

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE LAVA, ET AL., DEFENDANTS-APPELLANTS; LAMBERTO MAGBOO, ET AL., DEFENDANTS-APPELLANTS; SIMEON G. RODRIGUEZ, ET AL., DEF...

G.R. Nos. L-4974-78. May 16, 1969

Ponente: ZALDIVAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9a8ad872a4d8/>

ZALDIVAR, J.:

These are appeals from the joint decision of the Court of First Instance of Manila in its Criminal Cases Nos. 14071, 14082, 14270, 14315 and 14344.

In Criminal Case No. 14071, the defendants were Jose Lava, Federico Bautista, Federico Maclang, Ramon Espiritu, Iluminada Calonje y Adriano, Rosario C. viuda de Santos and Angel Baking. The appeal from the decision in this case is now in G. R. No. L-4974 before this Court.

In Criminal Case No. 14082, the defendants were Lam-berto Magboo, Nicanor Razon, Sr., Esteban Gonzales y la Torre, Marcos Medina, Cesario Torres, Rosenda Canlas Reyes, and Arturo Baking y Calma. The appeal from the decision in this case is now in G. R. No. L-4975 before this Court.

In Criminal Case No. 14270, the defendants were Simeon Gutierrez y Rodriguez, Julita Rodriguez y Gutierrez, and Victorina Rodriguez y Gutierrez, and Marciano de Leon. The appeal from the decision in this case is now in G. R. No. L-4976 before this Court.

In Criminal Case No. 14315, the defendants were Honof-re D. Mangila and Cenon Bungay y Bagtas. The appeal from the decision in this case is now in G. R. No. L-4977 before this Court.

In Criminal Case No. 14344 the defendants were Magno Pontillera Bueno, Nicanor Capalad, Rosalina Quizon, Pedro Vicencio, Julia Mesina, Felipe Engreso, Elpidio Acuña Adime, Josefina Adelan y Abusejo, Conrado Domingo, Aurora Garcia, and Naty Cruz. The appeal from the decision in this case is now in G. R. No. L-4978 before this Court.

All the above-named defendants were charged with having committed the complex crime of rebellion with murders and arsons under an identical information, filed in each of the five cases, which reads as follows:

"That on or about the 6th day of May, 1946, and for sometime prior and subsequent thereto and continuously up to the present time, in the City of Manila, the seat of the Government of the Republic of the Philippines which the herein accused have intended to overthrow, and the place they have chosen for that purpose as the nerve center of all their rebellious activities in the different parts of the country, the said accused being then high ranking officers or otherwise members of the Communist Party of the Philippines (PKP) of which the 'Hukbong Mapagpalaya ng Bayan' (HMB) otherwise or formerly known as the Huk-balahap (Huks), is its armed forces, having come to an agreement and decided to commit the crime of rebellion, and therefore, conspiring and confederating together, acting with many more others whose whereabouts and identities are still

unknown up to the filing of this information, and helping one another, did then and there willfully, unlawfully, and feloniously promote, maintain, cause, direct and/or command the Hukbong Mapagpalaya ng Bayan (HMB) or the Hukbalahaps (Huks) to rise publicly and take arms against the Government or otherwise participate therein for the purpose of overthrowing the same, as in fact the said Hukbong Mapagpalaya ng Bayan or Hukbalahaps (Huks) have risen publicly and taken arms against the Government, by then and there making armed raids, sorties and ambushes, attacks against police, constabulary and army detachments, and as a necessary means to commit the crime of rebellion, in connection therewith and in furtherance thereof, by then and there committing wanton acts of murder, spoilage, looting, arson, planned destruction of private and public buildings, to create and spread terrorism in order to facilitate the accomplishment of the aforesaid purpose, as follows, to wit:

“(1) On May 6, 1946, the 10th MPC Co. led by First Lt. Mamerto Lorenzo while on patrol duty in the barrio of Santa Monica, Aliaga, Nueva Ecija, was with evident premeditation on the part of the huks ambushed and treacherously attacked by a band of well-armed dissidents or rebels. Ten enlisted men of the MP company were killed. First Lt. Mamerto Lorenzo was captured and beheaded by the rebels.

“(2) On August 6, 1946, a group of more than 30 Huks under the leadership of Salvador Nolasco armed with guns of different calibers raided the municipal building of Majayjay, Laguna. They were able to get one Garand, one carbine, one Thompson GMG, and one pistol. They also took one typewriter and stationery (NR Laguna, dated Sept. 2, 1946).

“(3) On April 10, 1947, 14 EM under the command of Lt. Pablo C. Cruz, while on their way to investigate a holdup in the barrio of San Miguel na Munti, Tala-vera, Nueva Ecija, were with evident pre-meditation and treachery on the part of the Huks ambushed and fired upon by Huks armed with 30-caliber rifles, machine guns, and grenades. Lt. Pablo Cruz and Pvt. Santiago Mercado were killed and 6 others were wounded.

“(4) On May 9, 1947 Huks numbering around 100 under Lomboy and Liwayway raided the town proper of Laur and forced Municipal Treasurer Jose A. Vilorio to open the treasury safe and obtained therefrom more than P600. Policeman Fermin Sanchez was taken by the bandits with one Springfield rifle. Bandits robbed the townspeople of their money, personal belongings, rice and carabaos (WITR May 10, 1947).

“(5) On August 19, 1947, Capt. Jose Gamboa, First Lt. Celestino Tiansec, and Second Lt. Marciano Lising, all from the 115th Co., while riding in a jeep following an armored car, were treacherously fired upon by a group of about 100 dissidents armed with automatic rifles, Thompsons, and Garands and lined up on both sides of Highway No. 5 near the cemetery of San Miguel, Bulacan. First Lt. Celestino Tiansec and Second Lt. Marciano Lising were killed.

“(6) In or about the month of June, 1946, Alejandro Viernes, alias Stalin, commander of Joint Forces No. 108 with about 180 men, entered the town of Pantabangan, Nueva Ecija, and raised their Huk flag for more than twenty-four hours. The Municipal officials did not offer any resistance because of the superiority in number of the Huks. After demanding from the civilians foodstuffs such as rice, chickens, goats, and carabaos, they left the town, admonishing the civilians always to support the Huk organization. The MP forces under Capt. Ponciano Hanili, S-3, Capt. Federico C. Olares, then Asst. S-3, of Nueva Ecija province, proceeded to Pantabangan with forces of the 112th MP Co. under Capt. Nicanor Garcia, to verify the information, but were not able to contact the dissidents at Pantabangan. They proceeded to the barrio of Marikit, between Pantabangan and Laur, where they engaged some dissidents. When our forces were on their way home, they were pocketed by the dissidents at the zigzag road, but owing to the initiative of our forces, they were able to extricate themselves from their precarious position and were able to fire their mortars and Cal. .50 and .30 machineguns. Investigations made on the field of battle showed that the Huks suffered heavy casualties which was verified later to have been seven cartloads of

dead men. (Special Report, PC, Nueva Ecija, dated February 23, 1948.)

"(7) Mrs. Aurora Aragon Quezon and party were with evident premeditation and treachery on the part of the Huks ambushed at about 10:30, 28 April 49 by an undeter-mined number of dissidents under Commanders Viernes, Marzan, Lupo and Mulong at kilo-meter 62, barrio Salubsob, Bongabong, Nueva Ecija. PC escort exchanged fire with the dissidents. Patrol of the First Heavy Weap-ons Company, 1st PC Battalion was dispatched to reinforce the PC escort. The following persons were killed: Mrs. Quezon, Baby Quezon, Mayor P. Bernardo, Major P. San Agustin, A. San Agustin, Lt. Lasam, Philip Buencamino III, and several soldiers. General Jalandoni and Capt. Manalang sustained slight wounds.

"(8) On August 25, 1950, Camp Macabulos, Tarlac, Tarlac was attacked, raided and set fire to and among the casualties therein were Major D. E. Orlino, Capt. T. D. Cruz, Lt. G. T. Manawis, Lt. C. N. Tan, Lt. Eusebio Cabute, Sgt. Isabelo Vargas, Sgt. Bernardo Cadoy, Sgt. Bienvenido Bugay, Sgt. Samuel Lopez, Cpl. Vicente Awitan, Cpl. Ruiz Ponce, Cpl. Eugenio Ruelra, Pvt. Agustin Balatbat, Saturnino Guarin, E. Cabanban, Antonio Monte, Felix Quirin, Gregoria Balcoco, Jose Mojica, Cornelio Melegan, Carlos Bojade, Rodrigo Es-pejo and Rosario Sotto, a Red Cross nurse."

Counsel for defendants Jose Lava and Federico Bautis-ta filed a motion to quash the information against them upon the grounds that the information did not conform to the prescribed form, that it charged the defendants with more than one offense, and that the court had no jurisdic-tion over the offense charged. Also filed was a petition for provisional liberty under bail of 14 of the defendants, upon the grounds that (1) the evidence of guilt was not strong and (2) the suspension of the writ of habeas corpus under Proclamation No. 210, dated October 22, 1950, by the President of the Philippines was unconstitutional. Both motion and petition were denied by the trial court in an order dated November 1, 1950.

Upon agreement of the prosecution and the defense, and with the conformity of all the defendants, the five cases were tried jointly, with the understanding that each defen-dant could present his/her separate and independent defenses. Notwithstanding the fact that several witnesses had already testified in the first two cases (Criminal Cases Nos. 14071 and 14082) at the time the other three cases (Criminal Cases Nos. 14270, 14315 and 14344) were filed, the defendants in the latter three cases expressed their conformity to a joint trial with the first two cases and agreed that the evidence already taken in the first two cases be reproduced in the latter three cases.

While the joint trial was being held, the prosecution, after a reinvestigation of the cases, moved that the case with respect to defendant Julia Mesina be dismissed upon the ground of insufficiency of evidence. After the trial and before the cases were submitted for decision, the prosecution also moved for the dismissal of the case against defendant Rosenda Canlas Reyes upon the ground that the evidence on record was not sufficient to support her conviction. Both motions were granted by the trial court.

After the joint trial, the trial court rendered a joint decision in the five cases, dated May 11, 1951.

In Criminal Case No. 14071, the court found defendants FEDERICO MACLANG alias Eto alias O. Beria alias Olibas alias Mariano Cruz alias Ambrosio Reyes alias Manuel Santos; RAMON ESPIRITU alias Johnny alias Ka Johnny; ILUMINADA CALONJE alias Salome Cruz alias Luming; JOSE LAVA alias Harry alias Felix Cruz alias Gaston Silayan alias Gaston alias Gregorio Santayana alias Greg alias Gavino; FEDERICO M. BAUTISTA alias Freddie alias Fred; ANGEL BAKING alias Angel alias Boriz alias Bayan; and ROSARIO VDA. DE SANTOS alias Charing, guilty as principals of the complex crime of, rebellion with multiple murder, arsons, and robberies, and pursuant to Article 248, subsections 1 and 3 of the Revised Penal Code, in connection with its Article 48, sentenced defendants Federico Maclang, Ramon Espiritu and Iluminada Calonje to the capital penalty of death; and defendants Jose Lava, Federico M. Bautista, Angel Baking, and Rosario C. Vda. de Santos to

reclusion perpetua. The defendants were also ordered to pay the costs in this case.

In imposing the death penalty upon Federico Maclang, Ramon Espiritu and Iluminada Calonje, the court took into consideration not only the very nature of the crime committed but also the aggravating circumstance that the said three defendants secured the aid of persons under 15 years of age in the commission of the crime.

In Criminal Case No. 14082, the court found defendants CESAREO TORRES alias Cesareo Yacat alias Leo alias Leo-dones; ARTURO BAKING Y CALMA alias Arturo C. Baking alias A. C. Baking alias Arturo Calma Baking alias Eduardo Santos, and MARCOS MEDINA alias Hiwara guilty as principals of the complex crime of rebellion with multiple murder, arsons, and robberies and sentenced the said defendants to reclusion perpetua. The court also found defendants LAMBERTO MAGBOO alias Berting alias Eddie and NICANOR RAZON, SR., alias Elias Ruvi, as accomplice in the commission of the said crime and were sentenced to an indeterminate prison term of ten (10) years of prision mayor, as minimum to seventeen (17) years of reclusion temporal as maximum.

The court did not find sufficient evidence to establish the guilt of the defendant ESTEBAN GONZALES Y LA TORRE, alias Esteban La Torre Gonzales, either as principal or accomplice in the commission of the said crime. The court, however, found him guilty as member of the Communist Party in the Philippines, which is an illegal association, and pursuant to Article 147 of the Revised Penal Code, the said defendant was sentenced to four (4) months of arresto mayor. All the defendants were ordered to pay costs.

In Criminal Case No. 14270, the court found defendants SIMEON GUTIERREZ Y RODRIGUEZ alias Simeon Rodriguez alias Sammy alias S. G. R. alias Lakindanum; MARCIANO DE LEON Y ESPIRITU alias Marciano E. de Leon alias Marcial alias Mar, guilty as principals in the commission of the complex crime of rebellion with multiple murder, arsons, and robberies; and JULITA RODRIGUEZ Y GUTIERREZ alias Judith alias Juling alias Juliet alias Julie, as accomplice in the commission of the said crime, and sentenced defendants Simeon Gutierrez y Rodriguez, and Merciano de Leon y Espiritu to reclusion perpetua; and defendant Julita Rodriguez y Gutierrez to an indeterminate prison term of ten (10) years of prision mayor as minimum to seventeen (17) years of reclusion temporal as maximum. These defendants were ordered to pay the costs.

The court acquitted defendant VICTORINA RODRIGUEZ Y GUTIERREZ alias Vicky alias Toring.

In Criminal Case No. 14315, the court found defendants CENON BUNCAY Y BAGTAS alias Ruping alias Commander Rufing alias Bagtas and HONOFRE D. MANGILA alias Onofre Mangila alias Tommy alias Miller guilty as principals of the complex crime of rebellion with multiple murder, arsons and robberies, and pursuant to the provision of Article 48 of the Revised Penal Code the said defendant Cenon Bungay y Bagtas and Honofre D. Mangila were sentenced to death. In arriving at this decision the court took into consideration the gravity of their participation in the said complex crime, the first being a Huk squadron commander, who led and took part in several raids and ambushes conducted by the HMB and caused the killing of Major Leopoldo Alicbusan of the PC Detachment at San Pablo City, Laguna, and the second (Mangila) being a member of the powerful Central Committee of the Communist Party in the Philippines, which elects the Politburo members. The said defendants were also ordered to pay the costs.

In Criminal Case No. 14344, the court found defendant MAGNO PONTILLERA BUENO alias Magno Buena alias Mamerto Ban-yaga alias Narding, guilty as principal of the complex crime of rebellion with multiple murder, arsons, and robberies and sentenced the said defendant to death. The court, likewise found defendants ROSALINA V. QUIZON alias Regina Quiambao; PEDRO VICENCIO alias Pedring; FELIPE ENGRESO alias Ipe; JOSEFINO ADELAN Y. ABUSEJO alias Fely; ELPIDIO ACUÑO ADIME alias Rolly, alias Rolly Enriquez alias Rol alias Pidiong, and NATY CRUZ alias Natie alias Naty alias Spring, and CONRADO DOMINGO alias Adong guilty beyond reasonable doubt as accomplices in the commission of the said crime and sentenced the said

Rosalina Quizon and Pedro Vicencio to an indeterminate penalty of ten (10) years of prision mayor as minimum to seventeen (17) years of reclusion temporal as maximum; and Felipe Engreso, Josefina Adelan and Conrado Domingo to an indeterminate prison term of four (4) years of prision correccional as minimum to ten (10) years of prision mayor as maximum. The last three accused were declared entitled to the privilege mitigating circumstance of minority, they being under 18 years of age.

With respect to defendants Elpidio Acuña Adime and Naty Cruz, they being under 16 years of age, further proceedings were suspended, and pursuant to the provision of Article 80 of the Revised Penal Code, the court ordered that the said Elpidio Acuña Adime be committed to the Boys' Training School and Naty Cruz to the Girls' Training School at Mandaluyong, Rizal under the custody and supervision of the Commissioner of Social Welfare or his authorized representatives until they reach the age of majority or until further orders of the court. The Commissioner of Social Welfare was directed to submit to the court every four months a written report on the good or bad conduct of the said minors, on the moral and intellectual progress made by them during the period of their confinement in said institutions.

The court acquitted defendants NICANOR CAPALAD alias Canor and AURORA GARCIA alias Laring.

All the defendants except Nicanor Capalad and Aurora Garcia were ordered to pay the costs.

In imposing the capital penalty on Magno Pontillera Buena the Court took into account not only his being a member of the powerful Central Committee of the Communist Party jointly with Federico Maclang and Honofre Mangila but also his being an instructor on Military Tactics in the "Stalin University", the military training school for Huks in the mountains.

The rights to file a civil action to recover indemnity for the death of the victims of the murders specifically referred to in these cases were reserved to the heirs of the said victims.

Thus, of the original 31 defendants in these five criminal cases, five were acquitted, namely: Julia Mesina, Rosenda Canlas Reyes, Victorina Rodriguez y Gutierrez, Nicanor Capalad and Aurora Garcia. Of the 26 who were convicted, all appealed to this Court except defendant Esteban Gonzales la Torre. Later, defendants Rosalina Quizon, Elpidio Acuña Adime, Josefina Adelan Abusejo, Conrado Domingo and Naty Cruz withdrew their appeal. During the pendency of the appeal, defendants Julita Rodriguez y Gutierrez and Magno Pontillera Bueno died. The appeals now before this Court, therefore, involves only 18 defendants, namely: Jose Lava, Federico Bautista, Federico Maclang, Ramon Espiritu, Salome Cruz, Rosario vda. de Santos, Angel Baking, Lamber-to Magboo, Nicanor Razon, Marcos Medina, Cesareo Torres, Arturo Baking, Simeon G. Rodriguez, Marciano de Leon, Honofre Mangila, Cenon Bungay, Pedro Vicencio, and Felipe Engreso.

