

El SECRETARIO:

(Informe Número 1777)

Mr. PRESIDENT:

The Committee on Education to which was referred Senate Bill No. 677, 3rd C. R. P., introduced by Senator Púyat, entitled:

An Act converting the present Philippines School of Arts and Trades into a college to be known as the Philippine College of Arts and Trades,
has considered the same and has the honor to report it back to the Senate with the following recommendation:

That it be approved without amendment.

Respectfully submitted,

(Sgd.) JOSÉ P. LAUREL
Chairman

Committee on Education

The Honorable

The PRESIDENT OF THE SENATE
Manila

El PRESIDENTE. Al calendario de asuntos ordinarios.

CONSIDERACIÓN DEL C. R. NO. 6584

(Continuación)

Senator PRIMICIAS. Mr. President, I ask that we resume consideration of House Bill No. 6584. The gentleman from Misamis Oriental will resume his sponsorship.

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

Senator PELÁEZ. Mr. President, I am now ready to answer further questions from the gentleman from Quezon and other colleagues who might want to propound questions.

Senator TAÑADA. Mr. President, will the sponsor yield?

The PRESIDENT. The gentleman from Misamis Oriental may yield if he so desires.

Senator PELÁEZ. With pleasure.

Senator TAÑADA. I would like to state that I am in favor of this bill and up to last night I did not really intend to take the floor because I saw that Senators Sumulong, Locsin, Sabido and Rodrigo brought up the questions that I intended to bring out. I do not mention here the name of the distinguished gentleman from Zamboanga del Norte who also took the floor because, I regret to state, I did not agree with his idea that communism should be defined in this bill. But last night, I tried to review the provisions of this bill and I thought that I should raise certain questions to clear certain doubts in my mind.

Senator PELÁEZ. And help improve the bill.

Senator TAÑADA. If possible. In the first page of this bill, there is a statement which reads:

"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) . . ."

Then:

"WHEREAS, 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 . . ."

Now, what is the basis of this assertion, the decision of the Supreme Court or the articles of incorporation or association of the Communist Party of the Philippines?

Senator PELÁEZ. The basis of that assertion is the confirmation of the Lower House. If Your Honor would examine the report of the Committee, the Committee on National Defense and Security of the Senate does not quite agree that the declaration that the Communist Party of the Philippines is an organized instrument of a conspiracy to overthrow the Government of the Philippines for the purpose of establishing in its place a totalitarian regime, was the finding of the Supreme Court in the Cases of People vs. Crisanto Evangelista and People vs. Capadocia, because we did examine the provisions or rather, those two decisions and found that the findings at that time did not go that far. As a matter of fact, this declaration that the "Communist Party of the Philippines, although purportedly a political party, is in fact an organized instrument of conspiracy . . ." etc., is an exact copy of the Communist Control Act of 1954 of the United States. Because of that, your Committee recommends that the reference to the cases of People vs. Crisanto Evangelista and People vs. Capadocia be made a separate whereas, and that the affirmation that the Communist Party of the Philippines is in fact an organized instrument of a conspiracy be made a separate whereas too.

I appreciate Your Honors' doubts that the declaration that the Communist Party is an instrument of a conspiracy is an affirmation of these two Supreme Court cases because actually if Your Honor examines those cases, Your Honor will find that they did not go that far.

Senator TAÑADA. As a matter of fact, Your Honor, let me bring out the fact that the Supreme Court, contrary to the impression given by this Section 1 of the bill, could not have ruled, even if it had wanted to, that the Communist Party was a conspiracy to overthrow the Government of the Republic of the Philippines for the purpose of establishing in its place a totalitarian regime because the Republic of the Philippines was not in existence then.

Senator PELÁEZ. Correct. It is for that reason that the Committee recommends that the wording be as follows:

"WHEREAS, IN THE CASES OF PEOPLE VS. EVANGELISTA, ET AL., (57 PHIL. 354) AND PEOPLE VS. CAPADOCIA, ET AL., (57 PHIL. 364), THE SUPREME COURT HAS CATEGORICALLY DECLARED THAT THE COMMUNIST PARTY OF THE PHILIPPINES IS AN ILLEGAL ASSOCIATION ORGANIZED TO DISTURB THE PEACE OF THE COMMUNITY AND THE SAFETY AND ORDER OF THE GOVERNMENT, DISTURB AND OBSTRUCT THE PERFORMANCE BY LAWFUL AUTHORITIES OF THEIR PUBLIC DUTIES, STIR UP THE PEOPLE AGAINST THE LAWFULLY CONSTITUTED AUTHORITIES, AND INCITE THE PEOPLE TO REBELLION AND THE ULTIMATE OVERTHROW OF THE GOVERNMENT;"

That is much closer to the wordings of the Supreme Court findings in the cases of People vs. Evangelista and People vs. Capadocia.

Senator TAÑADA. Yes, but then what would follow that *Whereas* on the findings that the Communist Party of the Philippines is an illegal association?

Senator PELÁEZ. Then the next paragraph would be: "Whereas, 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 . . ."

Senator TAÑADA. If that is the *Whereas* that the Committee proposes to submit to this Body, may I ask the question: Could we make such a finding and in effect declare an association illegal in this Body?

