



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 45
Tuesday, December 7, 2010

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 45
Tuesday, December 7, 2010

CALL TO ORDER

At 3:31 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 3:32 p.m.

RESUMPTION OF SESSION

At 3:33 p.m., the session was resumed.

ROLL CALL

Upon direction of the Chair, the Acting Secretary of the Senate, Atty. Edwin B. Bellen, called the roll, to which the following senators responded:

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

With 12 senators present, the Chair declared the presence of a quorum.

Senators Cayetano (A), Cayetano (P), Pangilinan and Villar arrived after the roll call.

Senator Angara was on official mission.

Senator Defensor Santiago was on sick leave.

Senators Lacson, Lapid, Marcos and Revilla were absent.

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

**APPROVAL OF THE JOURNAL
OF SESSION NO. 44**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the *Journal of Session No. 44 (December 6, 2010)* and considered it approved.

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

REFERENCE OF BUSINESS

The Acting Secretary of the Senate, Atty. Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals:

M 44

**MESSAGES FROM THE
HOUSE OF REPRESENTATIVES**

Letters from Speaker Feliciano Belmonte Jr. of the House of Representatives, both dated 21 September 2010, designating the following Representatives as Members of the House panel on the following Oversight Committee/Commission:

Representatives Abad (H.), Mendoza (M. L.), Garcia (A. R.), Relampagos (R.), Amatong (R.), Cosalan (R.) and Celeste (J.) for the Biofuels Oversight Committee; and

Representatives Abad (H.), Fuentebella (A.), Tañada III (L.), Climaco (M. I.), Garin (J.), Rodriguez (R.) and Macapagal-Arroyo (J. M.) for the Joint Congressional Power Commission.

To the Committee on Rules

Letter from the Secretary General of the House of Representatives, informing the Senate that on 24 November 2010, the House of Representatives approved the following House bills in which it requested the concurrence of the Senate:

House Bill No. 417, entitled

AN ACT GIVING OFFENDERS THE FULLEST BENEFIT OF PREVENTIVE IMPRISONMENT, AMENDING FOR THE PURPOSE ARTICLE 29 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

To the Committees on Justice and Human Rights; and Constitutional Amendments, Revision of Codes and Laws

House Bill No. 537, entitled

AN ACT DECLARING SEPTEMBER 5 OF EVERY YEAR A SPECIAL NON-WORKING PUBLIC HOLIDAY IN THE CITY OF NAGA, PROVINCE OF CEBU TO BE KNOWN AS THE CHARTER DAY OF THE CITY OF NAGA

To the Committee on Local Government

House Bill No. 600, entitled

AN ACT ADJUSTING THE RATE OF SUBSIDIARY IMPRISONMENT TO ONE DAY FOR AN AMOUNT EQUIVALENT TO THE DAILY MINIMUM WAGE OF A LABORER IN THE NATIONAL CAPITAL REGION, AMENDING FOR THE PURPOSE ARTICLE 39 OF THE REVISED PENAL CODE OF THE PHILIPPINES

To the Committee on Justice and Human Rights

House Bill No. 625, entitled

AN ACT PROVIDING FOR THE REAPPORTIONMENT OF THE PROVINCE OF MAGUINDANAO INTO THREE (3) LEGISLATIVE DISTRICTS

To the Committees on Local Government; and Constitutional Amendments, Revision of Codes and Laws

and House Bill No. 3496, entitled

AN ACT DECLARING MARCH 26 OF EVERY YEAR AS A SPECIAL NONWORKING PUBLIC HOLIDAY IN THE PROVINCE OF CEBU TO COMMEMORATE THE HISTORIC LIBERATION OF CEBU FROM THE JAPANESE OCCUPATION DURING WORLD WAR II

To the Committee on Local Government

BILLS ON FIRST READING

Senate Bill No. 2620, entitled

AN ACT CREATING AND ESTABLISHING THE PHILIPPINE HIGH SCHOOL FOR SPORTS

Introduced by Senator Cayetano (P.)

