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Monday, August 11, 1986

CALL TO ORDER

At 9:43 a.m, the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mr. Jose D. Calderon, to wit:

ALMIGHTY GOD:

We are entering the final phase of our task to draft what will become the fundamental law of the Filipino people.

The last two months had been hectic but the days ahead will be even more demanding.

Even now, strenuous and sustained effort has taken its toll among those of us who are not in excellent health nor of robust physical attributes.

But, Almighty God, the few of us who had been stricken ill, are, by Your Grace, holding on tenaciously to the job at hand, pushed on by a determination and a purpose, single to the completion of this endeavor, together with our more physically able colleagues.

As our work intensifies, as the demands on our efforts grow heavier, give us, O Lord, the strength to carry on. Re-energize our bodies; give more light to our minds; put more love in our hearts; and grant us more understanding and sympathy for those views that contradict our own.

As crucial issues are submitted to a vote, fortify us, Almighty God, with humility in victory, with grace in defeat, and with the wisdom to understand that every vote cast in this Chamber is a vote of conscience intended to achieve the common will and certainly not a partisan stand designed to defeat a foe. For in this Chamber, O Lord, there are no foes, only colleagues in the common endeavor to structure the foundation of this nation.

Guide us, Almighty God, in these, the final days, to make the Constitution we are drafting, one that is acceptable to our people, but more importantly, one that is deserving of Your blessing and benediction.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary-General of the Commission called the Roll and the following Members responded:

Alonto, A. D. Rama, N. G.

Azcuna, A. S. Regalado, F. D.

Bacani, T. C. Rigos, C. A.

Bennagen, P. L. Rodrigo, F. A.

Bernas, J. G. Romulo, R. J.

Rosario Braid, F. Rosales, D. R.

Calderon, J. D. Sarmiento, R. V.

Colayco, J. C. Suarez, J. E.

Foz, V. B. Sumulong, L. M.

Gascon, J. L. M. C. Tan, C.

Jamir, A. M. K. Treñas, E. B.

Nolledo, J. N. Uka, L. L.

Padilla, A. B. Villacorta, W. V.

Muñoz Palma, C. Villegas, B. M.

Quesada, M. L. M.

With 29 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

A.M.

Abubakar, Y. R. Laurel, J. B.

Aquino, F. S. Maambong, R. E.

Bengzon, J. F. S. Monsod; C. S.

De Castro, C. M. Natividad, T. C.

Concepcion, R. R. Ople, B. F.

Davide, H. G. De los Reyes, R. F.

Garcia, E. G. Tingson, G. J.

P.M.

Lerum, E. R. Tadeo, J. S. L.

Mr. Guingona was sick.

Mr. Brocka and Mrs. Nieva were absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Calderon, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body.

REFERENCE OF BUSINESS

On motion of Mr. Calderon, there being no objection; the Body proceeded to the Reference of Business.

REFERRAL TO COMMITTEES OF COMMUNICATIONS

Upon direction of the Chair, the Secretary-General read the titles of the following Communications which were, in turn, referred by the Chair to the Committees hereunder indicated:

Communication No. 513 — Constitutional Commission of 1986

Letter from Mr. Teodoro Pascua of Konsiyensiya ng Febrero Siete (KONFES), 4 Malinis St., UP Village, Diliman, Quezon City, submitting its proposal for the retention of the text of Section 8, Article XV of the 1973 Constitution regarding religious instructions in public elementary and high schools

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 514 — Constitutional Commission of 1986

Letter from Mr. Saturnino C. Aro of 12-A Camp Dangwa, La Trinidad, Benguet, requesting inclusion of provisions on social security to make small member-employers beneficiaries by way of benefit payments in times of sickness, disability, retirement and death

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 515 — Constitutional Commission of 1986

Letter from Mr. Jaime A. Tabang of 216 M.L. Quezon St., Magiliw, Mabalacat, Pampanga, seeking a constitutional provision that would in effect make the bar examinees with borderline marks become members of the bar provided they have proven to be competent in fields directly related to the legal profession

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 516 — Constitutional Commission of 1986

Letter from Mr. Jaime A. Tabang of 216 M.L. Quezon Street, Magiliw, Mabalacat, Pampanga, saying that civil employees of the AFP remain "casuals" in spite of their civil service eligibilities and length of service and suggesting the inclusion of provisions providing equal treatment of all government employees regardless of the agency hiring them

TO THE COMMITTEE ON CONSTITUTIONAL COMMISSIONS AND AGENCIES

Communication No. 517 — Constitutional Commission of 1986

Letter from Mr. Jose C. de Venecia, Jr., President of the Petroleum Association of the Philippines, Inc., 6th Floor Basic Petroleum Bldg., Alvarado St., Legaspi Village, Makati, Metro Manila, containing the position of the Association on the exploration and development of petroleum resources of the Philippines

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 518 — Constitutional Commission of 1986

Twenty-seven letters from John Gerard R. de Dios, Edwin F. Sarmiento, Eric S. Javier, Anmiel P. Galvo, Joselito Ledesma, Terry A. Lafigura, Rosario Torres, William Intalco, Rojiel S. Lacanienta, Clifford E. Pesalbon, Joselito S. Agbayani, Romeo V. Paragas, Marlyn Samliento, Aurora R. Guiang, Francis G. Bais, Ramil T. Bruces, Ricky Paglicawan, Luis S. Salazar, Margarita R. Mangaliman, Victor Maricad, Rolando T. Nepomuceno, Jesus M. Pinlac, Marita Malpaya, Zenaida B. Viray, Reynaldo N. Regresado, Anselmo V. Contreras and Ernesto C. Esteban, Jr. with their respective addresses, all seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 519 — Constitutional Commission of 1986

Resolution No. 6 of the Sangguniang Panlalawigan of Pampanga, requesting the Commission to respect the six-year term given by the people to the incumbent President and Vice-President

TO THE COMMITTEE ON AMENDMENTS AND TRANSITORY PROVISIONS

Communication No. 520 — Constitutional Commission of 1986

Communication from the Philippine Social Science Council, Inc., Don Mariano Marcos Ave., U.P., Diliman, Quezon City, signed by its Chairman, Dr. Carolina G. Hernandez, submitting four recommendations, to wit: (1) federal form of government composed of twelve autonomous regions; (2) equal rights of women with men and protection of working women in relation to their maternal functions; (3) deletion of the second sentence in the Article on Bill of Rights, Section 1 (the right to life extends to the fertilized ovum); (4) addition of a ninth ray to the sun of the Philippine flag to represent the Muslim and cultural communities

TO THE STEERING COMMITTEE

Communication No. 521 — Constitutional Commission of 1986

Letter from Mr. Wilfredo C. Asuncion of Batac, Ilocos Norte, proposing, among others, a presidential form of government with a bicameral legislature, a six-year term for the President with no reelection, creation of a Commission on Appointments, and a four-year tenure for the Chief of Staff of the Armed Forces

