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SESSION NO. 54

Monday, January 24, 2005

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 54
Monday, January 24, 2005

CALL TO ORDER

At 3:48 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Luisa "Loi" P. Ejercito Estrada led the prayer, to wit:

Lord, as we open this week's session, we thank You deeply and most reverently, for Your incessant love and immeasurably undying care and concern.

You have always been here for us despite our iniquities, arming us with the will to overcome the frailties of human nature and the resolve to go through difficulties, both personal and collective.

When troubles and chaos come, You protect us. When we lose hope, You give us reason to live. When friends desert us, You give us company. And when we feel cold and lonely, You give us warmth. How can we ever survive without You? You were, You are and will ever be. Thank you for being our loving God and Maker.

Lord, I personally thank You for the successful operation and amazing recovery of President Estrada. As a wife, I could not ask for anything more. This is a great day for our family and the millions of Filipinos who are continuously praying for us.

I see this remarkable upturn as a sign of new hope for our country desperately seeking for justice and peace. May his recovery make us realize that like him, we can all overcome even in darkest hours if only we continue to believe and never give up.

Lord, there are so many things that we need to do if we are to finally heal

our divided land and in the midst of tremendous greed and avarice of the mighty few, I humbly pray that despite the many ordeals we go through, we will never lose hope and always find the resolve and courage to go on and fight the good fight of faith.

Amen.

NATIONAL ANTHEM

Ms. Mauna Kea Chan led the singing of the national anthem and thereafter rendered the song entitled *Dakilang Lahi*.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded:

Angara, E. J.	Lapid, M. L. M.
Arroyo, J. P.	Lim, A. S.
Cayetano, C. P. S.	Madrigal, M. A.
Drilon, F. M.	Magsaysay Jr., R. B.
Defensor Santiago, M.	Osmeña III, S. R.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Recto, R. G.
Flavier, J. M.	Revilla Jr., R. B.
Gordon, R. J.	Roxas, M.
Lacson, P. M.	Villar Jr., M. B.

With 22 senators present, the Chair declared the presence of a quorum.

Senator Biazon was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 53 and considered it approved.

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/s/

REFERENCE OF BUSINESS

The Secretary of the Senate 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 January 19, 2005, the House of Representatives approved the Bicameral Conference Committee Report on the disagreeing provisions of House Bill No. 2996, entitled

AN ACT PROVIDING FOR OPTIMUM PERFORMANCE IN REVENUE COLLECTION THROUGH THE GRANT OF SPECIAL INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE AND THROUGH LATERAL ATTRITION IN THE REVENUE-GENERATING AGENCIES OF GOVERNMENT AND FOR OTHER PURPOSES

and Senate Bill No. 1871, entitled

AN ACT TO IMPROVE THE REVENUE COLLECTION PERFORMANCE OF THE BUREAU OF INTERNAL REVENUE (BIR) AND THE BUREAU OF CUSTOMS (BOC) THROUGH THE CREATION OF A REWARDS AND INCENTIVES FUND AND OF A REVENUE PERFORMANCE EVALUATION BOARD AND FOR OTHER PURPOSES

To the Archives

RESOLUTIONS

Proposed Senate Resolution No. 160, entitled

RESOLUTION DIRECTING THE COMMITTEE ON CULTURAL COMMUNITIES, TO CONDUCT PUBLIC CONSULTATIONS WITH REPRESENTATIVES OF THE VARIOUS INDIGENOUS CULTURAL COMMUNITIES (ICC) AND

SPECIAL RESOURCE PERSONS FROM LEGITIMATE NON-GOVERNMENTAL ORGANIZATIONS, TO DETERMINE MORE EFFECTIVE MEANS OF ENFORCING IP RIGHTS

Introduced by Senator M. A. Madrigal

To the Committee on Cultural Communities

Proposed Senate Resolution No. 161, entitled

RESOLUTION DIRECTING THE COMMITTEES ON CULTURAL COMMUNITIES; ENVIRONMENT AND NATURAL RESOURCES; LOCAL GOVERNMENT; AND TOURISM, TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED DISPLACEMENT OF THE INDIGENOUS ATI TRIBE OF BORACAY ISLAND, MALAY, AKLAN, DUE TO THE REPORTED RAMPANT SELLING OF PARCELS OF LAND FORMING PART OF THEIR ANCESTRAL DOMAIN IN LINE WITH PROMOTING BORACAY ISLAND AS A PRIME TOURIST ZONE

Introduced by Senator M. A. Madrigal

To the Committees on Cultural Communities; and Environment and Natural Resources

Proposed Senate Resolution No. 162, entitled

RESOLUTION DIRECTING THE COMMITTEE ON CULTURAL COMMUNITIES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE WELL BEING OF THE VARIOUS INDIGENOUS CULTURAL COMMUNITIES OF THE PHILIPPINES AND THE ENFORCEMENT OF THEIR RIGHTS ON THEIR ANCESTRAL DOMAIN

Introduced by Senator M. A. Madrigal

To the Committees on Cultural Communities; and Environment and Natural Resources

COMMUNICATIONS

Letter from Director Amorsonia B. Escarda of the Commission on Audit, furnishing the Senate with the Annual Audit Reports of the Cities of Caloocan, Las Piñas, Makati, Malabon, Mandaluyong, Manila, Marikina, Muntinlupa, Quezon City, Parañaque, Pasay, Pasig and Valenzuela; the Municipalities of Navotas, Pateros, San Juan and Taguig, and the Pamantasan ng Lungsod ng Maynila and the Quezon City General Hospital for calendar year 2003.

To the Committee on Finance

Letter from Director Roland A. Rey of the Commission on Audit, furnishing the Senate a copy of the Annual Audit Report on the Overseas Workers Welfare Administration Medical Care Program for Overseas Contract Workers for the calendar years 2000 to 2002.

To the Committee on Finance

Letter from Chairman Guillormo N. Carague of the Commission on Audit, submitting to the Senate the 2003 ODA Audit Report containing the results of audit and evaluation of CY 2003 performance of projects funded by Official Development Assistance loans in compliance with Section 8(b) of Republic Act No. 8182.

To the Committees on Economic Affairs; and Finance

QUESTION OF PRIVILEGE OF SENATOR MADRIGAL

Rising to a question of personal and collective privilege, Senator Madrigal reacted to the statements of DENR Secretary Michael Defensor alleging that she has profited from the very business interests that she condemned. The full text of her speech follows:

MIKE DEFENSOR'S LIBELOUS ACCUSATIONS

I wish to speak on a matter of the highest personal and collective privilege. It is not my practice to rise on a matter of purely personal privilege, or to use this

Chamber in order to hold forth before the media, so as to air personal grievances: the session hall of the Senate is not the proper forum for doing so.

However, I find myself compelled to stand before you today because we are faced with an issue involving national interest. A cabinet member is bound to act in a manner befitting his office and the principal he represents. Instead, the past couple of days have seen the Secretary of the Department of Environment and Natural Resources playing fast and free with the truth. He has taken it upon himself to be particularly careless with the facts when it comes to me. He leaves me no choice but to respond to his recent statements.

