

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
AURELIO ALVERO (ALIAS RELI), DEFENDANT AND APPELLANT.***G.R. No. L-820. April 11, 1950*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d277c5553818/>**MONTEMAYOR, J.:**

Aurelio Sevilla Alvero alias Reli was charged with treason on twenty-two (22) counts (Annex A) before the People's Court. After trial, said Court in a 45-page decision penned by Judge Jose S. Bautista, Associate Judge of said Court, concurred in by Associate Judges Dizon and Tancinco, found the defendant guilty on all counts except the 10th relative to his interview v/ith Leonardo Garcia, and the 18th which refers to his alleged ordering, helping in and causing the burning of the buildings west of Taft Avenue and south of Libertad street in Pasay, and sentenced him to reclusion perpetua with the accessories of the law, to pay a fine of P10,000 plus costs, crediting him with one-half of the preventive imprisonment; he has already suffered.

Appealing from that decision of conviction, Alvero in a 112-page brief, assails the decision, assigning forty-two (42) errors said to have been committed by the trial court, asking that the judgment of conviction be totally reversed and that he be acquitted. The Solicitor General in a 103-page brief examines and reviews the voluminous record of the evidence, analyzes and discusses it in detail in connection with the information, count by count, endeavors to refute the allegations and arguments of appellant in support of his assignment of errors and recommends that the judgment be affirmed. Considering the gravity of the offense charged, the time spent and the efforts made by both appellant and the appellee in analyzing the evidence and later embodying their views and contentions in their briefs, we have devoted considerable time and accorded much attention and care in studying this case, scrutinizing the extensive and voluminous evidence both oral and documentary, and given careful consideration of the questions of fact and law raised before us. In our decision, we shall try to follow the order and sequence adopted by the trial court in the consideration and determination of the different counts.

The People's Court grouped the 22 counts under three main classifications—economic, political, and military collaboration. Under economic collaboration, come counts 2 and 3 referring to appellant's business or trading activities, buying war materials and selling them to the enemy, under his company called ASA TRADING which trade-name stands for his name Aurelio Sevilla Alvero. In political, collaboration are included three groups, namely: the letter of congratulations to President Laurel relative to his declaration of war against the United States and Great Britain (count 4); defendants membership in the KALIBAPI (count 1); and the formation and organization of the New Leaders' Association (counts 6, 7, 8, 9, 12, 19, 21, and 22). Under military collaboration, come five groups, which are: defendant's relations with and membership in the MAKAPILI (counts 5 and 20); his organization of the "Bisig Bakal Ñg Tagala" (counts 13, 14, 15, 16, and 17); the meeting at the Ayuntamiento de Manila ([City Hall], count 17); organization of OUR PEOPLE'S OWN GUERRILLA ([O.P. O. G.], count 11); and the burning of buildings in Pasay (count 18). The last seven pages of the decision of the trial court are devoted to discussion and findings on the appellant's adherence to the enemy.

After the submission of the briefs by both parties, Amnesty Proclamation No. 51 dated January 28, 1948, was

promulgated. Invoking the benefits of said Amnesty Proclamation, appellant filed a motion for dismissal of the cultural, political and economic counts of the information. The Solicitor General appears to be agreeable to said motion, having signed at the bottom of said motion under the word "conforme". In a resolution dated March 17, 1948, this Court advised the parties that said motion for dismissal will be acted upon when the case is considered on the merit. Said motion will be passed upon and considered later in this decision.

The appellant admitted in open court that he is a Filipino citizen.

ECONOMIC COLLABORATION

Under this heading, counts 2 and 3, the People's Court found that in the month of August, 1943, Alvero established a business in the "buy and sell" of automobile spare parts, considered as war materials, at the corner of Dasmariñas and Markina streets, Manila under the name ASA TRADING. He began with a capital of P15,000.00 and when he closed his business about the end of the year 1944, he had accumulated a net profit of P2,000,000. With this he bought a house in July, 1944, costing P300,000 and he allegedly subsidized or undertook to subsidize his New Leader's Association from these profits.

While appellant claims that he did not want to deal in war materials and bought and sold only clocks, hinges, hasps, books, clothing, and small auto and truck spare parts, the evidence which consists mostly of the testimonies of his own officials and employees of the ASA shows that he sold mostly automobile spare parts, rotors, brake arms, carburetors, pumps, diaphragms, tires, batteries, automobile bulbs, lamps, spark plugs, electric wires, bolts, compressors, chain blocks, locks, hinges and other electrical equipment and hardware, bought and acquired from agents. Defendant in his testimony admitted that his stock consisted of automobile parts which were needed for transportation and that no car will run without any of said parts. The appellant insists that in his business he did not want to deal with the Japanese and that he had instructed his employees not to sell any of his stock to them, but there is abundant evidence to prove and the People's Court rightly found that the only purchasers of materials from his stocks were the Japanese, and on a big scale, and that it was he who in most cases, personally closed the deals with the Japanese purchasers and collected the sales price. For instance, he made several sales to Capt. Ohasi of the Japanese Navy which in all amounted to P2,000,000. Takatori of the Philippine Commodities Purchasing Association, which was the procurement agency of the Japanese Imperial Forces bought from the defendant during the latter part of 1944 materials valued at half a million pesos (P500,000). An entry in his diary (Exhibit ZZ) dated November 16, 1944, at 9:35 a.m. states:

"I arrived in the office with Sato Koyzo and his soldiers preparing for the report of half of my bodega stock. I am thankful to Major _____ and Mr. Takatori for their kindness and cooperation, which will enable me to concentrate on my work for my country."

Koyzo was an agent of the Kobe Marine. On December 11, 1944, he noted down in his own diary (Exhibit ZZ) at 3:30 p.m. the followings:

"After completing the itemization of the remaining stock for Mr. Wasizuka I went with Mr. Kawa to Kobe Marine, the buying house of Akatsu Kubatai. Mr. Uta informed us that we need the signature of Capt. Ukamoto at the Kumiyan (?)."

On November 15, 1944, at 10:35 a.m., he noted down in his diary Exhibit X the following:

"Virgy (Virginia Floro Claudio) informed me at the Nippon Bunka Kaikan that Maj. Yorisiko Moriyama and Mr. Takatori were in my office to buy up my remaining stock * * *. As I was walking to the office, I felt gratified by the thought of the spirit of cooperation of Major Moriyama and Mr. Takatori. Very incidentally I had told Mr. Takatori the reasons for my absence from my office and my attendance to my business, namely,

my activities in the 'League of Patriotic Filipinos' and in the 'New Leaders Association', Interested in my endeavors he communicated the matter to Major Moriyama, who, without losing time, ordered that my entire stock be bought up so as to give me the freedom which is needed for my patriotic work."

It will be seen later that for lack of identification, we held Exhibit X to have been improperly admitted; however, during the bail hearing, appellant admitted that the portion of the diary reproduced regarding the coming of Takatori to his office and wanting to buy his remaining stock, was correct, and he told the court that for that remaining stock he demanded P850,000.00, based on his inventory and the current prices.

Then on November 16, 1944, at 3:45 p.m. we find this entry in his diary Exhibit ZZ:

"Proceeded to the Kobe Marine for business. Met Mr. Takatori who offered me once again his assistance in order to close my business."

This refers to and confirms the contents of the next preceding entry.

POLITICAL COLLABORATION

Under this heading, count 4, the evidence shows and the People's Court found that the day following the declaration of war or state of war made by President Laurel of the Puppet Republic, the appellant addressed the following letter in tagalog which translated into English reads as follows:

"22 P. Manahan, Pasay

City of Manila

24 September 1944

"To His Excellency

President Jose P. Laurel

Republic of the Philippines

Malacañan, Manila

"His Excellency:

"Permit this humble servant to extend to His Excellency his wholehearted congratulations for the brave, just and proper declaration of war against the United States of America and Great Britain, and permit further to offer to Him and to His government the services of this one that now implores, without pay or compensation and in any capacity that He may desire to designate to him.

"During these very dangerous moments when even the independence and. nationhood of the Philippines are at stake, doubt and reverence for the relationship of one another to the enemy nations, should not reign, but rather all the citizens should dedicate not only their properties but their entire wealth including blood and life.

"For this reason, this humble offer of service is sent to His Excellency together with this small contribution of P10,000 in order to start a campaign to raise funds for the national defense.

"He can always command,

His servant, "AURELIO ALVERO."

The corresponding check for P10,000 was inclosed in the letter, all of which he delivered to Arsenio N. Luz, then,

Chairman of the Board of Information of Malacanan asking him to deliver it to President Laurel and later to publish it in the papers. The letter with the check was eventually delivered to the addressee and was published in the Tribune, then owned and controlled by the Japanese. On September 30, 1944, he wrote to Pio Duran thus::

"22 P. Manahan, Pasay

30 September 1944

"Hon. Pio Duran

National Assembly

Manila

"My dear Mr. Duran:

"By means of this letter, I am letting you know that I have not been able to recruit the youngmen you need to study at Tagaytay.

"Most of those I talked to have already evacuated to the provinces as a result of the raids that our city has suffered. Of the few that remained I was made to

understand their reason that at the present critical situation, they no longer have the desire to study.

"Because of this fact, I have no face to meet you because I consider my shortcomings the reason for their failure to respond, because if I was truly noble

they would have not rejected.

"Perhaps this is the fruit of the utter failure of my heart and soul, a thing I endured because of the difference in spirit of our times. I have not yet told you that

I voluntarily offered my services to President Laurel relative to the war against the United States of Aferlca and Great Britain, and at the same time contributed a little amount within ray means in order that I could add to the strength of our war efforts. However, up to the present instant I have not yet received any response whatsoever and perhaps criticism will be my reward.

