

EXCERPTS FROM THE JOURNAL OF THE REGULAR SESSION OF THE SANGGUNI-  
ANG PANLALAWIGAN OF ORIENTAL MINDORO HELD AT CALAPAN ON THURSDAY,  
JULY 22, 1993

PRESENT:

Hon. Pedrito A. Reyes, Vice Governor,	Presiding Officer,
Hon. Bayani C. Anastacio,	Member
Hon. Ireneo A. Apasan,	Member
Hon. Jose C. Leynes,	Member
Hon. Emmanuel S. Buenaventura,	Member
Hon. Cesareo M. Cueto,	Member
Hon. Dante A. Manzo,	Member
Hon. Remedios E. Marasigan,	Member
Hon. Violeta D. Dakis,	Member
Hon. Jose A. Enriquez, Sr.,	Member
Hon. Nelson B. Gabutero, Sr.,	Member, ABC Pres.
Hon. Jose G. Genilo, Jr.,	Member, Pres. Councilors'
Hon. Romualdo J. Bawasanta,	Member, SK Federation Pres

ABSENT:

Hon. Manuel G. Andaya, (On Leave) Member

RESOLUTION NO. 162-93

PETITIONING THE MARITIME INDUSTRY AUTHORITY BOARD TO AMEND AND/OR REVOKE SECTION 3 OF MEMORANDUM CIRCULAR NO. 48 DATED 10 APRIL 1989, AND PRAYING THAT PENDING RESOLUTION OF THIS PETITION, HON. JESUS B. GARCIA, AS CHAIRMAN OF THE MARINA BOARD, AND IN THE EXERCISE OF HIS SUPERVISORY POWERS OVER MARINA AS SECRETARY OF TRANSPORTATION AND COMMUNICATIONS, MARINA BEING AN ATTACHED AGENCY OF THE DOTC PURSUANT TO EXECUTIVE ORDER NO. 125 AND 125-A, TO IMMEDIATELY SUSPEND THE OPERATION OF SAID SECTION 3 OF MEMORANDUM CIRCULAR NO. 48 AND DIRECT ALL CONCERNED SHIPPING COMPANIES TO CEASE AND DESIST FROM IMPLEMENTING THE SAME.

CONSIDERING that on 10 April 1989, former MARINA Administrator Philip S. Tuazon issued Memorandum Circular No. 48, Section 3 of which provides that: "3. Only person or persons with tickets shall be allowed to board the vessel. Those found to have no tickets shall be assessed one hundred percent (100%) additional fare as penalty.";

CONSIDERING further that on or about May 1993, Viva Shipping Lines, Inc. (VSL) and Sto. Domingo Shipping Lines, Inc. (SDL), acting pursuant to said Memorandum Circular No. 48, imposed and collected a 100% penalty on passengers boarding their vessels in the Calapan-Batangas sea route who failed to secure tickets prior to boarding; thereby generating widespread complaints from the travelling public in Oriental Mindoro;

RECALLING that a public hearing/conference was conducted on 8 and 16 July 1993 presided by newly-installed MARINA Administrator Paciencia M. Balbon regarding the complaints about the implementation of Memorandum Circular No. 48;

RECALLING further that the Provincial Government of Oriental Mindoro moved for the suspension, amendment and/or revocation of the implementation of the penalty provision under Section 3 of Memorandum Circular No. 48 during the aforesaid public hearing; but, the same was vigorously opposed by VSL and SDL, and further, Administrator Paciencia M. Balbon expressed the view that he does not have the power to unilaterally suspend the operation thereof, although he pledged to study the matter thoroughly and submit his recommendations to the MARINA Board;

BELIEVING that Section 3 of Memorandum Circular No. 48 is contrary to law and the Constitution, and therefore MARINA is implementing an illegal and avoid regulation, prejudicial to the sea travelling public throughout the Philippines;

HAVING MIND that MARINA is an attached agency of the Department of Transportation and Communications (DOTC) pursuant to Executive Orders 125 and 125-A, and thus DOTC Secretary, Hon. Jesus B. Garcia, who is concurrently the Chairman of the MARINA Board, as supervisory powers over MARINA;

NOW THEREFORE BE IT RESOLVED, as it is hereby resolved, to petition, as this petition is hereby being filed with, the Maritime Industry Authority (MARINA) Board, through its Chairman, Hon. Jesus B. Garcia, Secretary of Transportation and Communications, and its Vice-Chairman, Hon. Paciencia M. Balbon, to immediately cause the AMENDMENT AND/OR REVOCATION of Section 3, Memorandum Circular No. 48, the same being contrary to law and the Constitution, and causing irreparable injury and continuing prejudice to the sea travelling public throughout the Philippines, considering, among others, that:

1. It violates the due process rights of the travelling public who are unjustly penalized by a private shipping company without prior notice and hearing;
2. It impose on the travelling public the penalty for the shipping company's violation of Memorandum Circular No. 48;
3. It vests in a private shipping company the powers of a prosecutor, judge and executioner all rolled into one;
4. It permits the unjust enrichment of the private shipping company collecting penalties arising from its own violation of Memorandum Circular No. 48;
5. It illegally allows the utilization by the private shipping company of public funds collected as penalties without any form of official accountability.

BE IT FURTHER RESOLVED, to pray, as it is hereby being prayed, that pending resolution of the petition the Secretary of Transportation and Communications, Hon. Jesus B. Garcia, who exercises supervisory functions over MARINA being an attached agency of the DOTC, and in his capacity as Chairman of the MARINA Board, to cause the IMMEDIATE SUSPENSION of the implementation of Section 3, Memorandum Circular No. 48, and to order all shipping companies to CEASE AND DESIST from implementing the same.