools, not more years in school.

Finally, in a way, we already have K+12. It is common knowledge that preschool has been a fact of life this past decade. Our children have entered school so much earlier than usual such that before reaching kindergarten, for some, they have already gone to preschool of two years. In a way, we have had our own version already of K+12, without institutionalizing it.

This proposal to add two years may be borne out of a perception that we are not as good as others. We are again in self-flagellation mode with regard to our educational system. *Napag-iivanan na raw tayo.* And yet, tens of thousands of South Koreans come to our shores to learn and study English and other courses, as we ourselves veer away from English in basic education. Foreign students compete with our students for precious space in nursing and medicine courses.

These are the problems worth looking into, not adding two years of expenses to our students and parents. It is a total waste of time, effort and money.

They tell us, sir, that this is the world standard. As a matter of fact, I overheard the secretary of Education earlier in a radio interview saying — and this is one of the reasons why I was sparked to deliver this message — that

countries like India and another country he mentioned, when they added two more years to their basic education, their GDP grew. It went up. In the first place, those countries did not have good basic education anyway. *Kaya kung magdadagdag sila at pagagalingin nila ay okay talaga*, unlike in the Philippines *na talagang magaling ang edukasyon natin kung tutuusin*. We can only look at the products of Philippine education: Manuel Quezon, Sergio Osmeña, Juan Ponce Enrile, Joker Arroyo, Blas Ople, Neptali Gonzales, Max Soliven and many others.

If the world standard does not suit our situation and culture, then let the world educate its young the way it sees fit, and let us educate our young the way we see fit. *Siguro ay panahon na para tigilan na natin ang pangagaya sa iba. Mayroon naman tayong sariling bait, sariling pang-unawa ng ating kalagayan, sariling panuklas ng mga solusyon ng ating mga problema. Ang kailangan natin ay ang ating angking talino at karunungan sa mga bagay-bagay sa mundo. Kailangan natin maging mapayapang tao, maging masisipag na trabahador, maging tapat sa paghawak ng pera, maging totoo sa wika, maging matulungin, at maging makatao.*

Education's aims are always twofold – instruction about the world outside and formation of the person inside. Knowledge must be accompanied by character to equip one to achieve his potential and prepare him to live in society with others. The most brilliant mind who kills for no reason will end up in jail, without much use of his intellect. The good person, even without outside formal education, can become an honest businessman and a gentleman, a good citizen and deserving child of his God.

The school is not the only educator. Parents, the church, the community, and the totality of our culture educate and train our students to be good citizens. Let us not complicate matters; let us not fix what is not broken.

Magaling tayo, pero madalas, hindi tayo bilib sa ating sarili. Blame it on centuries of subservience and colonization. We stumble to apologize, we own up to faults before we are accused. *Tayo lamang ang lahi sa mundo na nakikiraan lamang ay yumuyuko pa.* Other countries wage wars, kill millions and after 50 years, it is so hard for them to apologize. It is time to believe in ourselves.

For these reasons, and for the Filipino people, I object to the addition of two years to basic education.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the Chair referred his privilege speech to the Committee on Education, Arts and Culture.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

BILLS ON FIRST READING

Senate Bill No. 2554, entitled

AN ACT PROHIBITING THE ACCESS OF MINORS TO ALCOHOL AND PENALIZING ESTABLISHMENTS THAT FURNISH ALCOHOL TO MINORS

Introduced by Senator Defensor Santiago

To the Committees on Health and Demography; Youth, Women and Family Relations; and Finance

Senate Bill No. 2555, entitled

AN ACT PROVIDING ASSISTANCE TO THE HOMELESS

Introduced by Senator Defensor Santiago

To the Committees on Urban Planning, Housing and Resettlement; and Finance

Senate Bill No. 2556, entitled

AN ACT PROVIDING GRANTS TO ESTABLISH OBESITY TREATMENT TRAINING FOR HEALTH PRACTITIONERS

To the Committee on Health and Demography

Senate Bill No. 2557, entitled

AN ACT REQUIRING THE DEPARTMENT OF ENVIRONMENT AND NATURAL

RESOURCES TO DEVELOP AND IMPLEMENT A PROGRAM FOR THE VOLUNTARY ASSESSMENT, VERIFICATION, AND STANDARDIZED LABELING OF THE CARBON FOOTPRINT OF CONSUMER PRODUCTS