To the Committees on Education, Arts and Culture; Games, Amusement and Sports; Ways and Means; and Finance

JS

Senate Bill No. 2621, entitled

AN ACT TO RESTRUCTURE AND STRENGTHEN THE COOPERATIVE DEVELOPMENT AUTHORITY, REPEALING FOR THIS PURPOSE REPUBLIC ACT NO. 6939, OTHERWISE KNOWN AS THE CHARTER OF THE COOPERATIVE DEVELOPMENT AUTHORITY, AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

To the Committees on Cooperatives; Civil Service and Government Reorganization; and Finance

Senate Bill No. 2622, entitled

AN ACT STRENGTHENING THE CONSTITUTIONAL RIGHT TO SECURITY OF TENURE, AMENDING FOR THE PURPOSE THE LABOR CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

To the Committee on Labor, Employment and Human Resources Development

RESOLUTIONS

Proposed Senate Resolution No. 303, entitled

RESOLUTION COMMENDING NONITO "THE FILIPINO FLASH" DONAIRE JR. FOR WINNING THE WBA BANTAMWEIGHT CROWN AGAINST VLADIMIR SIDORENKO OF UKRAINE

Introduced by Senator Cayetano (P.)

To the Committee on Rules

Proposed Senate Resolution No. 304, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON HEALTH AND DEMOGRAPHY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO SERIOUS CONCERNS RAISED

THAT AFFECT THE NURSING PROFESSION WITH THE END IN VIEW OF FORMULATING A COMPREHENSIVE POLICY MEASURE FOR THE PROTECTION OF NURSING PRACTITIONERS AND THE PROFESSION, AND FOR OTHER PURPOSES

Introduced by Senator Legarda

To the Committee on Health and Demography

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 3:38 p.m.

RESUMPTION OF SESSION

At 4:28 p.m., the session was resumed.

ADDITIONAL REFERENCE OF BUSINESS

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

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from the Secretary General of the House of Representatives, informing the Senate that on 6 December 2010, the House of Representatives elected Representatives Abaya, Gonzales II, Remulla, Fariñas, Limkaichong, Angping, Bravo Jr., Bondoc, Almario, Ungab, Jaafar, Puno, Crisologo, Andaya Jr., San Luis, Cua, Malapitan, Nava, Joson, Balindong, Lacson-Noel, Violago, Osmeña, Antonino, Cojuangco, Biazon, Alvarez and Fuentebella, on the part of the Majority, and Representatives Lagman, Suarez, Padilla and his alternate Representative Cagas IV, Calimbas-Villarosa, Magsaysay, Dimaporo and her alternate Representative Dimaporo (F. A.) and Pichay, on the part of the Minority, as its conferees to the Bicameral Conference Committee on the disagreeing votes on House Bill No. 3101, entitled

AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE

PH 40

GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY ONE TO DECEMBER THIRTY-ONE, TWO THOUSAND AND ELEVEN, AND FOR OTHER PURPOSES

To the Committee on Rules

COMMITTEE REPORT

Committee Report No. 12, prepared and submitted by the Committee on Peace, Unification and Reconciliation, on Senate Concurrent Resolution No. 4, entitled

CONCURRENT RESOLUTION CONCURRING IN PROCLAMATION NO. 75 OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES DATED NOVEMBER 24, 2010, ENTITLED: GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT,

recommending concurrence through the adoption of the attached Senate Concurrent Resolution No. 4.

Sponsor: Senator Guingona III

To the Calendar for Ordinary Business

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 12 on Senate Concurrent Resolution No. 4 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 12 ON SENATE CONCURRENT RESOLUTION NO. 4

Upon motion of Senator Sotto, there being no objection, the Body considered Senate Concurrent Resolution No. 4 (Committee Report No. 12), entitled

CONCURRENT RESOLUTION CONCURRING IN PROCLAMATION NO. 75 OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES DATED NOVEMBER 24, 2010, ENTITLED: GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT.

