

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 61

ON CHARGES AGAINST MR. MELECIO FABROS,
DEPUTY INSULAR COLLECTOR OF CUSTOMS

This is an administrative case against Mr. Melecio Fabros, Deputy Insular Collector of Customs, who stands charged with the following irregularities: (1) electioneering for candidates of the past administration in the national elections of April 23, 1946; (2) favoritism in matters of appointment and promotion while acting as Insular Collector of Customs; (3) abuse of authority; (4) neglect of duty, dishonesty and misappropriation of customs fund withdrawn from the Philippine National Bank, Cebu Branch, before the invasion by the Japanese forces of the City of Cebu where he was Collector of Customs.

With respect to charge No. 1, there is no doubt that the respondent participated in the last elections in a manner prohibited by law. Considering, however, the atmosphere then prevailing in the Government and the pressure to which the officers and employees were subjected by the department heads in order to rally them to the support of

the administration at the time, I do not consider respondent's violation of the law and regulations inhibiting electioneering sufficient to warrant drastic action against him.

With respect to charge No. 2, it is claimed that respondent promoted a number of employees of the Bureau of Customs who are his favorites and relatives. It appears, however, that their promotions were made on the basis of efficiency. Many employees were recommended by respondent for promotion and were in fact promoted, because of the many existing vacancies, in recognition of their loyalty and devotion to duty. The promotion of his brother-in-law as appraiser was not tainted with any irregularity, considering his qualifications, educational attainment and length of service, as well as the fact that he had been connected with the Bureau of Customs before respondent was made Acting Insular Collector of Customs. As to his son-in-law who is a war veteran who needed assistance, there is nothing irregular and objectionable in his appointment as storekeeper for an American firm, said position not being in the Civil Service and the salary thereof is not paid by the Government but by the firm for which he works.

With respect to charge No. 3, it has been shown that respondent assigned harbor policemen to guard his house and summarily dismissed one from the service for failing to do so. I consider it improper for the respondent to have employed men in the public service for private ends, but considering the conditions of the time, when the life and property of everyone, including those of public officials, were not altogether free from danger, respondent should not be held strictly to account for his act. With regard to the dismissal of the harbor policeman, it turned out that he left his post without permission and respondent separated him summarily from the service. Respondent did the practical thing, as said policeman had not been duly appointed, his appointment then awaiting the signature of the Secretary of Finance. Being temporary, it was in the best interest of the service that he should not be retained in view of his dereliction of duty. Nevertheless, as a matter of official courtesy, respondent should have referred the matter to the Secretary of Finance who is vested with the power of appointment and removal of harbor policemen. For this irregularity, a reprimand and warning to the respondent would be sufficient.

With respect to charge No. 4, it is claimed that respondent failed within a reasonable time to render a complete accounting of his money and property responsibility as Collector of Customs of Cebu, notwithstanding the memo-

randum of the Auditor for the Bureau of Customs requiring accountable officers thereof to do so; that in his affidavit attached to his application for clearance filed with the Auditor General, he stated that he made cash advances to the Province of Cebu in amounts he could not recall when as a matter of fact no such advances were made; that he failed to account for the sum of ₱327,578.55 of his total cash withdrawal of ₱765,008.29 from the Philippine National Bank, Cebu Branch.

I find no willful neglect on the part of respondent in not rendering promptly an accounting of funds pertaining to the Cebu Customhouse for the reason that he was not directly and personally accountable therefor, his responsibility being merely supervisory in nature. He was, therefore, justified in his belief that he was not included in the requirement above mentioned. The subsequent filing of an application for clearance with the Auditor General is enough to show that respondent never meant to disregard his obligation to clear himself of responsibility. His statement that advances were made to the Province of Cebu were not intended to serve as absolute basis for the settlement of his accounts but was only part of an honest attempt to recollect incidents that transpired many years before in an effort to comply with the requirements for the issuance of clearance. As a matter of fact, he paid to the Provincial Treasurer of Cebu the amount of ₱200,000 under Official Receipt No. I-1231597 on February 4, 1942, by way of reimbursement of the same amount advanced by said Provincial Treasurer to the Finance Officers of the USAFFE.

The records of the Philippine National Bank, Cebu Branch, show that the total cash withdrawal for the account of the Cebu Customhouse prior to the invasion of Cebu by the Japanese amounted to ₱765,008.29. The question regarding the disposition of this sum was investigated by a Committee of Auditors in the General Auditing Office, appointed by the Auditor General, in connection with respondent's application for clearance, it being a matter involving settlement of accounts over which said officer has exclusive jurisdiction. The investigation disclosed that the amount of ₱400,000 was advanced by respondent to the Finance Officer of the USAFFE to be used for expenses of war operations due to the isolation of the USAFFE units in the Visayas and Mindanao from headquarters in Manila. Of the ₱400,000 aforementioned, ₱200,000 was delivered on March 7, 1942, to Lt. Col. F. Villacastin, Finance Officer of the USAFFE, and ₱200,000 was paid by

respondent on February 4, 1942, under Official Receipt No. I-1231597 to the Provincial Treasurer of Cebu by way of reimbursement of the same amount advanced by said officer to the USAFFE. The amount of ₱155,937.74 was transferred from Account No. 1 (Trust Fund) to Account No. 2 (Disbursing Officer's Revolving Fund), both of the Collector of Customs of Cebu with the Philippine National Bank; ₱199,531.56 (Check No. 166922 for ₱113,030.56 and Check No. 166941 for ₱86,501) was made up of pre-war remittances to the Treasurer of the Philippines; ₱6,207.74 was transferred to Account No. 3, and ₱3,331.25 was made up of sundry cash withdrawals covered by various checks from December 13, 1941, to April 9, 1942. Summing up the above-mentioned items, the total of ₱765,008.29 is obtained. It is, therefore, clear that not even a single centavo of the amount alleged to have been unaccounted for was misappropriated. The Auditor General concurs in the findings of the Committee and recommends exoneration of the respondent. The Collector of Customs takes exception to said findings and insists that of the sum of ₱765,008.29 only the amount of ₱441,000 was accounted for, leaving a balance of ₱324,008.29 alleged to have been misappropriated by respondent and Mr. Paulino Valdez, then Deputy Collector of Customs and Cashier for the Port of Cebu. I have carefully gone over the report of the Committee and have found to my satisfaction that its findings of fact are fully supported by the evidence of record. I also consider the recommendation of the Auditor General for the exoneration of the respondent as correct and just.

In view of the foregoing, I hereby exonerate Mr. Melecio Fabros, Deputy Insular Collector of Customs, of the charges against him except as to the charge of abuse of authority for which I reprimand and warn him that the commission of the same or similar irregularity in the future will be dealt with more severely. It appearing that he has been suspended from office by reason of this case, I hereby order his immediate reinstatement in the service.

Done in the City of Manila, this 12th day of June, in the year of Our Lord, nineteen hundred and forty-eight, and of the Independence of the Philippines, the second.

ELPIDIO QUIRINO

President of the Philippines

By the President:

EMILIO ABELLO
Executive Secretary