Kapag walang modo ang isang tao, ano ang dapat gawin ng sinisiraan niya? Kung nagpakita ng kakulangan sa wastong pamamaraan ng diskurso si Ginoong Michael Defensor, ano ba ang dapat kong gawin bilang kinatawan ng bayang Pilipino?

Sa aking pananaw, hindi ako dapat maging isang loro na daktak ng daktak dahil lang sa pinapatunayan ni Ginoong Defensor na wala siyang modo. Dapat nating ibalik sa wastong pamamaraan ng pagsasalita ang kaniyang mga baluktot na mga pagbabanggit; kailangan nating tulungan si Ginoong Defensor, na ngayo'y naliligaw ng landas.

Kung masasabing malabo, at minsa'y kasinungalingan, ang mga binabanggit ni Ginoong Defensor tungkol sa akin, kailangan kong sagutin ang kanyang maling akusasyon sa pamamaraan ng wastong uri ng pagsasalita. Kailangan nating ibalik at iangat sa mataas at mabunying antas ang diskursong pampubliko, upang siguruhin na makakatulong sa bayan ang pakikipagtalo ng mga miyembro ng oposisyon at administrasyon.

Kung nasisiyahan si Ginoong Defensor sa paglalaro at pagtatapon ng putik, wala po tayong magagawa. May

sariling isip na si Ginoong Defensor. Ngunit kung nais ni Ginoong Defensor na magkalat ng lagim, hindi naman ako papayag na makisama sa kanyang mababang uri ng pamumulitika. Kung sinabi po natin na kontra pulitika tayo, puwes, humaharap tayo ngayon sa isang pagkakataon upang patunayan ito sa ating mga kababayan.

Apparently in exasperation over the force of my arguments, and out of not knowing how to combat the strength of the ideas I have presented before the Chamber and the public, the Secretary of the Department of Environment and Natural Resources has decided to come out fighting. The truth is, I was beginning to wonder when he would. But when Mr. Defensor did decide to issue fighting words, he decided to descend into the gutter, and fight ideas with untruths; fight facts with his own twisted and invented facts; he decided to oppose my conduct as a senator with conduct unbecoming a public official or a gentleman.

The clash of ideas is an essential part of public discourse. People not only should be free to disagree, but also encouraged to express their disagreements. Officials must be unafraid to express their views, to promote solutions, to question their colleagues. But I wonder, if both citizens and officials should be allowed to suffer from the misconception that the truth is best answered with lies. I do not think, for a moment, that anyone, much less officials who are paid salaries by the people, should be allowed to get away with answering facts with untruths, or be permitted to try to deflect the fault-finding of their critics, with unsubstantiated rumor-mongering. Mr. Defensor and I have something in common. We are both public servants. What we do not have in common is his unfortunate belief that uttering the sound bite of the moment justifies the sacrifice of the truth. We also apparently widely differ in our interpretation of our roles in government. Mr. Defensor seems to think that he can continue with the ways of a legislator, even now that he is part of the Executive.

He seems to think, further, that I, as a member of the Senate, should play the role of being part of the Executive.

Mr. Defensor is wrong. He is tasked with enforcing the law, with implementing the laws passed by Congress, and the regulations promulgated by the Executive. I am tasked with participating in the crafting of legislation, and the drafting of national policy. I am empowered to study the circumstances that either detract from the relevance of our laws, or which demand to be addressed by new laws. I am duty-bound to speak up as a representative of the people; I am obligated to try to help every which way I can, but always, with a conscious appreciation of the distinctions that must apply to the actions of a legislator, and the requirements applicable to the work of a department secretary.

This is not merely a statement of opinion. I base my views on the nature of our constitutional order, on an appreciation of the framework of government put in place by the Constitution. I cannot say I know where Mr. Defensor gets his ideas, or what accounts for his apparent lack of ideals, or what justification there is for his manner of attending to his public duties by lashing out in public and, in the process, resorting to answering my facts with false claims, and my ideas with the most childish sort of recriminations.

Our people are owed the truth; they deserve to know that Mr. Defensor likes to score points in public debate by twisting facts. In recent days, the Secretary of the Department of Environment and Natural Resources has maligned me.

He has maligned me, by accusing me of personally profiting from business interests and activities engaged in by my family – business interests and activities he says continue to profit from the very activities I condemn, in particular logging, mining, and the manufacture of cement.

He has disparaged me by saying that I am someone more interested in making

speeches and being in the limelight, than in actually doing something substantive to achieve the goals of environmental protection.

He has gone too far. He has perverted the truth and poisoned public discourse.

With regard to his basic allegations concerning the financial and industrial interests of my family, I wish to inform Mr. Defensor, since his researchers seem stuck in a time warp, and the Secretary of the Department of Environment and Natural Resources apparently doesn't know better, that the Madrigal family is not engaged in activities that are harmful to the environment. We divested ourselves from such interests some time ago.

Mr. Defensor should know our family has not been involved in logging since the 1960s; and that our logging concession, such as it was, was in Surigao, and not, as Mr. Defensor claims, in Quezon or Aurora provinces. We were never involved in logging in those provinces, and furthermore we disengaged from the logging industry before the particularly ruthless and widespread logging activities of the 1970s and 1980s, the effects of which I have mentioned in the past.

Mr. Defensor deserves to know that our family has not been involved in mining since 1979, when Consolidated Mines ceased its large-scale mining operations.

Mr. Defensor should be aware that we divested ourselves of our shares in Rizal Cement in the 1990s.

The role that the Madrigals played in helping build this nation before the Marcoses took over, is one of which we are proud of. *Our country's history cannot be read without mention of the ideas and ideals that impelled my family to be involved in these pioneering enterprises.* President Quezon said of my grandfather, Vicente Madrigal, that he made his money the old-fashion way – he earned it, without benefit from corruption. My grandfather and my father answered

the call for industrial development after the first and second World War, the time when the businesses Mr. Defensor alleges I continue to possess began. In fact, it was President Quezon and the past presidents who asked my ancestors to take up such tasks so as to help build, and rebuild our nation.

Mr. Defensor may be ignorant of our past, but the Filipinos have not been so quick as to forget that the rebuilding of the University of Santo Tomas, the Quezon Institute, and the then Highway 54 (now known as EDSA), and that the land on which Camp Aguinaldo and the New Bilibid prisons were built, are but amongst the many other landmarks that were the fruit of my grandfather's patriotism.

On the maternal side of my family, apart from Chief Justice Jose Abad Santos who needs no introduction, it is recorded in our history books that my granduncle Pedro Abad Santos gave away all his vast landholdings and lived with the peasants of Pampanga, being the founder of the socialist movement in the Philippines.

My forebears helped our nation to attain the greatness it once had. And if Mr. Defensor's defamations are what my forebears deserve today for their past patriotism, no wonder our country is where it is today: in the hands of the administration Defensor serves.

My family has long since realized the destruction that industry had on our environment. We set them aside and since then, have fought for the protection and rehabilitation of the environment.