"My spirit is indeed completely estranged from those of my contemporaries, and because of this and also becausa of my failure in my present venture,

besides being prostrate, I have no longer the strength of heart in order to face you.

"However, please command again,

Your servant,

"AURELIO ALVERO"

On September 25, 1944, the defendant wrote his mother Rosa Sevilla the following:

"Through this I am letting you know as I told you on the afternoon of tie day before yesterday that I have already sent to President Jose P« Laurel my voluntary offer of service.

"I don't know if you will consider the steps I chose as right and I don't know what response the President will give me * * * from the moment the declaration of a state of war with the United States of America and Great Britain was proclaimed, it is but right for every citizen to cut his relations with the enemy, not only because it is right but also because It is the dictate of the spirit. And whoever takes side with the enemy Is not only against Japan but it can also be said that he is a traitor to our dear Philippines.

"So don't regret the steps I took because it way endanger my life, you should rather rejoice because your son has learned to comply with his duties." (Exhibit XXX, pp. 139-140; Exhibit "J", pp. 29-30, Rec. of exhibits.)

Under count No. 1 the evidence reveals and the trial court found that Alvero joined the KALIBAPI (Kapisanan Sa Paglilinkod Sa Bagong Pilipinas), on December 20, 1942, first acting as supervisor of the Educational and Scientific Section of said association and later on acting as head of its Cultural Division of the Bureau of Political Affairs. One of the main objectives of said association was to assist the Filipinos in comprehending the significance of the principles of the Greater East Asia Co-Prosperity Sphere, strengthen their adherence thereto, secure; to the New Philippines its rightful place in said sphere, adhere strictly to the policies of the Imperial Japanese Forces in the Philippines in their administration, render service in the establishment of the Greater East Asia Co-Prosperity Sphere, and contribute to its advancement. As a high official of the KALIBAPI the appellant lectured before its Labor Institute about three times a week, urging and preaching that the Filipino culture can be saved from destruction by the Occidentals only through joining hands with other Orientals to establish a new order under the Greater East Asia Co-Prosperity Sphere., He said that the new order demanded the dissolution of the institutions which in their nature and in their organization recall the past regime. He proposed the creation of an Institute of Spiritual Training to carry out the purposes of the KALIBAPI stating that "342 years of indoctrination towards things and thoughts Occidental and the k2 years of the inculcation of blind confidence in America make of spiritual regeneration a task that demands doing immediately and within the shortest possible time." He urged that the said institution should take charge of the orientation of the members of the USAFFE who were released without such training in internment camps and the destruction of the pernicious influence of thoughts occidental. He suggested as subjects for lectures before said institution topics like "Retreat of America", the "Fallacy of Educational Policies of the American Regime", the "Fallacy of Philippine-American Political Relations", "Betrayal of a Promise", "The Philippines and the Co-Prosperity Sphere", and "Eyes to the Rising Sun". However, on July 30, 1943, he wrote a letter of resignation to Pio Duran, resigning from the KALIBAPI stating his disappointment and disgust with the manner the KALIBAPI was being run and because he was not given the opportunity to further promote and develop the policies of said association. After stating his opinion that "the KALIBAPI stands and will stand always as far as I am concerned, the symbol, the dream that must some day be realized" he said among other things:

"Before the Institute of Labor, I delivered speeches for the New Order, and immediately after those speeches. I have heard my immediate 'bosses' applaud my oratory but dispute my arguments for the Co-Prosperity Sphere. Quo vadis? Under such circumstances, I really can not continue,"

"* * * "I was so isolated by Anti-New Philippines elements that I found myself face to face with a desk with nothing to do and nothing to be responsible for."

Under counts 6, 7, 8, 9, 12, 19, 21, and 22, the record shows and the People's Court found that about November, 1944, the appellant together with Pio Duran, Kawamoto, and Saburo Yoshida who was connected with the Political Bureau of the Japanese Army and at the same time Director of the Nippon Bunka Kaikan, an organization in charge of dissemination of Japanese Propaganda, unit of the Hodobu of the Department of Information of the Japanese Army, later attached to the Japanese Embassy in Manila, organized the New Leaders' Association among whose objectives according to its Articles of Association were: to unify and encourage the ideals and aspirations of young people who are taking an active part in the noble task of nation building in close

collaboration with the various Japanese organizations in other East Asia countries so that the people of Asia may actually participate in all out efforts to win the present war and therefore establish the Co-Prosperity Sphere. The appellant redrafted the Articles of Association which were later approved, and then signed by him, Duran, Yoshida and others, Alvero was first designated and acted as a member of the Board of Directors of the Association, but later on the Board passed a resolution promoting him to the post of Assistant Director General, next to Yoshida who gave him full authority to organize the offices of the Association and to make appointments according to his best judgment. The appellant according to himself became the factotum of the association. To show the close relation between this New Leaders' Association and the Japanese Armed Forces, the evidence shows that the offices of the Association were furnished by the Nippon Bunka Kaikan next to its offices in the Heacock Building and during the period of organization its expenses were subsidized by the Nippon Bunka Kaikan. The funds of the association came from contributions of Japanese individuals and Japanese commercial houses and were then paid out by Kawamoto, the cashier of the Nippon Bunka Kaikan. The budget of the Association was submitted to said cashier for auditing and approval. Next to the offices of the New Leaders' Association were housed the different propaganda agencies of the Japanese Armed Forces such as the Nippon Bunka Kaikans the broadcasting radio station PIAM, and the Eiga Haikusha, a Japanese motion picture company.

Among other things the by-laws of the New Leaders' Association prepared by the accused himself provided that the Board of Advisers shall be composed of three representatives of the Imperial Japanese Army, a representative of the Imperial Navy, the Director of the Department of Information, three representatives of the Japanese Embassy, a representative of the Japanese Military Police and nine prominent Filipinos popularly known for their pro-oriental attitude. According to his diary (Exh. ZZ) he entered into negotiations with Yoshida and the Japanese Embassy regarding the transfer of the office and activities of the Nippon Bunka Kaikan, which was the Japanese entity in charge of Japanese propaganda, to the New Leaders' Association.

The following entries in appellant's diary (Exhibit ZZ) show the intimate relations maintained by the appellant with Japanese high officials and the interest taken by the latter in the organization of the New Leaders' Association:

"Went to Director General Yoshida's apartment where I had the pleasure of meeting very encouraging men like _____ Nakashima, director of the New Philippine Cultural Institute, Mr. Uno of the PIAM, Mr. Togo of the Army and a Mr. _____ of the Navy. I took up with Director General Yoshida the question of appointment as also my plan of gradation in membership. I find working with Director Yoshida a great pleasure for he is a very encouraging man." (Exh. ZZ, p. 24, entry at 5:05 p.m., Nov. 25, 1944.)

"I could not leave immediately though because I was having a conference with Mr. _____ Uno of the HODOBU. He turned over to me the broadcasting material of the Patriotic Guerrilla Association." (Id., p. 1, entry at 2:10 p.m., Nov. 16, 1944.)

"Went to Nippon Bunka Kaikan and conferred with Mr. Kawamoto. Introduced me to a Mr. _____ of Manila Simbunsa and the Mr. _____ of _____ they told me that they would be good collaborators with us in our work." (Id., p. 7, entry at 2:00 p.m., Nov. 18, 1944.)

"Before we parted, Director General Yoshida took me to his room to discuss important secret matters." (Id., p. 9, entry at 3:30 p.m., Nov. 19, 1944.) (Italics ours.)

"After dinner I had a conference with Director General Yoshida and Mr. Kawamoto, and Director General Yoshida in that parley supported my views and pledged me his backing in the activity of the NLA." (Id., p. 19, entry at 5:30 p.m., Nov. 23, 1944.)

"At the Manila Hotel I met Mr. _____ Taka, the only new man to me in the gathering as the

others were already known to me. Mr. Yasta, Director General Yoshida and Mr. Kawa. We discussed many points. * * * They inquired much about my plans and my philosophy * * * (Id., p. 27, entry at 6:35 p.m. Nov. 27, 1944.)

"Mr. Okahashi arrived and he was a nice humored man and we talked about a lot of things, our plans, our aims, etc." (Id., p. 35, entry at 10:20 p.m., Dec. 2, 1944.) (Italics ours.)

"Mr. Mori dropped in so we could go out to gether * * * and I exchanged views on activities for the youth movement," (Id., p. 39, entry at 11:25 a.m., Dec. 8, 1944.)

"I had a closed door conference with Director General Yoshida, Mr. Kawa, Mr. Yasta and Mr. Kobayashi regarding the financial and underground work of the Assn." (Id., p. 41, entry at 6:05 p.m., Dec. 10, 1944.) (Italics ours.)

"Punctually, I was fetched by the Navy car to go to Col» Aoyama's home for a parley. I explained my philosophy, my ideology for the NLA, as also my plan of objectives, * * * Mr. _____ and Mr. _____ as also Col. Aoyama were very appreciative of my plans." (Id., p. 42, entry at 6 p.m., Dec. 11, 1944.)

"I was further delayed by discussing with Mr. Puzi and Mr. Kawa as they were insistent on expanding immediately and I was adamant, on central organization first." (Id., p. 45, entry at 7:45 p.m., Dec. 15, 1944.)

Appellant prepared the 5-point program of objectives for the New Leaders' Association (Exhibit I) which was submitted to and approved by Director General Yoshida on December 3, 1944 (Exhibit L). One of the objectives in that 5-point program was "collaboration with the Governments the Imperial Japanese Army and Navy in the safeguarding of Public Works and Communication facilities." Other objectives were "pacification efforts", establishment of a rejuvenation center, propagation of Nippongo (which he himself had been teaching), and a movement for the changing of the names of all the people for the obliteration of Western Dominance (Exhibit I).

