MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 229

MODIFYING ADMINISTRATIVE ORDER NO. 12, DATED OCTOBER 12, 1946, BY ALSO DIRECTING THE PAYMENT TO FORMER JUDGE QUIRICO ABETO OF HIS SALARY CORRESPONDING TO THE PERIOD FROM FEBRUARY 27, 1945, TO OCTOBER 12, 1946.

This is a petition by former Judge Quirico Abeto for payment of salary corresponding to the period of his suspension from the reestablishment of the Commonwealth Government in February 1945 up to October 12, 1946, when he was exonerated under Administrative Order No. 12 of the charge which gave rise to his investigation and suspension in 1941. The dispositive portion of said administrative order reads:

"For the foregoing considerations, I (President Roxas) hereby exonerate the respondent Judge Quirico Abeto from the charge which gave rise to his investigation, but because his office has already been filled, his reinstatement or reappointment is not now possible. I also hereby order payment to him of his salary from the date of his suspension, August 1, 1941, to December 31, 1941, including the three months' advance pay authorized in Administrative Order No. 167, dated December 12, 1941, and the gratuity equivalent to two months' salary provided in Administrative Order No. 27, dated December 7, 1945."

Under the law, when a suspended judge is acquitted of the cause or causes that gave rise to his investigation, "the President of the Philippines shall order the payment to him of the salary, or part thereof, which he did not receive during his suspension, from any available funds for expenses of the judiciary" (section 173, Administrative Code,

now section 67, Judiciary Act of 1948). The acquittal therefore of a suspended judge does not entitle him, as a matter of right, to the payment of salary during the entire period of his suspension, the same resting with the President. While the payment of the salary of Judge Abeto corresponding only to the first five months of his suspension as authorized in Administrative Order No. 12 was perfectly within the law, there are certain considerations which warrant a reexamination of this matter for the sake of justice and equity.

Having been exonerated of the charge filed against him, Judge Abeto could validly claim reinstatement to his position under the ruling of the Supreme Court upholding the tenure of prewar judges even after the liberation (Tavora *vs.* Gavina and Arciaga, 45 Off. Gaz., 1769). In fact he took steps to claim his office after his exoneration but lost on the technicality that he was late in filing his case (Abeto *vs.* Rodas, 46 Off. Gaz., 930).

Payment of Judge Abeto's salary corresponding to his suspension after the liberation was withheld apparently because of the prevailing impression then that prewar judges could not claim, as of right, their positions after the liberation. Had the decision of the Supreme Court in the Tavora case, *supra,* been handed down before the exoneration of Judge Abeto, instead of one year after (October 30, 1947), he would likely have been paid his salary corresponding to the entire period of his suspension and, perhaps, even reinstated to his position as judge of first instance. Moreover, his unqualified and unconditional acquittal would seem to militate against the denial of part of his salary during suspension.

In view of the foregoing, and upon the recommendation of the Secretary of Justice, Administrative Order No. 12, dated October 12, 1946, is hereby modified by also directing the payment to former Judge Quirico Abeto of his salary corresponding to the period from February 27, 1945, to October 12, 1946.

Done in the City of Manila, this 10th day of December, in the year of Our Lord, nineteen hundred and fifty-three, and of the Independence of the Philippines, the eighth.

ELPIDIO QUIRINO
President of the Philippines

By the President:

MARCIANO ROQUE
Acting Executive Secretary