Introduced by Senator Defensor Santiago

To the Committees on Environment and Natural Resources; and Trade and Commerce

Senate Bill No. 2558, entitled

AN ACT ESTABLISHING THE PEOPLE'S SURVIVAL FUND TO PROVIDE LONG-TERM FINANCE STREAMS TO ENABLE THE GOVERNMENT TO EFFECTIVELY ADDRESS THE PROBLEM OF CLIMATE CHANGE, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9729, OTHERWISE KNOWN AS "THE CLIMATE CHANGE ACT OF 2009," AND FOR OTHER PURPOSES

Introduced by Senator Enrile

To the Committees on Climate Change; Ways and Means; and Finance

Senate Bill No. 2559, entitled

AN ACT GRANTING PHILIPPINE CITIZENSHIP TO MARCUS EUGENE DOUTHIT

Introduced by Senator Zubiri

To the Committee on Rules

Senate Bill No. 2560, entitled

AN ACT TO PROMOTE AND SUPPORT THE DEVELOPMENT AND GROWTH OF THE PHILIPPINE FILM INDUSTRY, CREATING FOR THIS PURPOSE THE PHILIPPINE FILM COMMISSION, DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

To the Committees on Public Information and Mass Media; Ways and Means; and Finance

RESOLUTION

Proposed Senate Resolution No. 229, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON GOVERNMENT CORPORATIONS AND PUBLIC ENTERPRISES AND OTHER PERTINENT COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED INEFFICIENCIES AND IRREGULARITIES OF THE GOVERNMENT SERVICE AND INSURANCE SYSTEM

Introduced by Senator Trillanes IV

To the Committee on Government Corporations and Public Enterprises

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended to allow the Members to go into caucus.

It was 3:57 p.m.

RESUMPTION OF SESSION

At 4:30 p.m., the session was resumed with Senate President Pro Tempore Ejercito Estrada presiding.

PROPOSED SENATE RESOLUTION NO. 217

Upon motion of Senator Sotto, there being no objection, the Body considered Proposed Senate Resolution No. 217, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE FOR THE FAVORABLE CONSIDERATION BY HIS EXCELLENCY, BENIGNO S. AQUINO III, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, TO GRANT AMNESTY TO ALL ACTIVE AND FORMER MEMBERS OF THE ARMED FORCES OF THE

PHILIPPINES, IN CONNECTION WITH THE CHARGES LEVELED AGAINST THEM FOR THEIR ALLEGED PARTICIPATION IN THE SO-CALLED "OAKWOOD MUTINY" IN JULY 2003, "THE MARINE STAND-OFF" IN FEBRUARY, 2006, "THE MANILA PENINSULA HOTEL INCIDENT" IN NOVEMBER, 2007, AND RELATED OCCURRENCES, UNDER SUCH TERMS AND CONDITIONS AS ARE CONDUCIVE TOWARDS THE ATTAINMENT OF NATIONAL HARMONY AND RECONCILIATION.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

MANIFESTATION OF SENATOR ARROYO

Senator Arroyo noted that Proposed Senate Resolution No. 217 is related to the two earlier resolutions concerning Senator Trillanes, one filed after the elections in 2007, and the other after the elections in 2010, asking that he be allowed to participate in the proceedings of the Senate, both of which he opposed on the ground that the Senate should not interfere with matters that are before the courts.

On the other hand, Senator Arroyo noted that the instant resolution requesting the President to favorably consider the grant of amnesty to members of the AFP who participated in certain activities that caused their incarceration, has nothing to do with the Senate. Thereupon, he went on to explain the history of "amnesty." He stated that the word "amnesty" was derived from the Greek word "*amnesia*" which means to forget regardless of guilt or innocence. Under the Revised Penal Code, he said that amnesty completely extinguishes criminal liability and all its effects but does not exculpate the accused from civil liability. He conceded though that there is a constitutional basis for the grant of amnesty through a presidential proclamation with the concurrence of both Houses of Congress.