In this connection, one may pause and observe, as the People's Court also well points out, that while President Osmeña at the time was urging the Filipinos to "strike when the tide of battle reaches your town or barrios. On that day, strike hard against the enemy—wherever you find him—and fight—fight as did Lapulapu and Dagohoy and Gregorio del Pilar—without counting the cost," the appellant through his New Leaders' Association, was preaching and trying to secure pacification; and while General MacArthur was urging the people to "avoid any assistance to the enemy, but on the contrary, harass him incessantly, disrupting his means of communication and his essential lines," one of the objectives of defendant's New Leaders' Association was to collaborate with the Japanese Army and Navy in the safeguarding of their public works and communication facilities.

Under count No. 19, the evidence shows and the People's Court found that on December 1, 1944, Alvero granted an interview with a Japanese named Kobayashi, and answering questions already prepared referring to the position of the Philippines in the Pacific War, he said:

"The Philippines, as a vital part of Asia, can not maintain herself apart from the East Asian Nations in their struggle in the Greater East Asia War, On the contrary, the Philippines, considering the fact that she achieved her liberation as an early fruit of the Greater East Asia War, is honor bound to make her cause one with the other nations of the East," (Exh. U.)

Under counts Nos. 21 and 22, the People's Court found and the evidence supports the finding that on December 4, 1944, appellant prepared a resolution which he had the New Leaders' Association adopt and which he in the company of Pio Duran, Artemio Ricarte, Benigno Ramos and other leaders of the Association, presented to a commander of a Japanese certain unit of the Navy, presumably of the Air branch. We quote the resolution as follows:

"Whereas, the war of Greater East Asia is a war being waged by all Greatas Asian Nations for the liberty and happiness of their peoples.

"Whereas, every triumph and every sacrifice for the ultimate victory of the East becomes part of the great tradition of glory of every nation in the East.

"Whereas, the Kamikaze Special Attack Squadron of the Imperial Japanese Forces in Tagala is blazing glory for the entire East in defense of the rights of the East in general and of the liberty and independence of Tagala in particular.

"Whereas, on the 27th day of October, 1944, the Sikisima unit of the Kamikaze Special Attack Squadron, in oblivion of all personal consideration, sacrificed life and all by crash-diving against the vessels of the American task force in a sublime offering for the greatness of the East and for the freedom and independence of Tagala.

"Whereas, such gallantry and spirit of self-sacrifice is worthy of emulation by the youth of all the nations of the

"Whereas, be it resolved, as it is hereby resolved, that the congratulations and admiration of the New Leaders' Association be conveyed to the proper authorities of the Imperial Japanese Forces in Tagala so that the gratitude of Tagalan youth may be made patent for the great sacrifice of the Kamikaze Special Attack Squadron." (Exhibit M-1.)

The presentation, including the resolution was duly published in the December 7, 1944, issue of the Tribune under the following heading and item:

"NEW LEADERS GROUP INSPIRED BY KAMIKAZE SQUADRON'S EXPLOITS

"Reflecting the Filipinos' admiration for the gallant attack carried out by the death-defying members of the Kamikaze Special Attack Squadron, the Few Leaders' Association yesterday adopted a resolution expressing gratitude and admiration. The resolution was presented to the naval authorities."

On December 15th the defendant prepared another copy of the resolution in tagalog and delivered it to General Tominaga, Chief of the Japanese Air Forces in the presence of a delegation of the New Leaders' Association. Pictures of the presentation of the resolution to the Mavy leader were taken and published in the Tribune. In -'bhls connection, the People's Court referring to the diary of the appellant himself said:

"Coincidio ademas, que, en la misraa mañana de dichp dia 15 de Dicierabre hubo un bombardeo aereo en esta ciudad, y segun dijo el General Tominaga al acusado y sus compañeros, el se iba sn aquel dia a Leyte para dirigir personalmente la contra-ofensiva aerea contra los americanos (vease testimonio de Roserido Aterrado y el diario Exh. ZZ, pags. 44 y 45.) Fue tan grata, tan oportuna, tan alentadora la presentacion de dicha resolueion, que el General japonese estrecho efusivamente la mano de todos y cada uno de los miembros de la delegacioii (Ejch. ZZ, pags. 44 y 45)." Decision of People's Court, p. 14.)

To shield himself from responsibility for the preparation and presentation of this resolution of congratulations, appellant claims that he acted under pressure and was compelled to make the presentation of the resolution by a Japanese Kawamoto who had previously prepared it. The People's Court however, rejected this defense, saying that the text of the resolution shows the presence and use of the word tagala, a name by which the accused alone designated this country; whereas even the Japanese still knew and considered our home land as Filipinas and would, undoubtedly, have used said word Filipinas instead of tagala if the resolution had really been drafted by a Japanese, Furthermore, the very diary of the defendant (Exhibit ZZ) which we quote below disproves his assertion and on the contrary shows that it was he who prepared the resolution and voluntarily and even with

enthusiasm delivered it to the Japanese High Command:

"After dinner, I immediately proceeded to the preparation of the resolution of gratitude and admiration for the exploits of the Kaori Unit." (Defendants diary of December 14, 1944, at 8:30 p.m.)

"6:20 a.m.—Woke up early to the droning of airplanes and the booming of anti-aircraft guns. Dressed up in haste as there was the presentation of the Kaori resolution to be done.

"7:20—Mr. Maniya came to the house for a copy of the resolution.

"8:35—After a breakfast amidst the booming; and noise of air-raids, Pat and I started on my bike for the meeting place of the NLA. The air-raid was in full blast, but we had to go on as we had agreed to meet in spite of the air-raid,

"9:20—I was the first at our meeting place at the corner of Daitoa and Padre Faura. While waiting for the others I met a dark beauty by the name of Aurora Zablan. After a minute of conversation with her my companions arrived.

"9:35—We proceeded to the Villamor Hall which was the headquarters of the High Commanding Officer of the Air Corps, General _____Tominaga. He received us with affability and after counter-reading (?) of the resolution of gratitude and admiration for the exploits of the Kaori Unit, Japanese Special Attack Squadron, he even shook the hands of each and every member of the delegation. The presentation was solemn and particularly significant because of the fact that there was an air-raid when the presentation was being made." (Exh. ZZ, pp. 44-45. December 15, 1944.)

MILITARY COLLABORATION

Under counts 5 and 20, it has been duly established by the evidence and found by the People's Court that in November, 1944, the appellant helped found and organize the MAKAPILI (Makabayang Kalipunan Ng Mga Pilipino) Patriotic League of Eilipinos at the New Philippine Cultural Institute in San Juan, Rizal. Pio Duran invited appellant to this meeting of the organization. Among those present at the meeting were Benigno Ramos, Artemio Ricarte and several officials of the Political Division of the Japanese Army, such as Kagiyaaraa, Hayashida, and Kodama. Alvero acted as secretary and took down the minutes. Besides acting as secretary Alvero took an active and important part in the discussion. One of the objectives of the association was to replace the Constabulary reorganized by the Japanese regime after the surrender of Bataan, which presumably, because of its pro-guerrilla leanings and because of many desertions to the resistance forces, was being disarmed by the Japanese. Among the aims of the MAKAPILI were to accomplish the fulfillment of the obligation assumed by the pact of alliance with the Empire of Japan, to shed the blood and sacrifice the lives of its people with the lives of other East Asian nations in order to eradicate Anglo-Saxon influence in East Asia; to mobilize the population for the purpose of attaining self-sufficiency in food and other vital materials necessary for the victory in the Asiatic War (Pacific War); to collaborate unreservedly and unstintedly with the Imperial Japanese Army and Navy in the Philippines, in such ways and means as may in the joint judgment of the Imperial Japanese Forces and the Association be deemed necessary and fruitful; and to propagate throughout the country the principles for which the Empire of Japan and the other Asiatic nations are now fighting in that great Pacific War. Because of the non-arrival of a high ranking Japanese official scheduled to supervise the meeting, the same was adjourned. The name of the association was first agreed to be Kalipunan Ng Mga Makabayang Pilipinos, At the second meeting at Christ the King Convent in Espana Extension about ten days later and attended by the same persons with the addition of Maj. Sato, it was agreed to have President Laurel head the organization but Kagiyaama insisted that the intervention of or information to Laurel was not necessary because the Japanese Army will go ahead with the organization whether Laurel liked it or not. Alvero signed the Articles of Association as well as the by-laws. After

the signatures, the signers including the appellant went to the house of Representative Pedro Vera in San Juan, Rizal where Gen. Nishimura, assistant chief of staff of Gen. Yamashita was waiting for them, Pio Duran told Nishimura that they were going to advise Laurel of the existence of the Association, Nishimura answered that they may do so but he said that whether Laurel liked it or not the Japanese Army will support them. Later the name of the association's changed to Malcabayang Kalipunan ng Mga Pilipino (MAKAPILI).

Paragraph 10 of the minutes taken down by the appellant at the first meeting reads as follows::

"The Chair opened the period for discussion after the motions had been considered, and the important problem about the feeding of the soldiers off the 'League' was discussed, Mr, Ruperto Santiago, Jose I. Baluyot, Paulo Capa and others gave their views."

The number of high Japanese army officers attending the meeting of organization and the determination of the said Army expressed through Ms officials to back the organization whether Laurel liked it or not shows the intimate connection and relation between the MAKAPILI (League of Patriotic Filipinos) and the Japanese Armed Forces, Paragraph 10 of the minutes above-quoted shows that the MAKAPILI was to be composed of soldiers, and the Articles of Association clearly show that it was to be a military or semi-military organization purposely organized to fight side by side with Japan against the American forces among the members of the Filipino resistance movement.