So with regard to his bold statements Mr. Defensor can be proven to have spread disinformation; with regard to his attempt to probe both me, personally, and my family, by extension, hypocritical about the environment, he has only shown his own incapacity to present proper facts. The Madrigals have not been in logging for 40 years; we have not been in mining for a quarter of century; we have not had interests in cement

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for almost a decade. But then, even if Mr. Defensor, out of respect for the truth, admitted these facts, he would still have claimed, as he has claimed, that by our family's having profited from these activities, it denies me the right to speak up against such activities today.

Mr. Defensor's claim would be wrong. Precisely because of the past economic interests of my family, I not only know how these industries work, but what they really cost our country in terms of the environmental impact they have, and the economic influences they really exert. The past activities of my family also impel me to prevent more of the same from happening, and to work for a more equitable and sustainable future. They inspire me to carefully arrive at facts, and present, explain, and defend viable and practical solutions. They constrain me to be armed with the truth, and to lobby for my ideals.

Apparently, Secretary Defensor finds the truth inconvenient; and finds the undermining of reputations a delightful sort of collateral damage resulting from his accusations. He seems to glory in the cheap shot, the underhanded insinuation, the outright half-truth and the blatant lie. I would like to think that Mr. Defensor was uninformed, and in a bad mood, when he said these things about my family, and that perhaps he was fed inaccurate data by his people. Therefore, in the interest of the truth, and as a mark of Mr. Defensor's sincerity, I challenge him to present his supposed facts, in the form of genuine and not fabricated documentation. Let us see what is the basis of his claims – for I know his claims are baseless. What remains to be seen is if he made these claims sincerely, based upon the wrong information, or whether he knew he had no basis for his claims, and by so doing, has opened himself up to being charged with libel.

In his recent statements, Mr. Defensor, after maligning my family, decided to cast aspersions on my sincerity and dedication to my ideals. He seems confused by my criticisms, and is apparently rather wounded

that I am not performing the functions of a Secretary of the Environment. All along I assumed he knew the difference between a cabinet member and a senator. Apparently he does not. Before Mr. Defensor decides to attempt his scheduled transition from a cabinet member to a senator, it might help to remind him of something I mentioned in the beginning of my remarks. Mr. Defensor's job is to implement and enforce the law. My job is to do whatever is lawful and necessary to draft and pass legislation. Furthermore, Mr. Defensor is a creature of the administration, while I am a member of the Opposition. He and I therefore have divergent views when it comes both to the programs, and the implementation of the programs, of the administration he serves.

Therefore, Mr. Defensor seems to think I should be doing his job, and is wounded when I criticize him in the performance of his duties. The *niño bonito* of the administration seems to think it is the Senate's obligation to act as his *yaya*. It is not; and if, by doing my job, Mr. Defensor thinks I am unduly pressuring him in the performance of his, we must ask if Mr. Defensor really understands just what it is he should be doing.

I would like to refresh Mr. Defensor's memory as to my activities in recent months, in the hope that it will help him understand what he will be facing once he announces his desire to become a member of this Chamber.

First of all, even if I have strong opinions, I am aware my opinions must be built upon convictions, in turn supported by facts. Facts are revealed in two ways: through study of reports and surveying of relevant literature, and through consultations with people involved in, and knowledgeable of local and global circumstances and conditions. Studies and consultations, as Mr. Defensor knows, or should know, from his past membership in the House of Representatives, can be done informally, privately, or publicly and officially. I have done both, consulting environmentalists, representatives of indigenous peoples,

the clergy, and government workers privately, and I have called for the Senate to have hearings in order to inquire as to the effects of the devastation caused by legal and illegal logging, and its effects on indigenous peoples, in aid of legislation.

Second of all, the fruit of study is the filing of laws and the deliberation of pending bills. I have filed such bills, I submitted, for the consideration of this Chamber, a bill raising illegal logging to the level of a heinous crime. My bill calls for a national log ban to be the policy of the State for 50 years. Perhaps Mr. Defensor likes to keep himself ignorant of legislative developments because he has neither admitted to reading them, or been bothered to comment on them.

Third of all, in the case of laws passed by Congress, and the State policies mandated by the laws of the land, it is my duty to study the impact that Executive issuances have on them, as well as the manner in which their implementation is affected by the actions of the Executive. This is part of the oversight powers of members of Congress, and the particular obligations of members of the Senate to ensure that the laws we pass are not set aside by the Executive. My duties as a senator thus compelled me to call for the revocation of certain Department of the Environment and Natural Resources orders that had the effect of legalizing illegal logging. I did this by means of a privilege speech, which is the manner in which senators can question executive lapses in judgment.

Fourth, in a representative democracy such as ours, as a senator, I am tasked with both communicating with my constituents, that is, the entire country, and with the sectors that constitute the Filipino people. I do my duty in several ways, including engaging in, and assisting, the activities of local community groups such as the Task Force Sierra Madre.

I know what I am supposed to do as a member of this Chamber. I know my role in public life. I appreciate the difficulties

imposed on all of us by the burden of the sad environmental history of our country. I know where you, Mr. President, and I, along with all my colleagues, stand in terms of the constitutional order of things.

I know where Mr. Defensor should stand, in terms of his present position and the duties and obligations inherent in that position. I wonder, however, if Mr. Defensor knows. I know the kind of dialogue, even confrontations, his being in the administration and my being in the Opposition, entails. I wonder if Mr. Defensor does. I know that being in public life involves being able to give, as well as take, in terms of public debate. I wonder if Mr. Defensor suffers from the notion that debate requires the cheap shot, the assassination of character, the obfuscation of facts, and the outright peddling of untruths, in order to win. Does Mr. Defensor think politics is a game, and public service a pastime? Say it isn't so.

Ginoong Pangulo, kung ikukumpara ang pananaw ng inyong lingkod, sa pananaw ni Ginoong Defensor sa larangan ng paglilingkod sa bayan, malinaw na hindi magkatugma ang aming pananaw.

Sa totoo lang, kahit sabihin man ng iba na puro wish ko lang ang pagkilos ko, masaya naman ako na hindi puro "That's Entertainment" lang ang aking pagkilos, katulad ni Ginoong Defensor.

Wish ko lang na ang mga patakaran ng batas ay maipatupad ng mga alagad ng batas, at ng mga kalihim ng pangulo, katulad ni Ginoong Defensor.

Wish ko lang na aminin naman ng administrasyon na kailangan natin ng aksyon, at hindi ng pagtatago sa likod ng mga "exemptions at technicalities" na nagsasabotahe ng mga layunin ng estado na nagbibigay proteksiyon sa ating kalikasan.

Wish ko lang na kung magsagutan man ang mga empleyado ng publiko,

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gawin naman nila ito sa tamang pamamaraan. Ang pagpepresenta ng iba't ibang opinyon at pananaw ay kailangang gawin sa pamamagitan ng diskursong mag-aangat ng kaalaman at kamulatan ng sambayanan.

Wish ko lang na ang mga datos, impormasyon, at mga solusyon na ipinepresenta ko ay hindi labanan sa pamamaraan ng pagbibitaw ng mga salitang walang basehan sa katotohanan at walang katarungan. Wish ko lang, wish ko lang.

