

MOCIÓN TAÑADA DE RECONSIDERACIÓN

Senator TAÑADA. Mr. President, yesterday, several amendments on the Tariff Code were approved. Unfortunately, I was absent during the time those amendments were approved, and I would like to move for their reconsideration, specially the amendment on page 260, which reads: "On same page, line 27, change "x" to "BB". Between lines 32 and 33, insert the following new paragraph:

"CC. MACHINERY FALLING UNDER CHAPTER 84 SECTION 104 OF THIS CODE, INTENDED FOR THE MANUFACTURE OF THE PRODUCTS ENUMERATED IN PARAGRAPH 2, ARTICLE II OF THE REVISED TRADE AGREEMENT WITH THE UNITED STATES OF AMERICA SIGNED ON SEPTEMBER 6, 1955, AT WASHINGTON, D.C., IN ACCORDANCE WITH SUCH RULES AND REGULATIONS THAT THE COMMISSIONER OF CUSTOMS, WITH THE APPROVAL OF THE DEPARTMENT HEAD, SHALL PROMULGATE: PROVIDED, THAT THIS PRIVILEGE SHALL BE GRANTED ONLY TO ESTABLISHMENTS CERTIFIED BY THE BUREAU OF FOREIGN TRADE TO BE REGULAR QUOTA HOLDERS OF PRODUCTS EXPORTED TO THE UNITED STATES."

I do not want to explain my purpose in presenting a motion for reconsideration in order to save time. I would have done so if the sponsor of the Tariff Code were present. So, I move for the reconsideration of this amendment.

The PRESIDENT. Is there any objection to the motion for reconsideration? (*Silence.*) The Chair hears none. The motion is carried.

Senator PRIMICIAS. In view of the fact, Mr. President, that the sponsor of the Tariff Code is not here;—he is out of the hall just now,—I would ask that we consider this bill when he comes in.

Senator TAÑADA. I am agreeable to that, Mr. President.

SEGUNDA LECTURA Y CONSIDERACIÓN DEL
C. R. NO. 6584

Senator PRIMICIAS. Mr. President, I ask that we now consider House Bill No. 6584.

The PRESIDENT. Consideration of House Bill No. 6584 is now in order. The Secretary will please read the bill.

The SECRETARY:

THE ANTI-SUBVERSION ACT

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In affirmation of the findings and decision of the Supreme Court in the cases of *People vs. Crisanto Evangelista, et al.*, (57 Phil. 354) and *People vs. Capadocia, et al.*, (57 Phil. 364), the Congress hereby finds and declares that the Communist Party of the Philippines, altho purportedly a political party, is in fact an organized instrument of a conspiracy to overthrow the Government of the Republic of the Philippines for the purpose of establishing in its place a totalitarian regime. The Communist Party of the Philippines partakes of the nature of a dictatorship within a democracy and cannot be looked upon as

an ordinary political party entitled to the rights and privileges accorded to political parties by our laws. Dedicated to the ultimate destruction of our democratic processes and the elimination of freedom in the country, the said Party would utilize our guaranteed liberties and the Constitution as means through which it could achieve the destruction of the same.

Unlike other political parties that seek power through democratic processes alone, the Communist Party of the Philippines, by organizing and continuing to maintain a military arm and by engaging the government in open rebellion, makes clear its unconstitutional belief in the use of force to attain its objectives. Unlike ordinary rebellion, however, the Communist Party-inspired rebellion does not merely seek to effect a change in the administration but an actual change in the form of government, and while Congress believes in the inherent right of any people to choose the form of government under which they would like to be ruled, the desire for a change must be voluntarily expressed in a free election as provided for in our Constitution.

The Communist Party of the Philippines has also shown that it recognizes no limitation as to the nature of its activities, statutory or otherwise, as it has demonstrated that it will resort to force, violence, or even bring about the economic ruin of the country if only to achieve its aims. This is further aggravated by the liaison between the Communist Party of the Philippines and the communist international plot for world domination, thus distinguishing its form of rebellion from an ordinary uprising. It has been established, therefore, that the Communist Party of the Philippines ideological tie with the foreign communist power is a ready threat to the freedom and the security of the Philippines and the liberties that her people now enjoy.

The Congress further finds that existing laws are inadequate to stem effectively the subversive activities of the Communist Party of the Philippines and other similar subversive associations, and, therefore, finds the need for special legislation against subversion.

SEC. 2. The Congress hereby reiterates the findings of the Supreme Court mentioned in section one hereof outlawing the Communist Party of the Philippines, and hereby further declares as a policy that any other association or organization whose object is to overthrow the Government of the Republic of the Philippines or the government of any of its political subdivision by force or violence for the purpose of placing such Government or political subdivision under the control or influence of an alien power or organization, is a subversive association and should likewise be, as it hereby is outlawed.

SEC. 3. As used in this Act, the term "Communist Party of the Philippines" shall mean and include the organizations now known as the Communist Party of the Philippines and its military arm, the *Hukbong Mapagpalayan Bayan*, formerly known as HUKBALAHAPS, any unit or subdivision of any of such organizations, and any successors of such organizations, unit or subdivision regardless of assumed name, whose object is to overthrow the Government of the Republic of the Philippines, or the government of any of its political subdivisions by force and violence for the purpose of placing such Government or political subdivision under the control or influence of an alien power or organization.

SEC. 4. After the approval of this Act, whoever knowingly and willfully affiliates himself with, or becomes a member of the Communist Party of the Philippines and/or its successor or any subversive association with knowledge of its purpose or objective or organizes such an association, or conspires with any other person to overthrow the Government of the Republic of the Philippines or the government of any of its political subdivision by force or violence for the purpose of placing such Government or political subdivision under the control or influence of an alien power or organization, shall be punished by the penalty of *reclusion temporal* to death with all the accessory penalties provided therefor in Articles 40 and 41 of the Revised Penal Code, if such person is the organizer, or officer of such Party, Association, or conspiracy, or of *arresto mayor* if such person becomes a member thereof or a mere conspirator: *Provided, however,* That one who becomes a member of an armed unit of the Communist Party of the Philippines and/or its successor or of any subversive association shall be punished by *reclusion temporal* to death with all the accessory penalties provided therefor in the Revised Penal Code.

The provisions of the Revised Penal Code on the application of penalties shall apply to the imposition of penalties under this Act.

No person shall be convicted of any of the offenses penalized herein from *reclusion temporal* to death unless on the testimony of at least two witnesses to the same overt act or on confession of the accused in open court.

SEC. 5. No prosecution under this Act shall be made unless the city or provincial fiscal, as the case may be, finds, after due investigation of the facts, that a *prima facie* case for violation of this Act exists against the accused, and thereafter presents an information in court against the said accused in due form, and certifies under oath that he has conducted a proper preliminary investigation thereof, with notice to the party concerned who shall have the right of confrontation of witnesses, whenever such notice is possible.