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

The Chair recognized Senator Guingona for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR GUINGONA

In sponsoring the resolution for plenary consideration, Senator Guingona delivered the following speech:

I stand before the Body today as a firm believer that national reconciliation is paramount to enduring peace and is the golden key to move this nation forward. With national unification comes stability which, in turn, allows us to achieve prosperity in terms of economic, political and social advancement.

Allowing those who may have committed unlawful acts in pursuit of their political beliefs, the opportunity to return to the folds of the law, and become productive, beneficial and loyal members of society, opens the doors to national reconciliation.

PS

Proclamation No. 75 issued by Pres. Benigno Aquino is a stepping stone towards national reconciliation. It grants amnesty "to active and former personnel of the Armed Forces of the Philippines, the Philippine National Police and their supporters who may have committed crimes punishable under the Revised Penal Code, the Articles of War and other laws in connection with the Oakwood mutiny, the Marines Stand-Off, and the Manila Peninsula incident."

Amnesty has been viewed as an act of compassion. As a form of executive clemency, the government acknowledges that human institutions are imperfect and that there are infirmities in the administration of justice. Amnesty, therefore, exists as an instrument for correcting these infirmities and for mitigating whatever harshness might be generated by a strict application of the law. As derived from its Greek root "amnestia" which translates to "forgiveness," the government chooses to turn a blind eye on the law being broken for the sake of paramount interest of peace and unity. In point of fact, amnesty is not only forgiveness, it also forgets.

As early as 1902, U.S. Pres. Theodore Roosevelt granted amnesty to Filipinos who participated in the insurrection against the U.S., by virtue of Proclamation No. 48, wherein amnesty was described as "conducive to peace, order and loyalty." From the time of Roosevelt came many more proclamations from the likes of Presidents Roxas, Quirino, Marcos, Aquino, Ramos, Macapagal-Arroyo, and today, Pres. Benigno Aquino.

This rich history of amnesty reveals the wisdom of our past leaders, and brings to light the government's consistent policy on peace restoration as a tool for national progress and development. Facilitating the return into our democratic society of individuals who have, in some way, offended the laws of the State, has been established as a catalyst for the nation to move forward. While an amnesty is not the only means to achieve national progress and development, its relevance and benefits cannot be taken for granted. An amnesty may not be a giant leap, but it is a step, nevertheless, towards building a just and humane society under the rule of law and under a regime of truth, justice, freedom, equality and peace.

As mandated by the Constitution, the concurrence of the majority of all the members of Congress is needed for the President to grant amnesty. Accordingly, the Senate, as a collegial body, is here to decide on whether or not to concur with Proclamation 75.

Some quarters have expressed the opinion that the grant of amnesty promotes military adventurism. I do not agree. Military uprisings do not happen in a vacuum. As stated by the Davide Commission:

"A *coup d' etat* does not happen overnight. Neither does a revolution or popular uprising of the citizenry itself. The responsibility of political leadership is to build a national consensus on what must be done to address the underlying problems indicated by the symptoms. Since many of the problems of the country are structural in character, there are no quick solutions, although one can resort to "damage control" and short-term alleviation to buy time. The longer-term solutions, however, must start today."

Military uprisings do not happen in a vacuum. They happen in situations of social unrest and political injustice. They happen when high civilian government officials blatantly disregard the rule of law. It happens when high civilian government officials oppress people and violate their basic rights with impunity. It happens when high civilian government officials destroy the trust of Filipino people in governmental institutions like the use of certain elements of the Armed Forces of the Philippines in massive cheating in the presidential elections. It happens amidst extreme corruption and misgovernance by high civilian government officials. Furthermore, the Feliciano Commission has also stated that one of the root causes of military adventurism is the "enlistment by civilian persons, including politicians, of military support for their personal and political ambitions. This contributes to military politization and adventurism."

The Feliciano Commission furthermore stated that: "Civilian political leaders must restrain themselves from enlisting military support for their personal and political agenda as this can only further politicize the military and grievously endanger the constitutional system."