Ngunit kung sa pananaw at pag-iisip ni Ginoong Defensor, ang kaniyang kasagutan sa aking mga sinserong pananalita ay kailangang gumamit ng pangbobola, pangloloko, pagsisinungaling at iba pang uri ng mababaw at masasabing malisyosong pananalita, ano ang aking magagawa?

I can sue Mr. Defensor for libel.

Article 353 of the Revised Penal Code of the Philippines defines libel as a public and malicious imputation of a crime, or a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to discredit or cause the dishonor or contempt of a natural or juridical person, or to blacken the memory of one who is dead. Thus, the elements of libel are: (1) Imputation of a discreditable act or condition to another; (2) Publication of the imputation; (3) Identity of the person defamed; and (4) Existence of malice (*Daez v. CA GR. 47971, 31 October 1991*).

In libel cases, the question is not what the writer of an alleged libelous statement means, but what the words used by him mean. Jurisprudence has laid down a test to determine the defamatory character of words used in the following manner:

“Words calculated to induce suspicion are sometimes more effective to destroy reputation than false charges directly made. Ironical and metaphorical language is a favored vehicle for slander. A charge is

sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses, or are sufficient to impeach their honesty, virtue, or reputation, or to hold the person or persons up to public ridicule...” [*Lacsa v. Intermediate Appellate Court, 161 SCRA 427 (1988) citing U.S. v. O'Connell, 37 Phil. 767 (1918)*]

I questioned the actions and actuations of this administration in keeping with the dignity of this Chamber, and the responsibilities all public officials have to maintain and sustain debate on the basis of ideas, and not personalities. I have never insinuated, suggested, or stated, that Mr. Defensor has profited from his office, or engaged in illegal activities. I have challenged his point of view, his actions or the lack of them, and the manner and means by which he has sought to undertake the duties given to him by the President. I have called for a change in policy, and a revision of the laws and the revocation of executive and departmental issuances not in keeping with the spirit and letter of the constitution and laws.

He has replied in the most personal, harmful, and irresponsible manner. He has questioned my sincerity, challenged my achievements, disparaged my dedication. He has chosen to present me as ignorant, and even deceitful, by charging both my family and myself with participating in activities that I have demanded to be stopped. He has implied that I am unaware of the concept of conflict of interest. As I have pointed out today, I know what is required of me, ethically, morally, financially, and legally, as an advocate of the environment and our indigenous peoples, as a lawmaker, and a person. I am increasingly convinced, however, that Mr. Defensor remains unaware of, or deliberately and willfully without regard for, his corresponding duties and obligations as a member of the cabinet, a public official, and a gentleman.

We should remind the Secretary of the Department of Environment and Natural Resources that he is bound by the Code of

Conduct and Ethical Standards for Public Officers and Employees.

Mr. Defensor should know that Section 4 (b) (c) of Republic Act 6713, otherwise known as the Code of Conduct and Ethical Standards, provides for the following :

(b) *Professionalism.* - Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.

(c) *Justness and sincerity.* - Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order.

In view of the above, I submit that Mr. Defensor has not only maligned me and my family, but that he has also betrayed his office. Mr. Defensor's statements concerning me and my family, the results either of an ungentlemanly temperament devoid of a dedication to facts, and lacking a sense of official decorum or justice, are covered by the law on libel. But it is wrong to think that in attacking me, Mr. Defensor has merely been intemperate in his remarks, and that an apology, which he owes me and my family, can settle the whole thing.

An apology sincerely made will, indeed, be sincerely accepted. Everyone makes mistakes, everyone says things in the heat of the moment that can, and should, be taken back. On a personal level, everything can be resolved by Mr. Defensor recognizing

that I do not criticize people on the basis of personalities, and that he would do well to restrict public debate to the level he and I are obliged to keep it: the level of issues, and not personalities.

But Mr. Defensor, besides being intemperate and scurrilous in his statements, has done more, far, far, more, than can be papered over by a statement of apology. He has failed to perform his primary duty, which is to protect the environment.

Has he failed to curb logging?

Logging in Quezon Province is still taking place. The activities of large logging operations such as the ironically named Green Circle has, in fact, led to the creation of such NGOs as Task Force Sierra Madre.

Logging in the Caraga region is still taking place. Picop, for example, is still felling trees in places such as Agusan del Sur. The inability of Secretary Defensor to do anything about this resulted in a week-long rally by the indigenous peoples outside the DENR Regional Office near Butuan.

Furthermore, as I mentioned in the privilege speech I delivered last 7 December 2004, entitled "Juggernaut of Despoliation," Mr. Defensor's department should be stopping the legalization of illegal logging, done through, but not limited to, such means as: The conversion of public forests into agricultural land through mere declarations of the DENR, declarations which it does not have the power to make, as such declarations are solely within the powers of Congress. Under Mr. Defensor, his department continues to grant permits and enter into agreements with the same force and effect of granting Timber License Agreements to loggers. Integrated Forest Management Agreements or IFMAs are a license to kill our forests with as much lethal effect as the permits Mr. Defensor claims to no longer give away.

When it comes to respecting the rights of our indigenous peoples, Mr. Defensor seems to think that giving the proper respect

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to our indigenous peoples is his option, instead of a fundamental obligation of his department. He has set aside their interests, and indeed, permitted activities that are inimical to the interests of our indigenous peoples. Logging and mining concessions are being granted over lands being claimed as ancestral domain lands. Our ancestral domain lands are being converted to agricultural lands by the direct action of Mr. Defensor's department. When lands are released to the indigenous peoples, it comes in part and parcel through CLOAs (Certificate of Land Ownership Awards) issued by the both the DENR and Department of Agrarian Reform, which is improper, confusing, as it does, the different mandates of these departments, and relying, as it does, on the poverty and economic desperation of indigenous peoples, who are tempted to settle for less, because the agencies of the government have not helped to protect their interests. Instead of making the indigenous peoples the beneficiaries of government actions, they become the victims of official neglect, indifference, and outright hostility to indigenous people's rights.

Mr. Defensor is neither a gentleman nor an official worthy of continuing in public service. His deceitful slanders are merely the manifestation of a fundamental lack of understanding of his duties and obligations as a public servant and the head of a crucial department of the national government.

Mr. Defensor should go. He must resign. He has failed in his duties. He has done more harm than good. He has done the environment great injury; he has squandered his opportunity to serve the country. I call upon him to resign. I call upon him to do his duty, and face the consequences of his failure to do his duty. Let him do, at long last, the right thing. Acknowledge his failures, and learn from his mistakes. Above all else, if Mr. Defensor will do nothing else, he should relieve our long-suffering people of the burden of maintaining him in office.

Before this Chamber, I denounced the policies of this administration as equivalent

to a Final Solution, a state-sponsored liquidation, of our indigenous peoples and our environment. I made this comparison knowing full well that fighting for human rights and our environment would be like David facing a Goliath. I had no choice. As my ancestors did before me, I have no alternative but to dedicate my life to serving this nation and its people even if it shall be the death of me.

The truth is, I have nothing against working with this administration, in matters that are not destructive and are pro-life and pro-poor. In the same light, the administration should expect my utmost opposition to programs and practices detrimental to the environment, social justice, and life.