The appellant insists that he joined the MAKAPILI against his will and was forced to sign the Articles of Association, and that after signing the same he abstained completely from taking part in its activities, The evidence however, completely refutes this claim and as the People's Court well asserts, appellant took quite an active part in the organization of the association, participated in its activities after the organization and he even had plans and aspirations of occupying a high and important position in it. During the first meeting of the association, where he acted as secretary and took down the minutes, of seven (7) motions, 5 of them were fathered by him and he seconded another one. He voluntarily signed the by-laws and in compliance with orders of Benigno Ramos he prepared identification cards for members of the MAKAPILI. It was first planned to give him the rank of colonel and chief of the Department of Enlightenment but when this same post was given to another Mr. Lumbre, he (defendant) was keenly disappointed. The following entry in his diary (Exhibit ZZ) is enlightening.

"On my way to my office, I met Major Sato who was introduced to me by Mr. Pio Duran at the first parley of the League of Patriotic Filipinos, He was asking me to go with him to the headquarters of the league (MAKAPILI), but I could not go because of my appointment with Saito Koyzo in the office of the Kobe Marine." (Exhibit ZZ, entry at 1:25 p.m., Nov. 17, 1944.)

"Proceeded to the Kobe Marine to keep my appointment. There I met Major _____ and Captain _____. The Major inquired about our league activities and he asked me what my rank would be in the newly organized league army. I answered him that according to plans I was to be designated colonel and he jokingly answered that in that event I would be two ranks his senior officer, * * * " (Id., p. 4, entry at 2:20 p.m.)

"The meeting of the Directors of the PL of F (Patriotic League of Filipinos—Makapili) was opened with the announcement of the Plantilla of the association. I was disappointed by the men of Mr. Ramos in the plantilla, as many of them were green and incapable ones. To top this the headship of the Department of Enlightenment which was reserved for me by agreement between General Ricarte, President Duran and Executive General Ramos had been handed over to Mr. Lumbre by Executive General Ramos. I was hurt by this action in spite of the reason that they gave that I was not in the office for some time, I knew that it was only a reason being given by Mr. Ramos in order to put in his men for the reason could not hold water as I was in a position to go because of my activities in the NLA (New Leaders' Association) which fact was known to him. I did not express my disappointment in an effort to hide my emotions, but General Ricarte objected to my being

deprived of the position. He however replied that it was not a very important matter as I could render services without being head of any department. Executive General Ramos sensing objections against the injustice from any quarters, immediately replied that if I could attend to the work, then I should be retained as head of the Department of Enlightenment, while Mr. Lumbré was to be transferred to the Secretariat. Various reports were read and finally the question of manner of address was brought up and General Ricarte proposed that the Tagalog title 'Tandis' be used in addressing Executive General Ramos. On the other hand I proposed that General Ricarte, as «Tayog» and Vice General Duran should be addressed as 'Tayuyog'. The manner of address were unanimously approved. It was already dark and the moon was already up when the meeting was adjourned. President Duran took me home in his car." (Id., p. 25, entry at 5:40 p.m., Nov. 26, 1944.)

"Debated with myself whether I should resign or not as Director of the Department of Enlightenment of the Patriotic League of Filipinos. Finally decided to leave the matter for the next day." (Id., p. 30, entry at 10:30 p.m., Nov. 28, 1944.)

Rejecting the claim of the appellant as to his alleged involuntary joining the MAKAPILI and of his abstaining from participating in its activities the People's Court ironically gives us this picture:

"He aquí un hombre, que después de haber sido forzado a firmar la Escritura Social de una asociación, acepta de la misma, de buen gana, rangos, honores y distinciones, y hasta se resiente cuando le postergan.

"2. La activa y valiosa participación del acusado para el mayor lustre de la inauguración de la MAKAPILI, no se compagina con la alegada coacción. Dice el diario:

'Back at the NLA headquarters I gave instructions regarding the MAKAPILI inaugural to those who were attending." (Exhibit ZZ, p. 38, entry at 3:30 p.m., Dec. 8, 1944.)

'Arrived in front the Legislative Building where the ceremonies of the MAKAPILI were to be held. We helped out as much as we could, helped arrange the chairs and divided the work of ushering." (Id., entry at 4:10 p.m. of the same day.)

"The speech of General Yamashita was short and forceful and I tried my best to give the translation which I did as much power as I could. I was rather surprised by my voice which was at that moment very powerful instead of being hoarse as I expected it to be." (Id., entry at 5:10 p.m. of the same day.)

Finally, appellant tries to create a distinction between the Kalipunan Ñg Makabayang Pilipino, the first name agreed upon at the first meeting, and Makabayang Kalipunan Ñg Mga Pilipino to which it was later changed and from which the word MAKAPILI was derived. The People's Court found that there was no distinction or difference between the two for they mean the same thing. This, aside from the fact that at the hearing of his application for bail appellant admitted that the organization Kalipunan Ñg Makabayang Pilipino was the same one inaugurated on December 8, 1944, which in point of fact was the Makabayang Kalipunan Ñg Mga Pilipino (MAKAPILI).

Continuing with appellant's military collaboration under counts 13, 14, 15, 16, and 17, regarding the organization of the Bisig Bakal Ñg Tagala, the record shows and the trial court found that the appellant organized said Bisig Bakal Ng Tagala as a military unit or body whose members, were recruited from those of the New Leaders' Association. Its main objectives were to maintain peace and order and to procure foodstuffs for distribution to the public. The objectives of that organization as planned by the defendant was embodied in his memorandum (Exh. HH) dated December 30, 1944, and addressed and delivered to Colonel Zusuki of the Manila Defense Corps from which memorandum, we are making the following quotations:

"We, therefore, approach you in all humility to offer the assistance of the New Leaders' Association in these difficult times in accordance with our plans which we herein take the liberty to set forth.

* * * * *

"In the struggle against the Americans, it would be rather a stretch of fancy to expect the bulk of the Filipino nation to fight them beside the Japanese soldiers. The truth must be faced: the 'Filipino' is not ready for that. At best, there will be some loyal unto death to the ideals of the East, but one who says that all will rally as a body against the Americans is really trying 'to pull somebody's leg',

* * * * *

"The most that the Japanese, therefore, should ask is this:. That the 'Filipinos' maintain their equanimity and keep peace and order. With this achieved, a great assistance will have been given to the Japanese for, instead of training guns against the riotous people in distraction of the arms of defense, peace and order in Maynila will mean full-liberty for defense, concentration towards defense by all the forces of Japan.

* * * * *

" 'A satisfied stomach is not anxious to revolt'. Conscious of this physiological-psychological truth, the second problem that must be met; is the maintenance of food supply for the people.

* * * * *

"If the people had been trained in the past along that discipline of the spirit which brings great glory to the men of the Imperial Japanese Army and Navy, then perhaps there would be no need for our fears nor for this memorandum. It is rather the misfortune of this Country to have had three hundred and more years of Spanish mis-education and forty and more years of American mis-education, the consequence of which is the unhappy corrosion of that moral fiber vital for the maintenance of nations in times of storm and stress.

"TOO LATE TO MARSHALL THE PEOPLE

"Were there sufficient time, the re-education of the people by means of a nationalistic and Asiatic philosophy would solve the whole mess. But now—education is too long a process in the face of the short time left for preparations.

* * * * *

"It is for this reason that the New Leaders' Association, through the undersigned, petitions for an opportunity to prove their worth in the face of the impending crisis.

* * * * *

"For the past month and a half, we have been training a few young men towards that lofty idealism which is the most important fiber of character. Our original group of young men was bolstered by the adhesion, voluntary and upon knowledge of our principles, by graduates of the Hew Philippine Cultural Institute. With this group, compact and unified. as the nucleus, we propose the organisation of the 'Bisig Bakal Ñg Tagala' (Iron Arms of Tagala).

"We propose the concentrated training for a period of two weeks of all the graduates of the New Philippines Cultural Institute and the best elements of the New Leaders1 Association.

* * * * *

"These men shall undergo training in a barracks to be established at a centric place in the City, and immediately after the training period, the men shall be assigned to assume leadership in four other training barracks at strategic points in the City.

"With an initial body of fifty men as the nucleus, there would be a standing body of five hundred men at the

end of the short one-month period of preparation.

"In one month time, the Imperial Japanese Army may count on the support for the maintenance of peace and order by the five hundred bisigbakal of the New Leaders' Association,

"Simultaneous with the training of these bisigbakal, fifty other men of the New Leaders' Association will undertake a campaign for the instruction of the people and their organization into civic assistance bodies."
(Italics ours)

This memorandum Exhibit "HH" was supplemented by another memorandum (Bxh. "II") the following day, December 31, 1944, from which we quote:

"Having reached an agreement regarding the basic and general plan for the organization of the Bisigbakal Ñg Tagala, we are now concerned with the delineation of details.

"BASIC PRINCIPLES REITERATED

"It is, however, proper that we should briefly state the basic principles.

"The problems to be coped with are:

"Firsts Maintenance of peace and order;

"Seconds Food Procurement and Distribution.

"We shall organize:

"To solve the first: The Bisigbakal Ñg Tagala, a nationalistic military body;

"To solve the second: A Civilian Assistance Corps as support of the Bisigbakal."

* * * * *

"Salaries for the bisigbakal shall be according to rank, to be fixed later. We are asking the Imperial Japanese Army to entrust us with an initial capital of one million pesos (P1,000,000), disbursements to be duly accounted for and subject to the approval of the Military Advisers."

In this second memorandum (Exh. II) the defendant goes into details such as the uniforms and insignias to be worn by the soldiers and officers of the Bisigbakal, their arms, their food, salaries, means of transportation, etc.