Senator PELÁEZ. There is no definite ruling on that because the case has never been brought to the highest courts, either of the Philippines or of the United States, but there have been similar cases which involved the constitutionality of the Internal Security Act of 1950 of the United States, and although the decisions of the Supreme Court of the United States are not binding on us, they have persuasive effect, and in those cases it has been held that where it is found that a particular group of persons carrying on activities continuously for a long period of time presents a clear and present danger to the security of the country, the State, through Congress, has a right to call that what it is, and that is, that it is really a conspiracy to overthrow the government. It does not mean that the Supreme Court can pick out any political party and say, "This political party is subversive." There must be a background of an extensive investigation, there must be a background of circumstances conclusive in nature to prove that actually a group of persons are engaged in a conspiracy to overthrow the government, and that would fit only the Communist Party of the Philippines.

Senator TAÑADA. Why don't we just make a statement of facts and acts that would constitute an offense, and not pronounce here or declare here that a certain organization is an illegal association? It is true that the CAFA has conducted an extensive investigation, but that is an investigation that does not satisfy the rules of due process, because in those investigations the parties who are declared to be illegal associations, or to compose an illegal association, were not heard. If the Supreme Court had declared the Communist Party of the Philippines an illegal association because it was organized to subvert the Government of the Republic of the Philippines by means of force, perhaps we could here reiterate such a ruling, but Your Honor has admitted already that the Supreme Court could not have declared the Communist Party of the Philippines as an illegal association because it was organized to subvert the Government of the Republic of the Philippines, and therefore, without such a declaration, it is not for us to investigate and then decide that a certain association is illegal. It is purely, in my opinion, a judicial function.

Senator PELÁEZ. Well, there is authority to support the contrary view. As a matter of fact, the doubt raised by Your Honor was raised even in the Lower House, and the opinion of the Secretary of Justice, Mr. Justice Pedro Tuason, was sought, and on February 28, 1957, he rendered the following opinion, precisely with respect to the procedural aspect of this matter, and he says:

"Procedural due process does not, I believe, present any problem. As pointed out earlier, guilt of an individual person must, under the bill, be judicially determined. I do not think that either procedural or substantive due process requires that the harmful and vicious character of objectives of a particular organization must be judicially ascertained before membership therein with knowledge of those objectives can be prohibited. It has never been asserted that Congress cannot constitutionally penalize a particular act it believes inconsistent with the welfare of the people without a judicial determination that such act is, as a matter of fact, repugnant to the public welfare.

"The standard of due process is adequately met where some rational connection is sought between a substantive interest which Congress has a right to protect and the statutory means of protection, and where such means are not in themselves so unreasonable, arbitrary and oppressive as to be shocking and unendurable to the conscience of our policy. (See e.g. *Holden v. Hardy*, 169 U.S. 366, 42 L. ed. 780; *Nebbia v. New York*, 291 U.S. 502, etc.) Security from overthrow by force and violence is certainly a substantial enough interest for the Government to protect.

Senator TAÑADA. I am not questioning that.

Senator PELÁEZ. Now the opinion goes on to say:

"As was aptly said by Mr. Chief Justice Vinson, 'this is the ultimate value of any society, for if a society cannot protect its very structure from internal armed attack, it

must follow that no subordinate value can be protected.' (Dennis v. U.S. [1951])

And now comes the question Your Honor has raised:

"The naming of an association which Congress has found to be rigidly devoted to the forcible destruction of the government and the penalizing of informed membership therein, whatever one may think of its wisdom, desirability or probable efficacy, can scarcely be regarded as devoid of any reasonable relation with the safeguarding of the security of the State. And insofar as the freedom from unreasonableness and arbitrariness of the specification of the Communist Party is concerned, I believe that is sufficiently shown by adverting to the prolonged investigations into the nature, strategy and tactics of the Communist Party of the Philippines conducted by the Congressional committee where extensive evidence was taken, to the voluminous evidence submitted and analyzed in the Politburo cases, as well as that which the Supreme Court had before it in *People v. Evangelista*. It seems clear that the naming of the Communist Party and the determination as to its objectives are not without rational and substantial basis.

"At least persuasive support for the view taken above is afforded by recent decisions holding in effect that Congress may, consistently with the Constitution, find the facts on the basis of which membership in a named organization may be made to carry with it special burdens and disqualifications."

And the opinion goes on to support *American Communications Association vs. Douds* more or less to the same effect as the opinion of the Secretary of Justice.

Senator TAÑADA. Yes, but those cases, as far as I recall, merely prove in a sense that Congress could state that certain facts or acts, if they create a clear and present danger to society, could be penalized. But what we do here, Your Honor, is to pass judgment upon the Communist Party of the Philippines without the said party having been given the opportunity to show that at present it is no longer organized as it had been organized before, because when it was declared to be an illegal association by our Supreme Court in the two cases cited in the bill, its purpose was to subvert a foreign government, the American Government. Its objectives now may be different. So, I believe that we could not properly state that this association which was declared to be an illegal association by the Supreme Court is an illegal association now.

Senator PELÁEZ. I am sorry to say I do not agree with Your Honor's impression when the court passed upon these cases. Before the Communist Control Act of 1954 of the United States, there were numerous cases where being a communist was a ground for deportation. For instance, there were many state laws where the communist party had been designated.

Senator TAÑADA. May I please interrupt Your Honor for a while? The State could enact laws making membership in the Communist Party a ground for deportation but before he is deported . . .