For as grand as Mr. Defensor may think his dreams and visions to be, they can only be grand in being diabolical, even Hitlerian, as long as by his commissions and omissions he acts as if the end justifies the means. The wrong ends by the wrong means are wrong. The right ends by the wrong means are equally wrong. To argue illogically is simply a betrayal of a lack of logic, or worse, a cynical and willful setting aside of reason and the truth.

As there is truly no anger in my heart, I enjoin all the Filipino people and the clergy to pray for Mr. Defensor, so that he will be enlightened. May he see the truth, so that he may be able to truly serve the nation. As there is truly no anger in my heart, I enjoin all the Filipino people and the clergy to pray for Mr. Mike Defensor to be enlightened of his misguidance and obsessions so that he may be enlightened and thereby see the truth so that he may be able to truly serve the nation. Jesus said, "Forgive them, Father, for they do not know what they do." I hope and pray that this is his only sin; I pray he has not become so obsessed with the money that corruption might bring in, that he forgets the honor of his name, and the ethics that should govern his official conduct, are far more valuable than gold.

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INTERPELLATION OF SENATOR DEFENSOR SANTIAGO

At the onset, Senator Defensor Santiago described the speech of Senator Madrigal as a virtual cry of pain from the heart. She acknowledged that the Madrigal family has not only helped in advancing the progress of the country but has also helped write its history. She emphasized with Senator Madrigal whose love for her family and pride have been deeply wounded by the excessive exuberance of another public official.

Senator Defensor Santiago stated that though she believed Secretary Defensor is hard-working and always interested in educating himself, she would nonetheless try to educate him during the LEDAC meeting the following day. Further, she believed that Secretary Defensor would not want to inflict deliberate pain on anyone and he merely uttered such words in the passion of the moment without much thought on how it would affect Senator Madrigal, a sensitive person so proud of her family.

On the possibility that Senator Madrigal and her family might file a libel suit against Secretary Defensor, Senator Defensor Santiago stated that the Secretary's offense was not "reckless disregard of the truth" but "reckless disregard of prudence." She added that Secretary Defensor should have researched his facts carefully and aired his concerns through a private channel rather than talking directly to the media. She noted that veterans of the public scene know that such is a better alternative to unburdening oneself of "fighting words." She said that when one insults another by using "fighting words," the victim is justified to defend himself or herself with the same or even higher degree by the use of the English language.

Senator Defensor Santiago asked Senator Madrigal to take into consideration the young age of Secretary Defensor who is himself a member of an extended family, her nephew in the second degree. She hoped that the concern of the Defensor family might help alleviate the genuine sense of pain of Senator Madrigal. She also reminded Senator Madrigal that the U.S. Supreme Court once ruled that public officials should not be onion-skinned, however, it also ruled that there is such a thing as libel in self-defense which is justifiable and mitigated

under the circumstances. She pleaded with Senator Madrigal to take recent negative developments in this light.

The Defensor family, Senator Defensor Santiago said, continues to respect and love the Madrigal family. She informed the Body that the late Justice Vicente Abad-Santos, a distinguished relative of the Madrigals, was her mentor in her public life. She stated that out of respect for the Madrigal family, the Defensors, who are beyond apology, would plead with Senator Madrigal to overlook the exuberant excesses of a young man as she gave assurance that the Defensors would take steps to improve his education as soon as possible.

Thanking Senator Defensor Santiago for her good advice, Senator Madrigal stated, however, that the matter concerns not only personal or family pride but also other people's reputation. She said she would consult the family matriarch, Chito Madrigal, who was brought up under an old axiom of her grandfather: "Do not worry if you lose money because money is easy to make. But once you lose your honor, it is lost forever."

Senator Madrigal expressed hope that Senator Defensor Santiago could put some sense into her young nephew who, as a cabinet member, represents the Chief Executive and whose every utterance would positively or negatively affect the country.

INTERPELLATION OF SENATOR PIMENTEL

Preliminarily, Senator Pimentel said that he was in favor of the counsel of Senator Defensor Santiago against the hasty filing of libel cases against people who say harsh words against legislators, whether or not the accusations are based on facts, because this is part and parcel of legislation. He said that the Senate is an adequate forum for legislators to defend themselves against malicious statements.

Senator Pimentel disclosed that in his statement in the day's issue of the *Philippine Daily Inquirer*, he defended Senator Madrigal and, like Senator Defensor Santiago, observed that the remarks of Secretary Defensor might just be part of the exuberance of a young man who is in a hurry.

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Asked by Senator Pimentel if Green Circle is a logging corporation that is operated in Quezon by four individuals, three of whom are reported to be Chinese citizens, Senator Madrigal replied in the affirmative.

As to the identities of the persons involved in Green Circle, Senator Madrigal said that the primary name that comes to her mind is a certain "Mr. Roxas" who is not a relative of Senator Roxas.

Senator Cayetano volunteered the information that in a hearing of the Committee on Environment and Natural Resources that afternoon, Atty. Romeo Roxas, president of Green Circle, said that the company is not involved in logging but in development such as the big project in Tagaytay.

Senator Pimentel said that the information he gathered is that the concessionaire is involved in logging; hence, he would like to put their names on record.

SUSPENSION OF SESSION

Upon motion of Senator Madrigal, the session was suspended.

It was 4:55 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

Upon resumption, Senator Madrigal said that, allegedly, the main person behind Green Circle is a certain Romeo Roxas, while those who are fronting for him are a certain Mr. Bengson Ching and Mr. Angelo Lao. She said that Secretary Defensor was quite exuberant because he nailed the illegal loggers; in fact, he came up with a big front-page story. She clarified that it was not her intent to belittle the efforts of Secretary Defensor and General Corpus in nailing the illegal loggers, but that she suggested to the secretary to nail the big fish instead of the little fish to get to the truth of the real cause of the devastation in Aurora and Quezon.

Senator Pimentel said that in fairness to Green Circle, and as affirmed by Senator Enrile, its timber stands within a 49,000-hectare concession that was titled in the second decade of the last century in the name of "Henderson," an American citizen.

However, he said that while Green Circle is cutting timber legally within its concession, it was also logging outside the concession. He said that when these logs are inspected by the DENR, the people who cut them claimed that these came from the Green Circle concession. He said that this information would support the suspicion of Senator Madrigal that illegal logging continues in Quezon despite the logging ban imposed by the Office of the President and the DENR right after the November floods. He believed that what is more important is to look at the situation of the logging areas in Quezon to ferret out the names of the culprits.

At this point, Senator Roxas confirmed Senator Madrigal's earlier statement that he is not related to Attorney Roxas nor is there any business dealings of any kind between them.

Senator Madrigal underscored that she has also received numerous complaints that Green Circle is logging beyond its concession as there are actually not much big logs to cut therein. She said that this information should be investigated thoroughly by the Executive department and by the Senate.

Senator Pimentel said that the practice of "cut prior" is now in vogue to evade the log ban promulgated by the Executive. He said that hundreds of applications for "cut-prior permits" are now flooding the office of the DENR Secretary to make it appear that the logs were supposedly cut before the ban, hence, they were legally cut.