SEC. 6. Nothing in this Act shall be interpreted as a restriction to freedom of assembly and of association for purposes not contrary to law as guaranteed by the Constitution.

SEC. 7. This Act shall take effect upon its approval.

Senator PRIMICIAS. Mr. President, the distinguished Chairman of the Committee on National Defense and Security, Senator Peláez, will sponsor the bill.

The PRESIDENT. The gentleman from Misamis Oriental has the floor.

PONENCIA DEL SEN. PELÁEZ

Senator PELÁEZ. Mr. President, we have under consideration House Bill No. 6584 which was unanimously approved by the lower House and whose title is "THE ANTI-SUBVERSION ACT". This is the first bill of its kind ever considered by this Congress.

In brief, the bill, after stating in Section 1 that the Communist Party of the Philippines, although purportedly a political party, is in fact an organized instrument of a conspiracy to overthrow the

Government of the Republic of the Philippines for the purpose of establishing in its place a totalitarian regime, and after describing the real nature of the Communist Party of the Philippines as part of an international conspiracy and as linked with international communism whose purpose is to subvert freedom and democracy, after making those findings in Section 1, House Bill No. 6584 states that reiterating the findings of the Supreme Court, the Congress of the Philippines outlaws the Communist Party and parties or groups whose purpose is to subvert the government.

I say this is the first time that we are considering a bill of this nature because this is the first time that Congress pinpoints a particular aggruppation which masquerades as a political party. Now, what does the bill seek to do? The bill declares in Section 4 that after the approval of this Act, whoever knowingly and willfully affiliates himself with, or becomes a member of the Communist Party of the Philippines and/or its successor or any subversive association with knowledge of its purpose or objective or organizes such an association, or conspires with any other person to overthrow the Government of the Republic of the Philippines or the government of any of its political subdivision by force or violence for the purpose of placing such Government or political subdivision under the control or influence of an alien power or organization, shall be punished by the penalty of *reclusión temporal* to death." Now, the bill gives a chance to the persons accused, before they are indicted by the fiscal, to have a preliminary investigation where they may confront the witnesses against them. Section 5 provides: "No prosecution under this Act shall be made unless the city or provincial fiscal, as the case may be, finds, after due investigation of the facts, that a *prima facie* case for violation of this Act exists . . ." and there is provision for information against the accused in due form. And now comes the important part: "and certifies under oath that he has conducted a proper preliminary investigation thereof, with notice to the party concerned who shall have the right of confrontation of witnesses, whenever such notice is possible." This is a deviation from the usual procedure of preliminary investigation under the Rules of Court which may be done *ex-parte*, but in this particular case, in any prosecution under this bill, the accused must have the right of prior notice; he shall have the right to a preliminary investigation where he may confront the witnesses against him.

Now, the Committee on National Defense and Security, in considering the bill, would like to propose certain amendments, and that is, that the first section being a recitation of the reasons for the bill, being a statement of facts, should be amended so that it may become merely a preamble. As to the rest of the bill, with minor changes, the Committee would recommend that it be approved substantially as passed by the Lower House.

Senator CEA. Mr. President, will the gentleman yield?

The PRESIDENT. The gentleman may yield, if he so desires.

Senator PELÁEZ. Gladly.

Senator CEA. I would like to preface my interrogation of the distinguished sponsor with the statement that it seems to me no one in this Chamber is in favor of Communism. I deem it necessary to make this introductory statement because fanatics may brand anyone who questions the wisdom of this bill as a Communist, and that is not fair.

I would like to ask the sponsor whether we have a Communist Party in the Philippines, and if we have such a Party, who its officials are, because the first Whereas here states: "Whereas, the Communist Party of the Philippines, altho purportedly a political party, is in fact an organized instrument of a conspiracy . . . etc." Before we can act on this bill, it is necessary that we should first determine whether we have such a Communist Party in the Philippines.

Senator PELÁEZ. Yes, the answer to that is that we have a Communist Party of the Philippines. I think the distinguished gentleman from Camarines Sur knows that the Communist Party mentioned in the Supreme Court cases referred to in Section 1 was the original Communist Party in the Philippines before the war. Subsequently this party, after its leaders were jailed, changed its constitution and tried to carry on as a legitimate political party.

Senator CEA. What is the name now of the political party?

Senator PELÁEZ. May I trace the history as may be gleaned from the findings of our intelligence report and from the findings of the Committee on Anti-Filipino Activities of the Lower House?

Senator CEA. The first pronouncement of the Supreme Court was made on the case of *People vs. Evangelista*.

Senator PELÁEZ. Yes, that referred to Crisanto Evangelista and Guillermo Capadocia.

Senator CEA. When was that?

Senator PELÁEZ. I believe it was about 1936 or 1937. At that time the leaders of the Communist Party were Crisanto Evangelista and Guillermo Capadocia. When the war came the Communist Party went underground and formed the Hukbalahap or *Hukbong Mapagpalaya ng Bayan*. They fought as a guerrilla unit. When liberation came they continued as a group, and the leaders of that group were, among others, Guillermo Capadocia who had been convicted as a leader of the Communist Party before the war. Then the leadership went to Mr. Taruc, Jesús Lava, Modesto del Castillo, and Alejandrino. Well, information we have on file in the Intelligence Section of the Armed Forces of the Philippines is to the effect that the Huks were in fact Communist and they had links with the Communist Party in Russia and in other parts of the world. So that there is no question, it is an established fact that we have a Communist Party in the Philippines which has for its military arm the Hukbalahap and which in fact engaged the Government in a struggle, which in fact resorted to violence and force to carry out its ultimate objective of overthrowing the Government of the Philippines. Now this bill, if I remember correctly, had its origin in a very extensive investigation conducted by the Committee on Anti-Filipino Activities of the Lower House precisely to ascertain the existence of the Communist Party of the Philippines and to determine whether or not it had any ideological or other ties with International Communism. The members of the CAFA went to Camp Murphy, examined the documents available there which abundantly showed the existence of the Communist Party which was linked to International Communism, and further they interviewed the members of the Politburo who were captured in 1950 and who are now in prison. Among them were Jesús Lava and the young man from the Department of Foreign Affairs, Baking, William Pomeroy and others who had been convicted of Communism, and these leaders of the party very frankly admitted to the members of the CAFA that their party was still active in the Philippines and that they had not given up their objective of capturing the government of the Philippines with this difference: that they had shifted from armed violence to the so-called parliamentary struggle. In other words, they had ceased to use the armed Huks as a means of furthering their ends, but they now seek to infiltrate, to capture key positions, to make use of legal and constitutional processes in order to further the ends of Communism.

Senator CEA. May I interrupt Your Honor?

Senator PELÁEZ. Certainly.

