

(El Secretario informa a la Mesa del resultado de la votación)

El PRESIDENTE. Por trece votos, queda aprobado el proyecto en tercera lectura.

APROBACIÓN EN TERCERA LECTURA DEL
C. R. NO. 7027

Senator PRIMICIAS. Mr. President, I ask that we vote on third reading on House Bill No. 7027 which has been certified as urgent by the Chief Executive.

El PRESIDENTE. La votación en tercera lectura del Proyecto de Ley Número 7027 de la Cámara de Representantes está en orden. Léase solamente el título del proyecto, si no hay objeción. (No la hubo.)

El SECRETARIO:

An Act to convert the Barotac Nuevo High School in the Province of Iloilo into a national school of fisheries to be known as Central Iloilo National School of Fisheries, appropriating the amount of three hundred thousand pesos for the purpose.

El PRESIDENTE. Léase la lista.

El SECRETARIO:

Senador Domocao Alonto	Sí.
" Manuel C. Briones	Ausente.
" Edmundo B. Cea	Ausente.
" Mariano J. Cuenco	Sí.
" Francisco A. Delgado	Ausente.
Senadora Pacita Madrigal González	Ausente.
Senador Ruperto Kangleón	Ausente.
" José P. Laurel	Sí.
" Roseller T. Lim	Ausente.
" José C. Locsin	Sí.
" Fernando López	Ausente.
" Alejo Mabánag	Sí.
" Quintín Paredes	Ausente.
" Emmanuel Peláez	Sí.
" Cirpiano P. Primicias	Sí.
" Gil J. Púyat	Sí.
" Claro M. Recto	Ausente.
" Francisco Soc. Rodrigo	Sí.
" Decoroso Rosales	Sí.
" Pedro Sabido	Sí.
" Lorenzo Sumálong	Sí.
" Lorenzo M. Tañada	Sí.
" José C. Zulueta	Ausente.
El PRESIDENTE	Sí.

(El Secretario informa a la Mesa del resultado de la votación)

El PRESIDENTE. Por catorce votos, queda aprobado el proyecto en tercera lectura.

CONSIDERACIÓN DEL C. R. NO. 6584
(Continuación)

Senator PRIMICIAS. Mr. President, I ask that we now resume consideration of House Bill No. 6584. The gentleman from Misamis Oriental, Chairman of the Committee on National Defense and Security, will resume the sponsorship.

The PRESIDENT. Continuation of the consideration of House Bill No. 6584 is now in order. The gentleman from Misamis Oriental is recognized.

Senator PELÁEZ. Mr. President, I am ready to answer any further questions from any member with respect to this bill.

Senator LIM. Mr. President, will the gentleman from Misamis Oriental yield to just a few questions?

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

Senator PELÁEZ. Gladly.

Senator LIM. I notice Your Honor that the bill does not define Communism. It merely states that the Communist Party of the Philippines and similar organizations which are subversive in nature or which seek to overthrow by means of force and violence the duly constituted Government of this country are outlawed. Now, I am just wondering whether the failure to define Communism might impede the prosecution of these cases or whether or not the defense could successfully win the cases on a mere technicality in the sense that Communism is not defined at all in this bill. It only says the "Communist Party of the Philippines." Suppose they change the name or they claim later on that it has nothing to do with Communism or something like that? What would Your Honor say as regards that defense in case it is put up?

Senator PELÁEZ. I would like to repeat what I have already said. Communism as an idea is not outlawed. As a philosophy, it is not outlawed by this bill. What is outlawed here, as I have said already, is this group of persons known as the Communist Party of the Philippines. And in my answers to the questions of the gentleman from Rizal, I said that this refers to the group of persons which began their activities way back in 1936 as the Communist Party of the Philippines. They were outlawed then. Later on, the same group of people who were identified with the Communist idea formed the *Hukbalahap* and, after liberation, they continued as the Communist Party of the Philippines, and their activities reached a high point in 1950, and it was in this year that the Politburo which was composed of Jesús Lava and Mr. Baking and others was captured. Now, this group of persons are still carrying on as the Communist Party of the Philippines, and the evidence now in existence in Government files and intelligence files show that the Communist Party of the Philippines is still intact and it is now headed by Jesús Lava, Casto Alejandrino and others, and that the *Hukbalahap* is the military arm of the Communist Party of the Philippines. It is this group of persons which masquerade as a political party,

but which in the bill itself is defined as in fact a conspiracy to overthrow the government, that is outlawed. But Communism as an idea or as a philosophy of government is not outlawed.

Senator LIM. Yes, I understand from Your Honor, from the very beginning of Your Honor's sponsorship speech the other day, that the ideology or belief in the ideology itself is not punishable, because indeed it is impractical to try and punish somebody for his belief. But the point here is that without outlawing the belief itself or the ideology itself, I would propose that perhaps it is important to define Communism without, of course, necessarily making the ideology itself or the belief therein an act that is punishable. I am worried, Your Honor, because membership in the Communist Party of the Philippines or in other similar organizations would be made punishable, but the fact that Communism itself or what is communistic is not defined might be a good defense.