Senator PELÁEZ. No, membership in the International Communist Party. In several laws of the United States, for instance, membership in the Communist Party was declared to be ground for deportation. In this particular case of *Peterson vs. Nichols*, which was an habeas corpus proceedings by an alien ordered deported because of his affiliation to the Communist Party, the court denied the writ saying, and I will go to the pertinent part: "The cause therefore is whether Congress may constitutionally designate the Communist Party as an organization which advocates the overthrow of the government by force and violence." The laws specifically stated the Communist Party. Now, the court goes on to say that, "in Title I of the Internal Security Act of 1950 Congress has made numerous findings on the nature and objectives of the Communist Party of the United States. On the basis of these findings, Congress clearly contends that the Communist Party of the United States is an organization which advocates the overthrow of the government by force and violence. It is clear from this that the findings as to the nature of the Communist Party of the United States were made by Congress itself in a congressional act and not by judicial proceedings. So, I would like to say I cannot agree with Your Honors' impression that in these cases in the United States there was a necessity for a judicial finding as to the nature of the Communist Party.

Senator TAÑADA. Well, I am sorry too that I cannot agree with those laws. Frankly, I admit that Congress is acting within its authority when it declares certain acts as constituting an offense. It cannot, in my opinion, declare certain associations or persons as guilty of said offense. But let us go to another point.

Senator PELÁEZ. I respect Your Honors' opinion but this has been the trend of the findings of jurisprudence in the United States at least and I cite them as persuasive. Of course, we finally agree that the Supreme Court of the Philippines will be free to decide which theory to adopt.

Senator TAÑADA. What is the objection, Your Honor, to just stating the facts that would constitute the offense? For example, that an association organized for the purpose of subverting the government by the use of force and violence and for the purpose of bringing our government under

the control of a foreign power is a subversive organization, and not say the Communist Party is a subversive organization. Don't we cover the Communist Party in that provision of the bill?

Senator PELÁEZ. I have already explained that procedurally it is better that the Communist Party of the Philippines be so designated. If we were to say simply an organization whose purpose is to overthrow the government by force and violence is an illegal organization, in every prosecution we would have to present evidence as to the nature of the Communist Party of the Philippines, and Your Honor and I know how difficult that is where the Fiscal would have to be presenting and presenting the same evidence in every particular case, whereas with congressional finding that we have in our midst, in the Philippines, a communist party that is in fact not a political party but a group which has been engaged in attempts to overthrow the government, that congressional finding will be accepted by the court and there will be no necessity for bringing evidence.

Senator TAÑADA. That is precisely the objectionable part of it, that the findings of Congress will bind the court.

Senator PELÁEZ. It has been done in the case of the Communist Act of 1954, it has been done in the Internal Security Act of 1950 and it has been done in numerous laws in the United States.

Senator TAÑADA. Just to save the prosecution from the trouble of calling witnesses. Your Honor made reference to our experience in the People's Court. Right. We have to call witnesses every time a case of the *Makapili* was tried, but, we have been able to go through it. Why don't we go through this same procedure again?

Senator PELÁEZ. Your Honor knows that that is a waste of effort and energy where we have to call the same witness to testify before the same Judge and under the same circumstances every time that a case comes up, and I refer to the case of the *Makapili* before the Peoples' Court. We are only presenting those cases in one court, but the prosecution of cases against the members of the Communist Party will be before courts in different places of the Philippines. Then Your Honor will have to be reiterating exactly the same evidence in court; yet, we know it is an incontrovertible fact that the so-called Communist Party of the Philippines has continued to be engaged in numerous activities to overthrow the government.

Senator TAÑADA. I think the Government and the State are required to spend effort no matter how convinced they are of the guilt of the accused in

order to protect the rights of persons accused. We should not spare efforts and expense just so that we can expedite the trial of cases.

Senator PELÁEZ. As far as the guilt of the accused is concerned, the Government has to present convincing proof of that. But I am referring to the proof and nature of the Communist Party of the Philippines which are incontrovertible.

Senator TAÑADA. Your Honor, the nature of the Communist Party of the Philippines is an indispensable element of the offense committed and without proof of that element you cannot convict the accused, and yet, the Government says that, insofar as this important element is concerned, the court is bound to recognize that the Communist Party of the Philippines is an illegal association.

Senator PELÁEZ. May I ask Your Honor a question? Does Your Honor believe or not that the Communist Party of the Philippines is and has been in the past engaged in an attempt to overthrow the Government of the Philippines by force or violence?

Senator TAÑADA. Frankly, Your Honor, I do not know until now whether there is a communist party of the Philippines as entertained by Senator Cea, the distinguished gentleman from Camarines Sur. I really don't know whether the Communist Party of the Philippines really exists, and as to its membership I do not know who the members of that communist party are.

Senator PELÁEZ. Does not Your Honor believe that the Communist Party of the Philippines which was headed by the Politburo members who were captured in September 1950 under the leadership of Jesús Lava, Angel Baking and others, and headed at present in the field by Jesús Lava and Casto Alejandrino and the other heads of this organization, who have been identified these many years as having been responsible for the depredations of the *Hukbalahaps*, actually exists? And when I say Communist Party of the Philippines, I refer to this group. Is not Your Honor convinced that this group is engaged in a conspiracy to overthrow the sovereignty of the Philippines?

Senator TAÑADA. That group may or may not be engaged in the activity referred to by Your Honor. But it does not necessarily mean that they are the Communist Party.

Senator PELÁEZ. I am informing Your Honor . . .

Senator TAÑADA. I have to be shown.