Upon petition by the Deputy Chief, Military Intelligence Service (MIS) of the Armed Forces of the Philippines, this Court, by order of March 7, 1952, appointed the MIS the custodian of the exhibits and documents that were presented as evidence in these five criminal cases before the trial court. This step was taken because those documents and exhibits were needed also as evidence in other courts in the prosecution of other members of the HNB (Hukbong Mapagpalaya ng Bayan). Later, by order of April 14, 1955, this Court appointed the Staff Judge Advocate of the Philippine Constabulary the custodian of the same documents and exhibits. Those documents and exhibits were kept at the headquarters of the Philippine Constabulary at Camp Crame, Quezon City. On September 10, 1958 the headquarters of the PC was destroyed by fire, and all those documents and exhibits were burned. Upon a petition for the reconstitution of the said documents and exhibits, this Court appointed Deputy Clerk of Court Bienvenido Ejercito as Commissioner to receive evidence for the reconstitution of those documents and exhibits. The Commissioner, after due hearing, submitted his report, dated October 6, 1959, recommending that the documents and exhibits that were burned be declared reconstituted by the photostatic

copies or the originals of those documents and exhibits. The Commissioner stated in his report that those photostatic copies were duly identified during the hearings on the reconstitution. Over the objection of counsels for the defendants-appellants, this Court approved the report of the Commissioner.

Counsels for the appellants were allowed by the Court all the time that they needed to prepare the briefs for the appellants. The last brief for the appellants was filed on January 22, 1963. The Solicitor General filed the brief for the appellee (People of the Philippines) on June 29, 1963. These appeals were set for hearing on oral argument on August 28, 1963. On that date counsel for some of the defendants-appellants argued the case for their clients; and counsels for other defendants-appellants were given a period of 20 days to submit a memorandum in lieu of oral argument. The Solicitor General was likewise granted leave to submit a reply memorandum within 20 days from the receipt of the copies of the appellants' memoranda. Upon the filing of the memoranda these cases were considered submitted for decision.

These cases have been pending for decision in this Court since October, 1963, and it would seem that this Court has not acted with dispatch in the disposition of these cases. It must be known, however, that this Court has been swamped with cases appealed from the lower courts and from administrative bodies and officials, as provided by law, and despite the arduous labors by the members of this Court the docket of this Court has been, and still is, clogged. There are numerous criminal cases appealed to this Court ahead of these five cases. Certainly the appellants in those earlier appealed criminal cases deserve the same concern from this Court that the appellants in these five cases expect for themselves. The record of these five cases, consisting of the "rollos", the transcript of the stenographic notes taken during the trial and the documentary exhibits, is so voluminous that when piled vertically it would stand almost three feet high. The record has to be meticulously examined and studied by the members of this Court, working as a collegiate body. In deciding cases, this Court inclines more to careful study and deliberation rather than to dispatch.

Existence and activities of the CPP and HMB

We have thoroughly examined the testimonial and documentary evidence in the present cases, and We find it conclusively proved, as did the lower court, that as of the year 1950 when elements of the police and armed forces of the Government arrested the defendants in these five cases there was already a nationwide organization of the Communist Party of the Philippines (CPP), and that said party had a well-organized plan to overthrow the Philippine Government by armed struggle and to establish in the Philippines a communist form of government similar to that of Soviet Russia and Red China. The Communist Party of the Philippines had as its military arm the organization known as the "Hukbong Mapagpalaya ng Bayan" (HMB), otherwise or formerly known as the Hukbalahaps (Huks). It is established that the rebellious activities of the HMB, and the commission of common crimes in different parts of the country by the HMB, were directed by the Communist Party of the Philippines through its Politburo (PB) and/or Secretariat (SEC). The Politburo and/or the Secretariat gave orders to the field through its general headquarters (GHQ) and its regional commands (RECOS), and reports to the Politburo and/or Secretariat were made regarding the activities of the HMB, giving accounts of the sorties or ambushes and attacks against elements of the police, the Philippine Constabulary and the army, and of killings, lootings and destructions of property. It is also established that the plan of the Communist Party was not only to overthrow the Philippine Government but also to kill officials of the Government and private individuals who refused to cooperate with the rebels, and orders to this effect were transmitted to the HMB.

Among the documentary evidence presented during the trial is the Constitution of the Communist Party of the Philippines, one of the documents seized in one of the raids when some of the appellants were arrested. In this document it is shown that the CPP has a National Congress (NC) which is the highest authority in the party. The National Congress formulates the policies of the party, and determines the functions of the party and of the

standing committees; it renders decisions on all problems regarding organizations and tactics, and on appeals brought before it; and it elects the members of the Central Committee (CC). The Central Committee, which is the highest authority when the National Congress is not in session, enforces the Constitution, implements the policies formulated by the National Congress, promulgates rules and regulations, supervises all political and organizational work of the party, takes charge of financial matters and renders an accounting thereof to the National Congress, and elects the General Secretary (SEC) and all the members of the Politburo. The Politburo (PB) is the real executive body of the party, and is responsible for the execution of the powers and duties of the Central Committee when the latter is not in session. The General Secretary and the Politburo are responsible to the Central Committee for all their decisions and actions. Then there are departments, bureaus, committees and other organizational units. There is the National Education Department (NED), the Educational Department (ED), the Organization Bureau (OB), the Organizational Department (OD), the District Organization Committee (DOC), the Peasants' Organization (PO), the Trade Union Department (TUD), the Sanggunian Tanggulang Baryo (STB), the Military Committee (MC), the General Headquarters (GHQ), the Regional Command (RECO), the Field Command (FC), the Battalion (BN), the Company (CO), the Platoon (PLN), and the Squad (SQD). There is also the National Finance Committee (NFC) in charge of the financial matters of the Party, the RECO Finance Committee (RFC), the District Finance Committee (DFC), the Field Command Supply Officer (FC-G-4), the Battalion Supply Officer (Bn-G-4), the Company Supply Officer (Co-G-4), the Platoon Supply Officer (Pln-S-4), the National Courier Division (NCD), the Reco Courier Division (RCB), the Central Post (CP), and Field Command Courier (FC-Courier).

The Secretariat provisionally assumed the functions of the GHQ which was abolished by the Politburo in its conference in January 1950. The Secretariat alone has final authority to impose the death penalty in court martial cases where SECCOM (National Committee) cadres are involved. Several SEC transmissions to the Politburo members assigned to regional commands indicate that the Secretariat discussed plans of attack by the HMB, distributes forces, and supplies intelligence information.

There is the National Courier (or Communication) Division (NCD), which is in charge of the communication system of the CPP, and the distribution of supplies to the different regional commands in the field. There is a Special Warfare Division, in charge of operating technological warfare against the enemy such as the use of home-made bombs, molotov cock-tails, land mine traps, etc. There is the Technical Group (TG) which attends to the manufacture of home-made firearms and other weapons. This group includes chemists and engineers. Then there is the National Intelligence Division, in charge of gathering military intelligence, as well as political and economic intelligence.

For purposes of regional commands, the Philippines was divided geographically into ten regions in order to facilitate the political, military, and economic administration by the Communist Party of the Philippines. Those regional commands are as follows:

- RECO 1 - Nueva Ecija, Pangasinan and lower Mt. Province.
- RECO 2 - Pampanga, Tarlac, Zambales and Bataan.
- RECO 3 - Bulacan and Rizal, except the towns under City Command.
- RECO 4 - Laguna, Batangas, Quezon and Cavite.
- RECO 5 - Camarines Norte, Camarines Sur, Albay and Sorsogon.
- RECO 6 - Panay, Negros, Cebu, Samar, Leyte Bohol and Palawan.
- RECO 7 - Davao, Lanao, Cotabato, Zamboanga and Agusan.

RECO 8 - Cagayan Valley provinces and Nueva Viscaya.

RECO 9 - Ilocos Norte, Ilocos Sur, Abra, and La Union.

CITY COMMAND - Manila, Malabon, Caloocan, Navotas, San Francisco del Monte, Quezon City, Mandaluyong, San Juan, Marikina, Pasig, Guadalupe, Pasay, Baclaran, Parañaque, Muntinglupa and Alabang.

The Communist Party of the Philippines has a flag, colored red, with the symbols of the hammer and the sickle (Exhibit A), and a newspaper organ called "TITIS". In the general plan to indoctrinate the masses into communistic ideas and principles, communist schools - some of them called "Stalin University"- were set up in a number of places in the mountain fastnesses, where trained instructors gave lectures and taught lessons in the principles of Karl Marx, Frederick Engels, Joseph Stalin and Nicolai Lenin.

As has been stated, the CPP has an armed force, which is the HMB. The predecessor of the HMB was the HUKBALAHAP, an organization created by the party during the Japanese occupation to resist the Japanese forces. Upon liberation of the Philippines, the members of the Hukbalahap continued their activities, the organization was renamed HMB, and its members were indoctrinated in communistic principles. The members of the HMB are known as "Huks".

The tie-up between the CPP and the HMB is established beyond doubt by the evidence. It is shown that the heads of the CPP were in regular communication with the leaders of the HMB, and the raids, ambushes, burnings, lootings and killings were planned and authorized by the CPP. Appellant Federico Maclang, who is a member of the Politburo, in his testimony, admitted that the HMB is the armed force of the CPP. Luis Taruc, who at the time was the head of the HMB, participated in the meetings and deliberations of the CPP. Some instances may be cited: (1) When Luis Taruc, leader of the HMB, was interviewed by Manuel Manahan representing the newspaper "Bagong Buhay", sometime in July 1950, the said interview was planned, approved and authorized by the Secretariat of the Communist Party. The purpose of the interview was to make Taruc declare about the true status of the leadership in the HMB and the CPP, and belie reports of division among the leaders; (2) When appellant Simeon Rod-riguez, a member of the Politburo and a ranking member of the National Finance Committee, was arrested at 268 Pasaje Rosario, Paco, Manila on October 18, 1950, there were found in his possession 65 P100-bills and 60 P50-bills and also P145 circulating notes and \$312 in paper currency whose serial numbers (except two dollars) tallied with the serial numbers of part of the money (amounting to more than P80,000) that was taken by the Huks from the safe of the office of the Provincial Treasurer when they raided Sta. Cruz, Laguna, on August 26, 1950. Provincial Treasurer Balbino Kabigting of Laguna had a record of the serial numbers of the money taken by the Huks, and he even issued a warning to the public about the loss of the money - mentioning in the warning the serial numbers of the money taken. There are documents showing that this "money taken from the provincial treasury of Laguna was the subject of communications between Luis Taruc and appellant Federico Maclang and other members of the Secretariat.

Written articles and official publications of the CPP and HMB, which were presented as evidence, show the tie-up between the CPP and HMB. Following are some excerpts from those publications:

"As the situation now stands, it can be assumed that the HMB under Communist leadership, already enjoys a quantitative edge over the Nationalists Party (Exh. K-211, p. 7, "Struggle against Await-ism." (Underscoring supplied)

"The enemy was caught by surprise. The CPP and the HMB it is leading scored a tremendous political victory..." (Exh. O-33, "Twenty Years of Struggle of the CPP. Underscoring supplied)

Documentary and testimonial evidence establish that the various raids and ambushes perpetrated by the HMB

were planned, directed and supported by the CPP. Thus, in the "Milestones in the History of the CPP", written by appellant Jose Lava, it is stated that at the enlarged Polit-buro conference of January, 1950, it was decided to intensify HMB military operations for political and organization-al purposes. The widespread raids and attacks on the occasion of the 8th HMB anniversary (March 28-29, 1950) was decided at the PB conference:

"The conference specifically decided to launch coordinated military operations on the occasion of the eight anniversary of the HMB" (Exh. 249, Folder of Exhibits, Vol. V.)

The CPP ordered the HMB to fight the Philippine Constabulary and attack government installations. Thus testified Benjamin Advincula, a former high ranking HMB member, who said that when he was Secretary of RECO No. 4, he received orders for transmission to the HMB to fight, the Philippine Constabulary. Attacks by the HMB were also reported to the CPP. The accomplishments, for instance, of RECO 2 during the attacks at dawn on March 29, 1950 were reported in En-teng's (Luis Taruc) letter to the Secretariat on April 1, 1950. This letter reported the ambush and liquidation of Captain Dumlao and others; the attack and burning of the CG (Civilian Guard) camp at Manibong Porac, and the capture of arms and ammunitions thereat; the losses on the enemy side; the burning of 12 houses and the liquidation of 2 spies at Mabalacat, Pampanga. A similar report was furnished by a certain Pedring of RECO 2 in a letter to Eto (Federico Maclang) dated April 2, 1950.

It was, in fact, the Communist Party that celebrated the eighth anniversary of the HMB, as appears in the Communist Party document "Twenty Years of Struggle of the CPP" in which we read about the simultaneous attacks of the HMB on March 29, 1950 the following:

"In quick succession, the Party celebrated the eight anniversary of the HMB by the coordinated military operations from the far north down to southern Luzon ..." (Exh. O-33, Folder of Exhibits, Vol. V)

The Secretariat issued the following instructions in connection with the May 1, 1950 (Labor Day) attack:

"... Repeat March 29 simultaneous attacks to time with May 1 celebration to convince the workers of the peasants' unity in struggle with them. Party and HMB messages to be sent." (Exh. O-313, Folder of Exhibits, Vol. V).

Replying to said order (Exh. O-313), the Politburo representative of Regional Command No. 3 wrote Gaston (Jose Lava of the Secretariat) and said:

"Ukol sa Plan for May 1st OK. We will try our best to accomplish our part without hesitation." (Exh. M-179, Folder of Exhibits, Vol. III).

The May 1, 1950 attack was followed by simultaneous attacks by the HMB on August 26, 1950, in commemoration of the first "Cry of Balintawak." These attacks were again decided, planned and directed by the Communist Party of the Philippines as shown by transmissions from the Secretariat to the Politburo members in the field. (Exh. O-93, par. 2; O-102, par. 6). The attacks on August 26, 1950 were also ordered by the Secretariat, because the evidence shows that the Secretariat required submission of complete report there-of, and reports were in fact submitted by Taruc (Enteng) on September 9, 1950 (Exhs. O-638, par. 8; O-278).

The Communist Party also planned the attack for November 7, 1950, the 20th anniversary of the CPP, which required bigger operations than the attack of August 26, because towns were to be captured, barracks and jails were to be raided and political enemies were to be liquidated. The SEC assigned and allocated the forces to different phases and places of operations. In hand-written notes identified by expert witness to have been written by appellant Jose Lava, the following appears in connection with the plans for November 7:

"... Coordinated -- Core: Capture of towns near Manila, but near Mt. bases -- Coordination of RECO 2, 3 & 4, Rizal -- Cavite. Pol liquidation in City. Bringing fight near strategic political, military and economic centers

Supporting RECO 1 in ILOCOS & CAGAYAN. RECO 5 in BICOL & RECO 6 in VISAYAS." (Exh. O-12.)

As We have stated, the primordial objective of the Communist Party of the Philippines and of its armed force, the HMB, was to overthrow the Philippine Government by armed struggle. To attain this objective, the CPP also envisioned the following expansion: of the cadres from 3,600 in July, 1950 to 56,000 in September 1951; of the party members from 10,900 in July, 1950 to 172,800 in September, 1951; of HMB members from 10,800 in July, 1950 to 172,800 in September, 1951; and of the organized masses from 30,000 in July, 1950 to 2,430,000 in September, 1951.

The Communist Party declared the existence of a re-revolutionary situation in November, 1949 and went under-ground. This appears in the following excerpts from documents that were presented as evidence during the trial.

"Quickly sizing up the existence of a revolutionary situation, arising from the merger . . . of the crises of production due to the imperialist-feudal domination of our economy, and the parliamentary crises due to fraud and terrorism in the 1949 elections, the CPP openly called on the people to overthrow the Liberal Party puppets or the American imperialists." (Exhs. O-32, "Twenty Years of Struggle of the CPP", Exh. O-12 (hh))

"In the Philippines, the CPP has already declared the existence of a revolutionary situation; and it is concentrating all its energies towards the hastening of the maturity of the revolutionary situation into a crisis leading to the overthrow or the imperialist puppets and the achievement of the NEW DEMOCRACY." (Exh. O-949, "Strategy and Tactics", Exh. O-126-141)

"The CPP has declared the existence of a revolutionary situation; since November, 1949, as a result of the merger or the crisis in production of our imperialist feudal dominated economy and the crisis of the bourgeois parliamentarism..... Since then, the CPP went completely underground, and openly called on the people for the armed overthrow of the power of American imperialism and its allies in the Philippines exercised through its puppets..." (Exh. O-65)

"The Communist Party of the Philippines is leading the armed struggle for national liberation and the establishment of a New Democracy in order to crush the power of the exploiters, achieve power for the exploited classes, and who are disposed to accept the new society..." (Exh. O-119 "Accounting for the Peoples' Fund Received and Spent to Finance the Revolution; see also Exh. K-12 N-570--573, M-1574, K-244, O-749-56, Documents approved by SEC in its meeting on February 15, 1950. Exh. O-312, par. 3. See Vol. III, Folder of Exhibits)

"..The Communist Party marks the 54th anniversary of the CRY OF BALINTAWAK calling on the people to join the HMB in annihilating the enemy today, no different from the enemy denounced by Bonifacio." (Exhs. M-1524, Vol. III, Folder of Exhibits).