On January 1, 1945, the appellant called the members of the New Leaders' Association to a meeting and announced to them that the association was being converted into a military organization to be called Bisig Bakal Ñg Tagala, and urged them to join it. Some of the members like Celso Ilagan and Rosendo Aterrado refused to join the new organization, because they felt that eventually, as members thereof, they would be called upon and compelled to fight against their own people. The Bisigbakal was actually organized. It received a limited amount of arms and ammunition including uniforms and food from the Japanese Army and was drilled by a Japanese military instructor. Members of the force were quartered at Spana street and at the Union Theological Seminary at Tennessee Street and were inspected regularly by Yoshida. The Appellant had the rank of major.

About the middle of January and in the month of February, 1945, the Japanese Army left the La Salle College and the Legarda Elementary School buildings where they left a considerable amount of supplies and equipment. The appellant and his soldiers of the Bisigbakal, armed and in uniform took over these buildings, guarded the same and began to distribute some of the food and supplies therein to the public. In the course of the distribution, particularly in the Legarda Elementary School the appellant told the beneficiaries of the distribution that "he was not a pro-Japanese neither was he a pro-American, but he was a pro-Filipino and he urged and enjoined them "to

fight anybody that will take their country." It must be borne in mind that at that time the American Forces of Liberation had already landed on the coasts of Lingayen Gulf and were on their way to occupy central Luzon with Manila as their main objective. So, the appellant could not have had in mind or referred to any one taking the country except the Americans and the Filipino Guerrillas guiding and helping them in the act of liberation. As the People's Court well said, the appellant could not have referred to Japan and its forces because they were already in the Philippines, well entrenched in the same. As a matter of fact, the appellant and his Bisigbakal forces were closely cooperating with the Japanese in defending Manila.

Under count No., 17, there is evidence to show and the People's Court correctly found that during the last half of January, 1945 Colonel Hashimoto of the Japanese Armed Forces, charged with the defense of Manila, called a meeting at the City Hall, presided over by Military Governor Leon Guinto. Attending that meeting were Pio Duran representing the Makapili, Manuel de la Fuente representing the Home Guards, Eduardo Quintos and Gregorio Lugtu representing the Manila City Police, and appellant Alvero representing the Bisigbakal. Alvero and the members of his staff who accompanied him were all in uniform and were armed Officers of the Japanese Army, Navy and the Military Police also attended. Hashimoto proposed to those present the fusion of the different organizations they were representing into one body in order to cope with the problem of peace and order, and asked them to express their opinions, Alvero, the first to speak fully supported the proposed fusion in order, according to him, to better maintain peace and order and suppress the subversive elements like the guerrillas inasmuch as the City Police did not seem to be doing anything then to suppress them, De la Fuente, Quintos, and Lugtu testified that maintenance of peace and order in the City of Manila was, at that time, understood to include the suppression of the guerrillas because these were considered subversive elements who disturbed peace and order by killing Japanese soldiers and Japanese spies.

Under count No. 11, there is evidence to show and the People's Court found, although, we find said evidence to be short of the two-witness rule, that the appellant about the latter part of November, 1944, prepared the pamphlet (Exhibit T) with a drawing on the front page prepared by Pablo Amorsolo, a member of the New Leaders' Association, and had about 800 copies mimeographed and distributed. The pamphlet was supposed to be the official organ of OUR PEOPLE'S OWN GUERRILLA (O. P. O. G.), and gave the reader thereof to understand that the Articles therein were written by Filipino guerrillas. It severely and bitterly attacked and censured Japan America, the new Republic under President Laurel, the Makapilis and even Alvero himself. The attack against America and the guerrillas contains among other things the following::

"In 1941 to 1942, our youth were sacrificed on Bataan. The young soldiers of our Country, thinking that they were fighting for freedom in their stand against Japan, sacrificed their young lives. But really for what? That America may have time to prepare in Australia." (Liberty, Exhibit T, p. 1)

* * * * *

"We had been in the past the dupes of imperialistic peoples, and now we refuse to continue to be their dupes. As Linco& said, you can fool some of the people all of the time, all of the people some of the time, but not all of the people all of the time." (Id., p. 2)

"The people of this country are now divided into threes

* * * * *

"Second—America's hirelings, consisting of so-called guerrillas who are only awaiting America's return for their soldier's pay, people who sell their Country for paltriness! (Id., p. 5)

"AMERICA AS LIBERATOR

"Forty-six years ago. America came to the Philippines as her liberator. Because of this role, because of America's promises to the Philippines, the Filipinos under Gen. Emilio Aguinaldo fought the Spaniards until the latter were cornered in Intramuros.

"With Spain down—America, the liberator, changed her attitude and she assumed the role of conqueror. Through a mock Treaty of Paris where the small Philippines was sacrificed to pacify America on the one hand and to white-wash the name of Spain on the other, the Philippines was literally 'sold down the river'.

"Now, America asks the Filipinos to have faith on her, This time she comes again as the liberator. This time she is asking the Filipinos to fight Japan. She is asking the Filipinos to suffer, to starve, to die as did the young men in the wilderness of Bataan." (Id., p. 6)

* * * * *

"The O. P. O. G. warns the people: Do not be fooled by promises! Remember Dewey!" (Id., p. 6)

He does not even spare Pio Duran, Benigno Ramos, ani Artemio Ricarte as may be gleaned from the following:

"And now we ask: Who are the few being favored?

"First in the list, though not the Tayog, is the Tandis of the Ganaps—Señor Don Excelentísimo Benigno Ramos, newspaperman. poet, pseudo-Tagalist, pseudo-patriot, expert politician and first-class Heel. He will sell the Philippines to the Japanese for 'a mess of pottage'. He utilizes his Ganaps to fawn with the Japanese. Patriots! Watch this man!

"Second In the list, the Taguyod,—Vice Minister Pio Duran, lawyer, politician, assemblyman and eel. He is so squeamish he can circulate among Japanese as also among Filipinos. He is loved by pro-Japanese like Benigno Ramos and loved by Filipinos like Laurel. Not only this, he plays poker with guerrilla chieftains like Recto and Alunan, and manages to be acceptable even to diehards like Osias and Roxas. Patriots! Watch this man!

"Third in the list, the Tayog,—General Artemio Ricarte, an innocent tool because of his age, an unfortunate patriot. Whereas Ramos is a Heel and Duran is an eel, the old man Ricarte sadly does not know an eel. Because of his dreams of grandeur, he is used by Ramoz and Duran for their ends. Patriots! Watch this man!" (Id., p. 11)

As to the Puppet Republic under Laurel he has the following to say:

"Time and again, President Jose 'Pula-Puti' Laurel has delivered high-sounding speeches about the need of the Republic of the support of all patriotic Filipinos. He passionately asks the people to rally under the flag of the Republic.

"The Flag is all right! The idea of the Republic is also good! But the men who administer the Republic are mainly racketeers! They have done everything to fatten their selves!

"But what have they done for the People? What can the Republic claim that the Republic has done for the people?" (Id., p. 7)

As for himself (Alvero), the pamphlet LIBERTY prepared by himself, has the following:

"Aurelio Alvero, politician, lawyer, professor, poet, writer, historian, linguist, youth leader and Cassanova, is now the head of the 'New Leaders Association'.

"He preaches patriotism * * * 'Nationalism above all else' is his cry. To prove this, he distributes coconuts at cost to the public * * * he even pushes push-carts * * * and is willing, according to reports, even to sweep the

streets of Manila to prove his patriotism.

"Of all patriots, pseudo-patriots and professional patriots, he has a most different approach. He blahblahs in Tagalog in spite of his English and Spanish Education. He even signs his name in ancient Tagalog writing. He claims interest in the Tagalog language, Tagalog arts, Tagalog culture and Tagalog history. He goes to the extreme of changing our beloved Philippines to Tagal.

"Of course, all that is very nice * * * but it is too, too nice * * * Perhaps Aurelio Alvero, the eternal 'Young man', in spite of his 'impotence', has learned everything from his mentor Pio Duran, and is fast developing the technique of the Eel!

"What Young Man Alvero is up to, we really do not know. But we are suspicious * * * very suspicious * * * We knew him in the past for his Young Philippines game and also for his Kalturop tricks.

"But Young Man Alvero should stop playing games * * * it is high time he outgrew the nursery. * * * This is not peace time; but War Times!

"So we say: Young Man, Beware!" (Id., p. 12)

Now, as regards Japan and the Japanese Armed Forces the same pamphlet LIBERTY among other things contains the followings:

"On the other hand, now Japan wants us to fight avowedly for our independence against America. But really for what? To save Japan proper from being the battlefield of this war." (Liberty, p. 2)

"JAPAN AS THE LIBERATOR

"What has Japan done to the Philippines in the last three years that she was here?

"Nothing for the Philippines; Everything for Japan!

"Japan won prestige for her Flag and added wealth to Japan by buying our economic and industrial strength with bond paper money!

"In exchange, Japan gave the Philippines untold sufferings. The present critical almost starvation conditions were caused by Japan's acts to control the free life of the people. These acts, abetted by the Puppet Republic, are killing the Philippines inch by inch.

"It is not to be denied that Japan granted the Philippines independence, but only paper independence! The Philippines, it is true, gained one thing, the recognition of the world to her right to be free. Up to this point, Japan gets a merit, but her interference in the affairs of the Republic score more demerits that easily drown out the lone merit that she has!

"Instances? There are plenty. Japan with the aid of the Puppet Republic deprives the Filipinos of their homes. Japan with the aid of the Puppet Republic deprives the Filipinos of their food, rice particularly. Japan with the aid of the Puppet Republic compels the Filipinos to render service for military purposes." (Id., p. 4.)