TO THE STEERING COMMITTEE

Communication No. 522 — Constitutional Commission of 1986

Letter from Mr. Ricardo G. Sodusto of Loreto, Agusan del Sur, transmitting Resolution No. 06, S. 1986 of the Sangguniang Bayan of Loreto, requesting the Constitutional Commission to create a Ministry for Tribal Filipinos that will cover all cultural minority tribes of the country

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 523 — Constitutional Commission of 1986

Communication from Imelda S. Dasalla of No. 117 Block 2, New Matina, Davao City, and eighty-four others urging the Constitutional Commission to draft a Constitution for a Federal Republic of Pilipinas

TO THE STEERING COMMITTEE

QUESTION OF PRIVILEGE OF MR. VILLACORTA

At this juncture, Mr. Villacorta took the floor on a question of privilege to pay tribute to former Senator Lorenzo M. Tañada on the occasion of his birth anniversary and on the conferment to him of the highest government award, the Legion of Honor, Rank of Commander, which, he said, should not pass unnoticed by the Constitutional Commission.

Mr. Villacorta spoke of Senator Tañada as one of the greatest Filipinos who, since the start of his public career, has fought for the small people of society, championed basic human rights and national sovereignty and battled the forces of tyranny and foreign domination. He stated that Senator Tañada, even as he has advanced to age 88, has been unwavering in his social consciousness, in his incorruptibility and in his commitment to freedom and nationalism and that, instead of stagnating in the premises and biases of his generation, he has always been attuned and responsive to the dynamic demands of changing times.

Quoting Senator Tañada who often said, "Life is too short, we have to do our best for our people before we are summoned by our Creator and are made to account for our actions in our lifetime", Mr. Villacorta stated that the Constitutional Commission is fortunate to have as its members Mr. Tañada's contemporaries in lawmaking, among them, Senators Sumulong, Alonto, Rodrigo, Padilla and Rosales and Speaker Laurel who are statesmen of an era when the values of delicadeza and selflessness in public life prevailed.

Mr. Villacorta stated that the Commission, in its work, has endeavored to provide for the prevention of tyranny's resurgence in the country, has strived to enshrine people power through the institutionalization of sectoral representation and people's organization, and has sought to protect and guarantee the rights of labor, farmers, fishermen, women, youth, the middle class, the sick and the disabled in the Article on Social Justice. He further stated that the Body would soon deliberate on the matter of giving local governments the importance that they deserve and on Articles that would set the people free from foreign economic, cultural and political encroachment. In this regard, Mr. Villacorta urged his colleagues to draw inspiration from the example of a great nationalist, Senator Lorenzo Tañada who, on the occasion of his birthday, said that his only birthday wish is "to see our country truly liberated from foreign domination before I die".

Finally, Mr. Villacorta exhorted his colleagues in the Commission to support a resolution which he would submit, congratulating Senator Tañada for the highest state honor that he had just received.

MOTION OF MR. RAMA

Thereupon, Mr. Rama moved that the Body consider Committee Report Nos. 21 and 25 on the Article on Local Governments.

Mr. Nollado suggested that the Body first finish the proposed amendments to the Article on Social Justice which were deferred before proceeding to the discussion on the Article on Local Governments.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 9:59 a m.

RESUMPTION OF SESSION

At 10:09 a.m., the session was resumed.

Upon resumption of session, Mr. Rama manifested that the Committee on Social Justice was ready to entertain motions for reconsideration to pave the way for further amendments.

MOTION TO RECONSIDER THE APPROVAL OF THE SECOND SENTENCE OF SECTION 5

On motion of Mr. Jamir, there being no objection, the Body reconsidered the approval of the second sentence of Section 5 of the Article on Social Justice.

PROPOSED AMENDMENT OF MR. JAMIR

Thereupon, Mr. Jamir proposed the insertion of the words EXCEPT COMMERCIAL, INDUSTRIAL AND RESIDENTIAL after the phrase "all agricultural lands" on the second sentence of Section 5 of the said Article.

Mr. Suarez asked that the Body vote on the proposed amendment.

Mr. Davide observed that under the proposed Article on National Economy and Patrimony, land is classified into agricultural, timber, mineral and national park. He stated that should the proposed amendment be approved, the agricultural land may further be classified into residential, commercial and industrial.

Mr. Jamir reiterated that commercial, industrial and residential lands would be the exceptions to the coverage of agrarian land reform.

Mr. Davide maintained, however, that the proposal would limit or reduce the coverage of agrarian land reform.

On Mr. Bernas' observation that the proposed amendment would negate the intent of Section 11 to make possible the expropriation of urban land including residential and commercial lands for distribution or resale, Mr. Jamir explained that his proposal would clarify the existing laws and jurisprudence in the sense that while commercial, industrial and residential lands form part of agricultural lands, they would be considered an exception to such broader term for purposes of land reform.

Mr. Bernas pointed out that precisely the Article on Social Justice intends to go beyond existing laws, and that the proposed amendment would make impossible the fulfillment of the goals of urban land reform, to which Mr. Jamir replied that the Committee itself did not intend to include commercial, industrial and residential lands within the coverage of urban land reform but to limit it to arable lands.

Mr. Bernas, however, pointed out that the Body subsequently decided to consider commercial, industrial and residential lands available for urban land use and housing reform.

Likewise, objecting to the proposed amendment, Mr. Sarmiento observed that the Commission had already been criticized for installing a weak agrarian reform program, and the proposed amendment would further weaken it and increase the sorrows of the farmers.

Mr. Padilla stated that Mr. Bernas' observation that Mr. Jamir's proposed amendment would adversely affect Section 11 was inaccurate because the proposal refers to Section 5 on agrarian land reform.

He pointed out that with the amendment, Section 5 should only apply to arable lands and, therefore, residential, commercial and industrial lands would not be covered therein.

Furthermore, Mr. de los Reyes opined that the amendment of Mr. Jamir was not necessary because Section 10, Article XIV of the 1973 Constitution clearly classifies lands of the public domain into agricultural, industrial or

commercial, residential, resettlement, mineral, timber or forest, grasslands and such other classes as may be provided by law, unless the Committee on the National Economy and Patrimony intends to do away with this classification.

Ms. Aquino also pointed out that existing jurisprudence defines agricultural lands to include commercial, industrial and residential lands but the absence of jurisprudence delimiting the parameters of each would get in the way of effective implementation of Sections 5 and 11, to which Mr. Jamir replied that although they are included in the definition of agricultural lands, it was his intention to exempt them from the coverage of agrarian land reform.