Ang pag-aalsa ng mga military, ng Armed Forces of the Philippines, ay hindi nag-uuslong sa wala. Military coup d' etats and mutinies do not happen in a vacuum. Ang pag-aalsa nila ay dahil sa korapsyon, pandaraya sa eleksyon, pagsisinungaling, at pagnanakaw ng mag sibilyang pulitiko na dating nakaluklok sa ating gobyerno. Kung mayroon mang dapat sisihin sa mga kudeta at pag-aalsa, hindi ang military kundi iyong mga sibilyang pulitiko.

P 45

According to the Feliciano Commission Report, former military rebels who have turned their backs on military adventurism could be used to conduct regular dialogues within the AFP for this purpose. The adoption of a program of this nature should go a long way towards neutralizing the coup virus. This is one of the advantages the government may obtain by granting amnesty. Furthermore, these amnesty grantees of the AFP could become a reliable ally instead of being a threat group to the government. They can be used as a sounding board for grievances within the ranks of the Armed Forces of the Philippines.

Amnesty, therefore, does not encourage nor instigate military adventurism, instead, it leads to sustainable peace and genuine reconciliation.

Some quarters also oppose the amnesty because they assert that the participants should be punished instead of being treated lightly. In answer to that, I quote Brig. Gen. Danilo Lim:

The participants (in the 1987 and 1989 coup attempts) were detained, many of us in common prisons. Our pay and allowances were cut off and our families starved. We were detained for three years, others more than five years and many were removed from the service. While the amnesty did not reinstate our duty status, it was at a cost. Despite the amnesty, there were no promotions for so long, nor (sic) any extra considerations. We were pariahs in the institution we loved and continue to love."

Worthy of note is also the fact that all of the soldiers have been detained for a substantial period of time. In the case of those in the Marine Stand-Off, more than four years, and in the case of the Oakwood Mutiny and the Manila Peninsula Incident, nearly seven years. These can be considered as more than sufficient to penalize them for past actions.

In addition, according to Retired Commodore Rex Robles, a member of the Feliciano Commission, which investigated the Oakwood Mutiny, the soldiers who are the subject of this amnesty proclamation have, in fact, been made to endure the harshest punishment ever.

There are also those who have expressed the opinion that since the RTC of Makati will render a decision on December 16, 2010, the ongoing proceedings for the grant of amnesty might be an interference with the judicial process and should therefore be

suspended. Jurisprudence has held in the case of *Barrioquinto vs. Fernandez* that the amnesty proclamation is a public act, of which the courts should take judicial notice. It is therefore clear that if there is any entity that must suspend its proceedings, it is the courts. Furthermore, jurisprudence has held that amnesty is granted generally before or after conviction.

Some hold the view that there must be an admission of guilt by the applicants of the amnesty before they can avail of it. Those who have taken this stand cite the case of *Vera vs. People*. This case provides that to avail of the benefits of an amnesty proclamation, one must admit his guilt of the offense covered by the proclamation. However, Father Bernas, in his column in the *Philippine Daily Inquirer*, entitled "Sounding Board," dated November 29, opined that "the need to admit guilt is not a firmly established rule."

In *Vera vs. People*, Father Bernas further stated that "the real reason for the denial of the amnesty was not that the accused did not admit the guilt but rather that the offense was not covered by the amnesty proclamation."

With respect to those who mutinied against former President Gloria Macapagal-Arroyo, Father Bernas asserted that they "do not seem to be accused of having committed any other crime than that of mutiny against Arroyo. It would be pointless to ask them whether indeed they committed mutiny."

Ultimately, he opined that "the need to admit guilt should apply only when the offense alleged is something than can be done for motives that may have nothing to do with defeating a declared enemy."

Finally, in *Vera vs. People*, it was held that "the invocation of amnesty is in the nature of a plea of confession and avoidance" — the invocation of amnesty. When one applies for amnesty before the *ad hoc* committee, then that would be an unequivocal plea of confession and avoidance.