Senator PELÁEZ. . . . that the evidence in the hands of the Government, as in the case of the killing of Dña. Aurora Quezon, shows that this was done by the Huks who are members of the Com-

munist Party of the Philippines, that is, it was instigated by the Politburo members. In the conferences between the CAFA and the Politburo members in Muntinglupa, these Politburo members said: "We are the Communist Party of the Philippines and we shall continue to struggle against the Government to overthrow and place it under international communism." In the face of that evidence, I for one, am convinced that there is a Communist Party of the Philippines engaged in an attempt to overthrow the Republic of the Philippines for the purpose of placing this country under a totalitarian regime. Now, if that evidence is not sufficient for Your Honor, I respect Your Honors' opinion.

Senator TAÑADA. Frankly, I do not know whether there is still a Communist Party of the Philippines, and I share the view expressed here by Senator Cea, the gentleman from Camarines Sur.

Senator PELÁEZ. Does not Your Honor admit that Jesús Lava is now in the hills, and also Castro Alejandrino, and that they are the heads of the *Hukbalahaps* and they are engaged in the fight against the Government? When I said "Communist Party of the Philippines", I refer to this group. Is not Your Honor convinced that these men are actually engaged . . .

Senator TAÑADA. But I do not know whether they are members of the Communist Party of the Philippines. Really, I do not know.

Senator PELÁEZ. Your Honor even closes his eyes to the amnesty proclamation.

Senator TAÑADA. The amnesty is there, but that does not prove the existence of the Communist Party.

Senator PELÁEZ. But Taruc came within the benefits of that amnesty and he is a communist. I, for one, believe that the evidence is overwhelming.

Senator TAÑADA. Your Honor asked for my opinion. I gave Your Honor my sincere opinion. I cannot say honestly and categorically that there is still a Communist Party of the Philippines.

Senator PELÁEZ. Could Your Honor tell me then whether Jesús Lava is carrying on under any other organization—Jesus Lava and Castro Alejandrino—whether they are carrying on under any other organization?

Senator TAÑADA. Yes, they are carrying on the movement, but that does not mean that they are the Communist Party of the Philippines. They may be subversive, but that does not mean that their movement is connected with the Communist Party of the Philippines.

Senator PELÁEZ. Well, that is Your Honors' opinion. So, Your Honor is therefore not convinced that Jesús Lava and Castro Alejandrino are communists, that they have any ties with international communism?

Senator TAÑADA. I have no evidence before me on the basis of which I can state that they are communists. But, Your Honor, the mere fact that they are communists does not establish the fact that there is a Communist Party in the Philippines. There may be thousands and thousands of communists here, but if they have not organized themselves into a party, there could be no Communist Party. The existence of Communists or one thousand communists in the Philippines would not prove the existence of a party if they have not organized themselves into a party or that party.

Senator PELÁEZ. In that case, we are closing our eyes to the overwhelming evidence in the hands of the Armed Forces of the Philippines—documents captured evidencing the activities of these people. There had been investigations into this matter and the CAFA has made extensive investigations. They have gone over these documents and these documents are ready for Your Honor's inspection. They are in the Intelligence Section of the Army and I should say that we should give weight to the findings of the Armed Forces of the Philippines. All these years we have been appropriating money to fight Communist subversion in the Philippines, to fight Jesus Lava and the Communist Party of the Philippines. Of course, as Your Honor has said, Your Honor does not know whether they are the Communist Party or not, but as far as I am concerned, the evidence is so overwhelming that this group headed by Jesús Lava and Castro Alejandrino are communists and have ideological ties and organizational ties with international communism. The gentleman from Samar (*referring to Senator Rosales*) even said that there have been Stalin universities here.

Senator TAÑADA. Well, there can be Stalin universities here, but that fact does not establish the question at issue that there is a Communist Party.

Senator PELÁEZ. The evidence in the hands of the Army is overwhelming to establish that there is a Communist Party in the Philippines.

Senator TAÑADA. As Your Honor has said, there are now documents or evidence in the hands of the Army and the CAFA which, according to Your Honor, are overwhelming proofs of the existence of the Communist Party here. Is there any document in their possession, such as the articles of incorporation of the Communist Party where the

signatures of Jesús Lava, Castro Alejandrino and others appear? In other words, are there articles of incorporation containing the signatures of the members and officers of the Communist Party?

Senator PELÁEZ. I am not certain that there are articles of incorporation, but I am so certain that there are documents containing the signatures of these leaders and proclaiming the overthrow of the Government and placing the country under the control of international communism.

Senator TAÑADA. Certainly, I would appreciate it if Your Honor can show me the documents containing the signatures of the gentlemen mentioned by Your Honor showing that they are members of the Communist Party of the Philippines.

But let us go to another point, because I think, no matter how much we argue on that point, there is no way of arriving at . . .

Senator PELÁEZ. If the gentleman will go along with me, I am going to convince him and I can say that Jesús Lava and Castro Alejandrino are in the mountains . . .

Senator TAÑADA. I am very slow in calling people communists and I need evidence to call Lava and Alejandrino communists. They may be in the mountains but they may have other reasons for being there. I am really careful about saying that a certain person is communist.

Senator PELÁEZ. The members of the Politburo said categorically to the CAFA that they are part of the organization.

Senator TAÑADA. Let us go to another point. Inasmuch as the gentleman has announced that the Committee will introduce amendments radical in nature in my opinion to Section 1 of the bill, does the Committee, may I know, propose to introduce amendments to Section 2 of the bill?

