

**[ ADMINISTRATIVE ORDER NO. 344, October 12, 1972 ]**

**SUSPENDING MR. ROMAN AVILA FROM OFFICE AS ASSISTANT  
PROVINCIAL FISCAL OF LEYTE**

This is an administrative case against Assistant Provincial Fiscal Roman A. Avila of Leyte for (1) acts of oppression and conduct unbecoming a public official and (2) engaging in political activities. The case was formally investigated by a senior state prosecutor of the Department of Justice who found respondent guilty of the charge and recommended that he be suspended for one (1) year without pay, in which the Secretary of Justice concurs.

The record discloses that in the early evening of October 25, 1969, while complainant Francisca Cañeda was dining in her home in Barugo, Leyte, with her guests and co-teachers, Miss Genoveva Ayuste and Mesdames Dorotea Adizas and Angeles Costalo, the respondent and Mrs. Ines A. Astorga arrived. After the usual exchange of pleasantries, Mrs. Astorga told the group that they went there to verify whether complainant was really filing charges against respondent's wife at her (Mrs. Astorga's) instigation, to which complainant answered in the negative. Unbelieving, respondent flared up and called her a liar. Cooler heads intervened, but he continued heaping insults and heated exchanges of words ensued. He called all of them name, like "liar." "bastos," etc. At one point he told Hiss Ayuste that she was no longer a virgin, as she once had an affair with a man and that the reason he (respondent) did not marry her (Ayuste) was that she was "foolish" — whatever that meant. He likewise challenged complainant and Miss Ayuste to file charges against his wife and arrogantly told then that he was not a bum nor stupid, but a bright and intelligent lawyer and fiscal and would know what to do.

It also appears that respondent did not deny uttering those words, but justified their utterance as made in retaliation. Accordingly, the evidence on the first count remains uncontradicted.

As to the second charge of engaging in political activities, the evidence against respondent is equally clear and convincing. Respondent admitted that in the night of November 11, 1969, while the "board of election inspectors of Precint No. 1-A of Barugo, Leyte, of which complainant was chairman, was canvassing the votes, he "cut in to serve the poll clerk my (his) appointment as watcher of Senator Sumulong." Add to this admission the circumstance that his name and signature appeared in the list of watchers present and in the five written protests he filed as watcher. There is, therefore, conclusive evidence that he was present as watcher in that particular night.

In his defense, respondent claimed that the Roman Avila who appeared as watcher was his cousin, also named Roman Avila, a radio technician. However, his supposed relative was not presented as witness and no explanation therefor was given. It is