

**[ ADMINISTRATIVE ORDER NO. 128, July 18, 1955 ]**

**REMOVING MR. NICETAS F. ABENOJA FROM OFFICE AS CITY ATTORNEY OF ORMOC CITY.**

This is an administrative case against City Attorney Nicetas F. Abenoja of Ormoc City for alleged irregularities committed by him while he was assistant provincial fiscal of Leyte involving dereliction of duty, negligence and conduct prejudicial to the best interest of the service. The charges were investigated by a special investigator of the Department of Justice who found the charges against the respondent substantiated.

It appears that a criminal case for illegal fishing filed with the justice of the peace court of Maasin, Leyte, was, after preliminary investigation, forwarded to the Court of First Instance where it was given docket No. R-802. The record was received in the office of the Clerk of Court on the morning of August 18, 1950, by Eugenio Segun, a clerk therein. It consisted of 24 pages including three written confessions of the four accused. On the same day that it was received and docketed in the Clerk of Court's office, it was handed to Flaviano Orit, clerk-stenographer in the office of the Provincial Fiscal at Maasin, and it was kept in the last-mentioned office until October 31, 1950, when it was returned to the Clerk of Court together with the information signed by Assistant Fiscal Andres T. Delfino.

From October 31, 1950, to January 9, 1951, the record was kept by Segun inside a trunk which, together with the key thereof, was in his custody. In accordance with the practice in that Court, the record was given to the Clerk of Court one day before the trial, or on January 9, 1951. On the morning of January 10, the date of trial of the case, Fiscal Abenoja borrowed the record. On the same day the Fiscal filed a motion for dismissal, and the motion was immediately granted in open court.

The motion stated that the users of the dynamite had been vaguely identified; that in his investigation the respondent clearly found out that the accused were not the real persons who had committed the crime charged in the information because, according to the witness, Felipe Cornejos, the latter had only confiscated from the accused two sea glasses and three bows and arrows, instruments used in catching fish not prohibited by law.

Having learned of the dismissal of the aforesaid criminal case, Attorney Filemon Saavedra and Sebastian G. Kangleon, chief of police of Maasin, on May 15, 1951, filed administrative charges against the Clerk of Court, Assistant Fiscal Abenoja and their subordinates, charging them with removing the three affidavits of the accused from the expediente to facilitate the quashing of the case. Attached to the complaint was an affidavit of the wife of the accused Alipio Arong, since deceased, stating that she had been informed by her husband that he had given the respondent fiscal P150 to fix his case.