Senator PELÁEZ. Sec. 2 says that the "Congress hereby reiterates the findings of the Supreme Court mentioned in section one hereof . . .". We propose making a statement without mentioning any reiteration. This was, as I said, a product of a compromise in the Lower House, and whereas the original bill categorically said that the Congress finds or outlaws the Communist Party of the Philippines, the bill that came out was a product of a compromise, and the declaration was a reiteration of the findings of the Supreme Court. Now, I have studied that matter carefully and I have discussed it with other members, and I believe it would be best that Congress make a declaration without making any reference to the findings of the Supreme Court.

Senator TAÑADA. I think really the way Section 2 is worded is erroneous.

Senator PELÁEZ. It is.

Senator TAÑADA. Considering the importance of this bill and the announcement made by the Committee that it will introduce amendments thereto, would it be asking too much if we could be furnished with the written amendments?

Senator PELÁEZ. I think my Committee has furnished the Senators with a copy of the bill with the amendments.

Senator TAÑADA. It was not sent to my office. Could I have a copy right now with the amendments?

Senator PELÁEZ. Well, the amendments are interspersed in the original text of the bill.

Senator CEA. Mr. President, will the gentleman from Misamis Oriental yield for a few clarifying questions?

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

Senator PELÁEZ. Willingly.

Senator CEA. Since we started debating on this measure, the question has been raised continuously whether the Communist Party has been outlawed in the United States. With Your Honor's permission, I would like to read a very short article which appeared in the May 21, 1954 issue, pages 56 to 57 of the U. S. News and World Report. The title of the article is: "IS BEING RED A CRIME?" The article is in the form of questions and answers, and by leave of the Chair and of the distinguished sponsor, I would like to read into the record this article that appeared in the magazine that I have mentioned.

Senator PELÁEZ. Before Your Honor does that, I would like to make this statement. Regardless of the opinions expressed in that article, there is in the statute books of the United States Public Law No. 637 entitled, "An Act to Outlaw the Communist Party, to Prohibit Members of Communist Organizations from Serving in Certain Representative Capacities, and for Other Purposes."

Senator CEA. Is that the Smith Law that was approved in 1940?

Senator PELÁEZ. No, 1954.

Senator CEA. It must be an amendment.

Senator PELÁEZ. Well, there had been many. There was the Internal Security Act of 1950, but this is the latest, Communist Control Act of 1954. Therefore, I say, regardless of any opinion which may be read into the record, I have before me this law which is in the statute books of the United States outlawing the Communist Party of the United States.

Senator CEA. What is the title of the Act?

Senator PELÁEZ. An Act to Outlaw the Communist Party, to Prohibit Members of Communist Organizations from Serving in Certain Representative Capacities, and for Other Purposes," Public Law No. 637 of the United States.

Senator CEA. Now this article I am going to read will have a great bearing on the question. This may help the Committee and the members of the Senate.

"Is it unlawful to belong to the Communist Party in the United States today?"

"No. Membership in the Communist Party is not, of itself, illegal in this country, although there have been a number of moves to get Congress to outlaw the party.

"But do Communists enjoy all the privileges of other persons?"

"No. For one thing, they cannot legally work for the U. S. Government. Nor can they legally be officers of the Army, Navy or Air Force. A Communist cannot be an officer of a union if that union is to have any dealings with the National Labor Relations Board, under the Taft-Hartley Act. A Communist alien is deported. The party is barred from the ballot in 23 States, so that no member can run for office as a Communist in those States. But a Communist is not barred from voting for candidates of other parties.

"The Government prosecutes Communists, doesn't it?"

"Yes, sometimes, but not just for being Communists. They usually are brought into court for criminal offenses under the Smith Act, passed in 1940.

"On what grounds are they prosecuted?"

"They usually are tried under a provision of the Smith law that makes it a crime 'to knowingly or willfully advocate, abet, advise, or teach the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence.' ('Any government' includes a State or city government.) A number of Communist leaders have been caught by this law; altogether, there have been 105 indictments and 67 convictions.

"Is membership in the Communist Party considered a violation of the Smith Act?"

"No. The Government must prove that a Communist advocated the overthrow of the Government by force or violence, or conspired to do so. Membership in the party is only one part of that proof. Incidentally, the Smith Act is aimed at other subversive groups, too, not just Communists.

"Then the Communist Party by itself is not regarded by the courts as a conspiracy?"

"No, though some officials insist that it involves a conspiracy against the U. S. Government.

"Then why don't officials advocate outlawing the party?"

"A number of arguments against such action are advanced. These have just been outlined by Attorney General Herbert Brownell, Jr., to Congress, which has before it more than a dozen bills to outlaw the Communist Party.

"Here are some of the main objections raised against outlawing the Communist Party: It would tend to drive the Communists 'underground,' making it more difficult for

the Federal Bureau of Investigation and others to keep track of them; there is considerable doubt of the constitutionality of such a law; it would interfere seriously with present methods, under present laws, of dealing with subversive groups; it would be hard to administer, with an estimated 25,000 party members subject to prosecution; and Government 'informers' in Communist groups might be exposed.

"What new ways are proposed for dealing with the matter?"

"Only last week, the Attorney General, with approval of the White House, sent to Congress two new proposals for dealing with Communists. Under one of them, the Administration could bar from civilian-owned plants and facilities persons believed likely to engage in sabotage, espionage or other subversive activities. The other proposal would bring a sharp crack-down on Communist-dominated unions."

This is what appears in this issue of the U. S. News and World Report, dated May 21, 1954.

Senator PELÁEZ. May I call Your Honor's attention to the date, May 21, 1954? At that time the Communist Control Act of the United States had not yet been approved by the Congress.