Senator CEA. I agree with everything that Your Honor has stated about the illegal activities of the Hukbalahaps. That is why our Government is going after the Huks. And I am sure that no member of this Chamber will defend the Huks for their illegal activities against our government. But we put something fundamental here. The Communist Party of the Philippines, what is this Communist Party of the Philippines which is here declared a political party? How does Your Honor define a political party? Do we really have here in the country a Communist Party to outlaw? Because that is fundamental. We are agreed on principle that we are all against communism. There is no question about that.

Senator PELÁEZ. May I refer Your Honor to page 1, line 6, which says: ". . . the Communist Party of the Philippines, altho purportedly a political party, . . ." In other words, the findings of the CAFA of the House of Representatives are that it has the backings of a political party but it is not so, but it is in fact a conspiracy by a group of people who seek the overthrow of the Government.

Senator CEA. I have not gone over the records but we are as qualified here in the Senate as the CAFA members.

Senator PELÁEZ. I believe we are qualified but they did go out and made a detailed and thorough investigation of the matter.

Senator CEA. As this speaks of political party, may I ask, what does Your Honor mean by political party as used in the text?

Senator PELÁEZ. I would say that a political party is a group of people who bind themselves together for the purpose of furthering their ideas of capturing power in the government, as I understand it in a constitutional government, through democratic processes. That is stated on page 2, line 1, of the bill, which says "Unlike other political parties that seek power through democratic processes alone . . ." A political group is a group of men who bind together for the purpose of furthering their ideas to capture power in the government.

Senator CEA. Our Election Code defines what a political party is. Does not Your Honor adopt this term "political party" in the bill as that stated in our Election Code as to what a political party is?

Senator PELÁEZ. Yes, but I want to make it clear that the Communist Party is not a political party according to the bill. It is purportedly a political party and in fact, in its appearance, it is

a political party. But actually, as it is declared in the bill, it is an organized instrument of conspiracy to overthrow the Government of the Republic of the Philippines. In other words, this bill precisely gives us the impression that it is a political party. It is not a political party. It is an instrument of subversion.

Senator CEA. That is where my doubts creep in. Who are the officials of the Communist Party of the Philippines? Did they ever put up candidates during election times? Did they have affiliates working in the government, either in the executive or legislative branches? Because an aggrupation to be dignified in name as a political party, it must have candidates during election times and must be registered as an organization in the Commission on Elections.

Senator PELÁEZ. We are not dignifying the Communist Party of the Philippines as a political party.

Senator CEA. Under our laws, we cannot dignify a political party if it is not registered in the Commission on Elections.

Senator PELÁEZ. We are not dignifying the Communist Party as a political party. May I call attention to the words "purportedly a political party"? That it was organized as a political party in 1936?

Senator CEA. But that was outlawed by the Supreme Court.

Senator PELÁEZ. May I say that after the Liberation, the Communist Party put up two candidates and succeeded in electing Mr. Jesús Lava and Mr. Luis Taruc to the House of Representatives in 1946.

Senator CEA. Under what banner did they run?

Senator PELÁEZ. They ran under the HUK, and subsequently they became leaders of armed aggression.

Senator CEA. Your Honor, they became criminals after they indulged in activities to overthrow the Government. That was the time that they were branded as criminals.

Senator PELÁEZ. But there were findings that all the time they were making use of democratic processes to attain the end of the Communist Party and blame the Government as a totalitarian regime.

Senator CEA. They were considered as criminals only after their activities indicated that they wanted to overthrow the Government.

Senator PELÁEZ. That is true. They were not communists before that. Before that they did not believe in communism and as long as that belief remains and their leaders are repugnant to armed uprisings, they are not criminals. But we know now from intelligence reports and confessions of the politburo officials, and this was a matter of judicial knowledge and it has been established by

court records, that there is a Communist Party of the Philippines from declarations of politburo officials captured in September, 1950, who have been tried and whose cases are pending in the Supreme Court. It has been established that they have this Communist Party with the Huks as their armed organization. Now, they have confessed that they have shifted from the phase of armed struggle to parliamentary struggle.

Senator CEA. In other words, Your Honor, as long as one entertains only in his mind thoughts about communism, he cannot be punished.

Senator PELÁEZ. Of course, not.

Senator CEA. It is only when he indulges in activities that tend to overthrow the Government that he can be punished?

Senator PELÁEZ. Yes, Your Honor.

Senator CEA. Does this bill now seek to punish people entertaining communist ideas?

Senator PELÁEZ. It does not.

Senator CEA. What is the purpose of this bill when it embodies penal provisions against illegal associations, against activities that the communists may indulge in and for which they may be brought before the courts of justice?

Senator PELÁEZ. As I said, Your Honor, entertaining ideas on communism is not punishable. But becoming members of the Communist Party, as far as the bill is concerned, may be criminal because it has been proved that for some years the Communist Party had been engaged in subversion, in uprising, in an attempt to overthrow the Government through illegal means. Now, the difference will be this. Your Honor said that we have laws against illegal association, we have laws against subversion, that is true. However, the bill will go farther. The bill recognizes that there is a particular danger from communism, from international communism which has its branch in the Communist Party of the Philippines. Now, the CAFA made a certain finding that international communism is a danger and that if someone becomes a member of the Communist Party of the Philippines knowing as, a citizen would know, that it has been engaged in an attempt to overthrow the Government, that man becomes criminal. So, there would be no need for the Provincial Fiscal or the City Fiscal to prove the nature of the Communist Party. That is the purpose of this bill.

Senator CEA. Now, Your Honor, I want this bill passed. As I say, I am against communism and I am sure no member of the Senate is in favor of communism. But how can we determine whether a political party is communistic or not?

Senator PELÁEZ. When that party has for its purpose the overthrow of the established form of Government and its substitution by one based on a foreign ideology.

Senator CEA. But when Your Honor speaks of Communist Party we must set the criteria to guide our courts of justice in branding a political aggrupa- tion as communistic.

(En este momento el Sen. Cuenco asume la presidencia por designación de la Mesa.)

Senator PELÁEZ. Suppose that political aggrupa- tion has been identified with the Hukbalahaps, and that political aggrupa- tion is presently headed by Jesús Lava and Casto Alejandrino?

Senator CEA. That is not a political aggrupa- tion.

Senator PELÁEZ. We are not calling that a polit- ical aggrupa- tion.

Senator CEA. That is an organized resistance against our Government. That is not a political party.

Senator PELÁEZ. But I am not saying that it is a political party. May I call Your Honor's attention to this, and I will read from Section 1: "The Con- gress hereby finds and declares that the Communist Party of the Philippines, altho purportedly a polit- ical party, is in fact an organized instrument of a conspiracy to overthrow the Government of the Republic of the Philippines for the purpose of es- tablishing in its place a totalitarian regime." What is being outlawed here is the organized conspiracy to overthrow the Government.

Senator CEA. I will return to my first question. What is this Communist Party mentioned on line 5 of page 1? What is its shape or form? Is it an animal? Is it a cow?

Senator PELÁEZ. It is a group of men who are engaged in a conspiracy to overthrow the Govern- ment. Now, what are the advantages of this? The Politburo was captured in 1950. The Huks are now in the mountains.