Some quarters have also alleged that there is no clamor from certain sectors of society urging the President to extend amnesty, and that the only ones who are clamoring were some senators with ulterior motives. We would like to call the attention of everyone that in a statement published on September 16, 2010 in the *Philippine Daily Inquirer*, respected leaders of various sectors of civil society urged President Aquino to consider granting amnesty to members of the AFP who stood against the

MS AG

Arroyo Administration. It can be reasonably and practically assumed that these leaders represent the views and reflect the sentiments of a majority of the people.

The signatories include, among many, former Pres. Joseph Estrada, former Vice Pres. Teofisto Guingona, former Senate Pres. Jovito Salonga, former Senate Pres. Ernesto Maceda, former Chief Justice Renato Puno, former House Speaker Jose de Venecia, religious leaders like retired Lingayen-Dagupan Archbishop Oscar Cruz, Novaliches Archbishop Teodoro Bacani, CBCP Bishop Roderick Pabillo, Sr. Mary John Manansan of the Association of Major Religious Superiors, television evangelists and "Jesus Is Lord" Church leader Eduardo "Eddie" Villanueva, esteemed opinion leaders like UP Professor Randy David, constitutionalist Joaquin Bernas, Ateneo Law Dean Cesar Villanueva, UP Law Professor Raul Pangalangan, and many more civil society leaders, former legislators, former senior government officials and local government leaders.

A copy of the complete list of signatories is hereby annexed to this speech.

We, at the Senate, give our full recognition and deepest appreciation and utmost respect to the past and present members of the Armed Forces of the Philippines who have dedicated their lives to defend this nation. If they have a legacy to leave behind, it would definitely be their courage and patriotism. These are the very virtues that every Filipino should espouse.

As the proclamation of the President requires the concurrence of Congress to have the full force and effect of law, it is but prudent and necessary that we at the Senate do everything we can to guarantee the efficient and proper execution of the amnesty.

The beneficiaries of Proclamation No. 75, together with their families and loved ones, appeal to our sense of compassion. They have endured enough suffering to last them a lifetime. In this blessed season of joy and forgiveness, may we be one in concurring with the presidential proclamation—the greatest Christmas gift we could offer them. Let us prove our worth not only as legislators but as humanitarians.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senator Sotto acknowledged the presence in the gallery of the awardees of the Country's Outstanding Policemen in Service (C.O.P.S) of 2010

who were commended under Adopted Senate Resolution No. 8 and the presence of the officers of Metrobank Foundation, Inc., Philippine Savings Bank and Rotary Club of New Manila East was likewise acknowledged.

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

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:52 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

MANIFESTATION OF SENATOR ARROYO

Senator Arroyo stated that he cannot vote in favor of Proclamation No. 75 because of how it was handled.

He then enumerated the following Amnesty Proclamations after EDSA I:

- Proclamation No. 80 was issued on February 28, 1987 by President Corazon Aquino to provide amnesty to persons who committed crimes in furtherance of their political beliefs;
- Proclamation No. 347 was issued on March 25, 1994 by President Fidel Ramos to provide amnesty to rebels, insurgents and other persons who committed crimes to further political ends;
- Proclamation No. 348 was issued on March 25, 1994 by Pres. Fidel Ramos to grant amnesty to personnel of the Armed Forces of the Philippines and the Philippine National Police who committed acts or omissions connected to the counter-insurgency operations which are punishable under the Revised Penal Code or the Articles of War;
- Proclamation No. 723 was issued on May 17, 1996 by President Fidel Ramos to grant amnesty to the members and supporters of RAM who committed crimes in pursuit of political beliefs between February 22, 1986 and December 23, 1992;
- Proclamation No. 390 was issued on September 29, 2000 by President Joseph Estrada to grant

amnesty to the members and supporters of the Moro Islamic Liberation Front;

- Proclamation No. 405 which was issued on October 26, 2000 by President Joseph Estrada to grant amnesty to rebels other than MILF members, and
- Proclamation No. 1377 which was issued on September 6, 2007 by President Gloria Arroyo to grant amnesty to members of the Communist Party of the Philippines – New People’s Army – National Democratic Front (CPP-NPA-NDF) and other communist rebel groups.