Senator CEA. What is the date of that Act Your Honor mentioned?

Senator PELÁEZ. It is after that, because at that time, as Your Honor says, there was no declaration that the Communist Party of the United States was a conspiracy to overthrow the government. Precisely that was part of the discussion of this bill which was then pending, and after that the United States declared, through the Communist Control Act of 1954, categorically that the Communist Party was a conspiracy to overthrow the government.

Senator CEA. The question now is, is membership in the Communist Party in the United States a crime by itself?

Senator PELÁEZ. Yes, it is, in this sense, that one suffers heavy civil disqualification.

Senator CEA. That is right, but I mean, from the penal point of view, may he be prosecuted for being a member of the Communist Party? That is the question here. I would like to tell Your Honor I am in favor of depriving Communists of the right to hold positions in the Government. I am in favor of that. But to send them to jail, to outlaw a party that does not even exist here with us, whose existence I doubt, frankly . . .

Senator PELÁEZ. But how can Your Honor say that Your Honor will not allow them to hold positions if Your Honor does not know that they don't exist?

Senator CEA. There may be communists, but there may not be a Communist Party.

Senator PELÁEZ. We are not punishing a person for believing in Communism. In the United States there has been no armed uprising. There is no *Hukbalahap*. The Government has not been engaged in a desperate struggle as we are engaged with the *Huks* who are the military arm of the Communists. That is why we have gone this far. Does not Your Honor think this is a punishment for the communist, when he cannot run for a public office, when he cannot hold a public office, when he cannot use the mails, when he cannot make income tax deductions?

Senator CEA. I am in favor of that but why does not Your Honor adopt the same kind of law?

Senator PELÁEZ. Because in the United States things have not gone as bad as they have been here. In the United States the communists have not used arms, they have not resorted to uprisings, they have not resorted to armed violence. Here it has reached a point where the fight against communism is a yearly drain on our budget. Now, we have to give a remedy suited to the offenses committed. We know now, at this moment, that Castro Alejandrino and Jesús Lava are leading armed uprisings against the Government. They are the leaders of the Communist Party and if in spite of that, a Filipino becomes a member of that party and submits himself to the discipline of that party, I say he is guilty of treason and he must be punished as a criminal.

Senator CEA. By those remarks Your Honor has made, Your Honor means to say that we have no law at present whereby Lava and company can be prosecuted?

Senator PELÁEZ. I say we have no sufficient laws to deal with them considering what is happening in the Supreme Court now where it is held that the leaders of the party that ambushed Mrs. Quezon are guilty at least of a complex crime but, because of technicalities, they can not be penalized although they inspired those killings and depredations. In such a situation, why should we not act now considering that those laws are not sufficient at this moment to cope with the communist conspiracy?

Senator CEA. That *impasse* Your Honor mentioned in the Supreme Court is not because we have no laws penalizing subversive activities, but because of the definition of complex crime. If that is the view point of Your Honor, let us amend the Penal Code about complex crime.

Senator PELÁEZ. The real object of the Communist Party of the Philippines is to seize the Government and place it under a foreign domination. Why do we have to go around seeking

technicalities? What we want is to put down the Communist Party of the Philippines which seeks to overthrow our Government.

Senator CEA. This is a matter of procedure but as far as I am concerned, we would rather amend the Revised Penal Code.

Senator PELÁEZ. But I am telling Your Honor that, rather than amend the Revised Penal Code and go around technicalities, we should go straight to the point knowing that the Communist Party is engaged in an attempt to overthrow our Government, knowing the depredations they have committed against the civilians, knowing their object to place our country under alien domination, so that any Filipino who becomes a member of that party is, in my opinion, guilty of treason, and, therefore, is a criminal.

Senator CEA. The distinguished sponsor is guilty of fallacy of logic. *Petitio principii fallacia*.

Senator PELÁEZ. We are not judges, but legislators, so, we cannot judge them whether they are guilty or not.

Senator CEA. But then we can agree on the principles enunciated. But why do we consider membership in the Communist Party as a crime when in the United States they don't?

Senator PELÁEZ. My answer to that is because in the United States there has been no armed struggle and no uprising. The communist leaders here must be much more aggressive than their counterpart in the United States.

Senator CEA. With that reply, Your Honor admits now that in the United States the Communist Party is not outlawed by the Government as we are now trying to outlaw it in this bill.

Senator PELÁEZ. I did not say that it is outlawed. When I read to Your Honor the title of the Communist Control Act of 1954 it was to justify our act of outlawing the Communist Party of the Philippines since the Communist Party in the United States is outlawed.

Senator CEA. From Your Honor's point of view the members of the Communist Party in the United States are deprived of holding public office and of being members of labor unions that have something to do with labor relations, but they are not considered as criminals. And this is my last reminder. Your Honor has read in the papers about two months ago that the Communist Party held a national convention in the United States. That is a matter of public knowledge. Now, if mere membership in the Communist Party is a crime how can they come out and meet in an open national convention?

Senator PELÁEZ. I do not believe they held a national convention.

Senator LAUREL. Mr. President, will the distinguished sponsor of this bill entertain a few questions to give way later on to a motion that I have in mind?

The PRESIDENT. The sponsor may yield if he so desires.

Senator PELÁEZ. It will be an honor to entertain the observation of a distinguished jurist.