Senator PELÁEZ. May I say this—that it would not be proper, I believe, to define Communism here because we are not outlawing Communism here in all its aspects. We are outlawing that aspect of Communism which presents a clear and present danger to the security of the Philippines: That the continued existence and activities of the Communist Party of the Philippines constitutes a clear, present and grave danger to the security of the Philippines;" and the wording of the bill is clear enough. Section 1 of the House bill, which we propose to be Section 2, is as follows: "The Congress hereby declares the Communist Party of the Philippines to be, as it is, illegal and outlawed." "Any other association or organization whose object is to overthrow the Government of the Republic of the Philippines * * * by force or by violence for the purpose of placing such government or political subdivision under the control and domination of an alien power or organization . . ." etc. Now, that is clear enough. Now, Your Honor asked me: "How can you determine whether a particular group which might be the successor of the Communist Party is such party; or suppose the Communist Party in the Philippines dissolved itself and a group of people comes out with a different name? "Well, that would have to be determined judicially and the criteria would be, first, whether the purpose is to overthrow the government by force or violence, and second, whether the ultimate objective is to place the Philippine Government under the control or domination of a foreign power.

Senator LIM. Yes, I see Your Honor's point, but if the idea is to punish an organization which believes in the use of force or violence to overthrow the government, we have existing laws which make such acts punishable.

Senator PELÁEZ. I have already stated that under existing laws, if we were to go after the Communist Party and membership therein, the prosecutor would have to present evidence as to the subversive nature of the Communist Party of the Philippines. Now, under this bill, the Communist Party of the Philippines being a conspiracy of many years, is declared to be subversive, and with this bill the prosecution need not present evidence as to the subversive nature of this group which calls itself the Communist Party of the Philippines and which I have already identified.

Senator LIM. Because, Your Honor, the trouble is this—we would come to the conclusion that merely because it is the Communist Party of the Philippines, it is subversive, and yet we are not defining what is subversive in being a communist or not being a communist.

Senator PELÁEZ. We are—first, if the purpose is to overthrow the government by force or violence; and second, if the purpose of that overthrow is to place the government under foreign control or domination.

Senator LIM. It would bring out the inference that any organization is communistic.

Senator PELÁEZ. Not necessarily.

Senator LIM. Precisely, we want to differentiate it from any other, because not all subversive organizations are communistic.

Senator PELÁEZ. Well, they are covered, the communistic and the non-communistic.

Senator LIM. At any rate, let it appear on record that I am one hundred per cent in favor of the bill.

Senator PELÁEZ. May I cite further, Your Honor. I recall now, as I was thinking back to the days when the distinguished gentleman from Quezon and I were in the People's Court, the distinguished gentleman from Quezon was the head of the special prosecutors and I was one of the prosecutors. We had many prosecutions for membership in the organization which was then known as the *Makapili*. Now, in every prosecution against the *Makapili* member, I recall that we had to call witnesses to testify as to the nature of the *Makapili* and yet it was known that the *Makapili* was really a treasonous organization. So, in every case we had to call the same witnesses, and so it became

quite difficult because the evidence of the nature of the *Makapili* was required in every case. Now, that would be done away with here—the requirement that the nature of the so-called Communist Party of the Philippines has to be proved in each particular case—that is already done away with. Now, if another group of people, not the Communist Party of the Philippines, should be prosecuted here, then you would have to prove the two things: first, the subversive nature will be judged by its purpose of overthrowing the government by force or violence; and second, whether the second purpose or ultimate purpose is to place that government under alien domination.

Senator LIM. Thank you.

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

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

Senator PELÁEZ. Gladly, to my professor and mentor.

Senator SABIDO. Now, I wish to state at the outset that I am entirely in accord with the purpose or purposes of the bill. This Congress has designed as a policy to declare illegal and outlaw any association or organization whose object is to overthrow the Government of the Republic of the Philippines or any of its political subdivision 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. But I have, however, certain doubts concerning the wisdom of some of its provisions. It is for that reason that I am constrained to formulate certain questions for purposes of clarification. Is it clear that according to the provisions contained in Section 3, mere affiliation to any such association is declared a crime, and as such, punishable?

Senator PELÁEZ. Yes, affiliation in the Communist Party of the Philippines.

Senator SABIDO. With any such party?

Senator PELÁEZ. Or any association or organization whose object is to overthrow, etc.

Senator SABIDO. Whom does Your Honor consider as affiliated, in the contemplation of this bill, to the Communist Party or any such association or organization?

Senator PELÁEZ. The bill as it is leaves that to the court to determine by whatever competent evidence the court may receive. However, as a guide we might take into account the circumstances which were listed in the original bill which was filed in the Lower House, and that section con-

taining the list of circumstances was in turn copied from the Communist Control Act of 1954 of the United States, and here are some of the circumstances which may be considered as evidence of membership: 1. Whether a person has been listed to his knowledge as a member in any book or any of the lists, records, correspondence or any other documents of the organization; 2. That the person has made financial contribution or contributions to the organization in dues, assessments, loans or any other form; 3. That he has made himself subject to the discipline of the organization in any form whatsoever; 4. That he has executed orders, plans, or directives of any kind of the organization; and 5. That he has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization.

There are other circumstances mentioned but I cited those as circumstances which would tend to prove membership.