Senator CEA. Your Honor, they were tried be- fore our courts of justice, and they were sentenced to jail. So, what is the need of this measure? Without this, people who engage in a conspiracy to overthrow the Government can be sent to jail.

Senator PELÁEZ. Under the present laws, the prosecution would have to establish two things: they would have to establish the illegal nature of the association, and then, they would have to estab- lish the membership of the persons in that illegal association. Now, under this bill, Congress having made a finding that the so-called Communist Party

in the Philippines is in fact an organized conspiracy to overthrow the Government, all that the fiscal will have to prove in a prosecution under this bill is that the defendant has been a member of the so-called party. That is a punishable act, because the theory of the bill is that the existence of the so-called Communist Party of the Philippines presents a clear and present danger to the security of the country.

Senator CEA. My question again is, how shall we determine whether a supposedly political aggrupa-tion is the Communist Party?

Senator PELÁEZ. We have the facts on record.

Senator CEA. I asked this question and I want to explain my question, because a minority political party may be identified as a Communist Party. The year 1953 is too recent an occurrence to be forgotten. Our Nacionalista leaders in 1953 were branded as communists and they were merely bailed in an *ex parte* proceeding, so I am afraid that if we approve this kind of bill without sufficient safe-guards for the minority, the time will come when we will have only one party here, because any party that opposes the majority party can easily be branded as a Communist Party, and all the mem-bers of that Communist Party may be sent to jail under the provisions of this measure.

Senator PELÁEZ. May I say this: the bill is very definite as to what is known as the Communist Party.

Senator CEA. No, it is not definite.

Senator PELÁEZ. For the record, let me state that when we say the Communist Party of the Philip-pines, we refer to that group of persons headed by Jesús Lava, Casto Alejandrino, Mateo del Cas-tillo, Guillermo Capadocia, Luis Taruk, and the head of the Politburo, and we refer to those peo-ple as Huks, who actually engaged in armed up-rising against the Government. We refer to that particular group. Your Honor says that there is no sufficient safeguard. May I call Your Honor's attention to the following safeguards? Your Hon-or said that in 1953 some members of the Nacio-nalista Party were nearly jailed upon affidavits and bailed upon *ex parte* proceedings. Precisely, I have mentioned the fact, that under Section 5, no person may be accused under this bill for membe-rship in the Communist Party without a prelimi-nary investigation where he shall be given the right to confront the witnesses against him. Therefore, or an *ex parte* proceeding is met by Section 5. The second safeguard is the last paragraph of Sec-tion 4, which is found on page 4, lines 18 to 21,

that no person shall be convicted of any offense penalized under this act, unless on the testimony of at least two witnesses to the same overt act, or on confession of the accused in open court. In other words, we have adopted the safeguards which are found in the law of treason where two wit-nesses are needed to the same overt act. Now, I would like to call special attention to the fact that this provision mentions an overt act, not merely entertaining thoughts or ideas. I will make that clear to allay the fear of the gentleman from Ca-marines Sur. Now, may I say this, that it is nor-mal and I agree with Your Honor that we should have some fear as to whether or not this may be used as an instrument of persecution, as an in-strument for political adherence or for political per-secution, and I would be glad to consider any ad-ditional safeguards which Your Honor thinks should be embodied to make sure that this bill if passed shall not be used for political ends.

Senator CEA. The safeguard inserted in this bill requiring the testimony of two witnesses before an information is presented in court as in the case of treason, I don't consider it sufficient. Your Honor is a practicing attorney. It is very easy to get two witnesses to testify falsely against anyone, espe-cially, if the Government is very strong and it is under one who is inclined to be a dictator. It is very easy to get not only two, but even 100 wit-nesses.

Senator PELÁEZ. May I make this observation with regard to prosecution where the testimony of two witnesses is required to the same overt act? May I say that, from our experience in the Peo-ple's Court, it is difficult to get two witnesses to the same overt act, and in spite of the fact that we had 5,000 cases of treason in the People's Court, I can say that it was not easy. It was an excep-tion to find the witnesses who would falsify, and I think that we can rely on the innate honesty of the people. As I said, my experience is that, even in the case of treason, it is difficult to find two wit-nesses to the same overt act.

Senator CEA. In the case of treason, we are af-ter the treasonous act. But in the case of out-lawing the supposed Communist Party, we are not after the treasonous overt act, but after the mere membership in the supposed Communist organ-ization.

Senator PELÁEZ. Under the philosophy of this bill, it takes into account this situation, that war now-adays does not necessarily mean a shooting war, and there is actually going on a cold war on ideol-ogies. Your Honor knows that. And this bill,

realizing the clear and present danger that Communism poses to our country, makes the open act of membership in the so-called Communist Party of the Philippines a treasonous act.

Senator CEA. Now, Your Honor said that he is referring to that group headed by Capadocia, Lava and company. Where is this group now, and what is the form or shape of this group now?

Senator PELÁEZ. Your Honor knows that Capadocia is dead, Balgos is dead, Taruc has been captured, but Mr. Lava is still in the hills.

Senator CEA. And he is being hunted as a criminal.

Senator PELÁEZ. Yes, but he is very much alive.

Senator CEA. Does Your Honor think that any man in his right senses will try to affiliate with a group that is being chased by our Armed Forces?

Senator PELÁEZ. Your Honor will be surprised how many people in their right senses sometimes do things that are not the proper way to reform.

Senator CEA. Your Honor, I agree that we should outlaw Communism, but not the Communist Party. We have no Communist Party. That would be an admission on the part of our Government that we are harboring here the Communist Party. We are even going further than the United States. In the United States, there is an organized Communist Party, yet America has not outlawed the Communist Party. Here, we have no Communist Party, yet we are trying to outlaw something that does not exist. Let us go after the Communists. Let us approve here a resolution expressing in solemn tones that we are against Communism as in fact we are. But this bill may give rise to persecution of minorities, this may give rise to affronts and attempts against the constitutional rights of our citizens, against civil liberties. I am only afraid of these consequences.

Senator PELÁEZ. Well, may I reply to Your Honor's statement by parts? Your Honor says, why don't we outlaw Communism and not the Communist Party? If we do that, we would be precisely doing the thing that Your Honor does not want to do. Communism is an ideology, it is an idea, and we cannot outlaw an idea so long as it is not externalized. Now, the Communist Party is the external manifestation of Communism and it is actually engaged in an attempt to overthrow the Government. That is an external act. But Communism itself cannot be outlawed. We cannot go into the recesses of a man's mind.

Senator CEA. I agree with Your Honor there.

Senator PELÁEZ. May I continue. Your Honor says, that the United States has not outlawed the

Communist Party. May I refer Your Honor to the Communist Control Act of 1954 which is in the statute books of the United States as Public Law No. 637.

Senator CEA. What does that law say? Does it outlaw the Communist Party?