Saying that none of the seven amnesties was controversial and all had the concurrence of Congress, Senator Arroyo pointed out that something must be wrong with the handling of Proclamation No. 75. He cited that Proclamation No. 80, which he drafted, was accepted without protest because the administration of then President Cory Aquino listened to the people. He stressed that the one who issued the proclamation of amnesty should not think that it is only he/she alone who knows. He said that there should be proper consultation because amnesty is an act with far-reaching effects.

Senator Arroyo pointed out that unlike the seven amnesty proclamations which he all voted for, Proclamation No. 50 and Proclamation No. 75 provoked dissension instead of reconciliation. He said that when Proclamation No. 50 was issued, well-meaning people thought that it could be amended or modified but it did not happen because the Executive department stonewalled. He stated that the only difference between Proclamation Nos. 50 and 75 was the date of effectivity.

Senator Arroyo said that the administration of Pres. Noynoy Aquino should listen to the experts. He pointed out that Executive Order No. 1 has just been declared by the Supreme Court as unconstitutional because the Executive department did not listen to suggestions that the order should be modified to withstand constitutional challenge.

INTERPELLATION OF SENATOR CAYETANO (A)

Asked by Senator Cayetano (A) whether Proclamation No. 75 is not just for reconciliation and starting anew but also a recognition that the means

of the mutineers was wrong but they also had good intentions as they were fighting against a regime that they believe to be illegitimate and corrupt, Senator Guingona replied that the intent is to achieve national reconciliation. He said that the potential applicants for amnesty, who have suffered long enough in jail, have not admitted their wrongdoing; however, in line with the principles of amnesty to not only forgive but to forget, the grant shall put everything into oblivion and move the country forward towards national reconciliation.

Senator Cayetano (A) stated that the Morong 43 should also be granted amnesty if the government intends to achieve national reconciliation. He asked whether Proclamation No. 75 is a recognition that what the mutineers were fighting for was correct. He agreed with Senator Arroyo that there should be no demoralization in the military and that it should be clear to the AFP that they take orders from the President as Commander-in-Chief.

Senator Guingona stated that he has already signed the appeal for the release of the Morong 43.

Asked whether the civilians who supported the mutineers, many of whom now hold positions in Malacañang, are considered “supporters” as used in the proclamation, Senator Guingona answered in the affirmative.

Senator Cayetano (A) argued that if civilians who supported the mutiny were given the opportunity to hold government positions, the proclamation should allow the officers who participated in the mutiny to be reinstated in the military.

Senator Cayetano (A) noted that the officers were well-educated and very idealistic except that they believed that the only way to change the government was through a military uprising. Also, he presumed that their actions were triggered by the comments of the Arroyo Administration. He recalled that when the officers who took part in EDSA 2 were asked during the House budget hearing on the difference between EDSA 2 and the other uprisings, their answer was that they won and it seems to have sent a message to the military that those who win in a *coup d’etat* are right and those who lose are wrong. Also, he recalled that during the Ramos Administration, officers who took part in the uprisings were reinstated and even the MILF members who rebelled against government were integrated into the AFP.

MS

At this juncture, Senator Cayetano (A) read Section 4(d), to wit:

Commissioned and Noncommissioned Officers of the AFP with the rank of Master Sergeant and personnel of the PNP with the rank of, at least, Senior Police Officer IV, whose application for amnesty will be approved, shall not be entitled to remain in the service, reintegration or reinstatement into the service nor back pay.

Senator Guingona pointed out that the cited section is not in Proclamation No. 50 but in Proclamation No. 75. He said that the reasoning is that there would be demoralization if the officers were reinstated.

Senator Cayetano (A) surmised that the reasoning is that there would be demoralization if the officers were reinstated but not the enlisted men. He wondered whether a survey on this issue was conducted among the troops. He recalled that during the Ramos Administration, some of the officers who were granted amnesty were reinstated but this did not result in demoralization among the ranks. In fact, he pointed out, there were no coup attempts from the time President Ramos took office until People Power II, when President Arroyo came into power.