Senator SABIDO. Now, before I formulate a question bearing relation with the circumstances just read by Your Honor, I would like to formulate another question which is a consequence of the previous one. Now, which should be considered as determinative for the purpose of determining the matter of affiliation to the Communist Party or to any such party or association, the rules of the Party, of the organization or association, or the circumstances that Your Honor has just mentioned?

Senator PELÁEZ. I could say the individual conduct of the person should be given more weight than the rules of the party.

Senator SABIDO. Now, what I mean to say is this: Suppose under the papers of organization of the Communist Party or of any such subversive association or organization affiliation can only be considered as *fait accompli* after compliance with certain requirements, which should be considered determinative, compliance with the rules as required by the party or association, or the existence of any such circumstances as Your Honor has mentioned?

Senator PELÁEZ. I would say the latter, although the rules say certain requirements have to be followed and a person who has not complied with such requirements, judging by his conduct, is not a member of the Communist Party under foreign control.

Senator SABIDO. Your Honor will consider a person affiliated to the Communist Party or to anyone in such organization or Communist Party association even if, in accordance with the rules

of said Communist Party or such association or organization, said person is not yet a member?

Senator PELÁEZ. Well, I must say that those things are to be weighed properly. If, according to the rules, he is not yet a member although he acted as a member, he is not yet a member. If, according to the rules he is a member but according to his personal conduct he has not complied with the requisites of membership, he is not a member either.

Senator SABIDO. Your Honor now will agree with me that, perhaps, the criterion, the determinative factor for the purpose of determining whether a person is affiliated or not to the Communist Party in contemplation of this proposed bill, is not the circumstance of his membership in the Communist Party but the compliance with the rules and regulations of the Communist Party or such other association or organization.

Senator PELÁEZ. I would say that both are to be considered.

Senator SABIDO. Now, Your Honor, if we who are to approve this measure, and if Your Honor who is the sponsor of the bill can hardly determine who should be considered affiliated to the Communist Party or such other subversive organization or association, how can Your Honor expect the fiscal to properly determine, for the purpose of avoiding possible injustice, who are those primarily to be arrested under this bill?

Senator PELÁEZ. I would like to take exception to the first statement. As I said, one way of determining membership in a party is to consider the compliance with the rules of the party, and the other is to consider the conduct of the individual members. It is difficult to decide a general proposition without specific facts. A fiscal who has specific facts before him, would be able to decide better than Your Honor and myself who are discussing hypothetical propositions. So, I would like to take exception to the observation that I, as a sponsor, could hardly determine who should or should not be considered a member of the Communist Party. I said that, in the determination of membership, one has to examine the rules of the party on the one hand and on the other the individual conduct of the person who is accused of membership. Considering both, I think a proper evaluation of the evidence could lead the fiscal to a fair and just conclusion.

Senator SABIDO. All of which would be more subjective than objective. It will depend on the ability of the fiscal to pass judgment on certain acts and I will say in Spanish: "En este mundo

traidor nada es verdad ni mentira, todo es según el color del cristal con que se mira".

Senator PELÁEZ. May I remind that that proposition is applicable to all acts not only to this? A fiscal should have subjective judgment in judging any case. That proposition refers not only to this but to all human activities.

Senator SABIDO. While such fact is true, it is our duty to minimize as far as it is practicable that the fiscal may depend entirely on his personal opinion in harassing and prosecuting perhaps unjustly an innocent person. Does not Your Honor believe that, by making a crime of mere affiliation to any such party, without conditioning such affiliation to the performance of such other acts in his determination to adhere to the Communist Party or to any such organization or association, we are placing in the hands of unscrupulous persons a really very dangerous weapon?

Senator PELÁEZ. To prove membership, the prosecution must have to present evidence of an act on the part of the individual indicating adherence. Now, Your Honor says there is danger. Well, I say any authority placed in the hands of any person may be abused if he so wishes. I recall again my experience in the People's Court as Prosecutor where we prosecuted the *Makapilis* and the prosecutors could use their judgment and we did use our objective judgment as much as possible, and no one can say that anybody was unjustly accused by the People's Court for being a member of the *Makapili*.

Senator SABIDO. Has not Your Honor misgivings that the Communist Party itself which we condemn and try to punish may make use of this bill to prejudice so many innocent persons?

Senator PELÁEZ. In what way?

Senator SABIDO. How easy is it for the Communist Party to plant evidence and make the Government believe that certain officials with the Government are members of that party or associated with any subversive organization? It is very easy.

Senator PELÁEZ. That is why we have placed safeguards. Nobody can be accused on affidavits alone. It must be one where a preliminary investigation is made of the accused, he must be given the right to confront witnesses, that the testimony of two witnesses to the same overt act must be required in court, and the confession of the accused in open court. In this bill we are placing safeguards which do not exist now. The Communist Party may plant evidence and say that Mr. So and So is a communist. Under the present rules of evidence, there is no requirement of

preliminary investigation where the accused is given the right to confront the witnesses against him. There is no requirement of quantum of evidence and that is the testimony of two witnesses to the same overt act or confession of the accused in open court. In this bill we are meeting one of the abuses of democratic processes.

