

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 117

SUSPENDING FROM OFFICE HONORABLE PACIENCIO G. YSALINA,
PROVINCIAL GOVERNOR OF MISAMIS ORIENTAL.

This is an administrative case against Honorable Paciencia G. Ysalina, Provincial Governor of Misamis Oriental, who is charged with the following:

(1) Appointing two persons as councilors of Tagoloan, Misamis Oriental, in violation of law;

(2) Construction of the "Ysalina Highway" leading to respondent's private land;

(3) Recommending the creation of the new municipalities of Villanueva and Libertad and inducting the newly appointed officers of the said municipalities notwithstanding a contrary order from the Executive Secretary;

(4) Gross dereliction of duty for failure to investigate as directed by the Executive Office, the summary dismissal of members of the police force of Balingasag, Misamis Oriental, by the Municipal Mayor thereof;

(5) Causing the unnecessary detour of the old provincial road leading to the municipal district of Lumbia in order to make it traverse his own land wherein he has his residential house;

(6) Employing the services of provincial prisoners to clear his lands and fence his cattle ranch;

(7) Tolerating the gross neglect of duty of the Provincial Secretary who failed to submit to the Provincial Board in its regular and special sessions for appropriate action, the ordinances, resolutions and other proceedings of the municipal councils; and

(8) Utilizing for his exclusive benefit and for the improvement of his own cattle, two Indian bulls sent to the province by the Department of Agriculture and Natural Resources for the improvement of the breed of local cattle.

CHARGE NO. 1

The evidence of record discloses that on March 1, 1951, the respondent signed the appointments of Messrs. Lucio Achar and Justino Casiño as councilors of Tagoloan, Misamis Oriental, vice Celso Bagongon and Doroteo Acebo, resigned. Under the law (Section 21 (b) of the Revised Election Code), said appointments shall be made by the President and not by the Governor. The respondent claimed that the two appointments were surreptitiously placed on his desk among routinary papers which he used to sign without reading. Thus he had unwittingly signed the appointments.

Although the act of the respondent in signing the appointments in question constitute a usurpation of the authority vested in the President, it does not appear that the public interest or the government was prejudiced thereby. Nevertheless, the idea of signing public documents without previously examining the same is repugnant to standard office procedure and therefore reprehensible.

CHARGE NO. 2

There is no evidence substantiating the alleged construction of the "Ysalina Highway". In fact, there is no such highway. What actually happened was the retracing or resurvey by the District Engineer of the old road connecting Santa Ana with the San Martin road. When the amount of P2,000.00 appropriated for the purpose was exhausted, the resurvey was abandoned. The respondent having no control or supervision over the District Engineer, is hereby exonerated of this charge.

CHARGE NO. 3

For lack of merit, the charge against the respondent for recommending the creation of the new municipalities of Villanueva and Libertad and inducting the newly appointed

officers of the said municipalities, is hereby dismissed.

CHARGE NO. 4

It appears of record that upon the assumption of office of Manuel Varquez as municipal mayor of Balingasag, he required eight (8) policemen to tender their resignations. Thereafter those policemen complained to the President and to the Commissioner of Civil Service. The latter referred the said complaint thru this Office to the Mayor of Balingasag, for comment, by indorsement dated March 11, 1952. In its indorsement dated August 11, 1952, this Office forwarded the complaint to the Municipal Mayor, thru the Provincial Governor of Misamis Oriental. On October 27, 1952, the Acting Mayor of Balingasag returned the pertinent papers to this Office stating that the policemen concerned are no longer interested in pushing through their case as not one of them is a civil service eligible, and that they are aware that their appointments will not be renewed by Mayor Varquez.

From the foregoing, it is clear that the respondent gave due course to the correspondence from this Office and cannot be held liable for dereliction of duty as charged.

CHARGE NO. 5

Due to the enlargement of the International Airport located between Cagayan de Oro City proper and the district of Lumbia, a portion of the road connecting the said city with Lumbia and Talakag was absorbed, thereby creating the necessity for the construction of a temporary detour in order not to delay the work on the airstrip and at the same time provide access to the airport, Talakag and Lumbia.