Senator Sotto recalled that in one of the hearings, one of the resource persons told him that the Administration wanted to grant amnesty to the soldiers and officers but it did not want another coup attempt, a matter that Senator Arroyo also pointed out. He opined that preventing the reinstatement of officers was some sort of punishment so they would not be imitated by others in the future. But those in the lower ranks, he said, should be reinstated because they were just following orders from their superiors. Senator Guingona agreed that indeed, this was the rationale of the provision. As regards the basis for the denial of reinstatement, he said that it was the result of an informal survey conducted by the DND among officers.

Senator Cayetano (A) commented that the survey would have been more credible had an independent agency conducted it.

Asked whether Malacañang was afraid of a possible coup attempt and, hence, did not want the

officers to be reinstated, Senator Guingona answered in the negative as he presumed that the present Administration can be characterized as a healing Administration.

Senator Cayetano (A) stressed the need for the Administration to be cautious. He surmised that some officers who frequently dabble in adventurism can influence other officers to do the same, their philosophy being that the military should rule the country. Those kind of officers, he believed, should not be reinstated. He opined that the government has lost so much on idealistic, bemedaled, well-educated but misguided officers who were influenced into joining military uprisings. He asserted that the Administration should be open to reinstating these officers because uprisings only happen when the government is perceived to be weak, when it is in danger of being taken over by leftists or communists, when it is hounded by corruption and when it has no mandate. He agreed that the present Administration is full of hope and goodwill but he advised it to fine-tune its message on corruption given the fact that it has abolished the Presidential Anti-Crime Commission and has refused to certify as urgent the Freedom of Information bill. Senator Guingona agreed to the observation as he underscored that the Administration was not afraid of coup attempts. He reiterated that military uprisings take place when there is massive misgovernance and corruption.

However, Senator Cayetano (A) stated that many supporters of the mutinies and coup attempts were now in government. Senator Guingona agreed as he adverted to the finding of the Feliciano Commission that one of the causes of the military uprising was the recruitment of soldiers by civilian leaders but then, he maintained, the military does not move alone. Unfortunately, he said, civilian officials cajoled some members of the military into jointing attempts to unseat an unpopular President.

Senator Cayetano (A) pointed out that one military official, who has been absent without leave for almost two years, was promoted to general by the Arroyo Administration on the ground that he fought for the President. When the Aquino Administration came in, he said, the military official was appointed assistant secretary. He asked whether such case does not demoralize the military as he opined that demoralization is not the true sense of the officers.

13 14

Asked whether Malacañang would consider reinstating the officers should an independent survey reveal that the lower ranks would not be demoralized by such act, Senator Guingona replied that he found merit in the proposal. He admitted that he was surprised the new proclamation did not allow the reinstatement of the officers when, in fact, Proclamation No. 50 provided for it. He pointed out that some of the officers have distinguished themselves in actual combat.

Senator Cayetano (A) stated that while officers should follow the Constitution and avoid adventurism, the civilian government should make sure that there is no graft and corruption within its ranks. Senator Guingona observed that the ones violating the Constitution are civilian officers in government and the ones following the Constitution are the military officers.

VOTING ON SENATE CONCURRENT RESOLUTION NO. 4

At this juncture, Senator Sotto called for nominal voting on the resolution.

Thereafter, the Acting Secretary called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Cayetano (A)	Legarda
Cayetano (P)	Osmeña
Drilon	Pangilinan
Enrile	Recto
Ejercito Estrada	Sotto
Escudero	Villar
Guingona	Zubiri

Against

Arroyo

Abstain

Honasan

With 14 senators voting in favor, one against and one abstention, Senate Concurrent Resolution No. 4 was adopted by the Body.

INQUIRY OF SENATOR HONASAN

Asked by Senator Honasan how his vote was recorded, the Chair replied that it was in the affirmative.

Senator Honasan requested that his vote be recorded as an abstention.