We find that the criminal acts, consisting of attacks against Philippine Constabulary, murders, robberies, kid-napping, arson, etc. alleged in the information are duly proved by evidence presented during the trial. It is noteworthy that the appellants did not attempt to disprove the evidence regarding the commission of these crimes. Besides those alleged in the information, there were other acts of attacks against the Philippine Constabulary, murders, robberies etc. that were committed by the Huks that are proved by the evidence - also not disproved by the appellants - as follows:

(1) On March 29, 1950, a band of armed Huks carrying a communist flag raided San Pablo, Laguna. An encounter with the 27th PC Company ensued, and several members of the PC were injured. The Huks looted several Chinese stores.

(2) At about 3 o'clock in the morning of August 26, 1950, approximately 400 Huk dissidents armed with machine

guns and rifles attacked Santa Cruz, Laguna. The cashier of the office of the Provincial Treasurer was forced at gun point, to open the vault from which the Huks took more than P80,600. The Huks also took typewriters and office supplies from the office of the Provincial Treasurer. The Huks, after forcing the warden to give the keys, opened the provincial jail and released the prisoners. The provincial jail was later burned. The Huks looted houses and took rice, cigarettes and clothes, and burned five build-ings.

(3) On March 29, 1950, several Huks raided San Mateo, Rizal, opened the safe in the municipal building and took money. They also got food and medicines from the towns-people.

(4) On August 28, 1950, Huks attacked the municipal building of Arayat, Pampanga, and forced the municipal mayor at the point of a gun to give P3,629.31 in cash and some documentary stamps. Killed during the incident was one Atty. Samia.

(5) On March 28, 1950, about 80 to 100 Huks attacked San Rafael, Montalban, killing 4 and wounding all soldiers. After the attack, the Huks left communist propaganda leaf-lets.

(6) On August 30, 1949, upon receiving a report that there was a concentration of Huks at Kamog, San Jose del Monte, Bulacan, Lt. Restituto A. Bisda organized a patrol of 20 enlisted men. On the way the patrol was fired upon by the Huks. After the encounter, one Huk member was found dead and from his body were taken several documents.

(7) On October 15 and 17, 1950, P.C. Lt. Jose Velas-quez led three platoons of soldiers to the southwestern slope of Mount Malipuno at Lipa City upon receipt of a report that about 200 Huks were gathered in that place. While climbing the mountain they were suddenly attacked and fired upon by the dissidents killing one soldier and wound-ing others. When they retaliated, the Huks retreated leav-ing behind a wounded Huk. The Huks abandoned their hide-outs in the place. Upon inspection, Lt. Velasquez found a hut with several blackboards, papers and other school sup-plies inside and a red hammer-and-sickle flag displayed on the wall with letters "STALIN U" (Stalin University), which indicated that the place is one of the military schools for the Huks. (The flag was produced in court and marked Exhi-bit "A" for the prosecution. This flag had been identified by a witness for the prosecution, a former Huk Colonel named Benjamin Advincula, to be the official flag of the HMB in their military training school in the mountains wherein he had also undergone Huk military training.)

(8) At about midnight on March 29, 1950, Huk dissidents entered the town of Tanauan, Batangas. According to George Collantes, the municipal mayor, there was shooting in the town, and later the industrial center and market were burn-ed after they were raided. Mayor Collantes saw a red flag hoisted by the dissidents. Two of the Huks dissidents were killed.

Issues raised by appellants

The appellants, in their defense in the present ap-peals, have raised issues that are common to them all, and also issues particular to each one of them. The issues particular to individual appellants will be discussed at the latter part of this opinion when we deal with their respective appeals.

1. The appellants are charged with having committed the crime of rebellion with murders and arsons. The trial court declared some of them guilty as principals, and some as accomplices, in the commission of the crime of rebellion complexed with multiple murders, arsons and robberies.

The law pertinent to the determination or the criminal responsibility of the appellants are Articles 134, 135, and 136 of Revised Penal Code, as follows:

"Art. 134. Rebellion or insurrection - How committed. - The crime of rebellion or insur-rection is committed

by rising publicly and tak-ing arms against the Government for the purpose of removing from the allegiance to said Govern-ment or its laws, the territory or the Philippine Islands or any part thereof, of any body of land, naval or other armed forces, or of depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or preroga-tives."

"Art. 135. Penalty for rebellion or insurrection. - Any person who promotes, maintains, or heads a rebellion or insurrection, or who, while holding any public office or employment takes part therein, engaging in war against the forces or the Government, destroying property or committing serious violence, exacting contribu-tions or diverting public funds from the lawful purpose for which they have been appropriated, shall suffer the penalty of prison mayor and a fine not to exceed 20,000 pesos.

"Any person merely participating or execut-ing the commands of others in a rebellion shall suffer the penalty of prison mayor in its minimum period.

"When the rebellion or insurrection shall be under the command of unknown leaders, any person who in fact directed the others, spoke for them, signed receipts and other documents issued in their name, or performed similar acts, on behalf of the rebels shall be deemed the leader of such rebellion."

"Art. 136. Conspiracy and proposal to commit rebellion or insurrection. ? The conspiracy and proposal to commit re-bellion or insurrection shall be punished, respectively, by prison correccional in its maximum period and a fine which shall not exceed 5,000 pesos, and by prison correccional in its medium period and a fine not exceeding 2,000 pesos."

It is the common contention of the appellants that the trial court erred in declaring that the crime com-mitted by the appellants was that of "rebellion complexed with multiple murder, arsons, and robberies."

We uphold the contention of the appellants. The question, of whether or not a person may be prosecuted and held guilty of the crime of rebellion complexed with mur-der, arson, robbery and/or other common crimes, is now settled. In the case of *People vs. Hernandez, etc. al.*,^[1] this Court held that the crime of rebellion cannot be complexed with other common crimes. The accused in the *Hernandez* case were charged, as are appellants in the instant cases, "with the crime of rebellion with multiple murder, arsons, and robberies." This Court ruled that:

"One of the means by which rebellion may be committed, in the words of said Article 135, is by 'engaging in war against the forces of the government' and 'commit-ting serious violence' in the prosecution of said 'war'. These expressions imply every-thing that war connotes, namely; resort to arms, requisition of property and services, collection of taxes and contributions, restraint of liberty, damage to property, physical injuries and loss of life, and the hunger, illness and unhappiness that war leaves in its wake - except that very often, it is worse than war in the international sense, for it involves in-ternal struggle, a fight between brothers, with a bitterness and a passion or ruth-lessness seldom found in a contest between strangers. Being within the purview of 'engaging in war' and 'committing serious violence', said resort to arms, with the resulting impairment or destruction of life and property, constitutes not two or more offense; but only one crime - that of re-bellion plain and simple. Thus, for ins-tance, it has been held that 'the crime of treason may be committed 'by executing either a single or similar intentional overt acts, different or similar but dis-tinct, and for that reason, it may be considered one single continuous offense. (*Guinto vs. Veluz*, 77 Phil., 801, 44 Off. Gaz., 909.)" (*People vs. Pacheco*, 93 Phil., 521.)

"Inasmuch as the acts specified in said Article 135 constitute, we repeat, one single crime, it follows necessarily that said acts offer no occasion for the application of Article 48, which requires therefor the com-mission of, at least, two crimes. Hence, this court his never in the past, convicted any person of the 'complex crime of rebellion with murder'. What is more, it appears that in every one of the cases of rebellion published in the Philippine Reports, the defendants were convicted of simple rebellion, although they had killed several persons, sometimes peace officers (*U.S.vs. Lagnason*, 3 Phil., 472; *U.S. vs. Baldello*, 3 Phil.,

509, U.S. vs. Ayala, 6 Phil., 151; League vs. People, 73 Phil., 155)"

x x x x

"There is one other reason - and a fundamental one at that - why Article 48 of our Penal Code cannot be applied in the case at bar. If murder were not complexed with rebellion, and the two crimes punished separately (assuming that this could be done), the following penalties would be impossible upon the movant, namely: (1) for the crime of rebellion, a fine not exceeding P20,000 and prison mayor, in the corresponding period, depending upon the modifying circumstances present, but never exceeding 12 years of prison mayor; and (2) for the crime of murder, reclusion temporal in its maximum period to death, depending upon the modifying circumstances present. In other words, in the absence of aggravating circumstances, the extreme penalty could not be imposed upon him. However, under Article 48, said penalty would have to be meted out to him, even in the absence of a single aggravating circumstance. Thus, said provision, if construed in conformity with the theory of the prosecution, would be unfavorable to the movant."

"Upon the other hand, said Article 48 was enacted for the purpose of favoring the culprit, not of sentencing him to a penalty more severe than that which would be proper if the several acts performed by him were punished separately. In the word of Rodriguez Navarro:

'La unificación de penas en los casos de concurso de delitos a que hace referencia este artículo (75 del Código de 1932), esta basado francamente en el principio pro reo.' (II Doctrina Penal del Tribunal Supremo de España, p. 2168.)'

x x x x

"It is evident to us that the policy of our statutes on rebellion is to consider all acts committed in furtherance thereof - as specified in Articles 134 and 135 of the Revised Penal Code - as constituting only one crime, punishable with one single penalty - namely, that prescribed in said Article 135." x x x

x x x x

"In conclusion, we hold that, under the allegations the amended information against defendant-appellant Amado V. Hernandez, the murders, arsons and robberies described therein are mere ingredients of the crime of rebellion allegedly committed by said defendants, as means 'necessary' (4) for the perpetration of said offense of rebellion; that the crime charged in the aforementioned amended information is, therefore, simple rebellion; not the complex crime of rebellion with multiple murder, arsons and robberies; that the maximum penalty impossible under such charge cannot exceed twelve (12) years of prison mayor and a fine of P20,000; and that, in conformity with the policy of this court in dealing with accused persons amenable to a similar punishment, said defendant may be allowed bail."

The foregoing ruling was adhered to in the decisions of this Court in the cases of *People vs. Geronimo*, G.R. No. L-8936, October 23, 1956; *People vs. Togonon*, No. L-8926, June 29, 1957; *People vs. Romagosa*, G.R. No. L-8476, February 28, 1958; and *People vs. Santos*, G.R. No. L-11813, September 17, 1958.

In *People vs. Geronimo*, supra, this Court further elaborated on the Hernandez ruling, as follows:

"As in treason, where both intent and overt act are necessary, the crime of rebellion is integrated by the coexistence of both the armed uprising for the purposes expressed in Article 134 of the Revised Penal Code, and the overt acts of violence described in the first paragraph of Article 135. That both purpose and overt acts are essential components of one crime, and that without either of them the crime of rebellion legally does not exist is shown by the absence of any penalty attached to Article 134. It follows, therefore, that any or all of the acts described in Article 135, when committed as a means to or in furtherance of the subversive ends described in Article 134, becomes absorbed in the crime of rebellion, and cannot be regarded or penalized as distinct crimes in themselves. In law they are part and parcel of the rebellion itself, and cannot be considered

as giving rise to a separate crime, that, under Article 48 of the Code, would constitute a complex one with that of rebellion."

And in *People vs. Aquino, et al.*, L-13789, June 30, 1960, 57 O.G. 9180, this Court said:

"On the other hand, from the very testimony of Filomeno Casal, another witness for the prosecution, it can be gathered that the one who killed or ordered the killing of Mendoza was Commander Silva who, according to Casal, ordered Mendoza to lie down and when the latter refused he shot him. If we are to believe the testimony of this witness the only one responsible for Mendoza's death is Commander Silva for there is nothing to show that his companions who were under his command knew that his design was to liquidate him. At any rate, since it appears that the killing was committed not because of any personal motive on the part or the accused but merely in pursuance of the movement to overthrow the duly constituted authorities, the proper charge against them would be rebellion and not murder...." x x x x

The reason for this was already given by this Court in *People vs. Hernandez, et al.*, supra, to wit:

"In short, political crimes are those directly aimed against the political order, as well as such common crimes as may be committed to achieve a political purpose. The decisive factor is the intent or motive. If a crime usually regarded as common, like homicide, is perpetrated for the purpose of removing from the allegiance 'to the Government the territory of the Philippine Islands or any part thereof,' then said offense becomes stripped of its 'common' complexion, inasmuch as, being part and parcel of the crime of rebellion, the former acquires the political character of the latter." [2]

The Solicitor General, in behalf of the appellee, The People of the Philippines, asks this Court to reexamine the ruling in the *Hernandez* case "based not only on grounds of public policy but also to interpret the law in order to have justice and adequacy into the Philippine law on rebellion on the basis of prevailing jurisprudential schools of thought such as the sociological theory on the natural law doctrine and the policy science theory". [3] This Court has given this plea of the Solicitor General a very serious consideration, but after a mature deliberation the members of this Court have decided to maintain that ruling in the *Hernandez* case and to adhere to what this Court said in that case, as follows:

"The Court is conscious of the keen interest displayed, and the considerable efforts exerted, by the Executive Department in the apprehension and prosecution of those believed to be guilty of crimes against public order, of the lives lost, and the time and money spent in connection therewith, as well as of the possible implications or repercussions in the security of the State. The careful consideration given to said policy of a coordinate and co-equal branch of the Government is reflected in the time consumed, the extensive and intensive research work undertaken, and the many meetings held by the members of the court for the purpose of elucidating on the question under discussion and of settling the same.

"The role of the judicial department under the Constitution is, however, clear - to settle justiciable controversies by the application of the law. And the latter must be enforced as it is -- with all its flaws and defects, not affecting its validity -- not as the judges would have it. In other words, the courts must apply the policy of the State as set forth in its laws, regardless of the wisdom thereof.

x x x x

"Thus the settled policy of our laws on rebellion, since the beginning of the century, has been one of decided leniency, in comparison with the laws in force during the Spanish regime. Such policy has not suffered the slightest alteration. Although the Government has, for the past five or six years, adopted a more vigorous course of action in the apprehension of violators of said law and in their prosecution, the established policy of the State, as regards the punishment of the culprits has remained unchanged since 1932. It is not for us to consider the merits and demerits of such policy. This falls within the province of the policy-making branch of the Government -- the Congress of the Philippines..."

x x x x

"Such evils as may result from the failure of the policy of the law punishing the offense to dovetail with the policy of the law enforcing agencies in the apprehension and prosecution of the offenders are matters which may be brought to the attention of the departments concerned. The judicial branch cannot amend the former in order to suit the latter. The Court cannot indulge in judicial legislation without violating the principles of separation of powers, and, hence, undermining the foundation of our republican system. In short, we cannot accept the theory of the prosecution without causing much bigger harm than that which would allegedly result from the adoption of the op-posite view."

2. The appellants also contend that the informations against them charge more than one offense, in violation of Section 12, Rule 106 of the old Rules of Court (now Section 12, Rule 117 of the new Rules of Court). This contention has no merit. A reading of the informations re-reveals the theory of the prosecution that the accused had committed the complex crime of rebellion with murders, robbery and arsons, enumerating therein eight counts regarding specific acts of murder, robbery and arson. These acts were committed, to quote the information, "to create and spread terrorism in order to facilitate the accomplishment of the aforesaid purpose", that is, to overthrow the Government. The appellants are not charged with the commission of each and every crime specified in the counts as crimes separate and distinct from that of rebellion. The specific acts are alleged merely to complete the narration or facts, thereby specifying the way the crime of rebellion was allegedly committed, and to apprise the defendants of the particular facts intended to be proved as the basis for a finding of conspiracy and/or direct participation in the commission of the crime of rebellion.[4] An information is not duplicitous if it charges several related acts, all of which constitute a single offense, although the acts may in themselves be distinct offenses.[5] Moreover, this Court has held that acts of murder, arson, robbery, physical injuries, etc. are absorbed by, and form part and parcel of, the crime of rebellion it committed as a means to or, in furtherance of the rebellion charged.[6]

3. Another contention of appellants is that the trial court, the Court of First Instance of Manila, did not have jurisdiction to try the cases against them because the acts enumerated in the eight counts in the information were committed outside the territorial jurisdiction of the court. This contention is also without merit. Section 14 of Rule 110 of the Rules of Court provides that the criminal action shall be instituted and tried in the court of the municipality or province where the offense was committed or any one of the essential ingredients thereof took place. The informations allege that Manila is the seat of the Government of the Republic of the Philippines which the appellants sought to overthrow and that Manila was chosen by the accused as the nerve center of all their rebellious activities in the different parts of the country. While it is true that the murders, robberies and arsons alleged in the informations were committed outside the City of Manila, in the informations it is alleged that it was in Manila where the accused had decided and agreed to commit the crime of rebellion and it was in Manila where they promoted, maintained, caused, directed and/or commanded the HMB to rise publicly and take arms against the Government, as in fact the HMB had risen publicly, making armed raids, sorties, ambushes, and committing wanton acts of murder, arson, looting, etc. An essential ingredient of the crime or which appellants were charged, therefore, took place in Manila.

4. Some of the appellants contend that their constitutional rights were violated because the documentary evidence presented against them were illegally seized or had come from doubtful sources. This claim has no merit. We have carefully examined the record, and We find that search warrants were properly secured by the peace officers before raids were effected and that the documents, articles and effects seized from each place raided were listed, inventoried and marked. It even appears that statements were signed by some of the appellants certifying that the search warrants were executed in an orderly and peaceful manner by the raiding parties.