Upon representation of the respondent, the construction of a temporary detour or diversionary road was undertaken under the supervision of military authorities, using the Army bulldozer, Army grader and Army labor. For surfacing the same, the amount of ₱10,000.00 was released by the Secretary of Public Works and Communications, upon the representation of the respondent, which was supplemented by an additional ₱5,000.00 appropriated by the Provincial Board of Misamis Oriental.

Prior to and during the actual construction of the diversionary road, no authority therefor, nor approval of the Director of Public Works had been obtained. Subsequently the said official approved the construction of another route - the one designated as EBF in the blue print submitted, thereby abandoning the diversionary road constructed upon the representation of the respondent.

There is no question that had it not been for the unusual interest and efforts of the respondent in causing the construction of the questioned road, the amount of ₱15,000.00 spent in the project would not have gone to waste as both the district engineer and the city engineer recommended favorably the construction of another route. I therefore find the respondent guilty of this charge.

CHARGE NO. 6

The respondent is charged with employing the services of the provincial prisoners in the clearing and cultivation of his private land and cutting trees for the posts of the fence around his pasture land. However, the evidence of record shows that the land in question which is located near the Provincial Jail in Lumbia, although owned by the respondent, was ceded to the provincial warden for the prisoners to cultivate, with all the produce derived therefrom going to the prisoners themselves for their subsistence.

As regards the employment of prisoners for cutting trees allegedly for fencing the respondent's pasture land, the record discloses that the trees were cut by the prisoners in the forest near the pasture land of the respondent but were used as decorative posts on the premises of the provincial capitol.

In view of the foregoing, the respondent is hereby exonerated from this charge.

CHARGE NO. 7

The respondent is charged with tolerating the gross neglect of duty of the Provincial Secretary who failed to submit to the provincial board for consideration, ordinances and resolutions of the different municipal councils of the province. From the evidence submitted

by the complainants, it appears that between the period from 1949 up to the investigation of the instant case, there were more than sixteen hundred ordinances and resolutions unacted by the provincial board.

Such inaction is the joint responsibility of the board as a body and not of any individual member of said entity. Moreover, under Section 2232 of the Revised Administrative Code, the municipal secretary is directed to forward to the provincial board a correct copy of each resolution and approved ordinance. It is incumbent upon the provincial secretary to submit the resolutions and ordinances to the Board for appropriate action, and if, through his negligence, a great number of resolutions and ordinances have not been presented to the Board, the latter should be administratively dealt with.

It does not appear that the respondent, as presiding officer of the Board, had ever taken any steps to compel the Provincial Secretary to submit to the Board the unacted resolutions and ordinances. I therefore find him guilty of this charge.

CHARGE NO. 8

The charge against the respondent for utilizing for his exclusive benefit two Indian bulls sent to the province by the Department of Agriculture and Natural Resources for breeding purposes, has not been established. The same is therefore hereby dismissed.

In resumé, I find the respondent guilty of the first, the fifth and seventh charges namely, signing the appointment papers of two councilors without legal authority therefor; causing the unauthorized construction of a road; and failure to take appropriate action against the Provincial Secretary for the latter's neglect of duty.

Conformably with the nature of the said offenses, and in accordance with the recommendation of the Special Investigator of this Office, I hereby order the suspension of Honorable Paciencia G. Ysalina from the office of governor of Misamis Oriental for a period of one (1) year,

with a warning that a repetition of any of the above offenses will be dealt with more severely. The suspension herein decreed is effective as of August 17, 1954, the date the respondent was placed under preventive suspension in connection with the instant case.

Done in the City of Manila, this 17th day of May, in the year of Our Lord, nineteen hundred and fifty-five, and of the Independence of the Philippines, the ninth.



By the President:


MARIANO YENKE, JR.
Assistant Executive Secretary