Senator PELÁEZ. Yes. As a matter of fact, a lot of the language in the House bill is a copy of the Communist Control Act of the United States, and may I read Section 2 of Public Law No. 637 or the Communist Control Act of the United States. It says:

"SEC. 2. The Congress hereby finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. * * *

Now, what does the Communist Control Act of the United States do? It says:

"SEC. 3. The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privileges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are hereby terminated: * * *

Now, the next section says:

"SEC. 4. Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control, conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force and violence, with knowledge of the purpose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended, as a member of a 'Communist-action' organization."

This Internal Security Act of 1950 penalizes membership in a subversive organization. Now, the United States precisely found that that was not enough. So, it went one step further and enacted the Communist Control Act of 1954 and said that anyone who becomes willfully a member of the Communist Party is guilty of membership in a subversive organization and may be penalized under the Internal Security Act of 1950.

Senator CEA. I have not had occasion to study those statutes mentioned by Your Honor, but one thing is certain. During every election year, the Communist Party has candidates in the United States. Just two months ago, the Communist Party had a convention, I think, in New York. How can these Communists come out openly in public convention if they can be branded as criminals and arrested? As I said, I did not go over the laws mentioned by Your Honor. I am only after facts.

Senator PELÁEZ. Well, I will give Your Honor more facts.

Senator CEA. Regarding the fact that the Communists held a convention openly in New York just two months ago, if membership in the Communist Party is a crime, I do not think those people would have come out openly and held the convention.

Senator PELÁEZ. I ask Your Honor to examine Public Law No. 637 of the United States, and may I say this: Many states of the United States have state laws whereby a person who is a Communist is not allowed to run for public office. There are also other laws where it is required in the United States to make an affidavit, before one can be appointed to a public office, that he is not a Communist or a member of any subversive group.

Senator CEA. That is all right.

Senator PELÁEZ. Those are the laws.

Senator CEA. But there can be no question that in the United States, they are not punished with perpetual imprisonment or *reclusion perpetua* as we have in this proposed measure.

Senator PELÁEZ. The Internal Security Act of 1950 has stiff penalties.

Senator CEA. There is one difference, Your Honor. I will sit down after this to give a chance to others who might question Your Honor. In the United States, there is such a Communist Party. Your Honor said that in the states or in the Federal setup, membership in the Communist Party is outlawed. Because in the United States, there is really a political aggrupation that presents itself as the Communist Party. Here, in our country, I repeat my first question and it will be my last, which is the Communist political party in the Philippines? If Your Honor can convince me that we have such a Communist political party in the Philippines, I am going to support this bill. But if Your Honor cannot prove that we have such a Communist Party in the Philippines other than the Huks who are already being chased by the Government and whom we consider as criminals, I will have to study more carefully this bill.

Senator PELÁEZ. I certainly appreciate Your Honor's doubts, but I can say this—that if Your Honor

would examine the vast amount of documents that we have in the Armed Forces of the Philippines headquarters regarding the existence of the Communist Party, or if Your Honor would go over the CAFA report, or if Your Honor would even go to Muntinglupa and ask the members of the Politburo who are there and who have openly declared that the Communist Party which they head still is an active group, Your Honor will agree with me that there is such a Communist Party in the Philippines.

Now, Your Honor says that the Huks are being chased by this Government. What is the use of this bill? Well, apparently, there is something to that, but they have already announced, the very heads of this organization, the very heads of this Communist Party, that they have now abandoned the armed phase of the struggle, that they are not so much emphasizing the struggle with arms, but that they are now entering the other phase, the legal or parliamentary struggle. They have said so. Now, if they have already said so and we know that the Communist Party is subversive, why should we not strengthen the legal sinews of the government so that democratic processes may not be used, abused and subverted? I at least am certain and I can give a very definite answer to Your Honor's question: is there a Communist Party in the Philippines which in fact is not a political party but is an organized instrument of conspiracy for the overthrow of the Government? My answer to that is Yes.

Senator RODRIGO. Mr. President, will the gentleman yield?

The PRESIDENT. The gentleman may yield, if he so desires.

Senator PELÁEZ. Gladly.

Senator RODRIGO. I would like to ask a few questions to clarify the statement made by the gentleman for the record that the Communist Party, as contemplated in this bill, has particular reference to the Communist Party now existing or the Communist group now existing headed by Lava, Taruc, Alejandrino, etc. Now, supposing that this Communist Party headed by these particular persons is dissolved and another group with the same objectives is organized led by different people, or supposing that while this group of Lava, Taruc, Alejandrino, etc., continues existing but a rival group, also of Communists and led by other people, is organized, now would this other group not come under the provisions of this bill?

Senator PELÁEZ. They would come under the provisions of this bill with this difference: that if the

group is a different one, there must have to be a judicial finding that it comes within the provisions of the law. May I refer Your Honor to Section 2, which appears on page 3 which outlaws the Communist Party of the Philippines and which says: "Congress hereby declares as a policy that any other association or organization whose object is the overthrow of the Republic of the Philippines is hereby outlawed."

Senator RODRIGO. In other words, according to this bill, the particular Communist group headed by Lava, Taruc, Alejandrino and others is already declared by law, if this bill is enacted into law, as unlawful and illegal, whereas other Communist organizations will have to be . . .

Senator PELÁEZ. Declared as coming within the provision of the second part: "any other organization whose object is to overthrow the government."

Senator RODRIGO. By court decision. Well, I just wanted that for clarification. Now, another question. On page 3, line 8, under the definition of a Communist Party, it says: "organization whose object is to overthrow the government of the Republic of the Philippines or the government of any of its political subdivisions by force or violence for the purpose of placing such government or political subdivision under the control or domination of an alien power or organization." Now, suppose it cannot be proven or it is not proved that the organization was organized for the purpose of placing the Philippines under the domination of an alien power but that inevitably would be the result, would that organization not come under this bill?

Senator PELÁEZ. May I say this? If the group that, let us say, takes up arms to overthrow the Government is a purely domestic group and has no tie with a movement like International Communism and has no intention of placing the Government under an alien power but it becomes a purely political question within the country, that would not come under the provisions of the bill, that would have to be punished under our law of rebellion and other such crimes under the Revised Penal Code.

Senator RODRIGO. The point of my question is this. That phrase, "for the purpose of placing such government or political subdivision under the control of an alien power," would require evidence or proof that the leaders and members of this group had the purpose, in organizing this group, of placing the Philippines under alien domination. Well, naturally, in our experience as lawyers, these leaders and members will say, "That was not our purpose." But suppose, in spite of the fact that it cannot be

proven that that was their purpose in mind, it is proved that that inevitably would be the result.

Senator PELÁEZ. If that comes about as a consequence and not as a purpose, I do not think that kind of an association would come within the purview of this Act. This refers only to subversive organizations whose purpose is to overthrow the Government of the Philippines and place it under an alien power.

