

**[ADMINISTRATIVE ORDER NO. 257, December
28, 1953]**

**REMOVING MR. SALVADOR GAYAO FROM OFFICE AS JUSTICE OF
THE PEACE OF MANABO, BOLINEY AND DANAC, ABRA**

This is an administrative case against Justice of the Peace Salvador Gayao of Manabo, Boliney and Danac, Abra, for partiality and abuse of authority in connection with criminal cases Nos. 61, 62 and 63 filed with this court of Manabo.

1. *Criminal case* No. 61. It appears that on June 20, 1952, complainant Juan Bernales filed criminal case No. 61 for grave threats against Vice-Mayor Manuel Cacho of Manabo, Chief of Police Bayed Progreso, Councilor Sumalog Lucnagan and several others. Before the actual filing of the case, however, or on June 14, 1952, respondent, upon being apprised of Bernales' desire to prosecute Vice-Mayor Cacho and companions, took the testimony of Bernales and his wife and daughter. At the same time he summoned all the prospective accused and their witnesses to appear before him on June 19, 1952, and instructed one Sergeant Lara of the Constabulary to get complete copies of the affidavits of all the persons concerned to determine the party that should file a complaint. On June 19, 1952, respondent again took the declarations of the Bernales family as well as those of the prospective accused and their witnesses.

As above stated, it was only on June 20, 1952, that Bernales actually filed the criminal complaint for grave threats against Vice-Mayor Cacho and others. Without conducting any investigation thereafter to determine the existence of probable cause as required by the Rules of Court, respondent in a lengthy order, dated June 28, 1952, rejected the complaint for lack of merit. However, the reasons given by him for so doing are legally untenable, not to say flimsy. For instance, it is of no moment that the criminal complaint alleged the crime of grave threats while in the administrative complaint filed by the complainant with the provincial governor Vice-Mayor Cacho and his companions were denounced for theft or robbery, inasmuch as the gist of both accusations is essentially the same. It is elementary that what controls is not the designation of the offense but the allegations in the body of complaint. Similarly, it is immaterial in grave threats that complainant Bernales was not the owner of the two wooden posts which gave rise to the incident resulting in the filing of the criminal action.

2. *Criminal case* No. 62. On the same day that Juan Bernales, complainant herein, instituted criminal case No. 61 against Vice-Mayor Cacho, Councilor Lucnagan, Chief of Police Progreso and others, the said Chief of police, with the councilor as supposed offended party, filed in respondent's court criminal case No. 62 for libel against Juan Bernales, his wife and his twelve-year-old daughter based on their sworn statements given before the respondent on June 14 and 19, 1952, wherein they narrated the incident leading to the filing of criminal case No. 61. Although the complaint on its face was fatally defective for not satisfying three of the four