EXPLANATIONS OF VOTES

By Senator Zubiri

Explaining his affirmative vote, Senator Zubiri stated that though he voted for the resolution, he would have wanted to see a provision in the resolution stating that the members of the Armed Forces who have violated the Constitution after being granted previous amnesty shall not be allowed to apply again for amnesty in the future.

Senator Zubiri stated that the Senate should not allow recidivists to apply for amnesty, whether they are members of the AFP or New People's Army (NPA). He pointed out that there have been instances when members of the NPA were pardoned only to go back to the field and renew their fight against the government.

By Senator Cayetano (P)

Explaining her affirmative vote, Senator Cayetano (P) stated that she signed the committee report, indicating that she has certain reservations as what she had expressed in the hearing.

Senator Cayetano (P) pointed out that the resolution had constitutional issues governing the difference between pardon and amnesty. She believed that had this been given more time for discussion, the guidelines would have been set on what constitutes an act that would require the concurrence of the Senate and the granting of pardon which is exclusive to the President.

Senator Cayetano (P) also noted that what Senator Guingona mentioned in his speech about the need to provide a vehicle for communication to keep the lines open between the government and the AFP is not in the proclamation. She said that it is very important to include in the process the modes of communication to prevent acts of rebellion from happening again as she agreed that these acts do not

PS

happen in a vacuum but over time. She hoped that the Executive department would act on this matter. She shared Senator Arroyo's concern that the government should learn from past experiences in order to move the country forward.

**SECOND ADDITIONAL
REFERENCE OF BUSINESS**

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

RESOLUTIONS

Proposed Senate Resolution No. 305, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON PUBLIC SERVICES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED NUMBER OF FILIPINOS WITHOUT ACCESS TO CLEAN WATER AND PROPER SANITATION, WITH THE END IN VIEW OF PRIORITIZING PROGRAMS AT THE NATIONAL AND LOCAL LEVELS TO ADDRESS WATER QUALITY AND SANITATION ISSUES

Introduced by Senator Villar

To the Committee on Public Services

Proposed Senate Resolution No. 306, entitled

RESOLUTION HONORING RICARDO CARDINAL VIDAL, ARCHBISHOP OF CEBU, FOR HIS SERVICE TO THE PEOPLE OF CEBU, PROVIDING SPIRITUAL LEADERSHIP AND INSPIRATION, HELPING THE COMMUNITY AVERT OR SURVIVE SEVERAL CRISES AND CONFLICTS, OFTEN ACTING AS A PEACEKEEPER AND GIVING THE VOICE OF MODERATION AMID CLASHING VIEWS AND INTERESTS IN LOCAL AND NATIONAL ISSUES

Introduced by Senator Enrile

To the Committee on Rules

PROPOSED SENATE RESOLUTION NO. 306

Upon motion of Senator Sotto, there being no objection, the Body considered Proposed Senate Resolution No. 306, entitled

RESOLUTION HONORING RICARDO CARDINAL VIDAL, ARCHBISHOP OF CEBU, FOR HIS SERVICE TO THE PEOPLE OF CEBU, PROVIDING SPIRITUAL LEADERSHIP AND INSPIRATION, HELPING THE COMMUNITY AVERT OR SURVIVE SEVERAL CRISES AND CONFLICTS, OFTEN ACTING AS A PEACEKEEPER AND GIVING THE VOICE OF MODERATION AMID CLASHING VIEWS AND INTERESTS IN LOCAL AND NATIONAL ISSUES.

Pursuant to Section 67, Rule XXII of the Rule of the Senate, 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.

COAUTHORS

Senator Sotto manifested that all senators are coauthors of Proposed Senate Resolution No. 306.

**ADOPTION OF PROPOSED
SENATE RESOLUTION NO. 306**


Upon motion of Senator Sotto, there being no objection, Proposed Senate Resolution No. 306 was adopted by the Body.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the President Pro Tempore declared the session adjourned until three o'clock in the afternoon of the following day.

It was 5:37 p.m.

I hereby certify to the correctness of the foregoing.


EDWIN B. BELLEN
Acting Secretary of the Senate
EWB

Approved on December 8, 2010