Thereafter, Senator Arroyo cited the amnesty proclamations issued by previous heads of State, to wit:

1. Pres. Corazon C. Aquino
 - Proclamation No. 80 on February 28, 1987: to persons who committed crimes in furtherance of their political beliefs
2. Pres. Fidel V. Ramos
 - Proclamation No. 347 dated March 25, 1994: to rebels, insurgents and other persons who committed crimes in furtherance of their political beliefs
 - Proclamation No. 348 dated March 25, 1994: to AFP and PNP personnel who committed acts or omissions in connection with counterinsurgency operations punishable under the Revised Penal Code or the Articles of War
 - Proclamation No. 723 dated May 17, 1996: to members and supporters of the *Rebolusyong Alyansang Makabansa* – Soldiers of the Filipino People-Young Officers Union (RAM-SFP-YOU) who committed crimes in pursuit of political beliefs between February 22, 1986 and December 23, 1992
3. Pres. Joseph Ejercito Estrada
 - Proclamation No. 390 dated September 29, 2000: to members and supporters of the Moro Islamic Liberation Front (MILF)
 - Proclamation No. 405 dated October 26, 2000: to rebels other than MILF members
4. Pres. Gloria Macapagal Arroyo
 - Proclamation No. 1377 dated September 6, 2007: to members of the Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF) and other rebel groups.

Senator Arroyo noted that the proclamations always covered members of armed units of the AFP and of rebel groups, and that the various heads of State granted amnesty to those who went against their predecessors, for instance, President Ramos forgave those who went against Pres. Corazon Aquino, and eventually Pres. Benigno Aquino III might grant amnesty to those who went against President Arroyo.

Senator Arroyo advised caution in adopting the resolution, underscoring the need to emphasize the

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limits of an amnesty proclamation: that it extinguishes any criminal liability for acts committed without prejudice to the grant of civil liability for injuries or damages caused to persons.

Moreover, he said that while amnesty restores the civil or political rights suspended or lost by virtue of criminal conviction, something that would benefit Senator Trillanes, it does not automatically entitle the grantee to reinstatement to his/her former post. He pointed out that while the right to retirement or separation benefits are reinstated if the concerned persons are so qualified, the amnesty proclamation shall not *ipso facto* result in their reintegration or reinstatement into the service, as with the AFP and PNP personnel, including Senator Trillanes, involved in the Oakwood Mutiny, the Marine standoff incident and the Manila Peninsula Hotel incident, but shall be governed by existing laws and regulations. He noted that the resolution does not say anything about the limitations of the amnesty, leaving it entirely to the discretion of the President of the Philippines.

Senator Arroyo pointed out that it is usually the President who proposes the amnesty to which Congress concurs, however, in this instance, it is Congress that proposes it for the President's consideration. He reiterated the need to refine the resolution by including limitations therein so that the Senate would not be accused of being a party to a proclamation that goes against the law, especially since it initiated the resolution. He added that while the process of requesting the President for amnesty is correct in view of the existence of an amnesty law, the Senate should exercise prudence in drafting the resolution lest it transgresses existing laws and constitutional provisions.

MANIFESTATION OF SENATOR SOTTO

Even as he agreed that it is the prerogative of the President to proclaim amnesty, Senator Sotto clarified, however, that the Senate was not initiating it but is merely expressing its sentiment within the parameters of law and judicial tradition. In fact, he said, Congress would still approve or confirm the grant of amnesty by the President, at which time the refinement as proposed by Senator Arroyo can be done.

Thereupon, he proceeded to sponsor the resolution.

SPONSORSHIP REMARKS OF SENATOR SOTTO

Senator Sotto affirmed that Section 19, Article VII of the Constitution is the basis for the grant of amnesty by the President.

He said that the first recorded instance of the exercise of that presidential prerogative was when the President of the United States issued a proclamation on July 4, 1902, granting amnesty to all persons who participated in the insurrection against Spain and the United States; since then, said power of the Chief Executive has been exercised a number of times by the different occupants of Malacanang, to wit:

- On September 7, 1946, former President Manuel Roxas issued Proclamation No. 8 in favor of persons who have committed crimes in furtherance of the resistance movement during World War II;
- On January 28, 1948, President Roxas issued Proclamation No. 51, granting full and complete amnesty to all persons accused of any offense involving national security for acts allegedly committed to give aid and comfort to the enemy during World War II;
- On June 21, 1948, President Roxas issued Proclamation No. 76, granting amnesty to all members of the *Hukbalahap* and *Pambansang Kilusan ng Magbubukid* (PKM) organizations;
- On February 2, 1973, Pres. Ferdinand Marcos issued Presidential Decree No. 124, extending amnesty of persons who may have violated Section 4 of Republic Act No. 1700;
- On November 1, 1974, President Marcos issued Presidential Decree No. 571, extending the period of the amnesty granted under P. D. No. 124 up to December 31, 1974;
- On February 2, 1977, President Marcos issued Proclamation No. 1082, proclaiming amnesty in certain areas of the Philippines, particularly in favor of all the leaders, members, supporters, and sympathizers of the Moro National Liberation Front and the Bangsa Moro Army and other anti-government groups with similar motivations;
- On December 24, 1980, President Marcos issued Presidential Decree No. 1754, granting conditional amnesty to those who committed