Senator LAUREL. The Senator will remember that the first time I was called for a meeting of the Committee to discuss this measure, where I was given a copy of the bill approved in the Lower House, I made certain observations rather hurriedly because I had to go to my room to attend to some important visitors. I remember that the manner in which the first section of the bill was drafted—and I am referring to the bill passed by the Lower House which incorporates practically the decision of the Supreme Court by reference on the Evangelista, Capadocia and other cases—was rather a singular way of enacting a law and so I suggested that perhaps we could enact a bill of some kind stating in the preamble some of those things that were in Section 1 of the bill as approved by the Lower House. The sponsor of this bill seemed to have accepted that idea and made the corresponding correction, and we have what was originally Section 1 as the preamble of this bill now submitted for consideration before this Honorable Body. I think I will call attention to certain objections that I had in mind at that time but I did not then have time to do so. My objectives are not only formal but substantial. Now, after hearing the observations made here I am strengthened in my belief and conclusion that this bill as it is now—although I would not be so—looks mutilated to me and I would not be proud to see a bill, as this one appears now, approved by the Congress of the Philippines. For instance, even with the amendments introduced by the Committee, still several “whereases” should be corrected so that they will be harmonious, elegant and worthy of a measure to be adopted by Congress passing through the Senate. So, I think we need time for that, if it will not take much of the time of the gentleman who has a literary mind.

Senator PELÁEZ. I would rather have Your Honor's views on the matter.

Senator LAUREL. Many of these “whereases” could probably be incorporated in one whereas, and several portions of one whereas could probably be separated

from a particular whereas. But all this that I have indicated is a matter of form.

Again in Section 1 as modified or amended in the Senate, we repeat the mistake—I consider it a mistake, with due apology to the Lower House—we reiterate the findings of the Supreme Court. It is not necessary. I think that this bill can stand better without mentioning what the Supreme Court said and without these Whereases. There is no necessity for this reiteration so that the law would appear to be more elegant.

Now, coming to the substance of the measure, I find a great deal of discrepancy. A certain degree of legislation, and there are many which do not, should reflect upon and impress our people, and considering the observations made here, the best way to fight communism and the objectionable features of communism is not by legislation but by better government. In a democracy, in the free market of ideas, the best way to fight communism in all democracies not excluding the Philippines, is to show that democracy at work is much better than communism and that our people instinctively, not only because of their religious beliefs but also because by actual experience and prompted by self-interest and the interest of preserving freedom in the free market of ideas as pointed out by Justice Holmes, would go to the market and pick up that idea which is calculated to serve the paramount interest, promoting and enhancing their welfare and their well-being. This practically is embodied in the statements and observations of other people. The idea there is—well, I do not know—but there are times when death does not strike any terror in the hearts of free men when they believe that they are making use of a right guaranteed by the Constitution. I am speaking of these things, because there was a time when I was to be arrested with other friends who were suspected of being communists or of having communist leanings, and I am not very sure that we have embodied all the guaranties and securities to avoid and prevent the repetition of these prosecutions notwithstanding the incorporation of the requirement with respect to the testimony of at least two witnesses to the same overtact or to the confession of the accused in open court. I am not sure that the requirement with reference to the investigation and prosecution to be undertaken by the Department of Justice will be enough so as to quiet or produce a peace of mind, because if the head of the state is unscrupulous, arbitrary and oppressive, he can make use of the department of justice and the head of the department of justice, as was shown in the past,

is at the disposal of the Chief Executive. And then what can the prosecutors and the fiscals do to protect the rights and liberties of our people? So, I am now almost convinced that we need a certain degree of reflection and further study in connection with this bill. I want to say, lest I be misunderstood again as I have been accused of many things, I want to say definitely that I am against communism in so far as it is a negation of those liberties and rights granted by the Constitution and by natural law, individual law, without which life would not be worth living. I am against Communism in so far as it destroys the freedom and liberties of the people in any community. But many things are done in the name of liberty; many things are sacrificed and I want to guard against those things, and I want to guard against possible abuses that I thought even at one time were illusory. For this reason, I am just wondering, if Your Honor would offer any objection to the motion that I desire to present now, and which I am presenting, to give us a little bit more time to reflect, to ponder over the implications and the possible consequences, considering the fact particularly that the elections are impending. The elections are coming.

We were at one time to be arrested as communists because of the imminence of the election. I would want to present this motion, with the permission of the distinguished sponsor of this bill, that we postpone its consideration by returning it to the Committee where it originated for further study.

Senator PELÁEZ. May I say this, that this bill was called, if I am not mistaken, about ten days ago, and I called a meeting of the Committee, and the only one who showed up was Your Honor, and Your Honor had to go because of other matters he had to attend to. Considering the fact that time was pressing, I agreed with the other members that this would be discussed on the floor. Since then it has been set for hearing for several days. But then there have been requests that the consideration of the bill be postponed for the next day, and the next, and the next. As a matter of fact, this has been postponed for several times.

I would like to go along with that motion, but if I must be frank I would say that the motion to return the bill now to the Committee would be practically killing the bill. If that is the intention, we might as well say so now that we are killing the bill. I for one would like to have this bill debated. If Your Honor and others need time—today is Friday—we could resume consideration on Monday, and I believe that within that time, everyone who wants to put in an amendment or who would like

to reform this bill, can do so and have sufficient time to study it. I regret to state that I cannot accept that motion especially because everyone who came up and who interpellated me has said that he is in favor of the bill, except that practically all of them want to change some details. I would like to say that a motion to recommit would be practically killing the bill, and even if it is not intended to kill the bill that way, that would give that impression to our people. I believe that is far from the desire of anyone here to do that. So, if Your Honor would permit me to amend that motion to postpone consideration of this bill until Monday so that each of us can study the bill, consult with our conscience and determine in what way we can improve it, then I will certainly be glad to accept the motion to postpone consideration until Monday.