On Mr. de los Reyes' statements, Mr. Villegas, as Chairman of the Committee on the National Economy and Patrimony, underscored that his Committee would deviate from the classifications made by the 1973 Constitution, such that there would only be four classes of public lands, namely, mineral lands; timber lands, agricultural lands and national parks. He explained that the power of the Executive to reclassify lands should be limited and that it should be Congress that should decide such classifications in order to implement land reform even in rural areas.

As a member of the Committee on Social Justice, Mr. Bengzon explained that in providing for urban land use and housing reform, the Committee considered the situation of the homeless who were squatting, not on commercial and industrial areas, but on idle lands for which they are paying certain nominal amounts to the landowners. However, he stressed that the apprehensions of Mr. Jamir could be met by the last portion of Section 5 which would allow Congress to determine whether such lands within commercial or industrial areas should be expropriated for the public interest, taking into account ecological, developmental and equity considerations. He believed that the proposed amendment would not be necessary because commercial and industrial lands would not actually be covered by urban land reform.

Mr. Sarmiento then inquired if it was the Committee's stand that commercial and industrial lands would not be covered by urban land reform.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 10:30 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

INQUIRY OF MR. COLAYCO

In reply to Mr. Colayco's query, Mr. Bengzon affirmed that the Committee intends that commercial and industrial lands would not be covered by urban land reform. However, he reiterated that Congress may determine whether an idle land within an industrial area could be expropriated for housing of factory workers therein. He opined that any declaration by Congress that such area is residential would be for the best interest of the people concerned. He stressed that the Commission should not be concerned with specific situations and neither should it impose on Congress what to do not only because it would complicate the meaning and coverage of the provisions but it would tie the hands of Congress.

With respect to the portion of land in the Ortigas area which was occupied by squatters who believed that it was owned by the Marcoses, Mr. Villegas opined that Congress would not expropriate it because of its cost of more

than P1,000 per square meter which the poor could not afford. He stated that Congress could be trusted to decide what is for the best interest of the people they represent.

Mr. Suarez maintained that in view of the explanations on record regarding the interpretation of "agricultural lands" in relation to commercial, industrial and residential lands and also on the implementation of urban land reform, it is no longer necessary to include the three items mentioned by the proponent.

In view thereof, Mr. Jamir withdrew his proposal on the understanding that arability should be one of the essential characteristics in the classification of agricultural lands for the purpose of agrarian reform.

AMENDMENT OF MR. FOZ JOINTLY WITH MESSRS. MONSOD AND TREÑAS

Mr. Foz, jointly with Messrs. Monsod and Treñas, proposed to add a new sentence on Section 11 to read as follows: THE STATE SHALL RESPECT THE RIGHTS OF SMALL PROPERTY OWNERS.

Mr. Foz explained that the proposal is intended to allay the fears of small apartment or property owners who are apprehensive that even their landholdings may be included in the government's urban land reform program.

On Mr. Suarez' query, Mr. Foz explained that property owners refer to both owners of houses and lots, and lots only, and the determination of what would constitute a small landowner would be left to Congress.

Mr. Suarez accepted the amendment.

At this juncture, Mr. Villegas proposed to amend the amendment by inserting the words REAL ESTATE between "small" and "property".

Mr. Monsod, however, explained posed amendment would be included that the pro in the Section on urban land reform, hence, in that context it would only refer to real estate property.

Submitted to a vote, and there being no objection, the same was approved by the Body.

AMENDMENT OF MR. BERNAS, JOINTLY WITH MESSRS. MONSOD, GARCIA, REGALADO, GASCON AND DAVIDE

Mr. Bernas, jointly with Messrs. Monsod, Garcia, Regalado, Gascon and Davide, proposed to reword Section 20 as worded on page 38 of the Journal of Saturday, August 9, 1986, to read as follows:

THE RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO EFFECTIVE AND REASONABLE PARTICIPATION AT ALL LEVELS OF SOCIAL, POLITICAL AND ECONOMIC DECISION-MAKING SHALL NOT BE ABRIDGED. THE STATE SHALL FACILITATE THE CREATION OF ADEQUATE CONSULTATION MECHANISMS.

Mr. Gascon proposed to place a comma (,) after "State" and insert BY LAW followed by a comma (,).

Mr. Bernas accepted the proposal and in addition thereto, explained that during the interpellation of Mr. Rodrigo in the previous session it was made clear that it was not the intention of the original provision to, in any way, dilute or diminish the right already guaranteed in Sections 7 and 9 of the Bill of Rights. He added that his proposal is intended to make clearer that the provision would not diminish the right so guaranteed in the Bill of Rights. He also explained that the words "made possible" were deleted because they give the impression that consultation mechanisms would not be possible unless the State takes action by law when, in fact, these consultation mechanisms are already in place and the role of the State in this respect is merely to facilitate the creation of these consultation mechanisms.

Mr. Suarez accepted the proposal.

Mr. Davide proposed to substitute "creation" with ESTABLISHMENT.

Mr. Bernas accepted the amendment.

On Mr. Monsod's query whether the word "establishment" is really necessary in the proposal, Mr. Bernas explained that there are two steps envisioned in his proposal: 1) the creation of the consultation mechanisms; and 2) the facilitation of the functioning of such mechanisms.

In reply to Mr. Ople's queries, Mr. Bernas affirmed that "people" includes even those who are underage and not merely the electorate; and there is no limit as to government level with respect to people participation in decision-making.

On Mr. Romulo's query on the effect of failure to consult the people's organization in decision-making, Mr. Garcia stated that the law would remain valid and enforceable but the persons who made the decisions without consulting the organizations may be booted out of office.

On the query as to what level in the ladder of decision-making would participation apply, Mr. Garcia stated that the desired objective is for the people to participate in the local, provincial, regional and national levels so that the relevance and responsiveness of the decisions could be checked at all levels. He added that levels may be vertical or horizontal.

In addition thereto, Mr. Monsod explained that the Section does not state that any person or group would have to be consulted first before a law or decision could be validly implemented because there is also the criteria of practicability as previously pointed out by Mr. Garcia. He added that the people could express their disapproval of any law or decision through the exercise of initiative or referendum.

Mr. Garcia concurred with Mr. Rodrigo's observation that since the government is republican or representative, the organizations themselves must take the initiative if they want to participate and they should not wait for the Legislature to invite them.

He further added that the people, through their organizations, should involve themselves and not merely desist from further government participation after casting their votes because the electoral process goes beyond it.

Additionally, Mr. Rodrigo stressed that it is clear that the republican form of government would still be retained, but with more participation coming from the people themselves to strengthen the democratic process.

Corollary to the statements made by Messrs.

Garcia and Monsod, Mr. Bennagen stressed that the pursuit of social justice and democratic values would be more effective if the people participate in decision-making because the role of the government is confined to facilitating the mechanism of consultation outside party politics.