Senator Madrigal said that she has received much information about the practice for which reason, she suggested that Secretary Defensor look into the big fish as well; however, he vehemently reacted to her suggestion.

As regards the Green Circle concession, Senator Madrigal clarified that the title over the covered areas is still in dispute in court. In view thereof, she asked Senator Pimentel if it is legal to cut logs within the concession. Senator Pimentel noted this is a good point to consider when the speech is referred to the proper committee for further investigation.

As regards the granting of cut-prior permits by the DENR, Senator Pimentel stated that the Senate should caution the Office of the DENR Secretary not to proceed with the scheme which is

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being used as a ploy to circumvent the logging ban that the department itself has promulgated. This practice, he said, is being encouraged as a way to modify the harsh effect of the total log ban. Those who are caught with the felled logs can always produce the cut-prior permit, he added.

Senator Pimentel expressed hope that the appropriate committee would also take action on the cut-prior permit and thus save the remaining forests in the country.

Senator Madrigal pointed out that precisely, she called on Secretary Defensor to watch over such tricks of the trade. She recalled that when she reached Dingalan, after walking seven kilometers, the people told her that she was the first public official to visit them, and there she learned that one of the tricks of the trade is to pass off logs cut in Quezon as imported from Malaysia. The Bureau of Customs, she said, apparently issues import permits from Malaysia for illegally cut logs.

Senator Madrigal also mentioned another trick of the trade which is that when trucks arrive with illegal logs, the DENR representative and the police in charge pretend to be asleep and after the money is slipped into their hands, the trucks move on. She stated that the tricks of the trade shall be the subject of another privilege speech. She warned that if a temporary log ban is not imposed, then it would be business as usual for the illegal loggers. She bared that big equipment, ships and tugboats are also being used to haul back all the logs. She added that the illegal loggers hit the jackpot because there was no longer need to transport all the logs which were carried down the mountain by the water and mudslides. She recalled that she suggested to the administration to make an inventory of all the valuable logs, ask the army to secure them, conduct a public auction and give back the money to the people affected by the floods.

Senator Madrigal further recalled that before the typhoon, Secretary Defensor was quoted in the newspapers as saying that there is no wide-scale logging in Quezon and Aurora, but when the logs fell, he changed his mind. She expressed hope that he would stick to his words. She opined that he should not flip-flop on his policies as it would not do the country any good and would only confuse the legislators.

Senator Pimentel disclosed that three Chinese nationals involved in illegal logging in Quezon have shifted their focus to Davao Oriental. One of them, he said, has been operating a saw mill in Quezon without a proper permit, and he and the two others plan to buy out a former logging concession in Davao Oriental. He asked the DENR to keep an eye on the activities of these illegal loggers so that they could not just conveniently transfer elsewhere. He suggested that the matter be also looked into and that Secretary Defensor and Undersecretary Paje be required to submit to the appropriate committee a list of all applications for cut-prior permits.

INTERPELLATION OF SENATOR PANGILINAN

At the outset, Senator Pangilinan expressed concern about the accusations that had been coming out in the media regarding mining and illegal logging. These, he said, may affect the Body's desire to address environmental protection.

Replying to the queries of Senator Pangilinan, Senator Madrigal stated that her family has not been involved in logging for 40 years; in mining for 25 years; and in the cement business for almost a decade.

Adverting to certain documents that identified certain individuals, Senator Pangilinan asked Senator Madrigal if she knew about corporations like Solid Cement Corporation, Consolidated Mines Incorporated, Island Quarry and Aggregates Corporation. Senator Madrigal replied in the affirmative, adding that these were all a matter of public records.

Asked if she is a stockholder or shareholder of the aforesaid companies, Senator Madrigal replied that she was a director of Solid Cement Corporation that has long been sold by her family.

On whether at one point, she was a shareholder of record of Solid Cement Corporation, Island Quarry and Aggregates Corporation and Consolidated Mines, Senator Madrigal said that it is of public record and she would not lie.

Asked whether she knew who Jose Madrigal is, Senator Madrigal stated that he is an uncle who has been deceased for seven or eight years.

Senator Pangilinan pointed out that in the photocopy of the General Information Sheet for 2002 of Consolidated Mines Incorporated, it has a *Jose P. Madrigal and JM Investment Corporation* as stockholders while the photocopy of the General Information Sheet for December 31, 2002 of Solid Cement Corporation has the name *Ana Maria A.S. Madrigal* as stockholder of record and member of the Board. The proper committee, he said, should double-check the authenticity of said documents because while there is a serious charge that the name of the Madrigal family has been maligned, these documents might help to clarify some of the issues raised by Senator Madrigal in her speech. He shared Senator Madrigal's concern that if there is a basis for the accusations, the Senate should ferret them out.

Senator Madrigal said that at the proper forum, she would like to be given a much longer time so that she could enlighten the people on the history of the companies concerned.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:35 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Senator Madrigal's speech and the interpellations thereon to the Committee on Environment and Natural Resources.

MANIFESTATION OF SENATOR PIMENTEL

Senator Pimentel said that some senators had wanted to record their votes on the Conference Committee Report on the Lateral Attrition Bill that was recently passed by the Body. He pointed out that Section 91 of Rule XXXIII of the Rules of the Senate provides that any senator can clarify his vote by moving, in effect, for its reconsideration. But he clarified that this would not alter the passage of the report.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:36 p.m.

RESUMPTION OF SESSION

At 5:42 p.m., the session was resumed.

MANIFESTATION OF SENATOR MADRIGAL

Senator Madrigal manifested that her name no longer appears in the General Information Sheet for June 8, 2004 of Solid Cement Corporation, and Island Quarry and Aggregates Corporation.

ADDITIONAL REFERRAL

The Chair likewise referred the manifestation of Senator Madrigal to the Committee on Environment and Natural Resources.

At the instance of Senators Pimentel and Madrigal, upon motion of Senator Pangilinan, there being no objection, the Chair also referred Senator Madrigal's speech and the interpellations thereon to the Committee on Accountability of Public Officers and Investigations as the secondary committee.

MANIFESTATION OF SENATOR PIMENTEL

Senator Pimentel stated that after consultation with Senate President Drilon and Senator Pangilinan, and with the permission of the Body, he and some of the senators would just manifest their *no* vote on the Report.

MANIFESTATION OF SENATOR LIM

Preliminarily, Senator Lim thanked the Chair for giving him the opportunity to make of record his *no* vote on the Lateral Attrition Bill.*

Senator Lim stated that he and Senator Pimentel vigorously objected to the passage of the lateral attrition bill not because they did not want to support the measure but simply because they felt that it is highly discriminatory and prejudicial to other officials and employees of government. He said that he was concerned with the plight of the poor policemen and soldiers who are staking their lives in defense of the country, and the teachers who are underpaid. He pointed out that the measure violated the following laws:

*As corrected by Senator Lim on January 25, 2005

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Sec. 1 Art. III of the Constitution

"No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

Sec. 1 Art. XI of the Constitution

"Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

Art. 210 of the Revised Penal Code

"Art. 201...XXX If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of *arresto mayor* in its maximum period and a fine of not less than the value of the gift and not more than twice such value.