Senator SABIDO. Your Honor, as one of the brilliant prosecutors the country ever had and as a brilliant practising attorney, does Your Honor think that such safeguards are sufficient to avoid the commission of injustice or the prosecution of innocent persons?

Senator PELÁEZ. I believe so. I believe that we have gone far since 1949. I believe that the whole nation now is more conscious of civil rights and public officials exercise authority with greater consciousness of the need of exercising that honestly. Before I end this answer, I would like to take exception to Your Honor's very kind compliment. I have placed in the record that I have been your student. I wish to say that I was Your Honor's student in remedial law. The compliment should be returned to Your Honor.

Senator SABIDO. I really have very serious misgivings about this particular provision. So, when the time comes, I expect to introduce certain amendments in order that mere membership may not be sufficient unless accompanied by certain overt acts indicative of the determination of the alleged member of identifying himself with the objectives of the organization.

El Sen. LOCSIN. Señor Presidente, para algunas preguntas al ponente.

El PRESIDENTE. El ponente puede contestar, si le place.

El Sen. PELÁEZ. Con mucho gusto.

El Sen. LOCSIN. Abrigo ciertas dudas sobre la eficacia del remedio que se propone para combatir el comunismo. Mientras el caballero de Albay hacía sus preguntas, estaba yo pensando en las enseñanzas llenas de amor y caridad de Jesucristo, puestas en práctica con exaltación por San Francisco de Asís, con desprendimiento por San Antonio Abad y con espíritu de misionero por San Francisco Javier. El amor y la caridad pueden contrarrestar al comunismo con más eficacia que cualquiera ley punitiva que aprobemos para el efecto. ¿No lo cree así el distinguido ponente?

El Sen. PELÁEZ. No hay duda de que todo eso que menciona Vuestra Señoría, o sea, el espíritu cristiano, ayudaría mejor que cualquiera ley. Si pudiésemos dispensar todas las leyes, sin duda que lo haríamos justificándolo con el ejemplo de San Francisco de Asís. Pero, desgraciadamente, hace

falta esta sanción, porque a pesar de que el Gobierno ha tomado con empeño la campaña iniciada por el Presidente Magsaysay, de amistad total, inclusive hacia los comunistas, esto solo se ha visto que no ha sido completamente eficaz; pues, últimamente, los mismos líderes de la conspiración comunista han dicho que se valdrán de los procedimientos democráticos, de las mismas libertades civiles y hasta del mismo Cristianismo para derrotar a la democracia y suprimir nuestra libertad. Se ha visto que hay casos en los que se debe recurrir a la sanción de la ley. Ante esa declaración de que ellos, los comunistas, han de servirse de la fuerza legal o parlamentaria para lograr su objeto, es decir que van a recurrir a lo que ellos llaman lucha parlamentaria, debemos obrar aceptándola en el mismo campo parlamentario. Esto no quiere decir que debemos cambiar la actitud humanitaria en que el Gobierno ha tomado la iniciativa.

El Sen. LOCSIN. ¿No cree Vuestra Señoría que esa campaña de atracción y de amistad ha fracasado por falta de ambiente propicio? A las palabras de captación hay que añadir pan suficiente con que remediar los estragos del hambre; que las chozas de caña y nipa sean verdaderos hogares, nidales de amor de la familia filipina que es puntal de la sociedad que respeta al Gobierno y que es levadura del progreso del pueblo . . . La familia formada de filipinos contentos y felices que saben amar a Dios amando la heredad común . . .

El Sen. PELÁEZ. Creo con Vuestra Señoría que eso debe ser nuestro fin principal. Si embargo, hay ciertos organizadores del comunismo que, a pesar de cuanto hacemos en ese sentido, todavía rechazan las buenas intenciones democráticas. Por esto, es necesario aumentar la pena, mientras no hayamos llegado a esa medida de concordia cristiana, mientras los corazones de todos no se hayan convertido aún enteramente al Cristianismo. Es necesario entretanto la sanción de la ley.

El Sen. LOCSIN. ¿Por qué no valernos de los portentos del Cristianismo, de todas sus posibilidades antes de recurrir a estos medios punitivos?

El Sen. PELÁEZ. Durante la administración del Presidente Magsaysay se pusieron en ejecución los medios necesarios para ello, y tanto que el difunto Presidente les daba cuanto pedían, pero, a pesar de ello, no pudo conseguir que desistieran de su propósito contra el régimen democrático.

El Sen. LOCSIN. No negamos la afirmación de Vuestra Señoría de que durante la administración del Presidente Magsaysay se hizo todo lo posible; pero sabe muy bien Vuestra Señoría que el esfuerzo llevado a cabo hasta el presente no representa más que una gota de aceite de buena voluntad en el

océano de males que el Comunismo está causando . . . Vuestra Señoría sabe que el hombre es un animal de su ambiente y también sabe que no hay mal que el odio pueda causar que el amor no pueda corregir . . . La pobre Magdalena fué despreciada, pero luego fue redimida por la fe y el amor.

El Sen. PELÁEZ. Todo eso está bien; pero los comunistas no aceptan esos principios.