5. The appellants assail the reconstitution of the ex-hibits that were destroyed, and claim that the reconstitu-ted exhibits should not be considered in this appeal. We have stated at the earlier part of this opinion that the exhibits (documentary and other articles) were placed in the custody of the Philippine Constabulary because they had to be presented as evidence in the trial of rebellion cases pending in other courts. Most of the originals of the documentary evidence were burned during the fire that gut-ted the headquarters of the Philippine Constabulary on September 10, 1958. The Solicitor General filed a peti-tion for the reconstitution of the burned exhibits. The petition was given due course by this Court, and the Deputy Clerk of this Court was commissioned to receive the evidence on the reconstitution of the burned documents. The list of reconstituted exhibits is Exhibit C-Reconstitution. In his report, dated October 6, 1959, the Commissioner recom-mended the admission of all the reconstituted exhibits.

We find that the reconstitution was made in accordance with the provisions of Act 3110, which provides for the procedure in the reconstitution of court records. Section 59 of said act provides that destroyed documentary evidence shall be reconstituted by means or secondary evidence which maybe presented to any Justice of the Supreme Court or any other officer commissioned by the Court. Section 14 of the act provides that the destroyed or lost documentary evidence shall be replaced by secondary evidence. A photostatic copy of an original document is admissible as a secondary evidence or the contents or the original. Photostatic copies are faithful reproductions of the contents of the originals and they constitute evidence of a satisfactory nature.[7] The record shows that the photostatic copies of the destroy-ed exhibits, which were presented before the Commissioner during the reconstitution proceedings, were taken before the originals were destroyed by fire. The photostatic copies had been compared with the originals, properly checked and recorded, by the officer who was the custodian of the ex-hibits.

The certified typewritten copies made from the origin-al documents that were hand-written in ink are also se-condary evidence of the contents of the latter. Sgt. Aqui-lino Tingco, assigned as assistant to the document officer in charge or the court exhibits in the rebellion cases, testified that he was the one who furnished the typists the original documents, and after those originals were copied on the typewriter he compared the typewritten copies with the originals, proof-read them, stamped them and had them certified as true copies. This witness further testified that before the certified copies were presented in court as evidence said copies were compared with their origin-als.[8]

During the reconstitution proceedings, counsel for appellants objected to the admission of some of the recons-tituted documents upon the ground that they were not suf-ficiently identified. The Commissioner, however, admitted all the reconstituted documents, and We find that the Commissioner rightly did so. We find that Exhibits R-X-6 to R-P-73-79, the admission of which was objected to, were properly identified. Captain Enrique L. Reyes of the PC, who was entrusted with the custody or the documents, had the list of all the exhibits that were burned, which were inventoried and verified; as well as a list or those ex-hibits that were presented in these cases, or which photostatic copies had been taken; and when asked where the photostatic copies were, Capt. Reyes said that he had the photostatic copies, and pointed to a bundle of fold-ers containing them. These exhibits were checked and counter-checked with the record of the present cases in the Supreme Court.[9] Sgt. Aquilino Tingco, who brought the exhibits to the different courts where they were presented as evidence, and who personally supervised the taking of the microfilm and the photostatic copies that were presented in the courts in lieu of the originals, when asked to show to the Commissioner the photostats made of the documents which were used in the Politburo cases, extracted from a folder a bundle of papers and presented the list of exhibits (Exh. C-Reconstitution) along with photostatic copies of those listed exhibits, and he testi-fied on them. The witness was asked to consult the list of exhibits (Exhibit C-Reconstitution) and he pointed to the Commissioner the exhibits to be marked according to the list, which the Commissioner himself marked. The wit-ness testified that

the contents of the documents thus marked were the same as those of the originals. The Commissioner considered the documents properly identified and he admitted the documents over the objection of counsel for the appellants, and he recommended to this Court the admission of all of them. This Court approved the report of the Commissioner.

We have carefully examined and analyzed these re-constituted exhibits and We believe that they constitute a competent evidence to be considered in arriving at a decision in these cases.

6. The appellants also claim that they were not afforded the time and freedom to prepare for their defense. This claim of appellants is not borne by the record. The record shows, that the trial of these cases took months; all the defendants were represented by counsel, either de officio or de parte, who did their best to defend the appellants during the trial. In fact the defense lawyers were commended by the trial court for their efforts in defense of the appellants. None of the appellants was deprived of his day in court. Everyone was given an opportunity to testify and/or adduce evidence in his behalf. All the appellants, except Jose Lava and Nicanor Razon, Sr., testified in court in their own defense. The record does not show that appellant Razon had testified or had presented any evidence in his behalf. Appellant Jose Lava voluntarily refrained from taking the witness stand, but, instead, he presented witnesses who vouched for his good moral character and exemplary conduct as a citizen. We find no merit in the claim that the appellants were not afforded ample time and opportunity to prepare for their defense.

Having thus resolved the common issues raised by the appellants, We now proceed to determine the criminal responsibility, if any, of the individual appellants.

The lower court found some of the appellants guilty as principals, and some as accomplices, in the commission of the complex crime of rebellion with multiple murder, arson and robberies. We have already declared in this opinion that the crime of rebellion cannot be complexed with murder, robbery and other common crimes. Our task, therefore, is to determine the degree or responsibility of each of the appellants in the commission of the crime or simple rebellion as defined and penalized under the provisions of Articles 134, 135 and 136 or the Revised Penal Code.

1. The appeal of Jose Lava

Upon a careful study of the evidence, We find:

That appellant Jose Lava was known under these aliases: Harry, Felix Cruz, Gaston, Gaston Silayan, Greg, Gregorio Santayana and Gavino. Jose Lava became a member of the Communist Party of the Philippines during the Japanese occupation. In a self-appraisal which he wrote, and published in mimeograph form with the approval of the Secretariat, he stated that although he was a new Party member he had been entrusted with responsible positions in the Party and that due to his high sense of responsibility and initiative he could rank with the best in the party. Lava was not only a confirmed communist; he was a ranking leader of the CPP, being a member of the Central Committee (CC) of the CPP and he participated in the Politburo meetings. In the Politburo conference in Manila in January 1947 he proposed armed struggle to overthrow the Government. His participation therein was described in Exhibit O-228-229, as follows:

"x x x There was an attempt in the conference to give it a character of a CC conference notwithstanding the fact that there were only eleven CC members, out of thirty-five, present in the conference. There was also an attempt to isolate some CC members who were easily available, as evidenced by the non-invitation of Coms VY, Harry and Pacing known for their views in support of the Nacionalista-Democratic Alliance coalition, and for an early resumption of the armed struggle. It was only later in the conference, when their absence was noted by certain comrades, that Com Harry was invited to the conference..."

"Com Harry proposed that the conference declare that armed struggle be the main form of struggle...."

Other documents show that Jose Lava had been attending meetings of the Secretariat (SEC) since October, 1949. He signed, under the alias "Gaston Silayan", the Secretariat's transmission to the Politburo members in the field, under date of October 22, 1949. He issued under different aliases, for and in behalf of the Secretariat, Secretariat transmissions up to October 14, 1950. He signed as "Gaston" the Secretariat's transmission dated December 24, 1949; he signed as "Greg" those of July 22, 1950, of September 23, 1950, of September 30, 1950, of October 7, 1950, and of October 14, 1950; and signed as "Gavino" the transmission dated September 25, 1950.

Jose Lava's membership in the Secretariat of the CPP is shown in various documents (Exh. C-1313 and Exhs. O-269-270). In another exhibit, N-1015-1017, Kas. Gaston was addressed to as the General Secretary.

As member of the SEC, and as General Secretary, Jose Lava attended SEC meetings and transmitted the decisions of the SEC to the comrades of the Politburo in the regional commands. His direct participation in the meetings of the SEC was mentioned in several SEC transmissions. In one such transmission he (Gaston) advocated the overthrow of the corrupt Liberal Party administration because of the wholesale fraud and terrorism during the elections of 1949. In the meeting of May 5, 1950, he (Gaston) disagreed with Eto (Federico Maclang) and Johnny (Ramon Espiritu) on the way of giving money to deserving families, saying that:

"Even if we have a million pesos now, we still would need same to buy arms and ammo, decisively improve our propaganda to spread our influence over all the country, improve the diet of our fighting soldiers to increase their fighting efficiency, all with a view to hastening the people's victory and end their suffering earlier." (Exh. O-91, par. 2)

In the SEC meeting of September 29, 1950 "Greg" (Jose Lava) dissented from the majority decision rejecting the proposal that Boris (Angel Baking) be allowed to attend the Military Committee (MC) meeting. (Exh. O-339, par. 15).

Apart from his routinary duties as General Secretary, other duties were assigned to Jose Lava under his aliases. Thus, as "Gaston", he was designated in the SEC's meeting of December 20, 1949 to take care of the editorial of the "TITIS", the official organ of the Communist Party; he was given supervision over women matters, and over political and educational matters, in the meetings of February 15, 1950 and April 14, 1950. "Gaston" was also in charge of Direct Party Propaganda, Curriculum and Analysis. As "Greg", he was appointed by the SEC as one of the 15 members of the Military Committee (MC). He was to supervise, as decided in the SEC meeting of April 14, 1950, the newly organized Technological Group. He was instructed by the SEC, in its meeting of September 15, 1950, to prepare a draft of the resolution for discussion before the Military Committee. In the meeting of the SEC on September 22, 1950, he was given power to review all the minutes and decisions of the National Education Commission (NEC) and only matters which he did not approve were to be taken up by the Secretariat.

Jose Lava also attended and presided meetings of the Communists and the HMB in his house in Tejeron, Makati,[10]

Jose Lava was the author of many articles and/or writings, among them: "Self-Appraisal by Gregorio Santayana," a hand-written outline; "Struggle against Awaitingism, by Gregorio Santayana", also a handwritten outline, with a typewritten copy; "Outline of Strategy and Tactics"; "Strategy and Tactics"; "Twenty Years of Struggle of the CPP"; "Outline on Milestones in the History of the CPP"; "Milestones in the History of the CPP", which is a part of the curriculum in the secondary course of the schools Conducted by the CPP. The "Outline on Strategy and Tactics" and "Strategy and Tactics" were also in the secondary curriculum texts of the CPP. He is also the author of "Finance Opportunism, Its Basic Causes and Remedies", a portion of which reads:

"... There is no question that we can drastically eradicate finance opportunism within the Party and the National liberation movement it is leading, and thereby hasten the maturity of the revolutionary crisis and

prepare the Party to create a clean and honest body of administrators and state functionaries and thereby maintain the power of the NEW DEMOCRACY that we are set to establish."

Another work of Jose Lava is "Accounting of the People's Funds Received and Spent to Finance the Revolutions", a portion of which reads as follows:

"The Communist Party of the Philippines is leading the armed struggle for national liberation and the establishment of a New Democracy in order to crush the power of the exploiters, achieve power for the exploited classes and exercise such power for their benefit, and for those who are disposed to accept the new society...."

Jose Lava also wrote other documents, among them his handwritten notes containing the territorial extent of Recos 1 to 7, and a plan of attack on the November 7, 1950 celebration; a list containing several persons (aliases) assigned to Recos 1 to 7 and to the Military; Pol-Ed, organizational and GHQ organs; a letter to Eto (Federico Maclang) on the reverse of a list containing names of Malacañan special agents. He also wrote letters to Party members concerning the activities of the Party and/or HMB -- unmistakably indicating conspiracy or connection between him and other top HMB and CPP leaders in the field. Thus, "Gaston" (Lava) wrote a letter to Leo (Cesareo Torres) informing the latter that the stencils for "Ang Komunista" were already sent by NED-Out and that if Leo needed funds, he could ask from the NFC. In a letter of September 4, 1950 to Eto (Federico Maclang), "Gaston" (Lava) transmitted to Maclang three letters, on the reverse side of one which was a note of O. Beria (Maclang) asking who the writers were. In his letter of September 26, 1950 "Gaston" advised Eto (Maclang) to circularize all Recos about the conference of the RECO-Ed and G-3 before October 15. In his letter of September 12, Gaston asked the addressee Johnny (Ramon Espiritu) about the latter's self-appraisal, the Hospital Group, and the selection of two additional members to help Luming (Iluminada Calonje or Salome Cruz).

The foregoing findings of this Court are based mainly on documents presented as evidence during the trial. Those documents were taken: some from the third floor of the Mayflower Apartments, at Estrada and Pennsylvania Streets in Manila, which was then rented by appellant Lava when it was raided by peace officers on June 23, 1950; and the other documents from the different places that were raided by the MIS agents and the Manila Police on October 18, 1950, where most of the accused in these five cases were arrested. One of the places raided on October 18, 1950 was 683 Pasaje Rosario, Paco, Manila, where appellant Lava was arrested along with his co-accused Federico Bautista, Simeon Rodriguez, Victorina G. Rodriguez and Pedro Vicencio. Numerous documents, books, and articles were seized at that place where Lava was arrested, and those documents were used as evidence during the trial of these five cases in the court below.

Some of the documents thus seized, and which were presented as evidence, were in appellant Lava's handwriting, or were signed by him using his alias names. This is clearly established by the testimony of a handwriting expert that was presented by the prosecution. The conclusion of the handwriting expert was based on the specimens of Lava's handwriting which were used as standards in comparing with the handwriting and/or signature (in alias) of the appellant that appear in the documents that were presented as evidence against him. It is contended by appellant's counsel that no genuine specimen of Lava's handwriting was presented as standard for comparison. We do not see merit in this contention. We find that the standards for comparison that were used were the documents marked Exhibits FF-1 and FF-2.[11] Exhibit FF-1 is an application for employment signed by Jose Lava. The signature thereon was testified to by witness Eduardo Romualdez (now Secretary of Finance) as looking "like the signature of Jose Lava." Eduardo Romualdez was acquainted with the handwriting of Jose Lava, having received reports (Exh. FF), parts of which were in the handwriting of Jose Lava "not less than three or four times" while Jose Lava was a bank examiner.[12] Exhibit FF-2 is a cardboard containing a list of books

requested by Jose Lava while the latter was detained in Bilibid Prison. Buenaventura Villanueva, to whom the list was given, testified that he saw Lava writing the list on the cardboard. What appears on Exhibit FF-2 is certainly a genuine specimen of Lava's handwriting.

The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person, and has seen the person write. Evidence respecting the handwriting may also be given by comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.[13] The handwriting expert who made the comparison in this case positively identified the handwriting of Jose Lava on the documents presented as evidence against said appellant, specially the handwritten names of Gregorio Santayana, Gaston, Gaston Silayan, Gavino and Greg.[14]

Appellant Jose Lava did not take the witness stand to testify in his own behalf. Instead, he presented witnesses to testify on his good moral character, his strong convictions and his good citizenship. An accused, however, is not entitled to an acquittal simply because of his previous good moral character and exemplary conduct. When a court believes that an accused is guilty beyond reasonable doubt of the crime charged, it must convict him notwithstanding evidence of his good character and previous exemplary conduct.[15]

We find that the evidence adduced during the trial has proved beyond reasonable doubt that appellant Jose Lava was one of the top leaders of the CPP, and that he was not only working to propagate the doctrine of communism in the Philippines but was actually promoting an armed uprising against the Government. He did not actually take to the field and participate in the armed attacks against constituted authorities, but in the positions that he held in the CPP, he actually promoted, maintained, and even directed the armed activities of the HMB which were aimed at overthrowing the Government and implanting a new system of government in the Philippines. As General Secretary of the CPP he signed, in his aliases, the communications or transmissions of the Secretariat to the HMB and CPP leaders in the field. As we have stated in this opinion, there was a tie-up between the CPP and the HMB, and that the HMB was the military arm of the CPP. The CPP went underground sometime in November 1949. It was precisely during the latter part of 1949 and during the year 1950 (before the arrests of the accused in these five cases on October 18, 1950) when the HMB was most active in its armed operations against the Government -- or against the elements or the Army, the PC and the Police, and against public officials and even against civilians. The evidence against appellant Lava shows that it was in 1949 and 1950 when he, in his capacity as one of the top leaders of the CPP, actively participated in the armed struggle being carried on by the HMB by sending directives and other communications to the leaders of the HMB and to the heads of the regional commands of the CPP who were operating in the field. He was, in fact, one of the leaders of the rebellion. He planned the attack for the November 7, (1950) anniversary celebration, which was to include the capture of towns near Manila and the liquidation of enemies in the City by the different regional commands.

We agree with the finding of the lower court that appellant Jose Lava is guilty as principal in the commission of the crime of rebellion, and he should be punished accordingly.

2. Appeal of Federico Bautista

We find it conclusively shown by the evidence that:

Appellant Federico Bautista had used, or was known under, the aliases: F. Payat, Fred, Freddie, and Freding. He was arrested by the MIS agents and the police on October 18, 1950 at 683 Pasaje Rosario, Paco, Manila, along with his co-accused Jose Lava, Simeon Rodriguez, Victorina G. Rodriguez and Pedro Vicencio. He joined the CPP on August 8, 1949. Testifying in his own behalf, he said that he joined the CPP because of the failure of the administration then to carry out the terms of the Amnesty Proclamation which he helped to bring about; and also

because, of the ouster of six members of Congress from the central Luzon provinces who were elected in the 1946 elections, of the frauds and terrorism committed in sub-sequent elections and the graft and corruption in the government.