RESTATEMENT AND APPROVAL OF SECTION 20, AS MODIFIED

Mr. Bernas read Section 20, as modified, to wit:

THE RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO EFFECTIVE AND REASONABLE PARTICIPATION AT ALL LEVELS OF SOCIAL, POLITICAL AND ECONOMIC DECISION-MAKING SHALL NOT BE ABRIDGED. THE STATE SHALL, BY LAW, FACILITATE THE ESTABLISHMENT OF ADEQUATE CONSULTATION MECHANISMS.

Submitted to a vote, with 25 Members voting in favor, and none against, the amendment was approved by the Body.

MOTION FOR APPROVAL ON SECOND READING

At this juncture, Mr. Rama moved for approval, on Second Reading, of the Article on Social Justice.

However, on motion of Mr. Monsod, there being no objection, the Body deferred the voting on Second Reading until after the distribution of clean copies thereof to all the Members.

SUSPENSION OF SESSION

On motion of Mr. Rama, there being no objection, the Chair suspended the session until two o'clock in the afternoon.

It was 11:50 a.m.

RESUMPTION OF SESSION

At 2:16 p.m., the session was resumed.

BUSINESS FOR THE DAY: COMMITTEE REPORT NO. 21 ON PROPOSED RESOLUTION NO. 470 AND COMMITTEE REPORT NO. 25 ON PROPOSED RESOLUTION NO. 511 ON THE ARTICLE ON LOCAL GOVERNMENTS

On motion of Mr. Rama, there being no objection, the Body proceeded to the Business for the Day: consideration, on Second Reading of the following Committee Reports, as reported out by the Committee on Local Governments, to wit:

Committee Report No. 21 on Resolution No. 470, entitled:

Resolution proposing to incorporate in the new Constitution an Article on Local Governments; and

Committee Report No. 25 on Resolution No. 511, entitled:

Resolution to incorporate in the new Constitution additional provisions in the Article on Local Governments.

Thereupon, the Chair recognized Mr. Nollado, Chairman of the Committee on Local Governments, and the other members of the Committee for the sponsorship.

SPONSORSHIP REMARKS OF MR. NOLLEDO

Mr. Nollado stated that the Committee submitted two reports, namely, Committee Report No. 21 which covers, among others, the kinds of local government units, their taxing powers and the provision on coordination of different political units for their common benefits; and Committee Report No. 25 which contains the provisions on autonomous regions.

Mr. Nollado stated that the report of the Committee is an indictment of the status quo or the unitary system which tied the hands of progress in the country. He argued that, although it has been the claim that the country's linguistic and ethnic diversities are weaknesses that could be strengthened by the unitary system, on the contrary, the variations in regional characteristics are factors to capitalize on to attain national strength through decentralization.

Mr. Nollado adverted to the observations of Mr. Rene Santiago of the Philippine Institute of Environmental

Planners that "a structure of societal organization must adapt to the people and not the people to a preconceived model of organization. Filipinos are said to be highly individualistic, fractious, ungovernable, an heir to numerous persuasions. A pluralist society like ours would behave incongruously under the unitary setup and it should be at home in a federalized environment. Decentralization gives hope to the poor. It disperses political power and responsibility, just as wealth must be equitably diffused. Centralization emphasizes the maintenance of status quo for society to sustain itself, while decentralization promotes entrepreneurship and innovation."

Mr. Nollado observed that the unitary structure of the country gravitates toward order that progress, national and local, becomes a casualty. He stated that Filipinos have found the idea of dictatorship appealing because of the enormous and hard-headed adherence to the unitary system foisted by the colonial powers in a span of several centuries, which must be the reason why Filipinos respond better to a strong leader and unwittingly find themselves rammed to a situation where their rights are despicably trampled upon, where freedom becomes illusory and where dreams remain empty and unfulfilled.

Mr. Nollado pointed out that in its report, the Committee had widened the taxing powers of local governments to enable them to impose taxes, fees and charges, with the right of retention and disbursements without undue interference from the national government. He also stated that local governments would be entitled to share in the proceeds of exploitation and development of the national wealth within their respective areas which shall be automatically released to them. He stated, however, that the Committee did not adopt any provision authorizing the establishment of a metropolitan government to avoid overlapping of functions and putting together highly urbanized cities within the principles of local autonomy and decentralization. He opined that the Metro Manila Commission, created under PD No. 824, was a self-centered creation of the deposed dictator Ferdinand Marcos who wanted to consolidate political power over areas within Metro Manila as a gift to his wife, inspired by the historic imperative that the fall of the national capital region would mean the end of their imperial rule. He indicated, however, that the socio-political area of Metro Manila may be maintained under a coordinating agency pursuant to a provision that local government units may coordinate and consolidate their efforts and services for purposes beneficial to them.

He stressed that, in response to the needs of the times and in recognition of the realities in the Philippine situation, the Legislature is mandated to create autonomous regions within the framework of the national sovereignty and territorial integrity of the Republic of the Philippines.

Mr. Nollado disclosed that while the Committee was torn between setting a fully federal form of government and establishing autonomous regions, it decided to make its provisions flexible in the sense that while it mandates the creation of autonomous regions, particularly Muslim Mindanao and the Cordillera, it opened the avenue towards full federalization through the creation of several autonomous regions should Congress decide to do so in the future. He then stated that Messrs. Alonto, Bennagen and Ople would explain further the need to set up autonomous regions.

Finally, Mr. Nollado stressed that the challenge of this generation was brought forth before the Commission. He expressed the hope that the Commission would prove equal to the challenge.

SPONSORSHIP REMARKS OF MR. ALONTO

Mr. Alonto recalled that from the regional development plan initiated by Congress in 1954 evolved the idea of regional economic development which proved more effective than a centralized one coming from the central government. He stated that the period marked the establishment of the Mindanao Development Authority and the beginning of the socio-political development of the country based on the concept of regional authority on the premise that a federal form of government was more acceptable on account of the country's geographical

condition, composition of society and the historical background of Filipino society.

At this juncture, Mr. Alonto read into the record his position paper entitled "The Political Problems of the Cultural Minority" based on the proposal that Mao's effective way of solving the problem of uniting and consolidating the multifarious sectors of society would be a federal form of government, to wit:

"I can surmise this early that the strongest single factor that prompted a call for this charter revision is the sense of urgency felt by the different sectors that comprise the society, to find a solution to the state of disintegration taking place in our midst.

"It has been a must that in reframing the same law, it would be the highest sense of patriotism for every member privileged to participate to analyze all the basic problems that confront our society, not the least important of which is the problem of Philippine unity.

"Together, let us reconstruct our political thought in order to reconstitute the sense to conform to the basic philosophy of all the different elements that make up our society. For unless we can imbue our people with a sense of oneness and common destiny, there seems to be no possible avenue of containing the process of disintegration that is going on in our very midst involving not only the cultural minority but the whole fabric of society.