El Sen. LOCSIN. Tenemos el ejemplo dado por el distinguido Senador Laurel. Es ahora uno de sus mejores amigos el hombre que disparó contra el, disparo que por poco le siega la vida, siendo presidente durante la ocupación . . . Portento del amor que perdona.

El Sen. PELÁEZ. Lo cierto es que ciertos principios no los aceptan los comunistas, aunque creen que el Presidente Magsaysay hacía todo lo que podía para resolver los problemas sociales. ¿Qué hemos de hacer los Senadores del país cuando el enemigo está armado; y por qué no hemos de prepararnos para frustrarlo?

El Sen. LOCSIN. Se me hace cuesta arriba creer lo dicho por Vuestra Señoría de que el procedimiento empleado por el malogrado Presidente Magsaysay no ha dado buenos resultados.

El Sen. PELÁEZ. No dije eso; lo que quise decir fue que, a pesar de todo lo que venía haciendo el Presidente Magsaysay, los líderes del Comunismo en Filipinas no quisieron reconocer su ejecutoria, y, lejos de reconocerla, se nos vienen ahora con ese aviso de que van a entrar en la fase parlamentaria o legal de su plano en lo que atañe a la subversión o infiltración en los procedimientos democráticos.

El Sen. LOCSIN. ¿No se podría aislar ese pequeño grupo de recalcitrantes, en forma tal que esté completamente "encuarentenado" en la comunidad de un pueblo contento y feliz?

El Sen. PELÁEZ. Santo y bueno. Ese es el fin primordial de todas las actividades del Gobierno. Pero eso no quiere decir que hemos de tolerar esta parte débil de nuestras leyes. Como dije anteriormente, ahora, en una acusación por "asociación ilegal", en cada caso particular, el fiscal tiene que presentar pruebas sobre la naturaleza subversiva del Partido Comunista en Filipinas, cosa que todo el mundo la sabe y está probada por las circunstancias. Esto desde el punto de vista de la ley de procedimientos.

El Sen. LOCSIN. ¿Vuestra Señoría es de opinión que las leyes que tenemos en vigor no son suficientes para dar su condigno castigo a aquellos que lo merecen?

El Sen. PELÁEZ. Exactamente.

Tenemos esa confusión que hoy reina en la Corte Suprema. Hay el conflicto entre el ramo ejecutivo, la oficina del Procurador General y los miembros de la Corte Suprema, quienes no han llegado a un acuerdo hasta ahora sobre si hay o no delito complejo, como, por ejemplo, el delito de rebelión juntamente con otros como los de robo y asesinato.

El Sen. LOCSIN. ¿No se puede acusar a esos transgresores de la ley, por rebelión, asesinato, etcétera separadamente?

El Sen. PELÁEZ. Se puede. Pero lo que digo es que habría que repetirse la prueba en cada caso particular para demostrar la naturaleza subversiva del Partido Comunista, y, precisamente, este proyecto tiende a obviar esa repetición.

El Sen. LOCSIN. ¿Acaso no es bueno que se repitan las pruebas para aquilatar su consistencia o fuerza probativa?

El Sen. PELÁEZ. No creo que sea necesario repetir las pruebas. Todo el mundo sabe que existió en Norte América una organización subversiva y el Congreso norteamericano aprobó la "Communist Control Act" en junio de 1954, precisamente para evitar que se tuvieran que repetir las mismas pruebas, en cada caso particular, sobre su naturaleza subversiva.

El Sen. LOCSIN. Tengo para mí que semejante problema podría resolverse mejor recurriendo al amor y a la caridad; desde luego sin mengua de la justicia que sostiene el orden social. Me resisto a creer que con un remedio punitivo se pueda desarraigar el movimiento comunista. El Comunismo en Filipinas desaparecerá si nuestros propósitos y servicios se encaminaran a fomentar el bienestar público y ofreciéramos mejores medios de vida a todos los filipinos. No debe perderse de vista que el bandolerismo se multiplica cuando hay hambre. En Negros reinan notoriamente la paz y el orden público en tiempos de molienda; mas, terminada ésta, cuando hay escasez de trabajo, los asaltos, saqueos y robos son más frecuentes. Y, ¿por qué no decir francamente, señor Presidente, que la misma sociedad es en gran parte la responsable de tantas transgresiones de la ley? Pero el distinguido ponente, que es abogado, está en mejor condición que este humilde servidor para determinar la eficacia de la ley. Si bien es verdad que podemos dictar leyes severas contra los comunistas también es verdad que no podremos impedir que el Comunismo permanezca en el país, a menos que otorguemos a todo filipino el deseado bienestar que le haga feliz y contento dentro de nuestra democracia.

El Sen. PELÁEZ. Estoy del todo conforme con Vuestra Señoría, porque la caridad es el arma más fuerte que existe. Pero debemos ser realistas. Si Norteamérica no tuviera la fuerza atómica que tiene aunque ejerciera la caridad, el comunismo la atacaría. Quiero decir, en síntesis, que sin dejar de ser caritativos, debemos valernos de todos los recursos que estén a nuestro alcance para cortar de raíz el Comunismo.

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

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

Senator PELÁEZ. Gladly.