He was a member of the National Finance Committee of the CPP,[16] of which committee Ramon Espiritu (co-accused) was the chairman, and Simeon Rodriguez (co-accused) was a ranking member. As such member of the National Finance Committee part of his duties and responsibilities was the procurement of, supplies, such as arms, ammunitions, medicine, office supplies, clothing, etc., for the dissidents' (both of the CPP and of the HMB) organizations in the field. He became a member of the Military Committee of the CPP, with special assignment as Chief of Intelligence GHQ.[17] He was also assigned to, and exercised authority over, the armed forces [AF (HMB)] in Manila and suburbs, which was called the City Command. He also had supervisory powers over the National Courier Division.[18]

This appellant did not actually take to the field and participated in the armed operations of the HMB, but he did staff work which contribute to promote, maintain and direct the operations of the HMB. Thus, there was presented in evidence a letter[19] written by this appellant to Leo (co-accused Cesareo Torres), under date of July 10, 1950, transmitting the latest party decision regarding authorized daily subsistence allowance of personnel of the CPP organs, ranging from P1.00 to P1.20. Cesareo Torres is the head of the Technical Office in charge of propaganda. In a handwritten tabulation prepared by him,[20] which was sort of a financial statement, there is shown an amount spent for communications and for intelligence. It appears that of the total income of P8,006.80 for April, May and June 1950, 20% was allotted for ammunitions and 10% for intelligence. This financial statement, as finally published, was certified to by Johnny (co-accused Ramon Espiritu) as head of the National Finance Committee, and audited and approved by Tommy (co-accused Honofre Mangila). This document once more indicates clearly that the HMB was being supported by the CPP.

There is a document labelled "Memorandum on Intelligence",[21] a typewritten draft, which was shown to bear the pencil handwritten insertions and corrections made by appellant Federico Bautista, indicating that this draft was prepared by him. Portion of this document reads:

"Without deviating from the general orientation of expanding evenly along the four branches of intelligence, viz: Political, economic, cultural and military, the emphasis for the present is on military intelligence both strategic and tactical. This is in conformity with an 4 in direct pursuance of the Party's program of 'all for expansion and the armed struggle.' The mechanics of wresting power will eventually be a military struggle, we must have a continual basis by which we can estimate what the enemy intends to do and the tenacity with which they will implement these intentions singly and collectively."

Appellant Federico Bautista was identified with the high councils of the CPP. He attended Politburo conferences.[22] Along with Ramon Espiritu and one Nicasio Pamintuan, he sat to try, and found guilty, one Domingo Clarin, a member of the HMB Trigger Squad, who was charged of having squealed regarding the hold-up of the Naric in Pulilan. Appellant Federico Bautista had previously assigned Clarin to guard Jose Lava.[23]

We have carefully studied the evidence for the prosecution and the defense, as well as the argument of counsel in the appellant's brief, and We believe that it is proved beyond reasonable doubt that appellant Federico Bautista is one of the leaders of the rebellion jointly undertaken by the CPP and the HMB. We agree with the finding of the lower court that this appellant is guilty as principal in the commission of the crime of rebellion, and he should be punished accordingly.

3. Appeal of Federico Maclang

Appellant Federico Maclang was arrested on October 18, 1950 by agents of the MIS and the Manila Police at 1938 Interior 7, Felix Huertas, Manila, along with Julita Rodriguez and Felipe Engreso -- the latter two being among those convicted by the lower court in these five cases, but Julita Rodriguez withdrew her appeal. He used the aliases: O. Beria, Eto, Olibas, Manuel Santos, Manuel Santa Fe and Ambrosio Reyes.

The evidence conclusively shows that this appellant is a ranking communist, and he was responsible for the organization of the CPP in Manila and Rizal. He issued directives, plans and instructions to the different units of the CPP in the field that were working in close collaboration with the HMB in the latter's armed operations. By his own testimony he revealed that he is a confirmed communist. He declared that he was one of the organizers of the PKM (a peasants' organization) in Luzon, that he became a communist after studying thoroughly the principles of communism in relation to the economic and political conditions of the country; that he believes in the overthrow of "imperialism" and the establishment of a "new democracy" in the Philippines.

It is shown by the evidence that:

Appellant Maclang joined the CPP sometime in 1939; and he was a member of the Politburo from 1944 up to the time of his arrest on October 18, 1950.[24]

In the document labelled "Pagtuya sa Sarile", shown to have been written by him,[25] it appears that he was the Chief of the Organizational Bureau (OB) of the CPP from 1948 until the time of his arrest, and that as an organizer he was responsible for the organization of the Regional Commands (Recos) of the party. He was also one of the members of the Secretariat, and as such he actively participated in the deliberations and decisions of the body.

In several letters of Enteng (Luis Taruc) to him, which were identified during the trial, as well as in his letter to Enteng, a copy of which was found in his possession and was identified by him,[26] his membership in the Secretariat is clearly shown. As a member of the Secretariat he was assigned the Supervision on all organizational matters, on the youth problems and activities, and also on military affairs. Likewise, he was assigned supervision over the Trade Union Division (TUD)) and the trade union struggle; also he had supervision over the news section or the TITIS; and he was authorized by the Secretariat to review the decisions of the Regional Command (RECO) and, like appellant Jose Lava, only those decisions which he did not approve were taken up by the Secretariat.[27] As chief of the Organizational Bureau he issued, or approved the issuance of, circulars, plans, and directives to the different organs of the CPP.[28]

This appellant prepared the document entitled "Impiltrasyon".[29] In this document he discussed the problems of infiltration and the methods or techniques to be followed by party members in, infiltrating government offices, the armed forces, and the ranks of anti-communist groups, in connection with the underground work of the CPP and the HMB. He also prepared "Pakikibaka sa Pagani"[30] where he urged the peasants to fight for bigger crop shares, and the workers to fight for better wages, pointing out that the government cannot meet the demands of the working class so that the only alternative is to support the "People's Liberation Movement" and effect changes through armed struggle. He wrote the "Pangatawanan ang Kampanya sa Pagpalawak ng Ating Patanim at Pagpalitaw sa Inuhi"[31] where he states the policy of the CPP regarding the expansion of the production areas and the production of more crops to maintain and support the revolution and to prepare the masses for self-government.

Likewise, he wrote the "Ang Kompiskasyon", a circular issued by the Organizational Bureau (OB), of which he was the head, to all the organizational units of the CPP, explaining the Party's theory of confiscation. This circular authorizes confiscation as a means to raise revenue for the "People's Liberation Movement". This circular lists the classes of individuals who are considered enemies of the revolution and whose properties may be

confiscated.[32]

When this appellant was arrested on October 18, 1950, there were found in his possession documents which indubitably show the high positions that he occupied in the CPP and the direct connections that he had with the operations of the HMB. Thus, there is Exhibit N-52, which is a partial report of Reco 2 regarding military operations during the "Cry of Balintawak" celebration. In this report are stated the simultaneous HMB attacks at Camp Makabulos, Tarlac, and at Arayat in the evening of August 25, 1950. There are also Exhibits N-56-57 which are the reports from Reco 2 of the HMB attacks at barrio Capalad, Arayat on September 12, 1950, and at San Luis on September 13, 1950. There was found in his possession, when he was arrested, a file copy (Exh. N-202) of a letter addressed to his comrades in Regional Command No. 4, dated October 14, 1950. The original of this letter (Exh. M-292) was found at 1608-B Andalucia, apparently in transit through the National Courier Division. It should be noted that it is in 1608-B Andalucia where Salome Cruz, the Chairman of the National Courier Division, had her head-quarters. In this letter appellant Maclang wrote:

"I received a letter to the SEC from Com Bonifacio, PBS, R-5, dated Oct. 10, 1950. Because of the urgency and because the Comca is Leaving at 12:00 a.m. this day, I, as in charge of military matters of the SEC, in the absence of the SEC meeting I have rendered the following decision;

x x x

"ORDER: I hereby order to R-4 to take all action concerning all the requests of the letter of Com. Bonifacio to the SEC. Reject the idea of sending back these deserters (men and officers) to R-5 and I am giving full authority to R-4 to arrest and try all these said deserters. All actions should be based on our military rulings."

The letter of Comrade Bonifacio referred to in the above-quoted letter of appellant Maclang was found in his possession at the time of his arrest. A copy of this letter was found in the possession of the appellant Jose Lava when the latter was arrested at 683 Pasaje Rosario, Paco, Manila, on October 18, 1950.[33] It was shown during the trial that this letter of appellant Maclang was transcribed from the stenographic notes taken down by Julita Rodriguez on her notebook (Exh. M-31-E). This Julita Rodriguez worked as a clerk with appellant Maclang, and she was also arrested on October 18, 1950 along with Maclang and Felipe Engreso, another employee of Maclang. Both Julita Rodriguez and Felipe Engreso were also accused in these cases. The authority of appellant Maclang on military matters is made manifest in the above-mentioned letter.

In another letter of appellant Maclang, which was his reply to the letter he received from one Plaridel, regarding the plan for attack on November 7, 1950 celebration,[34] he said:

"Re-celebration, I am glad that you are actively preparing to achieve the SEC objectives. We have no objections on the towns that you have stated including Mcy. Our only doubt here is Mrqn, because this is very near enemy camp, however, proceed to your preparation and we will help you on intelligence operations on said localities in this connection, we have the opinion that Com. Pacing will cooperate with you in this task as we have been informed that he is coming to your place.

"Re-request on arms and ammos, we are not yet in a position to give you the assurance of aid, however, we are dealing with the smugglers to purchase these ammos to supply such operations. Because it is not very sure, it will be better for the Recos to cooperate on the preparation of ammos."

There are letters of appellant Maclang to Luming (Salome Cruz), one of the accused, which were presented in evidence, where he gave her orders and instructions regarding the dispatch of couriers to the regional commands and the activities of the National Courier Division.[35] Documents were also presented, which appear to have been issued or approved by the Organizational Bureau of which this appellant was the chief, dealing with the methods of improving the communication system of the CPP.[36] All these indicate that appellant Maclang had

also supervision over the National Courier Division (NCD) of the CPP.

Appellant Maclang, in his defense, denied knowledge about the HMB raids and ambushes. We find, however, over-whelming evidence that disproves his claim. The evidence clearly shows that he participated directly in planning, coordinating, supporting, and approving, the HMB raids, attacks and ambushes. He was a member of the Secretariat of the CPP and participated in its meetings. He was in charge of the military affairs of the CPP; he gave orders to the Recos to attack the government forces; he approved the plan of attacks against the City of Manila and towns around Manila on November 7, 1959; he received reports of HMB raids and attacks. All these make him, in contempla-tion of law, a leader of the rebellion.

There is, to Us, no doubt that by the high positions he held in the CPP, appellant Federico Maclang was one of the leaders of the CPP that promoted, maintained and directed the armed operations of the HMB to overthrow the Philippine government. We agree with the finding of the lower court that this appellant is guilty as principal in the commission of the crime of rebellion, and he should be punished accordingly.

4. Appeal of Ramon Espiritu

Appellant Ramon Espiritu was arrested by the agents of the MIS and the Manila Police on October 18, 1950 at 1608-B Andalucia Street, Manila, along with Salome Cruz, Rosario Vda. de Santos, Naty Cruz, Aurora Garcia, Lam-berto Magboo and Josefina Adelan. He was known by the alias "Johnny".

In his written statement,[37] he admitted that he was a member of the Politburo and the Chairman of the National Finance Committee of the CPP. The evidence shows that he was a member or the Secretariat of the CPP, and he participated in the deliberations and decisions of that body.[38] He was also one of the 15 members of the Military Committee (MC).[39] He was the Politburo and Secretariat Supervisor of the National Courier Division.[40] He had been assigned to various important positions in the CPP, like the supervision of Trade Union Division (TUD) and the trade union struggle, together with his co-accused Fe-derico R. Maclang.[41] He was also assigned to the City Committee to reorganize the City Committee and the City Com-mand.[42] He was likewise assigned to supervise Luming (co?accused Salome Cruz) in taking care of the sick comrades coming from provinces.[43] He attended meetings of the Communists and HMB. He was one of those who tried Huk mem-ber Domingo Clarin, assigned to the Trigger Squad of the HMB, and found him guilty of having squealed regarding the holdup of the NARIC at Pulilan.[44]

In his defense appellant Espiritu testified that he had nothing to do with the HMB raids and ambushes. Seeming-ly, to justify his membership in the Communist Party, this appellant discussed the general history of labor and its unsavory relations with capital, for which he blamed the feudal economy that had pervaded the economic life of the Filipino people. He candidly recounted his efforts in trying to understand the cause of the people's economic ills, and the efforts of labor unions in demanding better wages and living conditions for laborers.

Considering the tie-up between the CPP and the HMB, there can hardly be any question that appellant Ramon Es-pirit, member of the Politburo, of the Secretariat, and or the Military Committee, or the CPP, had actively par-ticipated in promoting and maintaining the armed operations of the HMB, along with top CPP leaders, Jose Lava, Fede-rico Bautista, Federico Maclang, and others. We agree, also,with the finding of the lower court that this appel-lant is guilty as principal in the commission of the crime of rebellion, and he should be punished accordingly.

5. Appeal of Iuminada Calonje

Appellant Iuminada Calonje, wite of appellant Ramon Es-pirit, was arrested on October 18, 1950 at 1608-B.

Andalucia St., Manila. She was known by her two aliases: Luming, and Salome Cruz. In her written statement, she admitted that she was the Chairman of the National Communication Division (NCD) or the CPP from November, 1949 to May, 1950.[45]

Documentary evidence shows her various positions in the CPP, namely: Acting Chief of the Central Post of the Communications Division and in charge of Sub-Posts; In-charge of Couriers; In-charge of finance from November, 1949 to May 17, 1950; In-charge of all Central Committee cadres when they came to Manila for medical attention; In-charge of sick comrades coming from provinces under the supervision of Johnny (Ramon Espiritu) in the National Commission; and Chairman of the Hospital Group to take care of the sick and wounded from the City and provinces.[46]

The evidence further shows that Salome Cruz wrote several notes and/or documents showing her activities in the National Communication Division, Hospital Group and other Party organs. Thus, on July 4, 1950, she made hand-written notes on "Sub-Posts" containing names (aliases) of regular and irregular couriers of RECO 1 to 7, Dist. No. 5 and Pangasinan; on July 5, 1950, she also made notes on "Regular na Dating at alis ng mga Korriers sa NCD napunta sa bawat Recos", which show the dates of arrivals and departures of the couriers for Racos 1 to 7 Dist. No. 4 Pangasinan and Cavite; on May 5, 1950 she wrote a letter to Johnny (Ramon Espiritu) informing the latter of the arrival and departure of couriers of RECO 1 and the availability for distribution of the April 12 and 30 issues of TITIS; she also wrote letters to Beria (co-accused Federico Maclang)", Payat and Fred (co-accused Federico Bautista), and Berting (co-accused Lamberto Magboo), regarding couriers and the activities of the National Communication Division (NCD).[47] She also made handwritten notes on the National Communication Division (NCD) Consolidated Report, showing the income and expenses from May 1 to May 17, 1950 of the Central Post and the Out-Posts; and a letter to Charing (co-accused Rosario C. Vda. de Santos) on May 17, 1950 instructing the latter to check up the Sub-Posts.[48]

In her brief, appellant Salome Cruz claimed, among other things, that the trial court erred in convicting her as principal, despite the fact that her participation was only on inconsequential details, and her guilt had not been established beyond reasonable doubt.

There is no evidence to show that appellant Salome Cruz actually took part in the raids, attacks and ambushes perpetrated by the HMB. It cannot be said however, that her role in the plan to overthrow the Government was inconsequential, she having been in charge of communications, transmitting orders and directives of the Politburo and Secretariat to the HMB in the field until May 1950; she being in charge of couriers, making notes of regular and irregular couriers, their arrival and departures; she being in charge of the Hospital group to take care of the sick and wounded from the city and provinces. These facts show that she was cooperating actively in promoting and maintaining the armed activities of the HMB, considering the tie-up between the CPP and the HMB. The maintenance or communications between the top leaders of the CPP and the units operating in the field is very essential in the success or the rebellion. It is in this connection that this appellant played a very important role.

We agree with the finding of the lower court that appellant Salome Cruz is guilty as principal in the commission of the crime of rebellion, and she should be punished accordingly.

6. Appeals of Rosario C. Vda. de Santos

Appellant Rosario C. Vda. de Santos was arrested by the agents of the MIS and the Manila Police, together with co-accused Ramon Espiritu, Salome Cruz, Naty Cruz, Aurora Garcia, Lamberto Magboo, and Josefina Adelan, in these five cases, at 1608-B Andalucia, Sampaloc, Manila, on October 18, 1950.

The evidence shows that:

Appellant Rosario C. Vda. de Santos uses the alias "Charing". In her testimony, however, she claims that her real name is Aurelia Cayetano. She was designated by the Secretariat of the CPP In charge of Outpost of the National Communication Division, with the duty to maintain discipline among couriers coming from without.[49] She worked under Salome Cruz (Luming) who was the Chair-man of the National Communications Division (NCD) or the CPP. This appellant was in charge of checking the ir-regular couriers for Regional Commands, 1, 2, 3, 4, 5 and Pangasinan.[50] She was a staff member of the NCD, and she participated in the NCD meetings, took down minutes, and rendered reports. She made reports to the head of the NCD. One such report says:[51]

"Naisasagawang maayos na pagtang-gap sa lahat ng dumating at maayos na pagalis ng couriers."

Another report was that one she made on July 12, 1950, about the outpost:[52]

- (a) Reco 1, means of communication still good and 2 couriers arrived June 25 and departed July 4.
- (b) Reco 2, - The road is still clear and the couriers of Pangasinan were already established there, thru Com. Piping.
- (c) Reco 3 - The road is difficult that is the reason why the Post at San Jose is no longer used but that of San Rafael.
- (d) Reco 4 - The road is difficult connection severed but D-4 is already connected (Exh. 159-162).

As Chief of the Outpost, she made, on August 19, 1950, the following report:[53]

- "(a) Reco 1 - Couriers did not ar-rive, so no report.
- (b) Reco 2 - Couriers arrived as the PC are out daily in the field...
- (c) Reco 3 - Road is also difficult.
- (d) Reco 4 - Road is not difficult, but no definite Post for the couriers.
- (e) District No. 4 - 2 weeks no ar-rival of couriers but special couriers in Com. Amat (now under arrest) arrived on 12 July 50.
- (f) Cavite - Did not arrive last Sun-day while the agreement was Saturday.