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such crimes as subversion, rebellion, sedition, illegal possession of firearms, and such other offenses affecting public order and the national security penalized by the Revised Penal Code or special laws;

- On February 28, 1987, Pres. Corazon C. Aquino granted amnesty to rebel returnees through Proclamation No. 80;
- On March 25, 1994, President Ramos issued Proclamation No. 347 in favor of rebels, insurgents and other persons who committed crimes to further political ends, and Proclamation No. 348 in favor of personnel of the AFP and PNP in connection with counterinsurgency operations;
- On May 17, 1996, President Ramos issued Proclamation No. 723, granting amnesty to members and supporters of the *Rebolusyonaryong Alyansang Makabansa* – Soldiers of the Filipino People – Young Officers Union (RAM-SFP-YOU) who committed crimes in pursuit of political beliefs;
- President Estrada issued Proclamation Nos. 390 and 405;
- On September 6, 2007, President Arroyo issued Proclamation No. 1377, granting amnesty to the members of the Communist Party of the Philippines and its armed wing, the New People's Army.

He recalled that Pres. Ninoy Aquino in his State of the Nation Address on July 26, 2010, emphasized the importance of resuming the peace talks with the CPP-NPA-NDF and the Muslim separatist groups to reach a political settlement with them, and Senate President Enrile, commenting thereon, said in a television interview on July 23, 2010, "If the government is willing to pursue a policy of peace and reconciliation and work for a political settlement with leftist groups including the option of granting them amnesty despite the fact that these groups have waged very costly and destructive decades-old wars with the government, then there is no reason why the government cannot also extend the same magnanimity to its very own soldiers who may have committed mistakes in the past." He stated that the soldiers have been reaching out to the authorities and have, in fact, manifested their willingness to return to the fold of the law and commit themselves once again to the service of flag and the country. He stressed that everyone deserves a second chance, be he on the left or on the right of the political spectrum.

Senator Sotto underscored that the grant of amnesty to the soldiers enjoys broad and popular political support, noting that the resolution was endorsed by no less than Vice President Binay and that the President might not be against it in principle. He also cited a joint statement issued by various sectoral leaders and political figures that was published on September 16, 2010, urging the President to consider amnesty for the soldiers who stood against the previous administration, the signatories of which included, among others, the following:

- Elder statesmen like former President Estrada; former Vice Pres. Teofisto Guingona; former Senate Presidents Jovito Salonga and Ernesto Maceda; former Chief Justice Reynato Puno; former House Speaker Jose de Venecia;
- Religious leaders like Archbishops Oscar Cruz and Teodoro Bacani; Auxiliary Bishop Broderick Pabillo; Sister Mary John Mananzan; Bro. Eddie Villanueva;
- Opinion makers like Randy David, Fr. Joaquin Bernas;
- Educators like Cesar Villanueva of Ateneo Law School;
- Leaders of civil society and retired soldiers.

Senator Sotto expressed hope that the Senate would be able to start to mend and heal the divisions of the past so that the country would be whole again.

EXPLANATION OF VOTE OF SENATOR ARROYO

Senator Arroyo manifested that he was abstaining from voting on the resolution as he believed that it must be worded properly so that nobody can accuse the Senate of not knowing the law.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 217

Upon motion of Senator Sotto, with majority of the senators voting in favor, none against and one abstention, Proposed Senate Resolution No. 217 was adopted by the Body.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of Vice Mayor Hadji Bonso

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S. Barabag and other local officials from Lupon, Davao Oriental.


I hereby certify to the correctness of the foregoing.

The Senate President Pro Tempore welcomed the guests to the Senate.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, October 11, 2010.

It was 4:57 p.m.


EMMA LIRIO REYES
Secretary of the Senate

Approved on October 11, 2010