Senator LAUREL. My idea in presenting my motion is really to have this considered next year, because we are so hard pressed for time, there are so many things that we have to do, and I don't really see why this bill should be so urgent as to require its approval at this time.

Senator PELÁEZ. May I remind Your Honor that next year there will be a new Congress, and postponing consideration of this bill to next year is killing it, because we will not take it up from where we would leave it off, and everything will be completely erased and we will have to begin from the beginning.

Senator LAUREL. Perhaps a better bill will be presented then.

Senator PELÁEZ. Perhaps we can amend it. But there is this consideration. Would we be justified in postponing to next year a bill which has been unanimously approved by the Lower House, which has been the subject of a lot of study and thinking on the part of the Lower House, which was recommended by the late President Magsaysay for enactment in his last state-of-the-nation message? If we think that the bill is not good enough, then let us vote upon it on the floor. But let us not kill it. Let us come out and say why we are against or why we are for it. But I for one would like to see that this bill go through, and if the result is that the vote is against, well, let the people know how we stand. But we will not meet the situation squarely if we will postpone this.

MOCIÓN LAUREL

Senator LAUREL. Because we need time in order to produce a better work, I think, and I repeat, that I am not willing to subscribe to the bill. It is not a creditable bill, although in point of fundamental condemnation of Communism, perhaps we

are all agreed. And so, Mr. President, I submit my motion that we return this bill to the Committee for further study and consideration so that we will have a little bit more time to produce a better bill.

Senator PELÁEZ. Would Your Honor accept an amendment to the motion?

Senator LAUREL. For the present I will accept the amendment and the suggestion of the distinguished sponsor to postpone until Monday.

ENMIENDA PELÁEZ A LA MOCIÓN LAUREL

Senator PELÁEZ. Is it understood then that we will continue with the consideration of the bill on Monday?

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

Senator PRIMICIAS. Mr. President, the motion now as amended by the distinguished gentleman from Misamis Oriental is to postpone consideration of this bill until Monday.

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

SUSPENSIÓN DE LA SESIÓN

Senator PRIMICIAS. Mr. President, I ask that we suspend the session of the Senate until this afternoon at 5 o'clock.

The PRESIDENT. If there is no objection, the session is suspended until this afternoon at 5 o'clock. (*There was none.*)

Eran las 12:25 p.m.

REANUDACIÓN DE LA SESIÓN

Se reanuda la sesión a las 6:00 p. m., ocupando el estrado el Presidente, Hon. Eulogio Rodríguez, Sr.

The PRESIDENT. The session is resumed.

DESPACHO DE NUEVOS ASUNTOS QUE ESTÁN SOBRE
LA MESA DEL PRESIDENTE

Léanse los documentos nuevamente recibidos.

El SECRETARIO:

MENSAJES DEL PRESIDENTE DE FILIPINAS

MANILA, May 7, 1957

GENTLEMEN OF THE CONGRESS:

Pursuant to the provisions of Article VI, Section 21(2), of the Constitution, I hereby certify to the necessity of the immediate enactment of House Bill No. 6919, entitled:

"An Act to amend certain sections of Commonwealth Act Numbered One hundred and three, as amended.

74131—4

(Re exclusive original jurisdiction of the Court of Industrial Relations.)

Respectfully,

(Sgd.) CARLOS P. GARCÍA
President of the Philippines

The SENATE
CONGRESS OF THE PHILIPPINES
Manila

MANILA, May 16, 1957

GENTLEMEN OF THE CONGRESS:

Pursuant to the provisions of Article VI, Section 21(2), of the Constitution, I hereby certify to the necessity of the immediate enactment of the following bills entitled:

S. No. 64—An Act to amend the second paragraph of section five hundred and sixty-two and section five hundred and sixty-four of the Revised Administrative Code (Re legal hours of labor-minimum requirement.); and

H. No. 1786—An Act amending certain sections of the Revised Administrative Code, by prescribing five days of labor per week for all government employees, and to grant extra compensation for overtime work.

Respectfully,

(Sgd.) CARLOS P. GARCÍA
President of the Philippines

The SENATE
CONGRESS OF THE PHILIPPINES
Manila

MANILA, May 16, 1957

GENTLEMEN OF THE CONGRESS:

Pursuant to the provisions of Article VI, Section 21(2), of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 628, entitled:

"An Act to amend Republic Act Numbered Eleven hundred thirty four by providing that said Republic Act Numbered Eleven hundred thirty four be made applicable to the enlisted men of the regular force, Armed Forces of the Philippines."

Respectfully,

(Sgd.) CARLOS P. GARCÍA
President of the Philippines

The SENATE
CONGRESS OF THE PHILIPPINES
Manila

MANILA, May 16, 1957

GENTLEMEN OF THE CONGRESS:

Pursuant to the provisions of Article VI, Section 21(2), of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 643, as amended, entitled:

"An Act to further amend Republic Act Numbered Three hundred and four by extending the benefits of the law to the "officers and crew members of the Philippine Merchant Marine," to provide funds therefor; and for other purposes. (Re Back Pay Law.)"

Respectfully,

(Sgd.) CARLOS P. GARCÍA
President of the Philippines

The SENATE
CONGRESS OF THE PHILIPPINES
Manila