In a letter to her co-accused Luming (Salome Cruz), she stated that she knew the circumstances surrounding the killing, and the murderers of Norberto Icasiano, Mayor of Bulacan.[54] She even mentioned that she met the deceased's brother in a schoolhouse in Malolos, Bulacan, and that she had to hide her face behind her umbrella in order to avoid being recognized.

Various documents were shown during the trial which were written by her, and that they were written during meetings of the leaders of the CPP.[55]

In her defense, this appellant testified that her co-accused Ramon Espiritu requested her to stay with him as a household help with a salary of P10.00 a month; that besides preparing food, she was also assigned the duty of recording the letters delivered to and received at that place; that her real name is Aurelia Cayetano, but she was using the name of Rosario C. Vda. de Santos because she was a wanted women by the Japanese during the occupation for having aided the guerillas, and she was known by that name among her friends even after the liberation. She admitted that the name "Charing" was hers, but claimed that she did not know the persons writing to her and that they were writing to her because she was the one always in the house.

We find it proven that this appellant was a staff member of the National Courier (or Communication) Di-vision of the CPP, and that she checked and made reports on the arrival and dispatch of couriers. The lower court declared

her guilty as principal in the commission of the crime of rebellion. In Our appraisal of the evidence, however, We find that she was merely executing the orders or commands of others who are superior to her in the or-ganizational set-up of the CPP. Considering that her activities took place while the CPP was underground, and during the period when the armed operations of the HMB were taking place, We find her guilty as a mere partici-pant in the commission of the crime of rebellion under the second paragraph of Article 135 of the Revised Penal Code, and should be punished accordingly.

7. Appeal of Angel Baking

Appellant Angel Baking was arrested by the agents of the MIS and of the Manila Police in his office at Room 504 Samanillo Building, Escolta, Manila, on October 19, 1950, along with Narciano de Leon who is also one of the accused in these cases. His house at No. 1518 Calixto Dayco, Paco, Manila, was also raided. From his office and his residence many books, documents, and other papers were seized, which proved that this appellant was a confirmed communist and was having close connections with the leaders of the CPP. Some of the books found in his residence are: "The Third Five Year Plan" by V. Molo-tov; "Reminiscence of Lenin" by C. Zetkin; Marx and Engels (Selected correspondence); "Heroic Lenin-grad;" "Theory of the Agrarian Question (Lenin); "Stalin" (G.I. R., James); "Constitution of the Kirghs Soviet Socialist Republic"; "The Class Struggle in France", "Biographical Compilation of Communist Leaders outside the Soviet Unions", etc. There are also found reading materials labelled: "Comparative Outlines of Communism and Capitalism showing advantages of communistic ideology"; Blue Record containing outline of the Taruc story" (this con-tains draft of Taruc story for filming and publication); "Political Economy" (typewritten - this was shown to be used as text for HMB studies); "Stalin and the National Colonial Question" by John Blake; etc.

We find, by the evidence, that:

Appellant Angel Baking used the aliases: Bayan, B. and Boriz. He joined the communist party in April, 1949, although he had been identified with the leaders of the CPP since the early part of 1944.[56] He had been as-sociated with top communists like Jorge Frianeza, Luis Taruc, Federico Bautista, Simeon Rodriguez and Jose Lava. When the Technological Group (TG) of the CPP was or-ganized, it was placed under the immediate supervision of Boriz (Angel C. Baking) although the final supervision was under Greg (Jose Lava).[57]

In the meeting of the Secretariat of the CPP on Sep-tember 29, 1950, the attendance of Boriz in the meeting of the Military Committee was discussed, and it appears in the record: "Com. Boriz is a competent technologist, is ready to go out and ready to stay in the field as the Party decides." [58] The Secretariat of the CPP assigned him to head the Special Warfare Division under the GHQ.[59] As head of the Special Warfare Division under the GHQ, ap-pellant Angel Baking wrote a memorandum for the Secretar-iat regarding the immediate installation of a wireless communication system between the GHQ and the Secretariat. Some paragraphs of the memorandum read as follows:

"Briefly the main point to be dealt with pertains to equipment, its procurement, technical description, distribution, installation, operation and maintenance; technical personnel who will participate in the solution of the technical aspects or the problems; the Code system, which is an integral part or the WCS; and the non-technical implications of the prob-lems.

"Because of the underground nature of the system, several problems not met in the legal installation of this system creep to the surface. The equipment itself is conditioned by abnormal factors which are not met ordinarily; the personnel is difficult to enlist; and the ins-tallation, operation and maintenance of the system become unduly handicapped and difficult to perform.

"Since the transmitting unit in Manila cannot be fully used without risk-ing its immediate detection by the

enemy, transmissions to the field from HQ (Manila) may partly be coursed thru the the legitimate radio stations. This has always been done before, and there is no reason why it cannot be developed now. The essential requirements for this measure would be:

‘(1) A cadre to infiltrate the Corps of broadcasters in the radio stations, which may be assigned to the Cultural Group. This cadre should get a position as broadcaster at specific hours, either as station announcer or newscaster for the newspaper or time buyers at the stations;

‘(2) This cadre should be given a code system thru which what-ever message to be transmitted, may be coursed.’[60]

Appellant Baking admitted having prepared the fore-going draft but he claimed, in his testimony, that that draft was prepared way back in May 1948 at the request of one Jorge Frianeza who was a ranking member of the CPP. It appears, however, that when his office in the Samanillo building was raided by the agents of the MIS and the Manila Police this document was found torn in-side a waste basket, and this circumstance made the lower court conclude that he wrote that draft not in 1948 but shortly before the raid on October 19, 1950. The lower court further pointed out that his explanation was flimsy because of the numerous evidence which showed that he supervised the Technological Group and the Special Warfare Division at the GHQ of the CPP. We agree with the conclusions of the lower court in this respect.

Besides, there were found in his office at Room 504 Samanillo Building at the time of the raid several U.S. Army technical manuals on Cipher System and Advanced Military Cryptography, and these manuals have connection with the recommendation in his memorandum for the use of a code system for transmitting messages thru legitimate radio stations.

There are still, other documents which clearly indicate appellant Baking's cooperation with the leaders of the CPP in the furtherance of the plan to seize power. In the document, marked as Exhibit L-33s, he made the following statement:

"To forestall errors in the planning for the future, the training of leading Cadres as economists should be intensified. It is more than likely that by the time CPP seized power, the struggle in Asia shall have been re-solved".

There was found in the possession of Simeon G. Rodriguez (one of the appellants in these cases), the document marked Exhibit O-254 where it appears that appellant Angel Baking acknowledged having received from the National Finance Committee of the CPP the sum of P45.00 for the Technological Group (TG) of which he was a member. Simeon G. Rodriguez is a member of the National Finance Committee of the CPP.

At the time of his arrest, appellant Angel Baking was a foreign affairs officer in the Department of Foreign Affairs of the Republic of the Philippines. That he was using his position in the Department of Foreign Affairs for intelligence work -- and the lower court calls this a manifestation of his "scheming mind" -- may be gathered from what he wrote in his diary as follows:

"There was a tactical error in my transfer to the new office room the office was supposed to be occupied by ambassadors and high-ranking officials. I transferred to it without insuring my hold on the important men of the department. Thus I opened my flank and left my rear unprotected, and made myself extremely vulnerable."

"Because of this, I find myself unprepared to handle that problem. Peter ordered Quiamco that I be transferred back to where I came from".

"I also forgot that the important thing to remember is the unbroken and steady..."

"AGB" (Exh. L-78e)

There is another document found in Baking's re-sidence at 518-B Calixte Dayco which was admitted by him to be his. This document contains entries which indicate his dealings with the CPP organizations and its members. The entries are as follows:

"NFC P200
 Graciano 190
 " 100
 Apolinario 100
 Talas 100
 SGR 20
 Abe..... 50
 Godong 50
 Lake 50
 Mario..... 50
 Lamang 450"

The "NFC" had been shown to stand for National Finance Committee of the CPP, and "SGR" for Simeon G. Rodriguez, a member of the NPC of the CPP, who is also one of the appellants in the present cases. There were sheets of blank papers seized from 742 Colorado Street, Manila, the printing office of TITIS and the working place of Cesario Torres, also one of the appellants in the present cases, bearing signatures of "Apolinario", "Mariano P. Balgos" and "Luis Taruc".

Considering the facts We have hereinabove-stated, We have no doubt in our mind that appellant Angel Baking, as a confirmed communist, had aided in the efforts of the leaders of the CPP to promote and maintain the armed operations of the HMB to overthrow the government. The lower court found this appellant guilty as principal in the commission of the crime of rebellion. We have noted that the role played by this appellant was that of a technician or adviser. Considering that he participated in the rebellion efforts of the CPP while he was holding a public office, We agree with the finding of the lower court, and he should be punished under the first paragraph of Article 135 of the Revised Penal Code.

8. Appeal of Lamberto Magboo

Appellant Lamberto Magboo was arrested by the agents of the MIS and of the Manila Police at 1608-B Andalucia, Manila, on October 18, 1950, along with the accused Ramon Espiritu, Salome Cruz, Rosario C. Vda. de Santos, Naty Cruz, Aurora Garcia and Josefina Adelan. It must be noted that the place, 1608-B. Andalucia, is the headquarters of Salome Cruz who was the. Chief of the National Courier Division of the CPP. The evidence shows that the other persons who were arrested in that place namely, Naty Cruz, and Josefina Adelan worked as couriers under Salome Cruz. Rosario C. Vda. de Santos also worked under Salome Cruz as in-charge of outpost. Aurora Garcia was employed by her aunt, Rosario Vda. de Santos, as a maid and that she was selling the TITIS.

The evidence shows that:

Appellant Lamberto Magboo used the aliases Berting and Eddie. He admitted that he was a courier of the CPP,

and that he actually mailed letters and packages at the Bureau of Posts and at the post office at the Far Eastern University; and he delivered letters, boxes of medicines, canned goods, lanterns, and shoes, from 1608-B Andalucia Street (house of appellant Salome Cruz) to the La Mallorca Bus station, to the LTB station, at Altura Street, Sta. Mesa, at Divisoria Street, and at Celeridad Street in Pasay City.[61] He was a checker of the regular and irregular couriers of Recos 1, 4, 5, 6 and 7 and Dist. No. 4 Pangasinan, and was also a special courier or Dist. No. 4, c/o Reco. 4.[62]

Considering that the Recos are the units of the CPP that are operating with the HMB in the field, such that the person who acts as courier from the headquarters of the National Courier. Division of the CPP in Manila to these Recos was actually working and cooperating with the armed operations to overthrow the government, We find appellant Lamberto Magboo guilty as a mere participant in the commission of the crime of rebellion, under the second paragraph of Article 135 of the Revised Penal Code, and he should be punished accordingly.

9. Appeal of Nicanor Razon, Sr.

Appellant Nicanor Razon, Sr., known also by the alias Elias Rubi, admitted that he had been a member of the CPP since July 1, 1945. Among the documents found at 1608-B Andalucia, Sampaloc, Manila, was the cadre registration and oath of this appellant as a member of the CPP. He was the secretary of Barangay I SECCOM (Sec-tional Committee) II of the District of Tondo, and later rose to the position of treasurer in the same committee. He helped in distributing the TITIS, the official organ of the CPP.[63]

The record does not show that this appellant had testified in his behalf, nor presented any evidence in his defense. In his brief before this Court, however, this appellant claims that the lower court erred in find-ing him guilty as an accomplice in the commission of the crime of rebellion, no evidence having been adduced to show that he had performed any act which would constitute a cooperation in promoting the rebellion jointly undertaken by the CPP and the HMB.

We find merit in the contention of this appellant. We find that the evidence against this appellant only show that he is a member of the Communist Party, and that he had been secretary and later treasurer of SECCOM II of the District of Tondo. There is no evidence regard-ing his actual participation in the efforts of the lead-ers of the CPP and the HMB to promote the rebellion. His having distributed the TITIS, the official organ of the CPP, is at most an act in the category of a propaganda which in itself does not show that he advocated actual uprising against the Government. It has not been shown that he collaborated in the efforts to advance the cause of the rebellion. The fact that he is a member of the Communist Party and an officer of one of its committees is not a sufficient basis for declaring him guilty as an accomplice in the commission of the crime of rebellion.

In the case of *People vs. Hernandez*, G. R. Nos. L-6025-6026 this Court held:

“ We do not believe that mere membership in the Communist Party or in the CLO renders the members liable either of rebellion or of conspiracy to commit rebellion, because mere membership and nothing more merely implied advocacy of abstract theory or principle without any action being induced thereby; and that such advocacy becomes criminal only if it is coupled with action or advocacy of action, namely actual rebellion or cons-piracy to commit rebellion, or acts conducive thereto or evincing the same.”

We, therefore, declare that appellant Nicanor Razon, Sr. is not guilty as an accomplice in the commission of the crime of rebellion, nor can We hold him guilty of, the crime of conspiracy to commit rebellion. He should, therefore, be absolved of the charge against him in the information.

Neither can We find him guilty of having committed a crime under the Anti-Subversion Law (R.A. No. 1700) which outlaws the Communist Party of the Philippines, because this law was enacted only in the year 1957,

whereas the information against this appellant was filed on October 27, 1950. Again, in the case of *People vs. Hernandez*, supra, this Court held:

"On the other hand, Rep. Act 1700, known as the Anti-Subversion Act, which penalizes membership in any organization or association committed to subvert the Government, cannot be applied to the appellants because said Act was approved on June 20, 1957 and was not in force at the time of the commission of the acts charged against appellants (committed 1945--1950); the Anti-Subversion Act punishes participation or membership in an organization committed to overthrow the duly constituted Government, a crime distinct from that of actual rebellion with which appellants are charged."

10. Appeal of Marcos Medina

Appellant Marcos Medina was arrested by MIS agents on October 17, 1950 at 1028-B, Quezon Boulevard. He used the alias Hiwara. He admitted in his written statement^[64] that he was a member of the Hukbalahap Squadron 25 with headquarters at Kandating, Candaba; that he became a corporal of the Huks in 1944; and that he was a member of the Organizational Committee, Reco 4, Laguna, from 1946 to 1949.^[65] In 1949 (he studied at the Central Institute of Technology, and while studying, he used to help HMB couriers Lydia (alias of Alicia Villegas), and Celong (alias of Marcelino Calma) in carrying things for delivery to Commander REG of Reco 4.^[66] In his testimony he stated that the Organizational Committee, of which he was a member, had the duty to go to the barrios to teach and convince the people to join the HMB.^[67]

Testifying in his behalf, this appellant said that he was maltreated at Camp Murphy to make him sign the statement marked as Exhibits EE to EE-4.^[68] However, Sotero Morales, who was the one who investigated him, testified that Marcos Medina did not complain of any mal-treatment when he was investigated.^[69]

We do not agree with the finding of the lower court that this appellant is guilty as principal in the commission of the crime of rebellion. There is no evidence that he actually participated in any of the raids and ambushes alleged in the information, although he admitted that he was a Huk. The evidence shows that he simply helped HMB couriers. We hold, however, that his being a member of the HMB is a sufficient basis to find him guilty of the crime of conspiracy to commit rebellion, punishable under Article 135 of the Revised Penal Code. In the case of *People vs. Hernandez*, supra, this Court held:

"On the other hand, membership in the HMB (Hukbalahap) implies participation in an actual uprising or rebellion to secure, as the Huks pretend, the liberation of the peasants and laboring class from thralldom. By membership in the HMB, one already advocates uprising and the use of force, and by such membership he agrees or conspires that force be used to secure the ends of the party. Such membership, therefore, even if there is nothing more, renders the member guilty of conspiracy to commit rebellion punishable by law.

"And when a Huk member, not content with his membership, does anything to promote the ends of the rebellion like soliciting contributions, or acting as courier, he thereby becomes guilty of conspiracy, unless he takes to the field and joins in the rebellion of up-rising, in which latter case he commits rebellion."

We therefore declare appellant Marcos Medina guilty of the crime of conspiracy to commit rebellion, and he should be punished accordingly.

11. Appeal of Cesario Torres

Appellant Cesario Torres was arrested by the agents of the MIS and the Manila Police on October 19, 1950 at his residence at 742 Colorado St., Manila, along with his wife, Rosenda Canlas Torres, and his co-accused, Arturo Baking. From his house the agents seized subversive documents, and articles including a typewriter, a mimeographing machine, mimeographing ink, stencils, and coupon bond papers. Some of these coupon bond papers were blank but bore the signature of Luis M. Taruc.