R.A. No. 3019, as amended by R.A. No. 77 and B.P. Blg. 195

"Causing any undue injury to any party, including the Government, or giving any private party unwarranted benefits, advantages or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with grant of licenses or permits or other concessions."

P.D. No. 6

"Receiving for personal use a fee, gift, or other valuable thing in the course of official duties or in connection therewith when such fee, gift, or other valuable thing is given by any treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws."

MANIFESTATION
OF SENATOR MADRIGAL

Senator Madrigal requested that the full text of her explanation of vote be inserted into the Records, to wit:

A BOUNTY HUNTER'S REPUBLIC

Introduction

The *Ayes*, by now we all know, have it with regard to the bill before this chamber. But the *nays* must say it: the administration may have force of numbers, but it lacks force of ideals. We are called upon to vote on this measure, this soon-to-be law; and in doing so, we are entitled to explain our vote. This, I intend to do.

We are faced with sober- and sobering-truths. The truths are, that the coffers of the State aren't being filled as they should. The reasons revenue collections fall short may be attributed to an ailing national economy as much as to corruption run rife in the Bureaus of Internal Revenue and of Customs. This bill aims to solve specific shortcomings pertaining to these Bureaus.

On the part of the Bureau of Internal Revenue, these shortcomings are due to the unauthorized condoning of due taxes in lieu of bribe money, that is, as favors; or the underassessment of, or consenting to the wrong declaration of taxes due the state in exchange for bribes – the end result is the same: no revenues accrue to the government.

On the part of the Bureau of Customs, these shortcomings are due to agents permitting smuggling per se – acts by which no taxes are collected at all, or through smuggling by means of the wrong declaration, or under-assessment, of the proper taxes due – whereby some taxes are actually collected, but the collections are way below that which should have been collected.

Those are the evils this bill purportedly seeks to eliminate. But this bill, in trying to solve a problem, creates problems of its

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own. It may be said to be an evil even greater than those it attempts to address.

What, in truth, is this bill? It is popularly known as the "Lateral Attrition Bill." It is really a bill that aims to award bounties to petty crooks, in a desperate attempt to cover up for the shortcomings of even bigger crooks. In so doing, it threatens to create even more crooks.

The administration hopes to squeeze water from stone, or blood from turnips, thereby slightly improving the fiscal condition of a government whose plunging popularity is partly attributable to its failure to control the soaring deficits. This bill aims to facilitate the squeezing by awarding bounties to government agencies notorious for their inefficiency and corruption, so that the unsatisfactory performance of these agencies might be made slightly acceptable.

What are these bounties?

Why, they are the very reason for being of this bill about to become law. The majority, in its wisdom, or perhaps it is better to say, in its desire to daintily disguise the true nature of this law beneath a gossamer veil of euphemistic legalisms, calls these bounties "incentives." These "incentives," in reality, are rewards in exchange for something: in the case of this bill, rewards for increased tax collections; and so, simply put, they are bounties.

If this bill suffers from intellectual dishonesty, it is a small crime when compared to the manifest injustice of its provisions.

First of all, is it just for a chamber that prides itself on its thoroughness, to pass a bill into law when the government clearly lacks the data to set accurate revenue targets? How can revenues be properly targeted, if the data and the studies aren't there? This bill is similar to the bill on sin taxes, lamentably passed into law, in that it depends on guesses and estimates derived from guesses, in the absence of appropriate studies conducted to show that this measure would actually improve revenue collections or tax efficiency.

This lack of study and data, actually produces an image that is contrary to whatever positive image the administration thinks it will project to the international community by rushing this bill into law, as it merely reflects hastiness, recklessness, impropriety, immorality and want of proper values and principles

And is it just for a chamber tasked with the interests of the whole, including the well-being of the entire civil service, to approve a bill that will breed discontent and inefficiency among other executive departments and offices? If these bureaus already suffer from public odium, as they obviously do, why is Congress poised to make them the *Chosen People* of our State? The officials and employees of the Bureau of Internal Revenue and Customs already enjoy better compensation through a system of allowances that Congress has already granted; and yet, in effect this bill will remove them from the purview of the Salary Standardization Law that all other government employees are subjected to.

Consider further, the fact that despite getting better remuneration, these two offices still do not effectively carry out their duties. And this bill aims to reward disappointing performance with incentives? Incentives that are being granted to them while those in other agencies, who have been effectively fulfilled their duties, are ignored, or not given due recognition? Where is the justice in that?

Administrative/Organizational Considerations

Can it be just, that at a time when the citizenry is revolted by the inefficiency of a bloated bureaucracy, for this bill to ignore the public's feelings? And yet this bill aims to establish another layer in the bureaucracy. The so-called *Revenue Performance Evaluation Board for Special Incentives and Rewards* this bill provides for, will be yet another office with positions to fill, and an unquenchable thirst for office supplies, meals, allowances, office space, vehicles and petty cash to quench. The

proven voraciousness when it comes to government funds of even the most well-meaning government office can be expected to be matched by those who head the board. The members of the board, composed of 12 and 10 members, respectively, will be entitled to an additional per diem in their capacity as members of the Board. *Is it just, at a time when the public has been nauseated by revelations of lavish per diems enjoyed by officials, for the government to create additional officials entitled to yet another series of per diems?*

The legal arguments against the bill

And is it just to grant this Board an exceedingly wide latitude in setting revenue targets? Granting such a breadth of discretion guarantees a litany of complaints assailing this Body from the first day it sits. The proponents of this bill have given the proposed Board so much rope it can't help but hang itself. Under what standards are revenue targets set? Revenue targets must be based on realistic projections or formulas that Congress should provide for in the law. Failure to provide for such standards, puts any such law in peril of being declared unconstitutional.

After all, pursuant to the legal principle on *Non-Delegability of Legislative Powers*, for a law that vests an executive officer, or body, such as the Board provided for in this bill, with the responsibility, or power, to "fill in" certain parts of the law passed by Congress, the law must pass certain tests to be considered constitutional. My learned colleagues know these to be the *Tests of Completeness and of Standard*. *Completeness* requires a law to be otherwise whole in its provisions, except for what has been delegated; more importantly, the law must provide for *standards*, that is, parameters that limit the so-called delegate's power: this is an essential safeguard against the arbitrary and tyrannical implementation of the law.

Is it just to pass a bill into law that contains the seeds for the destruction of what it aims to achieve? I do not think it is just to pass a law that by its imperfections

and overgenerous granting of latitude and discretion, will issue an open invitation for a swarm of fixers and influence-peddlers to use the law against itself. The bill unjustly allows opportunities for the corrupt to use the Board to lower revenue targets to let underperforming bureaus off the hook, or to raise quotas so unreasonably high, as to provide a pretext for the elimination of certain individuals from the civil service.

This bill also provides for sanctions against those who would not have met their revenue targets, sanctions that amount to at least 7.5% of their uncollected targets. But closer perusal of the bill would show that such "sanctions" are already penalties fully within the powers of the existing commissioners of Internal Revenue and Customs to impose. However, this bill actually makes punishment more difficult.