"I dare say that if to achieve unity, it is necessary to divide the country into several autonomous states bound together by a common goal and sense of oneness, we should not hesitate to do so. If unity cannot be achieved in a strictly unitary system as experience has taught us, then by all means, let us revert to the only option left open to us: unity in diversity which seems to be the goal set for us by the Divine Wisdom."

Mr. Alonto stressed that the Body must take into consideration the multifarious sectors of society, the multiplicity of ideologies and the multiplicity of principles in society in structuring the government so that each sector could have as the basis of its cooperation in nation-building the ideas that the sector considers important for its members.

Thereupon, Mr. Alonto submitted the following documents to be inserted into the Record, to wit:

1)

Position Paper No. 2 discussing the political problems of the cultural minorities in the country;

2)

Remarks delivered before the 1971 Constitutional Convention;

3)

Document entitled "Structure of Government", by Rev. Francisco Araneta, former President of the Ateneo de Manila, submitted to the 1971 Constitutional Convention, proposing a federal government for the country; and

4)

Pronouncements of the late Senator Benigno Aquino, Jr. proposing a solution to the problem caused by the Muslims in the country which resulted in the conclusion of the Tripoli Agreement of 1976.

Finally, Mr. Alonto expressed the hope that the report of the Committee would be acceptable to the Members of the Commission as a basic solution to the problem of establishing real unity in Philippine society.

REMARKS OF MR. ABUBAKAR

Mr. Abubakar, complementing the arguments and observations of the previous speakers, stated that the local autonomy implemented in Southern Mindanao had succeeded and had solved many problems therein. He maintained that local autonomy is no longer a theoretical concept but a working reality which has been the uniting force behind the achievement, to a certain extent, of the dreams of the people in Southern Mindanao.

SPONSORSHIP REMARKS OF MR. BENNAGEN

In his remarks, Mr. Bennagen stated that the Body has begun deliberating on matters which would determine the fate and destiny of the Bangsa Moro and the Cordillera people, a future which could spell war and fragmentation or a future of peace and justice for all. While it may not be easy for the Body to see how its decision would affect the lives of the people therein, being away from the harsh realities of the neglected and underdeveloped conditions of the Cordillera and Mindanao, Mr. Bennagen intimated how he felt the overwhelming passion of the Bangsa Moro to achieve recognition of their right to self-determination and how he witnessed the courage and perseverance of the Cordillera people in their struggle for peace and justice. Regional autonomy, he stated, is the answer to their centuries of struggle against oppression and exploitation.

Mr. Bennagen pointed out the alarming increase of poverty, literacy, malnutrition and death rate which could be summed up by an old man from the Cordillera who once said: "We asked the government for a teacher, they did not give us one; we asked for some help in rising roads, they did not send us any; we asked for a doctor, they did not send us one. Instead they came to build a dam and sent in the Philippine Constabulary (PC) and the armies. These, we did not ask for."

Mr. Bennagen stated that statistics had shown that thousands of indigenous communities were displaced by plantations, hydroelectric dams, mining and logging operations because of state laws, presidential decrees and letters of instructions and these prompted the Bontoc and Kalinga warriors to say: "Long experience has shown us that the outsider's law is not able to understand us, our customs, and our ways. Always, the State laws make just what is unjust and it makes right what is not right. We are planted here, rooted in sacred land. Our dead were very few. Now, we are asked by the government to allow our dead to be covered by the waters of the Chico Dam. This is an impossible request. The government assures us that it will spare no effort to disinter the dead, to remove the remains to new and better sites. It does not understand. The very soil we tread on this is the dust of our fathers. What kind of law is this that asks us to agree to our annihilation as a people? If we accept the decree of the government, it will be as if we ever doubted that we belong to the land. If we are forcibly relocated, we can tell you, we will no longer consider ourselves under the law."

Mr. Bennagen reminded the Body that while the entire history of the Bangsa Moro and the Cordillera people is a history of oppression and discrimination, theirs too is a history of heroic resistance against subjugation, tutelage and assimilation by the Spaniards, the Americans and the Japanese and even against uncaring Filipinos. He stated that it should not surprise anyone if these people continue to practice their ancient traditions of tribal democracy and pass it as law and if they persevere in their cherished belief and persist in their struggle to regain the right to self-determination. He warned that these people could wield the will power and determination to demolish any obstacle in their quest for justice, peace and self-determination.

Mr. Bennagen underscored the gravity of the decision the Body would make which, he assured, would have the overwhelming support of the Bangsa Moro and the Cordillera people who look forward to the grant of a meaningful and authentic regional autonomy. He stated that their demands for self-determination is a plea for national peace. He urged that this matter should not be left to Congress to decide. He appealed to the Members of

the Commission to help pave the way for future prosperity based on the equality of all people by courageously deciding on issues based on their intrinsic merits without being clouded by the tyranny of emotionally-loaded words.

Mr. Bennagen read a letter of Senator Diokno addressed to former President Marcos during the height of the Bontoc-Kalinga struggle against the Chico Dam project, to wit: "Our indigenous communities are part and parcel of us. They are living links to our yesteryears, perfect exemplars, in fact, of the barangay democracy you seek to promote. In their culture they may well be a lump on our past to our tomorrow. To destroy them is to destroy a vital part of our past, our present and our future. Their death as a people, as we do not hesitate to call it genocide, will be ours too as a nation. Whether justice or injustice, peace or violence, life or death shall prevail, is entirely in your hands."

Finally, Mr. Bennagen echoed the wise words of the Muslims who said: "You, in this Commission, have the rare opportunity to write a document of peace and justice." Mr. Bennagen urged "let us not miss that opportunity."

SPONSORSHIP REMARKS OF MR. OPLE

Mr. Ople, adverting to Committee Report No. 21 which deals on local autonomy for the local government units, stated that the overcentralized system of government had been said as a colonial legacy that denies the role of initiative at the local levels because a colonial power would first of all annihilate the autonomy of local units in order to ensure a full-proof security against potential rebellions and disturbances.

With respect to Committee Report No. 25 which deals with autonomous regions, Mr. Ople stressed that this concept was based on the premise that certain regions with unique cultural, historic, social and even religious bonds which have been placed in a position of inferiority relative to the dominant groups in society, have the right to demand autonomy and a measure of self-determination within the larger political framework of the national state.

Mr. Ople stated that throughout modern history, autonomy for certain regions within the framework of the national state has meant to be a constructive alternative to secessionist aspirations. In this regard, he quoted a relevant portion from the Encyclopedia of the Social Sciences, to wit:

"Autonomy on a territorial basis would easily conflict with State but the two are not irreconcilable. If a State fails to induce interest in the continued maintenance of the State union on the part of frontier outlying or racially alien regions, it incurs the danger of their being annexed or of their gaining independence. As a remedy, the State may grant to such regions a certain measure of self-government within the larger political framework."