The evidence shows that:

Appellant Cesario Torres used the aliases: Leo and Leodones, and he was also known as Cesario Yacat Torres. He admitted being a member of the HMB and of the CPP, that he was the head of the Technical Office under the Propaganda Branch of the CPP, and as head of that office he was in charge of typing and mimeographing the CPP documents and leaflets, and the TITIS which was the official organ of the CPP.[70]

Documents were presented during the trial which clearly prove that this appellant was in regular communication with Federico Maclang, one of the top leaders of the CPP and of the rebellion. Thus, in one letter, he explained to Maclang why the issue of the TITIS for the previous week did not come out; and in another letter he informed Maclang that he would try to make the TITIS come out every Sunday morning.[71] In a letter to Maclang dated April 6, 1950, he inquired for the number of copies of "Suliranin ng mga Familia" that should be printed; and in another letter he was requesting from Maclang P18.40 for the printing of 600 copies of the "Mapagpalaya", the official organ of the HMB.[72] Using the name Leodones, this appellant wrote subversive poems calculated to arouse popular support for the cause of the CPP and the HMB. One such poem, entitled "Ang Dalawangpong Taon Buhay ng PKP", eulogized the CPP, advocated armed revolt against the government and the liquidation of Liberals, Nacionalistas, and priests. The other poems were "Gumising Ka Kabataan", "Maikasing Kasaysayan ng Kilusang Magbubukid sa Filipinas", "Ang Ikawalong Taong Kaarawan ng Hukbong Magpapalaya ng Bayan", and "Ang Sigaw ng Bayan Api". All these poems were published in the different issues of the TITIS.[73]

We find that appellant Cesario Torres played a very vital role in the promotion of the armed struggle that was jointly prosecuted by the CPP and the HMB. He was admittedly a member of both the CPP and the HMB. His membership with the HMB alone is a sufficient basis to hold him guilty of the crime of conspiring to commit rebellion. We believe, however, that he did more than to conspire with the leaders of the HMB and the CPP to commit rebellion. He was in charge of the publication and circulation of the TITIS which was the official organ of the CPP, and of the "Mapagpalaya" which was the official organ of the HMB. It is through these two organs that the people were being aroused to support the armed struggle against the government. While it is true that this appellant did not go to the field to take up arms, the provocative poems and articles that he wrote and published in the official organs of the CPP and the HMB were just as effective to prosecute the rebellion as the guns and other weapons used by the HMB in the field.

We agree with the finding of the lower court that this appellant is guilty as principal in the commission of the crime of rebellion, and he should be punished accordingly.

12. Appeal of Arturo Baking

Appellant Arturo Baking was arrested by the agents of the MIS and the Manila Police on October 19, 1950 at 742 Colorado St., Manila, along with his co-accused Cesario Torres and the latter's wife, Rosenda Canlas Torres. He is the nephew of appellant Angel Baking.

It is shown by the evidence that:

Appellant Arturo Baking used the aliases Red Bell, Eduardo Santos, Arturo Calma and Ed. He became a member of the CPP in December 1949.[74] In August 1950 he was employed by his co-accused Cesario Torres as assistant in the publication center of the CPP at 742 Colorado St., Manila. He was one of those assigned as typist in the Educational Department of the CPP, it having been admitted by him that the publication center was under the Educational Department of the CPP. As assistant to Cesario Torres he helped in the printing, mimeographing and distribution of the TITIS, the official organ of the CPP; as well as in the printing, mimeographing and distribution of HMB documents. His work included the procurement of office supplies, and the keeping of records

of CPP documents that had been printed and distributed to the different officials and organizational units of the CPP.[75] This appellant had studied and finished the prescribed secondary course of the Communist Party, and was given a certificate, "Kati-bayan sa Pagaaral", attesting to his having satisfactorily completed such subjects as the "History of National Liberation Movement", "Dialektika ng Materialismo", "Political Economy", "Estado at Himagsikan", and "Ang Pag-kakatag ng Partido".[76] By his own declaration this appellant admitted having made studies about communism, took rigid tests in order to be accepted to the CPP, and that he believed a communist government should be implanted in the Philippines. In his testimony, he stated that he had developed a deep-seated hatred against the agents of the law because of the predatory acts that were committed by them on poor fishermen, and that on several occasions, especially at various checkpoints, he saw the harsh treatment done by the Constabulary soldiers to civilians. He bewailed the graft and corruption in the government.[77]

We have no doubt that this appellant is a confirmed communist, and that he was in full sympathy with the armed struggle being promoted by the leaders of the CPP and the HMB in order to overthrow the existing government of the Philippines. Upon appraisal of the evidence, however, We cannot agree with the finding of the lower court that this appellant is guilty as principal in the commission of the crime of rebellion. We find that he was the assistant of appellant Cesario Torres, who was entrusted with the publication and distribution of the official organs of the CPP and the HMB, as well as of the printing and distribution of the documents of those two organizations. Being an assistant of appellant Cesario Torres whom We have declared to be a principal in the commission of the crime of rebellion, We hold that appellant Arturo Baking is guilty as a mere participant in the commission of the crime of rebellion, under the second paragraph of Article 135 of the Revised Penal Code, and he should be punished accordingly.

13. Appeal of Simeon G. Rodriguez

Appellant Simeon G. Rodriguez was arrested by the agents of the MIS and the Manila Police in his house at 683 Pasaje Rosario, Paco, Manila, on October 18, 1950, along with Jose Lava, Federico Bautista, Victorina G. Rodriguez and Pedro Vicencio.

The evidence shows that:

Appellant Simon G. Rodriguez used two aliases: Lakindanum (Laquindanum) and Sammy. He was a member of the National Finance Committee of the CPP since October 21, 1949.[78] When he was arrested on October 18, 1950 there were found in his house some P42,376.00 in paper currency in different denominations. Of the money that was found in his house, it was conclusively shown that 65 P100-bills, 60 P50-bills, P145.00 in PNB circulating notes and \$310.00 formed part of the money that were taken from the office of the Provincial Treasurer in Sta. Cruz, Laguna, when the HMB raided that town in the night of August 26, 1950. We have stated at the early part of this opinion that on the night of August 26, 1950 some 400 Huks raided Sta. Cruz. The cashier of the office of the Provincial Treasurer was forced by the Huks at gun point to open the vault of the provincial treasury from which the Huks took some P80,600.00. It happened that the Provincial Treasurer of Laguna, Mr. Balbino Kabisigting, had a record of the serial numbers of the paper money that was deposited in the provincial treasury which were taken by the Huks, and after that raid Mr. Kabisigting even issued a warning to the public about the loss of the money -- mentioning in the warning the serial numbers of the money taken. It was found out that the serial numbers of the 65 P100-bills, of the 60 P50-bills, of the P145.00 PNB circulating notes, and of the \$310 found in the house of appellant Rodriguez tallied with the serial numbers of the paper currency that was taken from the provincial treasury of Laguna. This appellant, in his testimony, declared that the paper money whose serial numbers tallied with those paper money that were taken from the provincial treasury of Laguna formed part of the money that Jose Lava (one of the appellants herein) brought to his house. Considering the high position that appellant Lava held in the CPP and the fact that the armed operations of the HMB were promoted

and directed by the Secretariat of the CPP, of which Lava was a member, and the fact that appellant Simeon Rodriguez was a member of the National Finance Committee, it is easy to understand why Jose Lava brought to this appellant that money which was taken by the HMB from the provincial treasury of Laguna. Significantly, one of the evidence presented during the trial was a receipt, dated October 5, 1950, signed by Lakindanum in favor of Com. Torres (Casto Alejandrino, a well-known HMB commander) of Reco 4, acknowledging receipt of P32,740, \$310; and P145 in PNB circulating notes.[79] It could be that Jose Lava made Rodriguez prepare that receipt when he delivered the money, and the receipt was intended to be sent to Com. Torres to assure the latter that the money was delivered to Rodriguez. That receipt was among the papers seized when these appellants were arrested. This is a clear indication of the connection of appellant Simeon Rodriguez to the armed operations of the HMB, and the coordinated work of the leaders of the CPP and of the HMB in the armed uprising.

There are other documents clearly indicating the connection of appellant Rodriguez to the HMB commanders in the field: (1) There is a letter dated October 13, 1950, addressed to Com. Lakindanum (Simeon G. Rodriguez) coming from Com. Torres (Canto Alejandrino) wherein the latter acknowledged receipt of the letter and articles that were sent to him by Com. Lakindanum. This letter also instructed Lakindanum not to send the watches to Reco 4.[80] (2) There is another letter, dated October 13, 1950, of Com. Lanao, addressed to Com. Lakindanum, wherein the former was requisitioning from Lakindanum a radio set in this letter Com. Lanao, among others, said: "We would make the attempt to provide you with an extra ration of camote leaves when you visit us again".[81] This statement in the letter of Com. Lanao indicates that appellant Simeon Rodriguez used to visit the men in the field. (3) There is still another letter that came from Com. Amor addressed to Com. Lakindanum, wherein the former acknowledged receipt of all the things, including a radio tester costing P30.00, that the latter had sent to him.[82] (4) Then there is a letter written by herein appellant to Com. Beria (Federico Maclang) stating that he delivered the tester to Com. Reg in the absence from camp of Com. Torres.[83] (5) There is a receipt showing that appellant Rodriguez signed in the name of the National Finance Committee, acknowledging receipt of the amount of P705.00.[84] (6) There is still another receipt signed by herein appellant acknowledging receipt of P1,200 from the National Finance Committee, which was prepared for accounting purposes.[85]

This appellant admitted, in his testimony, his close association with Jose Lava. He also said that he was inclined to believe in the tenets of communism and the use of force in case the people decide to take political power in their hands.

We have carefully examined the evidence of the prosecution against this appellant, and also the evidence which he presented in his defense -- consisting of his own testimony mainly denying the positive evidences against him and of the testimonies or witnesses vouching for his good character and the fact that he was a businessman -- and We have arrived at the conclusion that this appellant is one of the top communist leaders who had promoted and maintained the armed operations of the HMB in the field. We agree with the finding of the lower court that appellant Simeon G. Rodriguez is guilty as principal in the commission of the crime of rebellion; and he should be punished accordingly.

14. Appeal of Marciano de Leon

Appellant Marciano de Leon was arrested, together with Angel Baking at Room 504, Samanillo Building, Escolta, Manila, on October 19, 1950. He used the aliases Mar and Marcial. At the time of his arrest, he worked in the Personnel Section at the Headquarters of the Philippine Constabulary. He admitted having supplied his co-accused Federico Bautista with government documents and confidential information regarding the HMB from the PC Headquarters. These were:[86]

1. Memorandum to all PC Commanders re Huk infiltration.

2. Memorandum to all PC commanders re Loyalty Status of all PC personnel.
3. Memorandum on PC-Civilian Relations.
4. List of PC Agents and their addresses.
5. List of Persons wanted by the PC.
6. Letter on the subject: "Yellow journalism."
7. U.S. Army Technical Manuals and Field Manuals.

We concur with what, the lower court said about this appellant: "Considering the nature of the documents he admitted in his confession to have been furnished by him to Federico Bautista, the contents of his confession and the accessibility to him of those documents by reason of his position in the Personnel Section of the Philippine Constabulary, the Court is inclined to believe that he also took part in the conspiracy to overthrow the government by armed struggle and did his bit by furnishing Federico Bautista with information and records regarding the HMB activities obtainable from the PC Headquarters," We do not agree with the lower court, however, that this appellant is guilty as principal in the commission of the crime of rebellion. Considering the top position of Federico Bautista in the CPP hierarchy, it cannot be denied that appellant Merciano de Leon, by giving the information hereinabove-stated to Federico Bautista, had cooperated or helped in the prosecution of the armed rebellion. We hold this appellant guilty as a mere participant in the commission of the crime of rebellion, under the second paragraph of Article 135 of the Revised Penal Code, and he should be punished accordingly.

15. Appeal of Honofre Mangila

We find, by the evidence, that:

Appellant Honofre Mangila was arrested on November 22, 1950 at 215 Leveriza, Pasay City. He used the aliases Miller and Tommy. He admitted being a communist -- in fact, he said he was proud to be a communist -- and being a member of the Central Committee of the CPP. He was also a member of the Trade Union Division (TUD) of the CPP. In the meeting of the Secretariat of the CPP on September 1, 1950, appellant Mangila was appointed auditor of funds and books of account of the National Finance Commission (NFC).[87] He actually audited the financial statements of the NFC for the months of April, May and June, 1950; Mangila's auditing of the National Finance Commission's account was approved by the Secretariat in its meeting of September 22, 1950. He was also the chairman of the organizational department (OD) for Manila under the Organizational Bureau of the CPP.[88]

There is no question that this appellant is one of the top men in the hierarchy of the CPP. He was a member of the Central Committee which is the body second only to the National Congress of the CPP. When the National Congress is not in session it is this Central Committee that makes decisions for the party. While testifying in his behalf he revealed his strong communist party discipline when he declined to reveal, upon being cross-examined, the identity of the other members of the Central Committee, and the members of the National Congress and of the Politburo. While testifying he was very outspoken in indicting the existing economic and social order in the country, and asserted that it is only under the Communist Party when the laboring class can expect a bright future.

During the trial letters signed by "Miller" or "Tommy", were presented in evidence. Those were letters addressed to Johnny (Ramon Espiritu) and to Luming (Salome Cruz) concerning financial matters, meetings and other activities in the CPP.[89]

Considering that it is the CPP, as We have shown, that promotes and maintains the armed operations of the HMB against the government, and considering that appellant Honofre Mangila is a member of the Central Committee

which is the most powerful body in the CPP when its National Congress is not in session, and considering further that this appellant was even appointed auditor to audit the funds of the CPP, We believe that this appellant is one of the principal leaders of the rebellion as charged in the information. We agree with the finding of the lower court that appellant Honofre Mangila is guilty as principal in the commission of the crime of rebellion and that he should be punished accordingly.

16. Appeal of Cenon Bungay

We find, by the evidence, that:

Appellant Cenon Bungay was arrested by Vicente Roco of the 20th BCT and some members of the Manila Police on November 21, 1950, at 432 Isabel, Sampaloc, Manila. This appellant used the alias Rufing.

In written statements, he admitted that he joined the Huks in 1946, and at the time of his arrest on November 21, 1950 he was the commander of the HMB in the province of Batangas and the G-3 of Field Command (FC) No. 3 of the HMB. While testifying in open court, he declared that as the HMB commander he had 1,300 fully armed men (equivalent to 4 HMB battalions) under him, and as a Huk commander he had been receiving directives from the higher authorities of the HMB. He revealed that Luis Taruc was the Supremo of the HMB.[90] He also admitted his direct participation in an encounter between the HMB and the government forces in Plaridel, Bulacan, on March 27, 1950. He stated that in obedience to an order from Regional Command No. 4, he led his unit in the raid of San Pablo City on March 29, 1950, resulting in the death of Maj. Alicbusan. He said that their purpose was to overthrow the government by force, and to establish the "New Democracy".[91] He also declared that he joined the Huks in 1942 because of poverty; that his parents were tenants in Hacienda Bahay Pare at Candaba, Pampanga; that he stopped schooling after the 7th grade in order to help support his parents and ten brothers and sisters; that realizing the miserable conditions of the tenants, he joined the "Aguman Ding Talapagobra" (ADT), the aim of which was the amelioration of the tenants; that through this organization he realized that the tenants must organize to promote their welfare and to prevent the abuses of landlords. He further declared that in spite of the sacrifices of the Huks for 3 years during the Japanese occupation, the Huks representing the countless tenants, were ignored by the U.S. armed forces and by the Commonwealth Government; and having been harassed, persecuted and frustrated in their aims to ameliorate the condition of the masses, the Huks went underground. According to him the Huks felt more persecuted when Luis Taruc, the successful congressional candidate in 1946 of the Democratic Alliance, was denied his seat in Congress, and that they lost faith in the government due to the frauds and terrorism perpetrated in the elections that followed.[92]

Appellant Bungay admitted that the HMB had to use force in order to change the administration. He said that the men under him used arms given by the American soldiers and Communist sympathizers. He also revealed that while he was the Huk commander at Cavite, he had two encounters with government forces, one at Aliang, Malabon, on February 18, 1950; and the other at Alfonso, Cavite, on February 22, 1950. These admissions were fully corroborated by Benjamin Advincula, a ranking officer and Secretary of Reco Command No. 4 of the HMB and by Ronald Dorsey, a former Huk member.[93]

There is no doubt that Cenon Bungay, as Huk commander, was also a leader in the rebellion. We agree with the finding of the lower court that this appellant is guilty as principal in the commission of the crime of rebellion, and he should be punished accordingly.

17. Appeal of Pedro T. Vicencio

Appellant Pedro T. Vicencio was arrested on October 18, 1950 at 683 Pasaje Rosario, Paco, Manila, along with Jose Lava, Federico Bautista, Simeon Rodriguez and Victorina Rodriguez. He was also known as Pedring. In a

statement, signed by him at Camp Murphy after his arrest, he admitted that he used to run errands, bringing foodstuffs, medicines and other supplies intended for the HMB, and also delivering packages that were labelled R-1, R-2, R-3, R-4, and R-5, which stood for Reco-1, Reco-2, etc., respectively, to Andalucia Street where Rosario Vda. de Santos received them.[94] We have found, in this decision, that Rosario Vda. de Santos was working under Salome Cruz who was the chairman of the National Communications Division (MCD) of the CPP, and that she was in charge of an out-post, checking the irregular couriers for Recos 1, 2, 3, 4, 5 and Pangasinan, and she was staying at 1608-B Andalucia, Sampaloc, Manila.

Testifying in his own behalf, appellant Vicencio denied being a member of the CPP nor of the HMB, although he stated that at the time of his arrest, he was studying the principles of communism, and that he sympathized with the Huks. At the time of his arrest this appellant was 20 years old, and he was a first year Liberal Arts student. He admitted in his testimony that he delivered to Angel Baking notes sent by Simeon Rodriguez.[95]

While it is not shown that this appellant actually took part in the armed operations of the HMB, his having delivered foodstuffs, medicines and other supplies which were intended for the HMB, and his having delivered packages to Rosario Vda. de Santos who was in charge of the outpost where couriers go to deliver, or to get, letters or articles intended for RECOS in the field, clearly indicate that this appellant was actively cooperating in the efforts of those promoting the rebellion. Being 20 years of age and a college student, it can be expected that he knew that he was doing something for the communists and the Huks. More so, because he was living with Simeon G. Rodriguez, one of the top leaders of the CPP. He admitted having delivered notes sent by Simeon Rodriguez to Angel Baking, another top leader of the CPP. The house of Rodriguez was the meeting place of CPP leaders.