While the bill ostensibly provides for sanctions – though such "sanctions" may be imposed only on those employees of the Bureaus of Internal Revenue or Customs only upon their failure to meet their set targets – it cuccoons civil servants in protective layers of the bureaucracy. This bill says that the termination of a staff member's employment for whatever reason, may only be done by the board, and only after a: (1) careful and proper review thereof has been conducted; and (2) the determination of whether there existed economic difficulties brought about by the factors enumerated in the law.

Furthermore, the bill states – that when it comes to Commissioners, their sanctions shall be determined by the President in a manner that is "*consistent with the national interest*." What is the "*national interest*"? The bill fails to define it, leaving it to the discretion of the President of the Philippines, a discretion which time and again has been demonstrated to err on the side of giving appointed officials carte blanche.

In addition, this bill creates exceptions: take note, that though civil servants in the bureaus are subject to sanctions, they remain completely eligible for the rewards. It would, therefore, allow a particular

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employee to underperform for two years unless terminated for non-work reasons. And the law makes it exceedingly difficult to be punished, much less, be fired.

We are tasked with deliberating on, and passing laws, subject to the basic law, our Constitution. Is it just to ask members of this chamber to vote for a bill that contravenes the basic law of the land? For this bill defies our country's Charter.

It violates the equal protection of the law under *Section 1, Article III, 1987 Constitution*. The equal protection clause is a specific constitutional guarantee of the equality of persons before the law. Under it, each individual is dealt with as an equal person in the eyes of the law, which does not treat a person differently because of what he or she is, or what he or she possesses. By limiting the system of rewards and penalties to a specific group of individuals, those only in the Bureau of Customs and the Bureau of Internal Revenue, we are tolerating legislation based on an unreasonable classification, one favoring only a particular class of public servants: What makes an employee from the Bureau of Customs, or Bureau of Internal Revenue, different from the Land Transportation Office worker, or employees from Government-Owned and -Controlled Corporations, or for that matter, the lowly paid teacher?

This bill violates *Section 5, Article IX, of the Constitution* which requires of Congress the standardization of compensation for government officials and employees. Merely designating that the bill would be granting as a "reward" or "incentive" is but a ploy to circumvent the law. The ultimate effect of this bill, once made law, is to grant wages above that of other government employees to those in the two favored bureaus. By favoring a privileged few in the public service, we are sending the wrong message: the standardization of government compensation will become the exception rather than the general rule. To avoid disturbing the equality of compensation between the two bureaus and all the other

agencies, would require Congress granting such "benefits" to all fee-collecting agencies of our government.

This bill also violates *Section 8, Article IX* of the Constitution which prohibits appointive and elective officers or employees from receiving additional, double, or indirect compensation... In the case of *Peralta vs. Mathay, 38 Supreme Court Reports Annotated (SCRA) 256*, the Supreme Court ruled that public office is a public trust. A civil servant is there to render public service that should be viewed not merely as an occupation but rather, an honor granted.

Though the civil servant must be compensated for the performance of the functions entrusted to him, and perhaps even rewarded, financial considerations should not be the overriding consideration governing the public work, so as to promote nationalism and patriotism. Is it just to exchange our idealism for a system of selfish bounties?

Conclusion

And where is the justice, in giving up on three generations of efforts to instill a culture of honesty in these bureaus, only to seize upon the supposed bright idea of offering "incentives" to tax collectors? Where is the justice in the undeniable assumption of this bill that if civil servants can't be expected to want to be honest, they can, through these splendid "incentives," be inspired to remit more, because the more they remit, the larger their "incentives"?

In truth, the entire strategy that governs this bill is nothing new; it was used under imperial Rome, and during the Middle Ages, and even as late as the eve of the French Revolution. Tax collectors in those days were called tax farmers. They were given specific territories, operated under tight quotas, and were allowed, even encouraged, to profit from their efforts by keeping anything over their quotas as commissions or bounties.

But the days of tax farmers, bounties, and commissions, were under emperors like

Nero, kings like Herod, and rulers by divine right like the guillotined Louis XVI of France. Today, of course, we are wiser, brighter, and more democratic. So what we have are bureaus instead of free agents called tax farmers, and we have "incentives," rather than bounties or commissions. I marvel at the mind-numbing wonders legal jargon can achieve, but I must wonder if history's workings cease when the Congressional magic wand is waved. For I recall, as many of my colleagues surely recall, that the system of tax farmers and bounties resulted, over the ages, in revolt after revolt.

These "incentives," and the system implementing them, ignore a cardinal precept of leadership, which my learned colleagues in this chamber know has been eloquently enunciated by students of leadership dating back to Niccolo Machiavelli. In *The Prince* he suggested that while it is well for a ruler to be feared and loved, if the ruler must be one or the other, it is better for a leader to be feared, rather than loved. This bill tries to make underperforming civil servants both love and fear the state they serve, and it will achieve neither. Why? Because in setting up a means for "incentives," it aims to inspire civil servants in the Bureaus of Internal Revenue and Customs to collect more. But mark my words, in truth this bill makes avarice, or the love of money, the policy of the state; in promoting a negative, selfish love – that for selfish gain – it will sap the already weakened moral health of the civil service. It may result in some short-term increases in collections, but it will condemn the civil service to an even feebler dedication to the already ignored ethics that should govern public service.

In addition, while this bill aims to inspire fear in civil servants, by setting up a Revenue Performance Evaluation Board that will impose quotas and mete out punishments to delinquent tax and customs collectors, in reality, this bill only creates a bureaucracy to monitor a bureaucracy. I cannot see how the majority seems to think our civil servants will either love or fear this Republic, when in passing laws it seems to suffer from an elementary sort of

lack of logic: the kind that thinks adding negative one to negative one might result in a whole number.

You cannot squeeze blood from turnips, or water from stones. You cannot inspire dedication by promoting avarice, expect improved public service by promoting favoritism, you cannot improve our economy through a system of bounties. Most of all, you cannot attempt to achieve the public good, by passing a defective and deficient law. You cannot improve the fiscal health of our country by sapping its moral reserves; you cannot do good by means of an unjust law.

This bill is unjust. This bill, when it becomes law, will foment injustice; it will inspire unease; it will promote disquiet; it will eventually result in the even greater disrepute of the State. For these reasons, I vote "No" to the passage of this bill. Public servants should never be bounty hunters.

RULING OF THE CHAIR

The Chair ruled that the statements of Senators Pimentel, Lim and Madrigal were manifestations and did not partake of a motion for reconsideration of the approval of the Report. It stated that the vote on the Report as reflected in the Record of the Senate and the Journal stands.

COMMITTEE MEMBERSHIP

Senator Pangilinan manifested that the Minority had designated Senator Ejercito Estrada (J) as a member of the Oversight Committee on R.A. 9285 (Alternative Dispute Resolution Mechanism).

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session adjourned until three o' clock in the afternoon of the following day.

It was 5:53 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES
Secretary of the Senate
[Handwritten initials]