Mr. Ople pointed out that the Muslim Filipinos in Mindanao have fought for centuries to preserve their independence from the colonial power and their identity and had cost an estimated 100,000 lives, including the lives of non-combatant women and children. Although these hostilities were suspended by virtue of the Tripoli Agreement, he warned that this dormant war may erupt again with all its renewed fury if the Aquino government fails to reach an agreement with the Moro National Liberation Front.

With respect to the Cordillera region, Mr. Ople stated that there is still an ongoing armed rebellion as well as continuous militant but peaceful agitation for autonomy.

Mr. Ople stated that the Body is presented with a rare opportunity to seal the permanent unity of these two regions with the rest of the Republic by granting them autonomous status within the larger sovereignty of the Republic of the Philippines. He pointed out that the draft Article on Local Governments defines the criteria for autonomous

regions and their spheres of jurisdiction and clearly reserves certain powers that only the national government may exercise including those dealing with foreign affairs, national defense, post, telecommunications and even the guidelines of economic policy.

Finally, Mr. Ople stressed that the proposed Article on Local Governments calls upon Congress to enact the Organic Acts for the two regions, Muslim Mindanao and the Cordillera, within one year from the election of its Members. He opined that approval of the provision on regional autonomy would immediately raise the hopes, the morale and the faith of the millions of Filipinos in these regions and this, he stated, would be the Commission's major contribution to peace in the land.

INTERPELLATION OF MR. TREÑAS

On Mr. Treñas' initial query on the rationale of the change from "barangay" to "barrio", Mr. Nollado stated that the Committee had decided to revert to the original nomenclature because it felt that the decrees which changed "barrio" to "barangay" were unconstitutional. He also adverted to several communications received by the Committee asking for the return to "barrio" since most ancient and legal documents use the word "barrio". Mr. Nollado also stated that the term "barangay" is reminiscent of the dictatorial regime of Marcos.

On Section 3, Mr. Nollado agreed that consistent with the Supreme Court ruling declaring the creation of Negros del Norte unconstitutional, consultation should involve not only the inhabitants of the new political subdivision but the entire population affected by the creation.

On the difference between Sections 6 and 7, Mr. Nollado explained that Section 6 is a direct conferment by the Constitution on each local government unit of the right to impose its own sources of revenue and to levy taxes subject to such guidelines as may be fixed by law. He stated that the word "guidelines" was used instead of "limitations" based on the recommendation of the League of Governors and City Mayors.

On Section 7, he stressed that this provision recognizes some customary rules which authorizes the levy of unique, distinct and exclusive taxes in accordance with the customs of each particular place. He pointed out that the clause "subject to such guidelines as may be fixed by law" was placed in Section 6 but not in Section 7 because of the desire to preserve customs and traditions of members of the indigenous communities.

Mr. Nollado affirmed that pursuant to Section 7, the local government may spend the levy and charges for its exclusive use although it does not preclude Congress from imposing guidelines which the people therein may demand.

On the rationale for deleting "highly urbanized cities" which originally appeared in the 1973 Constitution, Mr. Nollado stated that the Committee had decided to delete Section 41, Article XI of the 1973 Constitution because it felt that the inhabitants of highly urbanized cities should be allowed to participate in provincial elections.

INTERPELLATION OF MR. RAMA

On Mr. Rama's suggestion to incorporate in the Article a statement which would justify and explain the concept of regional autonomy, Mr. Nollado stated that a purely unitary system has been a failure in the country and he opined that the country could not progress without creating autonomous regions. He cited the advantages of creating autonomous regions, among them, 1) rapid growth could be better attained with a more efficient and effective management of the country by limiting matters of national interest to be decided by the central government and by designing programs according to regional priorities and potentials rather than the national yardstick of least common denominators, and 2) that regionalized structure would make the government accessible to the people and local autonomy would be the key to modernization of rural areas. He stated, however,

that equitable distribution of income could be achieved through decentralization of political and economic power. He also cited foreign countries which have autonomous regions, like Spain, Italy, Argentina, Switzerland, Austria and U.S.S.R., among others.

On Mr. Rama's observation that Section 9 provides for common historical, geographic, cultural, linguistic, ethnic, communal, economic and other characteristics within the framework of national sovereignty as the bases for the formation of autonomous units, while Section 16 only provides for ethnic and cultural reasons as the bases for the formation of the autonomous regions of Cordillera and Bangsa Moro, Mr. Nollado stated that the provisions cited would open avenues towards full federalization of the Republic of the Philippines, such that other factors may also be considered.

Mr. Rama then suggested that economic considerations should also be noted so that the areas around a region which are also benefitted economically should also be included, to which Mr. Nollado agreed, stating that Section 8 gives leeway to other factors which Congress may consider significant in the formation of a region.

Specifically, Mr. Nollado affirmed the possibility that a province producing a certain commodity could be bound together with a province consuming its product.

INTERPELLATION OF MR. ROMULO

In reply to Mr. Romulo's query on the relation between Committee Report No. 21 which contains Sections 1 to 8 on general provisions for local government units, and Committee Report No. 25 which contains Sections 9 to 16 providing for autonomous regions, Mr. Nollado pointed out that "autonomous regions" were also mentioned in Sections 1 to 8, and that based on the rules of statutory construction, Committee Report No. 21 may be qualified by the pertinent provisions of Committee Report No. 25 in appropriate cases.

Considering that Section 3 provides that a plebiscite is a precondition to the creation of an autonomous region or province, Mr. Romulo inquired why Section 16 authorizes Congress to enact an organic act even before a plebiscite is called, in reply to which Mr. Nollado stated that an amendment may be considered to clarify that prior consultation is necessary before the creation of an autonomous region or province.

On Mr. Romulo's observation that only taxes provided for in Section 6 may be subjected to legislative authority, and not those provided in Section 7, Mr. Nollado pointed out that there would be no need to state it in Section 7 because the Committee intends to respect customs and traditions of indigenous communities.

Mr. Romulo opined that Congress would be deprived of its authority over said taxes, to which Mr. Nollado replied that any judicial question thereon would be decided by the courts. But Mr. Romulo maintained that a judicial system should also be created within each region, such that the national government would not be deprived of its authority over them.

On the meaning of unique, distinct and exclusive levies, Mr. Nollado explained that based on customs and traditions, certain levies could arise from marriages or relationships between parents and children, and judicial questions are unlikely to crop up because they are generally accepted traditions or voluntary acts of the members of indigenous communities.

Mr. Nollado then affirmed that the local taxes referred to under Section 8 are those which Section 6 provides, which may be subject to legislative guidelines.