We find this appellant guilty as a mere participant in the commission of the crime of rebellion, under the second paragraph of Article 135 of the Revised Penal Code, and he should be punished accordingly.

18. Appeal of Felipe Engreso

Appellant Felipe Engreso was arrested on October 18, 1950 at 1938 Int. 7 Felix Huertas St., Manila, along with Federico Maclang and Julita Rodriguez. At the time of his arrest, he was about 15 years old, and was living as a houseboy of one known to him as Ambrosio Reyes.

It appears that in a written statement that he signed before the MIS agents, this appellant admitted having delivered letters to Mr. Espiritu (Ramon Espiritu) at Andalucia St., Manila; to Cesar (Cesario Torres) at 742 Colorado, Manila; and to Gaston (Jose Lava) at Celeridad St., Pasay City. It also appears in that statement that he used to get the TITIS from Colorado St. (residence of Cesario Torres and the CPP publication center) to deliver them to Andalucia Street (residence of Ramon Espiritu, Salome Cruz and Rosario Vda. de Santos) and, retained one copy for Ambrosio Reyes.[96]

Testifying in his behalf, appellant Engreso declared that before his arrest he never knew that his master, Ambrosio Reyes, is the accused Federico Maclang. He came to know his master to be Federico Maclang only when they were already detained at Munting-lupe.[97]

Upon a careful study of the evidence against this appellant, We have come to the conclusion that his guilt has not been proved beyond reasonable doubt. This appellant was only around 15 years old. We accept his testimony that he did not know that his master was Federico Maclang, and that all the time he knew him to be Ambrosio Reyes. He was simply a houseboy of Maclang. He had to obey orders to deliver letters or deliver copies of TITIS. There is no showing that he knew the contents of the letters that he was made to deliver, or that he knew the addressees to be communists. The Solicitor General recommends the acquittal of this appellant upon the ground that there is no sufficient evidence to show his criminal intent. We agree with the Solicitor General. We, therefore, acquit

appellant Felipe Engreso of the charge against him in the information.

- - -

IN VIEW OF THE FOREGOING, the decision appealed from should be, as it, is hereby, modified, as follows:

1. In G.R. No. L-4974

Appellants Jose Lava, Federico Bautista, Federico Maclang, Ramon Espiritu, Iluminada Calonje and Angel Baking are found guilty as principals in the commission of the crime of simple rebellion under the first paragraph of Article 135 of the Revised Penal Code, and every one of them is hereby sentenced to suffer imprisonment for ten (10) years of prision mayor and a fine of P20,000, with the accessories provided by law, but without sub-sidiary imprisonment in case of insolvency, and to pay their proportionate shares of the costs.

Appellant Rosario C. Vda. de Santos is found guilty as a participant in the commission of the crime of simple rebellion under the second paragraph of Article 135 of the Revised Penal Code, and she is hereby sentenced to suffer imprisonment of seven (7) years and four (4) months of prision mayor with the accessories provided by law, and to pay her proportionate share of the costs.

2. In G. R. No. L-4975

Appellant Cesario Torres is found guilty as principal in the commission of the crime of simple rebellion under the first paragraph of Article 135 of the Revised Penal Code, and he is hereby sentenced to suffer imprisonment of ten (10) years of prision mayor, and a fine of P20,000, with the accessories provided by law, but without subsidiary imprisonment in case of insolvency, and to pay his proportionate share of the costs.

Appellants Lamberto Magboo and Arturo Baking are found guilty as participants in the commission of the crime of simple rebellion under the second paragraph of Article 135 of the Revised Penal Code, and every one of them is hereby sentenced to suffer imprisonment of seven (7) years and four (4) months of prision mayor, with the accessories provided by law, and to pay their proportionate shares of the costs.

Appellant Marcos Medina is found guilty of the crime of conspiracy to commit rebellion under Article 136 of the Revised Penal Code, and he is hereby sentenced to suffer imprisonment of five (5) years, four (4) months, and twenty (20) days of prision correccional and a fine of P2,000, with the accessories provided by law, with subsidiary imprisonment in case of insolvency, and to pay his proportionate share of the costs.

Appellant Nicanor Razon, Sr. is hereby acquitted, with costs de oficio.

3. In G.R. No. L-4976

Appellant Simeon G. Rodriguez is found guilty as principal in the commission of the crime of simple rebellion under the first paragraph of Article 135 of the Revised Penal Code, and is hereby sentenced to suffer imprisonment of ten (10) years of prision mayor and a fine of P20,000, with the accessories provided by law, but without subsidiary imprisonment in case of insolvency, and to pay his proportionate share of the costs.

Appellant Marciano de Leon is found guilty as a participant in the commission of the crime of simple rebellion under the second paragraph of Article 135 of the Revised Penal Code, and is hereby sentenced to suffer imprisonment of seven (7) years and four (4) months of prision mayor with the accessories provided by law, and to pay his proportionate share of the costs.

4. In G.R. No. L-4977

Appellants Honofre Mangila and Simeon Bungay are found guilty as principals in the commission of the crime of

simple rebellion under the first paragraph of Article 135 of the Revised Penal Code, and every one of them is sentenced to suffer imprisonment of ten (10) years of prision mayor, and a fine of P20,000, with the accessories provided by law, but without subsidiary imprisonment in case of insolvency, and to pay their proportionate shares of the costs.

5. In G.R. No. L-4978

Appellant Pedro T. Vicencio is found guilty as a participant in the commission of the crime of simple rebellion under the second paragraph of Article 135 of the Revised Penal Code, and is sentenced to suffer imprisonment of seven (7) years and four (4) months of prision mayor, with the accessories provided by law, and to pay his proportionate share of the costs.

Appellant Felipe Engreso is hereby acquitted, with costs de oficio.

The Court takes Judicial notice, that, except for appellants Lamberto Magboo, Nicanor Razon, Sr., Pedro T. Vicencio, and Felipe Engreso who are on provisional liberty under bail, and the rest of these appellants are detained, and their detention dates back as of August, October or November, of the year 1950, as the case maybe. The Director of the Bureau of Prisons is hereby directed to determine the period of detention that should be credited to the appellants who are under detention pursuant to the provisions of Article 29 of the Revised Penal Code, and to release immediately those appellants who are entitled to be credited with the period of their detention equal to the penalty of imprisonment imposed upon them in this decision.

IT IS SO ORDERED.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Sanchez, and Capistrano, JJ., concur.

Fernando, J., concurs and in addition filed a separate opinion.

Teehankee and Barredo, JJ., did not take part.

Concepcion, C.J., and Ruiz Castro, JJ., on official leave of absence.

[1] G.R. Nos. L-6025 and L-6026, July 18, 1956; 99 Phil., 515, 520, 541, 547, 551.

[2] 99 Phil. 515, 535.

[3] Appellee's brief, pp. 180-182.

[4] People vs. Camerino, L-13484, May 20, 1960; U.S. vs. Cernias, 10 Phil. 682.

[5] U. S. vs. Santiago, 41 Phil. 793.

[6] People vs. Hernandez, supra; People vs. Romagosa, supra; and People vs. Santos, supra.

[7] Tan It vs. Sun Insurance Office, 51 Phil. 212.

[8] Pages 61-62 t.s.n., Reconstitution.

[9] Pages 33, 37, t.s.n., Reconstitution.

[10] Pages 429-432, t.s.n., Vol. III.

[11] Page 548, t.s.n., Vol. III.

[12] Page 410, t.s.n., Vol. III.

[13] Sec. 23, Rule 132, Rules of Court.

- [14] Page 564, t.s.n., Vol. III; Cho Chun Chac vs. Garcia, 47 Phil. 530; Alejandrino vs. Reyes, 53 Phil. 974.
- [15] Anderson vs. State, 72 Ga. App. 487; 34 S.E. (2d) 110; Underhill Criminal Evidence, 5th ed., Vol. 1, p. 430.
- [16] Exhibit O-13-14, par. 1
- [17] Exhibit O-106-107, par. 2
- [18] Exhibit M-1726.
- [19] Exhibit K-206.
- [20] Exhibit O-582-589.
- [21] Exhibit M-1806-1813.
- [22] Page 429, t.s.n., Vol. III.
- [23] Pages 433-434, t.s.n., Vol. III.
- [24] Page 803, t.s.n., Vol. III.
- [25] Exhs. N-77; N-212.
- [26] Exhs. M-421-422; N-60.
- [27] Exh. M-31-32, par. 18
- [28] Exh. O-473-474.
- [29] Exh. M-280-283.
- [30] Exh. M-248-251.
- [31] Exh. N-257-268.
- [32] Exhs. N-269-271; M-1585.
- [33] Exhs. N-175-176; O-480.
- [34] Exhs. K-1396-1397.
- [35] Exhs. M-244-254; M-258-267; M-269.
- [36] Exhs. N-265-268; M-1570.
- [37] Exhibit CC.
- [38] Exhs. O-91-92, par. 2; O-308-309, par. 2; pages 500-512, t.s.n., Vol. III.
- [39] Exh. O-106-107.
- [40] Exhibit M-25-26.
- [41] Exhibits O-99-101, par. 3; O-312, par. 4.
- [42] Exhibit O-334-337, par. 6.
- [43] Exhibit O-643, par. 9.
- [44] Pages 433-434, t.s.n., Vol. III.

- [45] Exhibits HH-4-to HH-8; page 780, t.s.n., Vol. III.
- [46] Exhibits L-318; M-1330-1331; M-21; O-441-444; O-643, par. 9; O-334-337, par. 10; pages 19, 26, t.s.n., Vol. III.
- [47] Exhibits M-1241; M-1242-1243; M-1268-1269; M-248, M-260; O-449; M-1257, M-1270 and M-1369.
- [48] Exhibits M-1310; M-1365-1366.
- [49] Exhibits C-318, par. 1; N-535-538.
- [50] Exhibits M-1241, M-1255, M-1743, M-1765-1768.
- [51] Exhibit M-54.
- [52] Exhibit M-159-162.
- [53] Exhibits M-152-153.
- [54] Exhibit M-80.
- [55] Pages 778-779, t.s.n., Vol. III; Exhibits M-54, M-56, M-57, M-58, M-60, M-61, M-65.
- [56] Exhibit O-281, par. 6.
- [57] Exhibit O-316-317 par. 3.
- [58] Exhibit M-35-38, par. 15.
- [59] Exhibit M-35-38, par. 15.
- [60] Exhibit L-33-P to L-33-Pa. See also Exhibits L-33-c and L-33-d which had been shown to be Baking's handwritten outline of his MEMO on the WCS.
- [61] Exhibits GG to GG-10.
- [62] Exhibits M-1241, M-1255, M-1244, M-1290-91; Pages 671-673, t.s.n., Vol. II.
- [63] Exhibits DD-1, M-1423; Pages 654-657, t.s.n., Vol. II.
- [64] Exhibit EE to EE-4.
- [65] Page 743, t.s.n., Vol. III.
- [66] Exhibits EE-2 to EE-3.
- [67] Pages 657-658, t.s.n., Vol. II.
- [68] Pages 744-746, t.s.n., Vol. III.
- [69] Page 669, t.s.n., Vol. III.
- [70] Exhibits V-V-4; Pages 626-628 t.s.n., Vol. II.
- [71] Exhibits M-1054 and M-1056.
- [72] Exhibits M-171 and M-172.
- [73] Exhibits K-189, M-1660, M-1666 to M-1670.

- [74] Exhibit W-3, par. 7.
- [75] Exhibits W, W-1, K-208; Page 841, t.s. n. Vol. III.
- [76] Exhibit. L-145.
- [77] Pages 834-836, t.s.n., Vol. III.
- [78] Exhibit O-13-14, par. 1.
- [79] Exhibits O-572, O-572a-1, O-572 ab-1.
- [80] Exhibit O-577.
- [81] Exhibit O-578.
- [82] Exhibit O-576.
- [83] Exhibit O-505-506.
- [84] Exhibit M-10.
- [85] Exhibit O-9.
- [86] Exhibits BB to BB-7, p. 610, t.s.n., Vol. III.
- [87] Exhibits O-643, par. 8; Pages 715, 729, t.s.n., Vol. III.
- [88] Exhibits Z to Z-11.
- [89] Exhibits M-570, M-1472-1474.
- [90] Exhibits LL to LL-7; Pages 670, 673, t.s.n. Vol. III.
- [91] Page 428, t.s.n., Vol. I; Page 671, t.s.n., Vol. III.
- [92] Pages 634-35, 637, 666, 689, t.s.n., Vol. III.
- [93] Pages 668-670, t.s.n., Vol. III.
- [94] Pages 172, 196, 198, t.s.n., Vol. II; Page 682,, t.s.n., Vol. IV; Pages 3 and 6, t.s.n., Vol. III.
- [95] Exhibits JJ to JJ-7; Pages 3 and 6, t.s.n., Vol. III.
- [96] Exhibits SS to SS-3.
- [97] Pages 620-623, t.s.n., Vol. III.

6 pt 6 pt 0 3

CONCURRING OPINION

FERNANDO, J.:

I join my colleagues in giving assent to the well-written and exhaustive opinion of Justice Zaldivar, speaking for this Court, distinguished as it is by grasp of the relevant facts meticulously examined and narrated with clarity as well as of the controlling legal principles that call for application. Particularly noteworthy to my mind is the reaffirmation of our doctrine in *People v. Hernandez*,^[1] with the present Chief Justice, who penned the opinion,

stressing the primacy of liberty even when the offense charged is against the security of the state.

Precisely because of what I deem to be high estate that must be accorded liberty even in times of trouble and distress, I feel that additional words might not be amiss. It would appear to me that the prosecution of the accused herein having been started at a time when there appeared to be a clear danger to democratic institutions, the belief seemed to have gained credence in certain circles that as far as these accused were concerned, there was no need to apply with rigor their constitutional rights.

That to me is a false thesis. It implies the weakness of a democracy to defend itself democratically. Under such a view, a government could be spared the threat from internal subversion, but what is saved is no longer the government contemplated by the framers and the people who adopted the Constitution.

Well has Justice Bengzon observed in his separate opinion in *Nava v. Gatmaitan*:^[2] "And in my opinion, one of the surest means to ease the uprising is a sincere demonstration of this Government's adherence to the principles of the Constitution together with an impartial application thereof to all citizens, whether dissidents or not. Let the rebels have no reason to apprehend that their comrades now under custody are being railroaded into Muntinglupa, without benefit of those fundamental privileges which the experience of the ages has deemed essential for the protection of all persons accused of crime before the tribunals of justice. Give them the assurance that the judiciary, ever mind-ful of its sacred mission will not, thru faulty cogi-tation or misplaced devotion, uphold any doubtful claims of Governmental power in diminution of individual rights, but will always cling to the principle uttered long ago by Chief Justice Marshall that when in doubt as to the construction of the Constitution, 'the Courts will favor personal liberty * * *.'"

Justice Tuason in another opinion rendered in that case would apply the constitutional rights with un-deviating rigidity: "To the plea that the security of the State would be jeopardized by the release of the defendants on bail, the answer is that the existence of danger is never a justification for courts to tamper with the fundamental rights expressly granted by the Constitution. These rights are immutable, inflexible, yielding to no pressure of convenience, expediency, or the so-called 'judicial statesmanship.' The legislature itself can not infringe them, and no court conscious of its responsibilities and limitations would do so. If the Bill of Rights are incompatible with stable govern-ment and a menace to the Nation, let the Constitution be amended, or abolished. It is trite to say that, while the Constitution stands, the courts of justice as the repository of civil liberty are bound to protect and maintain undiluted individual rights."^[3]

It is extremely difficult to find cause for dis-agreement with the above views for they accord with the fundamental postulate of this Government, namely, that the Constitution is supreme and this Court, as its ultimate guardian, is called upon to apply its provisions in the determination of actual cases and controversies before it. Well has it been observed that it exists precisely to assure the protection of the citizen and the maintenance of his constitutional rights. The exercise of this official duty requires that it gives effect to the supreme law even to the extent in clear cases of setting aside legislative and executive action.

This is not to say that the judicial process takes place in a social void. The existence of an emergency is not a factor to be reckoned with lightly. The task of this Court in adjusting or harmonizing individual rights with the safety of the state, ordinarily one of utmost delicacy, then becomes even more formidable. The fact remains however that the regime established here is one of liberty, of justice and of democracy. Belief in the theory of liberty is not merely an echo of a discredited past. It remains a fighting faith. It is a proclamation of the vitality of the democratic process. It rests on the conviction deeply and profoundly held that given the choice, a free people will prefer to remain free.

This is not to deny that force has to be met with force. This is not to deny that the courts are not to hamper the

efforts of the executive agencies to put down subversion in whatever form it may manifest itself and wherever it may make its appearance. This is not to deny that on the executive and its agents is conferred the authority to cope with rebellious activities. Such authority must be equal to the grave responsibility thus confronting it.

Nonetheless, even under such circumstances, our duty is clear. It is not for us to abdicate our constitutional function. We cannot just because of the danger sanction every step the executive authorities might take. If we do so, we would lend comfort to the very forces seeking to undermine the government. They can assert, and with plausibility, that the Constitution no longer obtains. It is precisely in times of emergency that the role of the judiciary as guardian of constitutional rights becomes more pressing and inescapable, if the faith and confidence of the people in democracy in action are to be preserved unimpaired.

Since to my mind such a view is implicit in the opinion of Justice Zaldivar, even if not expressly avowed, I yield my concurrence.

[1] 99 Phil. 515 (1958).

[2] 90 Phil. 172 (1951).

[3] At p.206.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.