Senator RODRIGO. Well, as the gentleman said, it is hard to go into the recesses of a man's mind. Now, if we have to prove the purpose, we might have to go into the recesses of a man's mind, which is very difficult.

Senator PELÁEZ. Well, the purpose must have to be proven by competent evidence such as the constitution and by-laws, such as the communications coursed among the members of that party, such as the utterances of the members. In other words, we must have to prove that there is such a purpose.

Senator RODRIGO. Well, supposing that it is proven by evidence that the Communist group in the Philippines has communications with the Kremlin or with the Communist Party of China because they believe in the same ideology, because they believe in the same policy of spreading communism to all countries of the world. Well, we prove a tie-up. Does that already prove that the purpose of this group in the Philippines is to place the country under a foreign domination?

Senator PELÁEZ. As far as the Communist Party in the Philippines is concerned, if the finding is made in this bill that the purpose of that so-called party is to place the Philippines under an alien power, there will be no need of evidence of such a tie-up if that has been found by an investigation of the facts, and it is so declared here.

Senator RODRIGO. So, in the particular case of the present Communist Party, if that particular group, as Your Honor said, is headed by Lava, there is already a definite finding by Congress that a statement of law has been passed that the purpose of this particular group is to place the Philippines under foreign domination. Well, I want to make it clear in the records. Now, supposing that another Communist group is organized, led by other leaders who are communists, would it be necessary? Or supposing that Lava, Taruc, etc., decide to dissolve the present Communist Party in order to make it provision of this law, and then another Communist Party is formed under different leaders, in that case, before that group can come within the pur-

view of this bill, it has to be proven by evidence that their purpose is to place the Philippines under foreign domination?

Senator PELÁEZ. That would be one way of meeting the problem under Section 2. But under Section 3, if it can be proven that this new group is a successor to the Communist Party of the Philippines mentioned in this Act, then we do not have to prove the purpose, because in the definition of the term "Communist Party of the Philippines", the bill would include not only the Communist Party of the Philippines and its military arms, the "Hukbo ng bayan laban sa Hapon" or HUKBALAHAP, but it also includes any unit or subdivision of any such organization and any successors of such organization, unit or subdivision, regardless of the assumed name. Now, if it can be proven succession, we do not have to prove the purpose. And if we cannot prove succession, we have to prove the purpose.

Senator RODRIGO. In other words, does this bill proceed from the premise that there cannot be a communist party in the Philippines which does not have a tie-up with the international communism?

Senator PELÁEZ. It seems to proceed, and I think it should proceed, in the philosophy that communism necessarily ties up with the international communism as an ideology.

Senator RODRIGO. All right. In that case, does it proceed then from the premise that while there is an ideological tie-up, it is possible that the Communist Party may be organized in the Philippines and if that Communist Party gains domination of the country, that that would be a purely national group without being dominated by a foreign power?

Senator PELÁEZ. This is from the premise that present-day communism is part of international communism, and that if an organization is proven to be communistic that means it has a tie-up with international communism and its purpose is to place the Philippines under alien control.

Senator RODRIGO. Supposing a new group is formed under a foreign leader and it is proven in court that this is a communist group, would that give rise to the presumption that this group is under international communism and will place the Philippines under a foreign domination?

Senator PELÁEZ. Yes, Your Honor, as defined in this Act a Communist Party whether the present one or a new one shall be presumed to have a tie-up with international communism.

Senator RODRIGO. In other words, once it is proven in court that a party is a communist party,

there is that presumption and there is no need to show evidence that the purpose is to place the Philippines under communism.

Senator PELÁEZ. I think that should be the proper interpretation.

Senator RODRIGO. Thank you.

Senator PELÁEZ. (*Continuing.*) Mr. President, There is one other phase of this bill which I think should be discussed because I must confess I have entertained doubts and I had to go into a rather extensive study and to look for precedents. In the Lower House one of the causes of opposition was that this might be a bill of attainder in the sense that it singles out a particular group and then penalizes it and also penalizes the members of that group. On the surface, it has some merits, but if we consider the fact that the Communist Party of the Philippines is, as has been found, really an organized instrument of conspiracy to overthrow the Government of the Philippines and to place the Philippines under alien domination, if we consider the fact that this has been going on for years, if we consider the fact that as found in the bill it is not a political party that we are penalizing here but a party engaged in conspiracy, and considering the fact that it has been said that, since there is clear and present danger to the security of the Philippines, the State has the right to act against that danger; therefore, this bill should not be regarded as a bill of attainder seeking to penalize a particular group of persons, but rather to arrest a conspiracy which had been going on for sometime and which has been recognized and established by a thorough investigation of the fact. The Communist Control Act of the United States until now has not been subjected to constitutional question.

Senator SUMÚLONG. Mr. President, may I ask a few questions to the sponsor?

The ACTING PRESIDENT. The sponsor may answer, if he pleases.

Senator PELÁEZ. I would gladly answer them if I can.

Senator SUMÚLONG. Precisely on this point, whether this bill contains any feature of a bill of attainder. Your Honor mentioned here about the Communist Control Act of 1954 in the United States. If we word this bill, or we pattern this bill after the Communist Control Act of the United States, will Your Honor be satisfied?

Senator PELÁEZ. In that case, we will have to enact an Internal Security Act because actually the Communist Control Act of 1954 is a supplement to the Internal Security Act of the United States.

Senator SUMÚLONG. Does Your Honor mean to say that our national security could be safely protected if we enact here a legislation patterned after the Internal Security Act and the Communist Control Act of the United States?

Senator PELÁEZ. Frankly, I have not considered such an alternative. I would rather stick to the provisions of the bill of the Lower House because, as Your Honor knows, that House Bill No. 6584 has been passed unanimously by the House after long debates where they tried to take into account all opinions, and that, if we would deviate from the present wording of House Bill No. 6584, there may arise further questions. I believe under the present wording of the bill this is effective in arresting communist conspiracy.

Senator SUMÚLONG. I have read very little about the Internal Security Act and the Communist Control Act of the United States, and just now I do not remember the provisions in detail, but if I am not mistaken, in the United States there is no law which makes an officer of the Communist Party of the United States liable to the penalty of death as is embodied in the present bill. Is there any provision in the laws of the United States which provides that the mere fact alone that one is an officer of a Communist Party in the United States, will subject him to a penalty of death?

Senator PELÁEZ. I have not gone over the particular provisions of the laws concerned, but I think there is no such penalty. Then, why should we officer of the Communist Party in the Philippines prescribe death as penalty for one who becomes an after the approval of this Act? It is because the Communist agents in the Philippines have been of much greater danger than they have been in the United States. After they have actually taken up arms, there was a time in 1949 and 1950 when this Government was at the brink of being overthrown by the communists. So, it is a relative matter now. In the United States the communist danger has not been as great as that in the Philippines.