Senator SUMÚLONG. Suppose a person belongs to the group of what they call theoretical communists, and there are some like that, passive communists. There are many like that not only here but in the United States, and they are distinguished professors who confessed or admitted that at one time they were theoretical communists, like a member of the Atomic Energy Commission in the United States who admitted having associated with Communists at one time in the past, and a certain professor . . .

Senator PELÁEZ. Is Your Honor referring to Alger Hiss?

Senator SUMÚLONG. No.

Senator PELÁEZ. To a certain Mr. White? Oppenheimer?

Senator SUMÚLONG. No, he was formerly in the State Department. But there are persons like that. By reading so much, they become theoretical communists. They just believed in the idea. It may be a wrong idea, but at one time in their lives they believed in international Communism as the ideal social order. But being theoretical communists, they simply entertain the theory and they joined the Communist Party. Would that be sufficient to subject them to the penalties provided for in the bill?

Senator PELÁEZ. I would like to repeat what I have said—that belief in the idea, so long as this belief remains a belief, cannot be punished. We cannot punish the entertainment of such idea; we cannot say that a person must be sent to jail because he believes in communism; but if that person with that belief joins this group in the Philippines which we know to be subversive, called the Communist Party of the Philippines, then it is not merely a matter of belief, he has already moved from the realm of belief to the realm of action, and when he moves to the realm of action by joining a group of persons who have been proven to seek the overthrow of the Government by force and violence in order to place this country under

an alien domination, then he has left the field of belief and theory, he has gone to the field of action. Now, that latter part would be punishable.

Senator SUMÚLONG. No, but suppose precisely because he entertains that wrong belief he joins the Communist Party. He believes wrongly perhaps that our Government should be changed and that the Soviet Union is right in its desire to establish a communist world through force and violence; he believes that, and he joins, but he does not go beyond that; he does not take up arms; he does not disturb the public order; he does not incite the people who are of the orthodox belief. Would he become subject to the penalties provided for in this law?

Senator PELÁEZ. I think so. When one becomes a member of an organization, he subjects himself to the discipline of that party, and by joining that group, he has strengthened this conspiracy, and under the principles of conspiracy, knowing, as Your Honor said, that he believes that the Philippines should be placed under alien domination, under Russia, he believes that this Government is no good and, therefore, must be overthrown by force and violence, therefore, by associating himself with this conspiracy, that is, the Communist Party of the Philippines, I think he assumes responsibility for the acts of the other members. Knowing that it is not a mere belief, he has moved into the realm of action, I should think that that is a treasonous act for a person to think that the Philippine Government must be overthrown by force and violence, that this Government must be placed under the domination of Russia, and in pursuance of that belief he joined the Communist Party of the Philippines which we know has been all these years trying to subvert the Philippine Government; by his open identification with this communist movement, I think he commits a treasonous act.

Senator SUMÚLONG. I brought out this question because I think that it was also discussed in the United States very thoroughly; and, precisely, because they believed that punishing membership in the Communist Party simply because there may be persons who really believe in communism may bring about thought control, they never allowed this kind of legislation to pass in the United States.

Senator PELÁEZ. Yes. With Your Honor's permission, may I say that in the United States the punishment consist of the deprivation of civil rights. You cannot enter your name in elections, tax deductions are not allowed in the income, you are not allowed to use the mails, and it is ostracism which is punishment just the same. It may be

a different kind of punishment but it is punishment just the same.

Senator SUMÚLONG. But the entertainment of the belief is not made a criminal offense.

Senator PELÁEZ. Of course I believe with Your Honor that in the Philippines we should not, and I would like to state again for the record that in the Philippines mere belief, mere entertainment of the idea of communism, is not punishable. Now, what is punished here is the fact that a person becomes a member of this group which is called the Communist Party of the Philippines and it has been proven to have been engaged and is still engaged in acts to overthrow this Government through violence or other means in order to place the Philippines under foreign domination.

Senator SUMÚLONG. Now, suppose, Your Honor, that a group of young students who are radically minded have formed a society in which they drew up articles expressing their belief that our Government should be changed and that the idea of the Soviet Union should become the predominant idea throughout the world by all means; now, would that alone subject these students to the penalties provided for in this law?

Senator PELÁEZ. Would the constitution of that group say they believe so, that they would overthrow the government by the use of violence?

Senator SUMÚLONG. Yes, let us suppose so.

Senator PELÁEZ. Then, that is subversive because that attitude is not through the use of the idea by democratic processes, but once a person or a group of persons say, "Let us resort to arms to overthrow the government," the Government itself has a right to punish them. I would not blame them if they say, "We believe in communism. Let us work for it." How? By debate, by persuasion, by reason. All right. But the minute they say, "Let us take up arms. Let us make use of violence," that is criminal—not the belief but the means sought to promote the belief.