* * * * *

"The people of this Country are now divided into three:

"First—Japan's stooges, consisting of Government parasites, Makapili's traitors, newspaper quislings, buy-and-sell«their-country people!" (Id., p. 5)

At first it is hard to understand how the appellant could have dared and taken the risk to publish the said pamphlet LIBERTY under the very nose of the Japanese Armed Forces, especially the Military Police. One phrase,

sentence or paragraph of the article against Japan as above reproduced would have been sufficient pass or ticket to the garrison and torture chambers of the Japanese Military Police or to Fort Santiago. The only reasonable explanation for this Immunity of the appellant to arrest and torture by the Japanese is that he made the publication with the knowledge and consent of the Japanese. This may be gathered from an entry in his diary (Exhibit ZZ) on November 19, 1944, at 3:30 p.m, as follows:

"Before we parted. Director General Yoshida took me to his room to discuss important secret matters. He wants me to organise an organization. I suggested that the O. P. O. G. was the answer. I explained to him my concept of the C&up to fortify our states on the left hand, the O. P. O. G. doing the destructive work; on the right hand, (the N.L.A. New Leaders' Association) doing the constructive work; and on the center, the League of Patriotic Filipinos (MAKAPILI) making a frontal attack. He saw my point and we parted in agreement." (Inclusion and Italics ours)

Considering all the circumstances surrounding this case of the OUR PEOPLE'S OWN GUERRILLA (O. P. O. G.) and the pamphlet LIBERTY supposed to be its official organ prepared and published by the appellants there would appear to be reason and logic in the opinion and finding of the People's Court that the act of Alvero was a mere act of deceit and pretense⁹ calculated and designed to sow confusion and dissension in the ranks of the guerrillas and to persuade them not to fight with and help the American Forces of Liberation. We quote with favor that part of the People's Court decision on this point as follows:

"De esto se infiere que la O. P. O. G. fue creada para servir al Japon y quo el enemigo es- taba al tanto del plan.

"Era, pues, pura engañifa la censura del acusado contra el Japon y su ejercito, contra los Makapilis y contra si mismo. Con que objeto se prepare el Exhibit T? America estaba viniendo entonces y no habia tiempo que perder. Criticando y censurando al Japon y al Japonofilo Alvero, criticando y censurando a los fanaticos Makapilis y a la Republica de Laurel, presentandose como guerrillero, se capta la simpatia y la eonfianza de la genuina guerrilla y el folleto seria leido con el animo propicio y benevolo. Nadie hubiera hecho caso entonces de las predieas pro-japonesas del acusado, pero con el disfras de guerrillero y apelando al patrlotismo y al filipinismo, pod:da seducir a algunos y sembrar la division y la confusion en el seno mismo de la guerrilla. 'Divide y venceras.' Muy insidiosaraente decia en el articulo, 'America as Liberator' (Exh. T. pag. 6):

" 'Under such impending possibilities, the O. P. O. G. counsels the People to refuse to be the instruments of any of the contending nations, but asks the Filipinos to get arms from both sides so that we may be in a position to make a bid for our Freedom in the only honorable way: Fight for it against all.

"The O. P. O. G. warns the People: Do not be fooled by promises. ¡Remember Dewey!"

"Nuestro pueblo y su guerrilla iban contra el Japon, y peleaban por America. El aconsejar entonces 'to refuse to be the instruments of any of the contending nations' no significa otra cosa mas que no sean instrumentos de America, que se nieguen a pelear con los amerlcanos." (Decision of trial court, pp, 35-36).

PETITION FOR DISMISSAL

Now, for a little digression. Considering the motion for dismissal of the cultural, political and economic counts of the information, filed by appellant and agreed to by the Solicitor General, based on Amnesty Proclamation No. 51, of January 28, 1948, we have to give due course to said proclamation and accord its benefits to those invoking them like the appellant herein. The Amnesty on economic collaboration may include the trading and business activities of Alvero in connection with his ASA TRADING. One may contend that the economic collaboration contemplated by the Amnesty Proclamation was trading with the enemy in general—buying from and selling to it, whether said business dealings indirectly benefited and aided the enemy. In the case of appellant, it has been proven that he dealt mainly in war materials which he bought from his agents and sold almost invariably and

exclusively to the Japanese Army and Navy, especially for their transportation facilities. We all know that one of the vital things that Japan lacked in the prosecution of the war was motor transportation. She confiscated almost all the motor vehicles she found in the Philippines, used some of them here and the rest she dismantled, shipping the engines and other important parts to Japan.

Some one has said, perhaps with some exaggeration that the lowly and ubiquitous jeep now flooding and crowding our streets and highways won the war for America and her allies. The statement may not have been seriously made, and may not be wholly true, but at least it conveys the idea of the vital importance of transportation facilities in war. It requires no stretch of the Imagination to see that the automobile spare parts sold by the appellant to the enemy materially aided said enemy in the war in the servicing and maintenance of its war motor vehicles, atleast here, if not in Japan proper, so that defendant may in a sense be regarded as having given aid to the enemy. However, inasmuch as the Amnesty Proclamation speaks in general terms and makes no distinction as to the kind and nature of the economic collaboration rendered, we are not prepared to make such distinction in this case, and giving appellant the benefit of the doubt, we are willing to apply as we hereby apply the benefits of the Amnesty Proclamation to him and consider as dismissed the counts in the information relative to economic collaboration, particularly his commercial activities through his ASA TRADING.

As regards cultural and political collaboration, that portion of the Amnesty Proclamation may also be held to extend to and cover his congratulations given to President Laurel for his declaration of war or state of war against the United States of America and Great Britain, his offer of services in any capacity and even to his contribution of P10,000 intended according to his letter, for national defense although according to his letter to Pio Duran, to "add to the strength of our war efforts." Equally included in this political collaboration is his membership in the KALIBAPI, even if his participation in that organization was not as a mere indifferent or involuntary member as was the case with many Filipinos, but as an active member and important official who did all within his power and capacity to propagate the idea of the Greater East Asia Co-Prosperity Sphere and slander and ridicule America and deprecate and assail its institutions and work in these Islands. Also coming under political collaboration to be covered by the Amnesty Proclamation is the appellant's organization of and activities with the New Leaders' Association, even when the objectives of said association as conceived and prepared by him, included collaboration with the various Japanese organizations, pacification efforts, and collaboration with the Imperial Japanese Army and Navy in the safeguarding of its public works and communication facilities, this, under a liberal interpretation and application of the Amnesty Proclamation. Besides, in this respect there is no concrete evidence that the appellant through the members of the New Leaders' Association actually helped in the pacification campaign of the Japanese Armed Forces or helped in guarding their transportation facilities.

The defendant's interview with a Japanese named Kobayashi under count No. 19, will also be included in political collaboration to be covered by the Amnesty Proclamation. So is his interview with Guerrilla leader Leonardo Garcia as described in his diary, under count No. 10.

Appellant's preparation of the resolution congratulating the Kamikaze Special Attack Squadron and its presentation to the Navy Officials, may equally be classed under political collaboration and as coming within the scope of the Amnesty Proclamation. The air unit of said Navy must have appreciated and been encouraged by said resolution and found comfort in the thought and knowledge that an association composed of young, Intelligent, active and more or less influential Filipinos, were, at least in spirit, on their side, and applauded their war efforts and achievements. This might be regarded as psychological aid and comfort. But by taking a liberal view of the case, we can as we do hereby regard it as included in the Amnesty.

Acting upon this petition for dismissal, above referred to, we hereby grant the same and consider dismissed those counts of the information referring to economic and political collaboration as above enumerated and discussed.

Now, whether by reason of the application and extension of the Amnesty Proclamation to appellant's acts of economic and political collaboration, his acts of adherence alone and proof thereof have/been wiped out, or whether they may still be considered in connection with the acts of military collaboration, quære. Anyway, there is no need of so considering them for there is more than sufficient proof of adherence in the other counts.

ADHERENCE

As to the other acts of appellant showing his adherence to the enemy we find from the evidence, as was also found by the People's Court that he used to speak by radio over the Radio Broadcasting Station, the PIAM, then controlled by the enemy. On one occasion about the middle of January, 1945, when the American Forces had already landed in Lingayen, the appellant in a radio talk, hailed and praised as heroes "the Makapilis fighting side by side with the Japanese in the beaches of Pangasinan" and he urged the Filipinos to emulate and follow their example. This may well be considered In connection with his membership in the MAKAPILI, and not covered by the Amnesty Proclamation.

As proof of the esteem and regard in which the appellant was held by the Japanese during the occupation, and as compensation or reward for his services and collaboration, he was issued special passes by the Japanese Manila Garrison Commanding Officer Hashimoto, In connection with the propaganda of the Japanese Army, he had a special car and two Japanese bodyguards, one of whom told him that he volunteered to be a bodyguard to defend appellant's life as he considered appellant vital not only to his country's future but also to the Co-Prosperity Sphere.

According to Rosendo Aterrado, the appellant proposed to Yoshida the installation of a secret radio broadcasting station in his (appellant's) house as a propaganda to win the confidence of the people by exposing the abuses of the guerrillas as well as the Japanese soldiers. According to witness Socorro Laguio, in January, 1945, the defendant, carrying a revolver in his hand accompanied by three Japanese civilians also armed, searched her house for rice, telling her that if she had plenty of rice it can be taken away from her because according to him the rice was exclusively for the use of the Japanese Army, Alvero at the time wore short pants and blue denim shirt, evidently, the uniform of the Bisig Bakal Ng Tagala.

Let us now consider the assignment of errors made by the appellant. Of the forty-two errors assigned we shall only discuss and pass upon the important ones, and those necessary for the determination of this case. Error No. 1 sets up the theory of suspended sovereignty. Error No. 2 asserts that the treason law being political in character was equally suspended during the enemy occupation, and error No. 3 is based on the contention that due to the change in government from the Commonwealth to Republic of the Philippines, treason against the former is not now punishable. These same theories had already been advanced in previous treason cases. They have been overruled and rejected by this Court in the case of Laurel vs. Misa, (G. R. No. L-409, 44 Off.Gaz., 1176[1]) and reaffirmed in the case of People vs. Carlos, (44 Off. Gaz., 4281 [2]). We therefore see no necessity in discussing and determining this point or points again.