Mr. Romulo then inquired how real estate taxation would be implemented in autonomous regions since it was not covered by Sections 6 and 8, in reply to which Mr. Ople explained that Section 8 provides that local governments would be entitled to share in the proceeds of the exploitation and development of wealth within their respective

areas. He stressed that it may mean sharing not only with the local government but also with the local population. He specifically cited the area of Macban, Makiling, Laguna where a geothermal plant is located and from which the people are able to share in the national wealth in terms of reasonable cost of electric power. He affirmed, however, that it is Congress that should provide for such taxation, and not the local legislative assemblies.

On whether it is the intention of the Committee to institutionalize federalism because Section 9 would encourage autonomy of other regions, Mr. Nollado stated that Mindanao and the Cordillera would be the models should Congress decide to federalize the Republic of the Philippines. Mr. Ople noted, however, that the adoption of a federal system which is another domain of public policy would necessitate an overhaul of the entire Constitution. Mr. Nollado then classified that Section 9 does not expressly provide for a federal system but only allows a possibility thereof. Mr. Ople added that it is not federalism but maximum decentralization or local autonomy which is provided in Section 9.

Considering the vast powers of the autonomous regions, Mr. Romulo inquired if economic viability would be considered in the creation thereof, in reply to which Mr. Nollado stated that Congress would determine such economic viability so that the rest of the country would not contribute, through taxes, to the viability of said regions. He affirmed that if Congress finds nonviability, then it may delay the grant of autonomy. Mr. Ople added that the existing law on local governments provides for economic viability as one of the requirements for the creation of new local government units, therefore, self-reliance should be one of the criteria that Congress would lay down in enacting an organic act.

Mr. Bennagen also explained that statistics would show that the Bangsa Moro and the Cordillera are economically viable. He believed, however, that it would not imply complete independence or separation from the national government but an efficient working relationship between autonomous regions and the central government.

Mr. Ople stressed that local autonomy is self-government within a larger political framework and that economic dependence would only be resorted to in cases of depressed areas, to which Mr. Alonto added that even in the United States, economic relations with the central government is never removed.

Furthermore, Mr. Romulo observed that federal governments are allowed to intervene and regulate the States when their rights start to fail.

On Section 12(6), in reply to Mr. Romulo's query on the extent of the regional educational system to be subordinated or coordinated with government policy on education, Mr. Bennagen stated that there could be a number of variations on educational policies in relation to financial responsibility so that the establishment and maintenance of schools could end up to the secondary or tertiary level. He stressed, however, that more concern is given to the curriculum so that the educational program would be responsive to the peculiarities of the region and its aspirations in recognition of cultural and geographic diversity but, not excluding the national government's educational policies such as all the promotion of national unity, in order that there would be diversity within the framework of national unity.

In addition thereto, Mr. Ople pointed out that in the case of Muslim Mindanao, schools could refer to the madrasah system where Islamic traditions are taught.

Reacting to Mr. Romulo's opinion that since local autonomy which already exists in Muslim Mindanao is working well, perhaps there is no need to change into something new, Mr. Ople stated that this would be the first step to be taken to implement the Tripoli Agreement. He pointed out that most of the functions listed in the proposed provision are not yet exercised by the autonomous regions in Mindanao and that is precisely the reason for the continuing negotiation between the Philippine government and the Moro National Liberation Front and its allied

organizations.

On whether it is the understanding of the Committee that there would be peace if the Commission would accept the proposal of the MNLF, Mr. Ople stressed that it is not the Committee but history that presents the choice to the people. He adverted to the more than 100,000 lives already lost and more could, have died if not for the ceasefire agreement in 1976 and 1977. He added that the Philippine government and the Moro National Liberation Front would continue negotiations next month and in a sense, the country is still threatened with war. He stressed that the Committee would not want to intimidate any Member relative to their choice but is merely presenting the facts and stark truth of the situation.

In addition thereto, Mr. Bennagen stated that the choice really came about as a result of the dynamics of social change which constrained the Members to make a decision whether or not to provide for regional autonomy within the framework of national unity and democratic processes.

INTERPELLATION OF MR. BERNAS

On Mr. Bernas' query whether the principles enunciated in the recently decided *Negros del Norte* case are still applicable under the provision, Mr. Ople replied in the affirmative.

On whether the addition of the word "directly" in the 1973 Constitution provision "in a plebiscite called for the purpose in the unit or units affected" modified such principles, Mr. Nollado opined that it did not change the substance of the ruling and the Committee has no intention to change such substance.

Based on the substance of such ruling, in reply to Mr. Bernas' query whether the plebiscite for the creation of an autonomous region would have to be national, Mr. Nollado opined that the plebiscite would only be held within the units that would form the region itself.

Mr. Bernas pointed out that in the *Negros del Norte* case the principle enunciated by the Supreme Court in its decision is that the plebiscite must not only include the people in the new territory but also those from which the new territory would be carved out. He stated that if an autonomous region would be created within a nation, it is, in effect, carving out a territory within the nation itself, so that the entire nation must participate in such plebiscite.

Mr. Nollado maintained that although it is, in fact, the consequence, it would be unwieldy if the entire country would have to participate in the plebiscite whenever an independent autonomous region would be created.

On whether Congress would be acting as a constituent assembly or as a legislative body in passing an organic act, Mr. Nollado stated that there is a Committee amendment on the matter which would be presented in due time.

Mr. Bennagen opined that the question of autonomy must be addressed not only to the Legislature, the elected officials and the occupants of the areas to be affected but also to the entire cross section of the population to be affected thereby.

Mr. Bernas pointed out that if the provisions of the organic act would be enacted by the Legislature acting as a constituent assembly it would be subject to the Article on Amendments.

Reacting thereto, Mr. Ople opined that if Congress would be required to act as a constituent assembly before enacting an organic law, then the status of an autonomous region would be raised to the level of the sovereign people of the whole country. He added that the powers of Congress would be sufficient for it to enact an organic law providing for a basic law for an autonomous region without constituting itself as a constituent assembly.

On Mr. Bernas' queries on: 1) the segment of the population that would participate in the plebiscite; 2) the capacity of the legislature to act when it passes the organic law; 3) the relation of such organic law to ordinary

statutes and to the Constitution; and 4) the process to be followed in amending the organic law, Mr. Nollado stated that only the people residing in the units composing the region would be allowed to participate in the plebiscite; that the organic law has the character of a charter passed by Congress not as a constituent assembly but as an ordinary legislature; and that the organic law would be subject to amendments through the ordinary legislative process.

Mr. Nollado agreed with Mr. Bernas' statement that as far as the plebiscite for autonomous regions is concerned, the proposed Article would be a departure from the principle laid down in the Negros del Norte case.