Senator SUMÚLONG. I beg to differ with the view of Your Honor, but let it go at that. I will pass to another point regarding the penalties imposed in this bill. I am referring to Section 3 of the amended copy that I have just received, page 4. Under this section, membership in the Communist Party or in any subversive association as defined in the bill is penalized with "arresto mayor," so that ordinary membership in the Communist Party or in a subversive association as defined in the bill is penalized by "arresto mayor" which is from one month and one day to six months. But if the member turns out to be an organizer or an officer,

which would constitute an aggravating circumstance, the penalty jumps to the extreme penalty, and the penalty imposed is "reclusión temporal" to death. Now, how can Your Honor explain that? We are supposing this to be a criminal offense in which the ordinary penalty is "arresto mayor." Why is it that when there is an aggravating circumstance, as when the accused is an organizer or an officer, instead of "arresto mayor" we impose the extreme penalty of "reclusión temporal" to death, which is even more drastic than the penalty for rebellion—simply because somebody is accused of being an officer of a certain communist organization he becomes subject to death while a person who has actually taken up arms and committed treason against the Government is subjected only to the lesser penalty prescribed in the Penal Code?

Senator PELÁEZ. I think there is a provision that one who takes up arms is subject to a penalty of "reclusión temporal" to death, page 6, lines 10-14. If Your Honor will permit me, I would like to give the background of the bill. The original bill provided for "reclusión temporal" to members and from "reclusión temporal" to death upon the founders, officials and leaders of the Communist Party. The Lower House, in considering the bill—and I believe Your Honor knows the bill that has come to us is a product of compromise—took into account the different opinions of the Congressmen and they amended the penalty of membership, and instead of "prision mayor" they provided "arresto mayor" only. Your Honor asks me, why the penalty of "reclusión temporal" to death instead of the ordinary penalty for rebellion? Well, as far as I can see, the reason why the penalty of "reclusión temporal" to death is imposed on organizers is, because the authors of the bill believe, and I think there is some reason for their belief, that the act of organizing the Communist Party of the Philippines with the specific purpose of using force and violence to overthrow the Government and placing this Government under alien domination is equivalent to treason. What makes it so is the purpose of placing the Philippines under alien domination; in other words, of delivering this country to the enemy, whereas rebellion is a purely domestic political crime. What is sought in rebellion is a change of government, not necessarily to place this country under alien domination. But the authors of the bill classify the act of organizing a communist party in the Philippines as similar to treason and, therefore, they have provided a similar penalty, and that is "reclusión temporal" to death, and that explains why in the Lower

House they placed section 4 that requires a quantum of evidence which is a requirement in treason, that is, the testimony of two witnesses to the same overt act and the confession of the accused in open court.

Senator SUMÚLONG. So, that under the philosophy of this bill a person who has risen publicly and taken up arms against the Government has committed a lesser crime which is rebellion, than a person who organizes a communist party without actually causing any public disorder? That is the philosophy?

Senator PELÁEZ. That seems to be the logical result of the amendment introduced in the Lower House to the original bill, but "arresto mayor" is really much lesser penalty.

Senator SUMÚLONG. Yes, Your Honor, although we should clarify that.

Senator PELÁEZ. And the organizers, according to this bill, shall be punished with "reclusión temporal" to death which is more than the penalty imposed on rebellion, and what aggravates it is the purpose of subjecting this country under alien domination, while rebellion is an internal political crime for the purpose of changing the government. Among Filipinos, therefore, rebellion should be punished with a lesser penalty.

Senator SUMÚLONG. Suppose a student who has some strange ideas about government organizes a society for the purpose of overthrowing our Government and placing it under the hands of the Soviet Union, but he does not organize any armed unit and what he simply organizes is a communist society, is he considered as having committed a more heinous crime than a rebel who actually rises publicly and by means of an army of his own tries to overthrow the Government?

Senator PELÁEZ. A rebel who fights the Government because he believes that certain wrongs are committed, because he believes that the country can be better governed under a group of people, is a Filipino motivated by patriotism. But this student with strange ideas who organizes a group to overthrow the Government by force and violence in order to subject this country to foreign domination commits a much graver crime than the man who takes up arms because he believes in a change of government for the better without seeking to place this country under the hands of aliens.

Senator SUMÚLONG. I sincerely believe, Your Honor, that a student with mere radical ideas is more or less dangerous to our Government than an inveterate individual who has organized a force

of his own and is actually shooting people in order to put down the Government. I am simply giving this hypothetical case because of the extreme penalty.

Senator PELÁEZ. There are many angles to be considered. The first thing I would do, if I were the prosecutor is to send him for examination in the mental hospital. But I say, a man who forms an organization for the purpose of overthrowing his government in order to place it under alien domination is a traitor and his guilt is worse than that of a man who will go up in arms after an election in order to fight the Government to redress a wrong but without being motivated by the desire to place the Government under Russia. I should think that the second case is not as grievous as that of a Filipino who wants this country ruled by aliens.

Senator SUMÚLONG. In this hypothetical case of the student cited by Your Honor, his actions do not fall within any offense under the Revised Penal Code. We cannot call him a traitor under the Penal Code.

Senator PELÁEZ. Precisely, the Revised Penal Code approved in 1931 could not have conceived what we have now, the cold war. We have the cold war now, the struggle between communism and the free world, but not what should be a shooting war. But at this moment we know there are agents of communism who, by the use of subversion and infiltration, will deliver this country to the enemy, and simply because these people have adopted new techniques, it does not mean that the crimes of these traitors are not bad. That is why it is necessary to redefine our concept and change the provisions of our laws to update them to present methods used by communists.