Under the 4th error assigned, the appellant claims that the People's Court erred in considering adherence as constituting by itself treason and of treating it as an independent charge. The defendant labors under a misapprehension. In its decision the People's Court grouped the counts under three main classifications, namely: economic, political, and military. Adherence was never considered as a count or included in any of those three groups. It was merely added in the latter part of the decision, not as a separate count but to show the treasonous intent which impelled and characterized his overt acts of treason.

Under error No. 25 appellant claims that the People's Court erred in finding him as one of the organizers of the Makapili and that he voluntarily joined it, and in not holding that he was compelled to sign the Articles of

Association and the by-laws of the same, and that on this point the two-witness rule was not complied with. We find that the trial court did not commit the alleged error. The testimony of Jose I. Baluyot as well as the testimony of the accused himself during the trial and during the hearing of his petition for bail, and the entries in his diary show that the accused was present at the meeting of organization, acted as secretary of the same, took very active part in its deliberations, presented five (5) of the seven (7) motions as shown by his own. minutes of the first meeting, voluntarily signed the Articles of Association and the By-laws of the association, occupied an important department of the association, looked up the rooms which were to be the headquarters of the organization, instructed the members of the New Leaders' Association of which he was a co-founder and an important official to be present at the inauguration of the Makapili, helped in making the chair arrangements and the work of ushering in said inauguration and felt enthusiasm in translating the speech of General Yamashita into Tagalog and exaltation over the power and/of his own voice while making the translation.

Appellant also urges that the People's Court erred in holding that the Bisig Bakal Ñg Tagala was organized for treasonous activities or that it engaged in such treasonous activities. The very objectives of the Bisig Bakal Ñg Tagala. its organization into a military unit with arras, uniforms, and military discipline, its activities in taking over and guarding the barracks and installations and equipment left by the Japanese Army in the City of Manila and the offer made by the appellant of this Bisigbakal organization to help in the maintenance of peace and order which at that time included the suppression of the activities of the guerrillas which was then regarded as subversive by the Japanese, abundantly show that this organization which the appellant helped to found and to organize, was of a military character intended to and actually used to help the Japanese Armed Forces in their work of maintaining peace and order, suppressing the resistance movement and defending the City of Manila against the American Liberation Forces and their guerrilla colleagues.

According to Rosendo Aterrado, on January 1, the appellant announced a meeting of the New Leaders' Association that afternoon at the Heacock building and at the meeting, he urged the members to join the Bisig Bakal Ñg Tagala because it was the wish of the Japanese Commander of the Manila Defense Corps that it help in the maintenance of peace and order. Aterrado declined to join the Bisig Bakal Ñg Tagala on the ground that he was unable to carry a gun and because he did not like the prospect of shooting his own people; that in his opinion the best way to maintain peace and order was to get food from the Japanese Army and distribute it among the people so that they may not participate in the fight between the Japanese and the Americans. Because of this attitude and stand, Aterrado was summoned to a mock court martial presided over by Alvero, with Yoshida at his right side, and without any trial Aterrado was summarily and dishonorably discharged.

Under his 32d assigned error, appellant maintains that the People's Court erred in finding and holding that his desire and efforts to maintain peace and order constituted treason and in support thereof, he cites Art. 297 of the United States Rules of Land Warfare as regards the right of a military occupant to demand and enforce from the inhabitants of occupied territory such obedience as may be necessary for the security of its forces, and for the maintenance of law and order, citing Birkhimer on Military Government and Martial Law, It is to be borne in mind however, that according to international law (Hague Conventions of 1907, Art. 43), the duty to maintain peace and order is imposed upon the military occupant and not upon the inhabitants of the occupied territory. In the present case, the appellant through his Bisig Bakal Ñg Tagala not only offered to assist but actually assisted in the maintenance of peace and order through his military organization. In so doing, his purpose according to himself was to relieve the Japanese Armed Forces of the necessity of detailing and assigning a portion of their forces for the maintenance of peace and order, so that they could concentrate on defending the City of Manila against those trying to enter it, who we all know were none other than the American Forces and their guerrilla colleagues. Furthermore, as already stated, the maintenance of peace and order at that time meant the suppression of the guerrillas who were regarded as subversive elements because they were killing Japanese soldiers and spies.

Under error No. 33 regarding the meeting at the City Hall in January, 1945, he maintains that the trial court erred in holding that that meeting was for a treasonous purpose or that the utterances made therein by him constituted treason. Through the testimony of Leon Guinto, then Mayor of Manila, he claims that nothing was said in that meeting about the defense of Manila nor the suppression of guerrilla activities, and that he (appellant) merely complained against the confiscation of foodstuffs. Examining other portions of the testimony of witness Leon Guinto, however, it will be found that previous to that meeting the appellant accompanied by two Japanese civilians had already gone to his office offering the services of his New Leaders' Association to help distribute cloth to the people and to maintain peace and order, and that Mayor Guinto had answered him that he already had an adequate system for the distribution of cloth, but that he (Guinto) had accepted the offer as to the maintenance of peace and order. Furthermore, Guinto admitted that at the meeting at the City Halls representatives of the Japanese Army and Navy and Military Police were present. It is therefore more reasonable to accept the testimonies of De la Fuente, Quintos, and Lugtu, who were also present at that meeting who said that the appellant spoke on and urged the intensification of the maintenance of peace and order and the urgency of uniting all peace organizations for a more effective decimation or suppression of the subversive elements which were the guerrillas.

In further support of his claim, appellant also pointed to the testimony of Gerardo Cabo Chan to show that at that meeting he only complained of the abuses of the Japanese sentries and soldiers. It should be remembered however, that at that time Leon Guinto was a treason indictee, and that consequently, he may not be regarded as an absolutely impartial witness; and as to Gerardo Cabo Chan, his father named Justo Cabo Chan was also present at that meeting, representing the Chinese Community and that his presence and participation in that meeting was one of the charges brought against him when he was arrested by the CIC (Counter Intelligence Corps) for collaborating with the enemy. Naturally, witness Gerardo Cabo Chan could not well be expected as a witness to give or attach any treasonous color or intent to that meeting for it may prejudice the case of his own father as a treason suspect or indictee.

The 34th assigned error concerns count No. 11 which charges that the appellant with intent to give aid and comfort to the enemy and to counteract the activities of the guerrillas and other pro-American elements, proposed to Director General Yoshida of the New Leaders' Association the organization of a military body to be known as the O. P. O. G. (Our People's Own Guerrilla). The People's Court found the defendant guilty on this count mainly on his admission as to his preparation and publication of the pamphlet LIBERTY (Exhibit T) supposed official organ of the O. P. P. G., and his diary (Exhibit ZZ) as well as the testimony of Rosendo Aterrado as to the statements made by Alvero when he gave him a copy of the pamphlet. This admission by the appellant may not be considered as the confession in open court contemplated by the law on treason as a basis for conviction. It is therefore believed that the requirement of the law as to sufficiency of evidence to convict has not been filled; consequently, we uphold this assignment of error and we rule that the People's Court erred in convicting appellant on count No. 11. However, the evidence submitted on this count is sufficient to prove adherence of the appellant to the enemy.

Under the 38th assigned error, appellant maintains that the trial court erred in considering as evidence against him a number of pages of stenographic notes allegedly of his diary and ignored his two real diaries. From what we can gather from the record, appellant's theory seems to be that he kept two diaries, one for the public eye and consumption, including the Japanese, which diary did not reflect his will and true sentiments; neither did it record correctly the events therein narrated, so that even if examined by the Japanese he would not be molested, much less, accused of being anti-Japanese, and that this diary was Exhibit ZZ; and that there was another, real diary in his handwriting for his private files, so that his private life would not be exposed to the public view. But this supposed real diary was never presented by him in court. If it were true as intimated by him that it was included among the papers seized by the CIC (Counter Intelligence Corps), then he should have proved in court the

existence of said alleged real diary; that it was in the possession of the prosecution who refused to present it in evidence and thereby have the benefit of the legal presumption, that evidence willfully suppressed by the prosecution will be adverse to it if produced. On the other hand, Exhibit ZZ could not possibly be the fake and false diary he claims, supposedly intended for public consumption and to mislead the public particularly the Japanese because it contains entries regarding his private life, his relations with the opposite sex, and statements not exactly pleasing to the Japanese such as that his brother Jesus Alvero was pro-American and wanted to join the guerrillas. There is therefore every reason to believe and to find that Exhibit ZZ is his real diary, and that the sentiments and events therein, noted and narrated were entered in good faith and were more or less a faithful record of what he felt and what had occurred at the time.

In this connection and inasmuch as this diary (Exhibit ZZ) has been continually referred to and quoted not only by the People's Court but also by this tribunal, it is deemed advisable to say a few words on its admissibility and competence. Exhibit ZZ was duly identified by Patricia Fermin, one of the secretaries of the appellant to whom it was dictated by him and who (Patricia) later transcribed it. It was offered and admitted in evidence without objections. As a rule, diaries are inadmissible because they are self-serving in nature, unless they have the nature of books of account, (51 L. R. A. [N.S.], 813-815); but it has also been held that an entry in a diary being in the nature of a declaration if it was against interest when made, is admissible, (Muller vs. Mclean, 31 Ohio Cir. Ct, Rep. 64 cited in Ann. Gas. 1916C, p. 718.)