Senator SUMÚLONG. Does not Your Honor believe that in the United States they are so much concerned in preserving at any cost the right of free speech and the right of free association that they do not want to go to the extent of making mere membership in the communist organization as basis for criminal prosecution or criminal conviction, because as I remember—I am not sure of the provisions in detail—in the United States membership in a communist organization simply deprives a member of that communist party of civil rights, but

that is not made a criminal offense as we are now doing in the present bill. I was thinking, Your Honor, suppose this may happen to anyone of us, suppose after we approve this bill somebody from the army or anybody perhaps a person or a political enemy submits affidavits to a fiscal to the effect that one is a Huk. Now, will that be sufficient, that is, supposing he is a Huk, is that enough to render him liable to criminal responsibility under this bill without proof, without additional proof that he is a Hukbalahap, and is actually engaged in activities tending to overthrow the Government?

Senator PELÁEZ. I would like to answer Your Honor's question by parts. Frankly, when Your Honor asks if two persons present two affidavits against another stating that the latter is a Huk, would that be sufficient procedurally? My answer is that that would not be sufficient, because under the law a preliminary investigation is required where the accused is given the right of confrontation. It would not be sufficient to accuse a man on mere affidavits without giving him a chance to confront affiants in a preliminary investigation. If the fiscal files the case, there can be no conviction except upon the testimony of two witnesses to the same overt act of membership. Their testimony must coincide with the particular act of membership. Now, from this substantive point of view if I become a member of the Hukbalahap association now should I be criminally liable? I should think so. We know that the program of the Hukbalahap association is to overthrow the Government and to subject the Philippines to alien domination. Knowing their purposes, knowing the atrocities that they have committed, and knowing to what extent they would go, if I still become a member of that organization, I become a part of that conspiracy. Now, in one case in the United States, it was said by Justice Jackson in the case of American Communications Association v. Douds:

"Inferences from membership in such an organization (the Communist Party) are justifiably different from those to be drawn from membership in the usual type of political party. Individuals who assume such obligations are chargeable on ordinary conspiracy principles, with responsibility for and participation in all that makes up the Party's program. . . . Knowing that the party's program is the overthrow of this government through illegal means, and with that knowledge I still become a member of that party, I think that is treason and it should be punished.

Senator SUMÚLONG. The point that I wish to clarify is this: that the danger lies in the fact that

we are making it a capital offense if a person is an organizer or if he is an officer of the Hukbalahaps or the Communist Party outlawed in this bill. That is made a capital offense and Your Honor may be right that in the end, probably, the person may be accused. But by making this a capital offense, I have in mind what happened in the Montano Case. Even an innocent person may be prosecuted and subject to deprivation of life and liberty simply on the basis of an affidavit that he is an officer of the Hukbalahaps or he is a member of a subversive organization. On the basis of those affidavits, especially if followed by those who are in power, he can be arrested and information filed against him and it will take months before he can go to the Supreme Court to get an order of provisional release. That is my point. Why are we imposing the penalty of capital offense here without requiring a proof of actual attempt, that there must be proof that the accused really committed an actual breach of the peace or an actual attempt to overthrow the government before he can be liable to the penalty of *reclusion temporal* to death?

Senator PELÁEZ. May I take up Your Honor's observation part by part? Your Honor said that a person may be imprisoned on mere affidavits. Precisely, that danger is curbed in this bill, because no fiscal may present a prosecution under this bill or under this act if it becomes a law except after he shall have conducted a preliminary investigation where the accused is given the right to confront the witnesses against him. The danger of accusation on the basis of affidavits will not lie, and if Your Honor has further safeguards to avoid that, I will be glad to consider and to incorporate them here, because we are all concerned that this bill, if it becomes a law, should not be used to abuse civil liberty.

Senator SUMULONG. May I rectify the matter? I do not mean to say that simply on the basis of affidavits, fiscals will file information. Of course, there will be a preliminary investigation, and the ones who subscribe to the affidavits will give their testimony and, in the last analysis, it will be a question of credibility. But as I said, if pressure is brought from above, this may be subjecting innocent persons to be arrested and denied bail, and even if they come out acquitted in the end, they will have suffered because of the heavy penalty that we are imposing here without requiring any proof that those persons really committed something which shows a manifestation to overthrow the government.

Senator PELÁEZ. Well, as far as this bill goes, the theory of this bill is, knowing the program of the Communist Party of the Philippines, knowing the atrocities and the depredations committed by the Hukbalahaps, and in spite of that, one becomes a member, the theory of this bill is that he becomes part of the nation-wide conspiracy, for instance, take the case of the killing of Mrs. Quezon. Mrs. Quezon was ambushed and mercilessly killed. We know very well that that was part of an overall program that was conceived by the leaders of the Huks. Now, would Your Honor require that these masterminds be proven to have been there? We know that the Hukbalahaps constitute a danger, that the Communist Party constitutes a danger to the Philippines. It has made war against the Philippine Government. Does Your Honor believe that knowing all that, if a person still becomes a member and identifies himself with the conspiracy, under the ordinary principles of law on conspiracy, because he is a part of a cabal of that conspiracy, he is responsible for the acts of the others, as Justice Jackson, if I may quote again from the case of *American Communications Association v. Douds*, says:

"There is certainly sufficient evidence that all members owe allegiance to every detail of the Communist Party program and have assumed a duty actively to help execute it, so that Congress could, on familiar conspiracy principles, charge each member with responsibility for the goals and means of the Party."

We now have to come out with this legal means of penalizing membership because they have already announced that from now on, the Communist Party of the Philippines is going to make use of the democratic processes, make use of the very liberties that we grant them and turn around and use them, prostitute and use them against us. Knowing all these, we believe that by identifying oneself with that party by becoming a member, and knowing the nature of communism where a member becomes expendable, he has got to dedicate himself wholly to the goals and aims of communism. We believe that that in itself is a treasonous act. Now, as to the severity of the penalty of *reclusion temporal* to death, that has been brought about by the fact that the Communist Party of the Philippines and the Hukbalahaps have resorted to all means. They have killed innocent civilians. They have killed women and children. And knowing all these, if one still becomes a member of that party, we impose a severe penalty so that there will be a strong deterrent for any person against becoming a part of such conspiracy.

Senator SUMÚLONG. Do I understand from Your Honor that if an information is filed against somebody to the effect that after the approval of this act he became a member of the Hukbalahaps, that it will be sufficient for the prosecution just to establish that he became a member of the Hukbalahap organization without any further proof that the Hukbalahap organization to which the accused affiliated has really for its purpose the overthrow of our government through violence and for the purpose of placing it under the control of an alien power?

(En este momento el Sen. Mabánag asume la presidencia por designación del Presidente Interino.)

Senator PELÁEZ. Yes. Judicial proof of the nature of the Hukbalahap organization is not necessary because that finding is made here—that the Communist Party of the Philippines and the Huks, its military arm, are in fact instruments to overthrow the Government of the Philippines by illegal means.