Senator SUMÚLONG. What strikes me in this bill is that ordinary membership is punished by *arresto mayor*, and if there are aggravating circumstances, the penalty to be imposed should be the next higher in degree, and that is, *arresto mayor* to *prisión correccional*. But instead of following that graduation of penalties, we put the extreme penalty.

Senator PELÁEZ. Following Your Honor's logic, we should increase *arresto mayor* to *prisión mayor*.

Senator SUMÚLONG. If he is an organizer or an officer, why don't we follow the penalty next higher in degree, which is *prisión correccional*?

Senator PELÁEZ. When Your Honor broached that idea a few moments ago, my first impression was really, why don't we reduce this penalty?

But on further consideration, the idea of the bill is to place these activities, such as organizing a communist party of the Philippines, on the same level as treason in war time. Now, if we reduce that penalty, we lose sight of the philosophic basis of that provision. I would ask Your Honor to consider that aspect of the bill and to consider whether it would not be better to increase *arresto mayor* to *prisión correccional*, and if there are aggravating circumstances, *prisión mayor*. But that is the reason as I can see it why *reclusión temporal* to death is provided here, and I think that conclusion is bolstered by the fact that, in order that this penalty may be imposed, we require the same quantum of evidence as we require in cases of treason—the testimony of two witnesses to the same overt act.

Senator SUMÚLONG. I would like to announce, Your Honor, that when the period of amendments comes, I would like to introduce this amendment to make sure that this bill will not punish mere belief, mere wrong belief.

Senator PELÁEZ. Oh, yes, I can go with Your Honor and say that expressly in the provision of the bill.

Senator SUMÚLONG. That mere belief in communism is not punished by this bill?

Senator PELÁEZ. Yes, Your Honor.

Senator SUMÚLONG. And when we come to penalties, I would like to announce also that I will never agree to imposing the death penalty on an organizer or even on an officer of a subversive organization as defined in this bill, because I am afraid that judging from the experiences we have had in the past, this may be prostituted into an instrument of oppression, especially against minorities.

Senator PELÁEZ. If Your Honor would prepare those amendments, and give me a chance to go over them, I think we can obviate discussion on the floor, and I would like to announce that I am ready to give most sympathetic consideration to any amendment that will strengthen the bill both ways—that it should be more effective against communism, and at the same time it should have enough safeguards to protect civil liberty.

Senator SUMÚLONG. That is all.

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

Senator PRIMICIAS. Mr. President, I would ask for suspension of the discussion of this bill until tomorrow.

The PRESIDENT. Is there any objection?
(Silence.) The Chair hears none. Motion carried.

INFORME DE CONFERENCIA

Senator PRIMICIAS. Mr. President, regarding Senate Bill No. 572, relative to the establishment of emergency hospitals and health centers in island municipalities, the conference committees of both Houses have arrived at an agreement signed by all the members. I submit the report and ask that the Secretary please read the same.

The PRESIDENT. The Secretary will please read the report.

The SECRETARY:

CONFERENCE REPORT

The Committee on Conference on the disagreeing votes of the two Houses relative to House Bill No. 572, entitled:

An Act to provide for the establishment of the Camotes National Hospital in the Municipality of San Francisco, Island of Camotes, Province of Cebu, authorizing the appropriation of funds for the purpose, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That said House Bill No. 572, as amended by the Senate by way of substitution, entitled:—

An Act to provide for the establishment of a first class dispensary in each of the following municipalities: Rapu-Rapu, Rapu-Rapu Island, Province of Albay; San Francisco, Camotes Islands, Province of Cebú; Párang, Bungo Island, Province of Cotabato; Buenavista, Guimarás Island and Carles, Gigantes Island, Province of Misamis Oriental; Biliran, Biliran Island and Liloan, Panaon Island, Province of Leyte; Binangonan, Tálím Island, Province of Rizal; Alabat, Alabat Island, and Polilio, Polilio Island, Province of Quezon; Babac, Samal Island, Province of Dávao; Anda, Anda Island, Province of Pangasinán; Dapa, Siargao Island, Province of Surigao; Sacol Island, Zamboanga City; barrio Pamarawan, Malolos, Province of Bulacán; San Carlos, Sipaway-Sipaway Island, and Sagay, Malocabok, Province of Negros Occidental; appropriating funds for the purpose,

has considered said bill by substitution and recommends that it be further amended and be approved so as to fully read as follows:

AN ACT TO ESTABLISH ISLAND EMERGENCY HOSPITAL UNDER THE BUREAU OF HOSPITALS AND FIRST CLASS DISPENSARIES AND HEALTH CENTERS UNDER THE BUREAU OF HEALTH AND PROVIDING FUNDS THEREFOR.

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

SECTION 1. There is hereby established, under the Bureau of Hospitals, Island Emergency Hospitals in each of the following Island Municipalities: In San Francisco, Camotes, Island; and Bantayan, Bantayan Island, Province of Cebú; Buenavista, Guimarás Island, Province of Iloílo; Naval, Biliran Island, Province of Leyte; Tablas Island, Province of Romblón; Dapa, Siargao Island, Province of Surigao. Each of which shall be under the management and supervision of the Chief who must be a physician of good re-