Exhibits X and KK, alleged diaries dictated to Romana Bautista, another secretary, are a little different. Exhibit X was objected to by the defense on the ground that it was among the papers illegally seized from appellant's house; and Exhibit KK was objected on the ground that its authenticity was not properly established although in the course of the hearing of the appellant's petition for bail he admitted the correctness of his material statements in Exhibit X. However, inasmuch as Romana Bautista who took down and transcribed Exhibits X and KK refused to identify them during the trial, it is doubtful whether their authenticity has been duly proven. Consequently, they are not admissible.

Under his 42d and last assigned error appellant claims that the People's Court erred in disregarding and not considering as evidence of his intention and his explanation of his activities, the tangible and valuable services which he rendered to Filipinos, friends and strangers alike. He maintains that in aid of the resistance movement, among other things he offered all his money and all that he could earn for the unification of the guerrillas and he cites the testimonies of Colonel Centenera and Major Ross. It appears, however, that his proposition to Centenera on the basis of which he made the offer of aid was to set up a guerrilla organization armed and supplied by the Japanese to overthrow the Laurel government or Republic and set himself (Alvero) in power, which government was to be later recognised by the Japanese. This proposition was rejected by Centenera and Ross and several days later, they were being sought by the Japanese Military Police. As to his alleged offer of a radio transmitter, P30,000 in cash, radio shortwave, foods, medicines, rifles, etc. to the resistance movement, it was testified to only by his own brother Jesus Alvero for whose natural bias, allowance should be made⁵ and Col. Barrion of the resistance movement to whom they were allegedly delivered was never presented in court to corroborate and fortify this claim.

Appellant's having saved the life of Buenejeres Cascante a guerrilla, who was caught and was being investigated by the Japanese, bears explanation. At that time, the guerrillas were gaining the upperhand. In fact, the Americans and their guerrilla colleagues were nearing Manila. It was but natural that the appellant should do something for the guerrillas to gain their good-will and be in their good graces, for his own safety later on. What happened was that Cascante was taken to the appellant and the latter told the Japanese that the prisoner was his man, whereupon Cascante was released. If at all, the incident shows the great influence the appellant had with the enemy,

undoubtedly, for services rendered to them. And, as to his assistance to the City population by distributing food at prices lower than the black market and in some cases giving them free, as we have already stated earlier, the distribution was part of the propaganda for his New Leaders' Association, and later of his Bisigbakal. What is more, in making such distribution he said that he had some ulterior motive, as revealed by his trying, during such distribution of commodities at the Legarda Elementary School building, to persuade the population to resist the Americans and guerrilla forces that were coming to the City of Manila to liberate it. Moreover, the performance of righteous actions, no matter how meritorious they may be is not a justifying or exempting, not even a mitigating circumstance in the commission of a wrong. Even service as a guerrilla does not exempt one from criminal responsibility for treason (People vs. Victoria, 44 Off. Gaz., 2230 [1] People vs. Garcia, 46 Off. Gaz., 2467 [2]).

The last portion of appellant's brief, particularly the conclusions which he himself prepared and signed, begins with a paragraph which reads thus:

"The decision appealed from tried to paint the accused-appellant as an all-out traitor, a monster devoid of any good or noble traits. The judge who wrote it, caught in the post-war hysteria of his time, dipped his pen in the bloody wave of bias and hatreds of that collaborator-bathing era and shutting his eyes to the truth, produced a masterpiece of distortion equal only to the mind that conceived it. So colored with prejudice was the point of view of the judge, that he saw even in such good acts of the accused-appellant as distributing food to the people, he saw even in such good acts the taints of treason. No small shred of evidence capable of misinterpretation escaped his genius in conjuring the horrible picture of treason which he wanted portrayed."

In conscience and in justice to Judge Jose S. Bautista who penned the decision appealed from, we can not allow this personal attack to pass unnoticed or uncensured. Said invective is uncalled for, unwarranted as it is unfair. We have liberally quoted with favor portions of the decision appealed from thereby showing our conformity with and approval of said decision, learned and well written. We can well appreciate and imagine the position of the appellant and his natural reaction to a judgment of conviction but being a highly intelligent and educated man and a lawyer at that, he should have been more discreet and have had more self-control and not allowed himself to be dominated and carried away by his feelings and expressed them in such a passionate, ruthless and unfair manner, especially in a brief filed before this Tribunal.

It is hard to imagine a Filipino so completely sold on the Japanese, their way of life, their ideals and their institutions, a Filipino so utterly won over to the enemy, as Alvero. The entries in his diaries make mention of his countless Japanese friends in high officialdom, not only among the Japanese civilian entities attached to or collaborating with the Japanese Armed Forces but also in the Army and the Navy itself. His diary records almost daily conferences, interviews, dinners, luncheons, rides, etc, with such Japanese officials. Some of his conferences and parleys were by himself described as secret.

To fully understand the pro-Japanese leanings, sentiments and adherence of the appellant to Japan, which later took the form of overt acts of treason, it may be stated that far back in 1939, he went to Japan, to attend the Japanese sponsored International Asiatic Anti-Communist Convention in Tokyo where he made known his friendship with Japan through his poem "TOMADACHI TO NARO" meaning "let us be friends", published, in the Japan Times on October 30, 1939 (Exh. OO). This gesture met with a flattering reception from the Japanese, particularly the press. Complimentary and favorable comment and editorials were written as shown by defendant's own clippings from these Japanese newspapers (Exhs. OO to OO-16). On his return from the conference the appellant published a pamphlet entitled "WHO ARE THE FRIENDS OF THE PHILIPPINES?" After answering that question he concludes thus:

"Were there more neighbors like Japan, were there more guests like the Japanese, there would be no need of territorial barriers and divisions of nations and race, but on the contrary, there would be a universal union of men

fighting towards the greatest ambition of the world, the happiness of humanity." (Exhibit 00-2, p. 118, rec).

Evidence of appellant's adherence to the enemy to be gathered not only from his overt acts of treason but from many other acts during the occupation as testified to by his own countrymen and from the entries in his own diary, is abundant and overwhelming. Judge Dizon, one of the three Judges of the People's Court who signed the decision of conviction, in his concurring opinion has the following to say on the adherence of the appellant:

"La Adhesion del Acusado al Enemigo.

"La ponencia apunta con acierto diferentes actos del acusado que no dejan duda alguna en cuanto a su adhesión a la causa del Japon dirimida y resuelta por las armas en la segunda guerra mundial. Su actividad febril e inusitada en el escenario de la vida pública durante la ocupación de nuestro país por el Invasor—cuando la mayoría de los de su sangre o se unían abiertamente al movimiento de resistencia activa o procuraban pasar desapercibidos y ponerse al margen de los sucesos, huyendo de toda actividad que directa o remotamente pudiera demostrar simpatía por el enemigo o constituir ayuda material, moral o espiritual a sus esfuerzos de guerra—constituye, en mi opinión, la prueba más categórica y fehaciente de su adhesión a la causa del Japon. En realidad, si nos fuera dable exprimir los autos, cual se hace con una jugosa fruta, el líquido que destilarían sería no la adhesión inocente e irreflexiva del automata sino la adhesión consciente, deliberada y resuelta de un hombre sano y libre; el acusado que había puesto al servicio del Azote de su país todo el idealismo y vigo de su sangre joven, dignos, ciertamente, de mejor causa."

Regarding this same adherence, had appellant confined himself within the realm of mere adherence—disloyal state mind and treasonous thoughts, intentions, and sympathies, however great may have been the disappointment, disapproval, and even hatred of his countrymen for such disloyalty to them and to their country, the law and prosecuting officials could not have taken action against him. Adherence alone is not indictable. In a free and democratic country like the Philippines, there is freedom of thought and free and unhampered discussion and expression of sentiment. But when he translated such treasonous sympathies and intentions into overt acts of treason such as joining the Makapili, establishing his military organization Bisig Bakal Ng Tagala and offering its services to take charge of the maintenance of peace and order, which included the suppression of the guerrillas, so that the Japanese could concentrate their forces in defending the City of Manila by fighting against the American and guerrilla forces trying to enter and liberate it, then he (appellant) breached as it were the walls of allegiance and loyalty which the treason law has erected to surround and protect the security and integrity of the nation, and he may then be held criminally liable.

In several cases already decided by this Court we have convicted persons of treason for/membership in the Makapili organization, on the theory that one joining such military body organized to actively help the Japanese Armed Forces was "placing himself at the enemy's call to fight side by side with him when the opportune time came although an opportunity never presented itself, because such membership by its very nature gave the enemy aid and comfort." (People vs. Adriano, 44 Off.Gaz. 4300 [1]; People vs. Alitagtag, 45 Off.Gaz., 715 [2]). Here, the appellant not only joined the Makapili as a member but greatly helped organize and later inaugurate it. He was assigned the high and important post of Colonel in it. Later, in a radio speech he hailed as heroes to be emulated the Makapilis who, side by side with the Japanese were fighting the American landing forces in Lingayen. That appellant Alvero is guilty of the charge of treason, is clear.

In conclusion we find, the appellant guilty of treason. Although we agree to the prison sentence of reclusion perpetua meted out by the People's Court, all the members of this high tribunal taking part believe that the fine should be increased. We hereby increase it from P10,000.00 to P20,000.00. With this modification as to the sentence and as to those portions of the decision of the People's Court discussed and ruled upon by us the said decision appealed from is hereby affirmed, with costs.

Moran, C. J., Ozaeta, Pablo, Bengzon, Tuason, Reyes, and Torres, JJ., concur.
Paras and Feria, JJ., no part.

[1] 77 Phil., 856.

[2] 78 Phil., 535.

[1] 78 Phil., p. 122.

[2] 79 Phil., p. 392.

[1] 78 Phil., 561.

[2] 79 Phil., 138.

MORAN, C. J.:

This is to certify that this decision is in conformity with the vote of Mr. Justice Padilla.

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