Senator SUMÚLONG. So that if the Government would present two witnesses who will testify, "well, I was an informer and I pretended that I was sympathetic with the Hukbalahap organization somewhere here in the mountains of Rizal, and I saw the accused signing the affiliation", that would be sufficient?

Senator PELÁEZ. After the enactment of this bill?

Senator SUMÚLONG. After the enactment of this bill.

Senator PELÁEZ. Yes. This can have no reference to acts committed prior to the approval of this bill if it becomes a law. It has a future prospective application.

Senator SUMÚLONG. But would that not be dangerous, Your Honor? Because we have to consider the fact that many of those who joined the Hukbalahap organization are common people, most of them are really not very well educated, and the words "Hukbong Magpapalaya ng Bayan" appeal to them and many of them became Huks in the belief that they are simply expressing their desire to secure the economic freedom of our country, especially the economic freedom of our peasants. Now, if we are going to allow such a person to be convicted simply on the testimony of two witnesses that he was seen joining the Hukbalahap organization, we might be convicting many people . . .

Senator PELÁEZ. May I say this. In the first place, when Your Honor says that the name appeals to the peasants, that was true in the beginning. But if Your Honor would go to the villages and

barrios of Central Luzón,—I have been to barrios in Nueva Ecija and other Central Luzón provinces—Your Honor will know that the name Hukbalahap means terror in the hearts of the people. And certainly, at this stage, after so many years after the successful struggle of the late President, I do not think that anyone can entertain illusions as to the real purpose of the Huks.

Now, Your Honor says that it may be dangerous to allow this bill to become law because it may be abused. Yes, all power may be abused. As a matter of fact, persons can present affidavits against Your Honor right now and accuse Your Honor of crimes. But I believe that we have the instrumentality of the courts which will know how to sift the truth from the falsity, the genuine from the fabricated.

Senator SUMÚLONG. I agree, Your Honor, if the penalty is not as high as death. But when we make the penalty as high as death, the moment a person is arrested and an information is filed, he is detained.

Senator PELÁEZ. I really don't know the reason for the penalty of death being imposed, but I surmise that they draw a parallel between Communist subversion in peace time and treason in war time. The acts are the same—that they have the intent to deliver the country to a foreign power. So, I suppose the authors of the bill in the Lower House saw a parallelism in the gravity of the crime and, therefore, they impose similar penalties.

Senator SUMÚLONG. Well, I will just pass to one more point. I want to give the other members a chance to interpellate on this important bill. Under this bill, if one becomes a Huk after the approval of this bill, is he subject to prosecution?

Senator PELÁEZ. Yes.

Senator SUMÚLONG. But if he is a Huk before the approval of this bill and he admits being a Huk, he is under no criminal liability under this bill.

Senator PELÁEZ. I think, if he remains a member, he is still subject.

Senator SUMÚLONG. No. Suppose I say that I was a Huk before 1957 but I am no longer a Huk now. Is that already a good defense? It seems to me that we will be catching very few because most of the Huks have been so during the occupation and immediately after liberation.

Senator PELÁEZ. We know on the other hand that if we give this law a retroactive effect, it would be an *ex post facto* law, and we would be punishing even those former Huks in Rizal and Pampanga

who are now good citizens in Mindanao, and I don't think we should punish membership before such membership was declared criminal.

Senator SUMÚLONG. Does not Your Honor think we are following the wrong principle here, because I think that one who is a Huk now is as great a danger to our national security as one who would become a Huk after the approval of this bill? We should not distinguish. What we should punish are the subversive acts of the particular Huk.

Senator PELÁEZ. Well, precisely, there is a difference in that this punishes membership as a subversive act. It pinpoints membership in the Huk-balahap organization as a subversive act.

Senator SUMÚLONG. Then, we are not fully protecting the national security of this country.

Senator PELÁEZ. I think we are. On the other hand, we cannot violate the constitutional principle that we cannot punish a person for an act which was not a crime before the law.

Senator SUMÚLONG. Why don't we define the subversive acts that we believe are dangerous to our national security, and then apply the corresponding penalty to those acts of subversion, regardless of the time of their commission?

Senator PELÁEZ. That would be the ideal situation.

Senator SUMÚLONG. But under this bill, one may have committed an act of subversion before the approval of this Act. Still, that act of subversion, having occurred before the approval of this Act, is left unpunished.

Senator PELÁEZ. May I say this? That one could be punished under the Revised Penal Code for subversion. What is here punished is membership which, at present, is not punishable under the Revised Penal Code.

Senator SUMÚLONG. So, the effect would be that persons who were subversive before the approval of this Act will be punished under the Revised Penal Code.

Senator PELÁEZ. Under laws which declare their acts criminal at the time they were committed.

Senator SUMÚLONG. Yes, but if the same act of subversion is committed after the approval of this Act, he becomes liable to the heavier penalty imposed under this bill.

Senator PELÁEZ. Well, because this bill clarifies and recognizes the clear and present danger that the Communist organization presents to the security of the Philippines.

Senator SUMÚLONG. I would like to study this matter.

Senator PELÁEZ. It is a complicated thing, but I would like to say this—that we have to act because notice has been given to the Government and unashamedly and frankly by the leaders of the Communist movement in the Philippines that they are moving towards the legal or parliamentary phase. They have put us on guard. Now, our laws are inadequate. What is the instrument which the Government may use so that Communists may not abuse democratic processes? To penalize membership in the Communist party—that is our answer to them.

Senator SUMÚLONG. I think that all the members of the Senate share the same point of view of Your Honor and we are all concerned about safeguarding the security of our country by penalizing acts of subversion, but there are certain features of the bill about which really, frankly speaking, I have certain doubts.

Senator PELÁEZ. I might say that this bill is a product of compromise and naturally it has its weaknesses, because in a compromise one cannot have an ideal bill; but Your Honor will realize, I suppose, that the members of the Lower House were confronted with either this bill or no bill at all, so it is up to us to try to use our intelligence, and if it is possible for Senators to improve upon the work of the Congressmen, we should try and take into account the observations of Your Honor.

SUSPENSIÓN DE LA CONSIDERACIÓN DEL
C. R. NO. 6584

Senator PRIMICIAS. Mr. President, I ask that we suspend consideration of this bill until later in the day.

The ACTING PRESIDENT. Is there any objection? (*Silence.*) The Chair hears none. The motion is approved.

SUSPENSIÓN DE LA SESIÓN

Senator PRIMICIAS. Mr. President, I ask that we suspend the session until five o'clock this afternoon.

The ACTING PRESIDENT. If there is no objection, the session is suspended until this afternoon at five o'clock. (*Silence.*)

Eran las 12:30 p.m.

REANUDACIÓN DE LA SESIÓN

Se reanuda la sesión a las 6:15 p.m.

El PRESIDENTE. Se reanuda la sesión.

DESPACHO DE LOS ASUNTOS QUE ESTÁN SOBRE LA
MESA DEL PRESIDENTE

Léanse los nuevos documentos recibidos.