REMARKS OF MR. UKA

At this juncture, Mr. Uka quoted a portion of a letter addressed to him relative to the concept of Bangsa Moro autonomy. He stated that the fundamental premises urging a Constitutional grant of autonomy as an alternative to separation are the following: 1) its historical and cultural distinction deserves the autonomous status under the universal principle of self-determination; 2) Islam, being a religion and a way of life, requires a political and administrative framework separate from the Western concept and principle of separation of church and state; and 3) it is their historical and legal right to have autonomy.

Mr. Uka stated that the Bangsa Moro, despite their history against exploitation, believes that the government of President Aquino could grant them Manila government, was in truth, unconstitutional. justice and recognize their legitimate status and rights, because even her late husband, Senator Benigno Aquino had supported the Bangsa Moro autonomy.

INTERPELLATION OF MR. DE LOS REYES

Mr. de los Reyes prefaced his interpellation by stating that there is no deviation from the doctrine in the Negros del Norte case when it comes to local autonomy. He stated that in the case of local autonomy, what is created is another form of government and no portion of the nation's territory is divided or separated, so that only the people affected will vote; while in the Negros del Norte case a new province is carved out of Negros Occidental, a diminution of its territory, so that all the people affected should have voted in the plebiscite.

Adverting to the answer to Mr. Treñas' query where, in effect, it was said that the 1973 Constitutional provision would be repealed with the intention of restoring highly-urbanized cities to the provinces to which they originally belong, Mr. de los Reyes stated that highly-urbanized cities are better off separated than returned as part of said provinces, since they could earn even more than the provinces. He then asked Mr. Nollado to reassess his stand on the matter.

Mr. Nollado replied that Mr. Treñas' query was predicated on the premise of whether the people of a highly-urbanized city could participate in the election of provincial officials and he stated that Section 166 of the Local Government Code remains in force. He stressed, however, that an amendment would be presented by Mr. Rama on the matter.

At this juncture, Mr. Rama stated that he filed a Resolution allowing the residents of Cebu City to participate in the election of provincial officials in accordance with their traditional practice.

On Mr. de los Reyes' query whether the future Congress would be precluded from creating more local government units aside from those enumerated in the Article, Mr. Nollado stated that it is the intention of the Committee that Congress should not do so. He added that although Section 5 provides that local governments may group together for common benefits, the idea of a Metropolitan government for Manila was discarded by the Committee.

On whether upon ratification of the draft Constitution, the Metro Manila Commission would be deemed abolished, Mr. Nollado replied that it would not necessarily mean so, since the Transitory Provisions could provide that existing laws shall continue unless otherwise amended or repealed by the forthcoming Congress.

Clarifying that his statements are his personal news and not of the Committee, he opined that Presidential Decree No. 824 which created the Metro He stated that the Supreme Court had a hard time justifying the constitutionality of said decree in the cases of Lopez vs. COMELEC and Lopez vs. Metro Manila Commission. He added that because of the adherence to a Supreme Court ruling, whether right or wrong, such ruling stands to be correct unless Congress enacts a repealing legislation.

SUSPENSION OF SESSION

At this juncture, on motion of Mr. Rama, the Chair suspended the session.

It was 4:16 p.m.

RESUMPTION OF SESSION

At 4:51 p.m., the session was resumed.

INTERPELLATION OF MR. RODRIGO

On Section 16, in reply to Mr. Rodrigo's inquiry whether the Legislature should pass uniform organic acts or separate organic acts for the autonomous regions of Mindanao and Cordillera, Mr. Ople stated that there would be separate organic acts.

On whether it would be possible for the Legislature to grant more autonomy to one region, Mr. Ople replied that it would be under the Article and within the framework of the Constitution.

Upon inquiry of Mr. Rodrigo whether the autonomous region of Mindanao would refer to the whole of Mindanao, Mr. Ople informed that it refers to "Muslim Mindanao" in the context of the Moro homeland mentioned in the Tripoli Agreement which would encompass 10 provinces. Mr. Ople informed that in the late 1970s, Davao, Cotabato and Palawan were removed from the original area. He underscored that the provision does not seek to limit the powers of the Legislature to determine the autonomous areas.

Mr. Rodrigo asked whether the Legislature in exercising this power could then specify certain provinces and cities in Mindanao as autonomous, Mr. Ople, in reply, affirmed that it could.

On whether the Legislature could also enact other organic acts for other regions such as Ilocos and Bicol and whether, under such circumstances, the organic acts would be uniform for all or different for each region, Mr. Ople replied that he disagreed with the other members of the Committee concerning the entitlement of the Ilocos and Bicol regions to the same terms of regional autonomy which are proposed to be granted to Muslim Mindanao and the Cordilleras. He reasoned that the Ilocos, Bicol, Tagalog, Visayan provinces and some Mindanao provinces constitute the so-called dominant groups in the Philippine social and territorial structure. He stated that if autonomy is given to one region among these traditional Christian Filipino groups, every other such region should also be given the same right. He noted that Muslim Mindanao and the Cordilleras are claiming autonomy because of that certain uniqueness which they have and their relationship — one which they consider inferior — to the dominant groups in Philippine society who are the Christian lowland groups, namely, the Tagalogs, Ilocanos, Visayans, Pangasinenses, and Pampanguenos. He stated that the specific context for the quanta of autonomy for these dominant groups should be uniform and that Committee Report No. 21 would refer principally to the

non-autonomous regions which constitute the entire local government infrastructure.

As to whether the regions populated by the dominant groups could be converted into autonomous regions, Mr. Ople noted that according to Mr. Nollado, such groups may invoke the right to autonomy.

As to whether this would be the official stand of the Committee, Mr. Ople stated that the Committee would like to play it safe. He noted that for most of the regions what should apply is Committee Report No. 21. Upon inquiry, Mr. Ople stated that dominant groups may not be converted into autonomous regions in the immediate future or within the immediate provisions of the 1986 Constitution unless there is a Constitutional amendment later which would make available certain federal features or powers of government to all regions other than the proposed autonomous areas.

Mr. Rodrigo adverted to the statement of Mr. Nollado that should Ilocos and Bicol regions want to be autonomous regions, they could come under the provision, to which, Mr. Ople added that it would be in the context of a statement of an aspiration.

As to whether, at the time of ratification of the Constitution, there could be other autonomous regions outside of Mindanao and the Cordilleras, Mr. Nollado replied that under Section 9 there could be. He referred to the recommendation of Mr. Rama that ethnic considerations should not be the sole consideration in the formation of autonomous regions, and to the subsequent decision of the Committee to include economic and communal factors.

On whether this is not a mere declaration of aspiration but rather a right authorized by the proposed provision, Mr. Nollado answered that it can be interpreted as an aspiration because a group can ask for the appropriate charter to declare their area an autonomous region. He added that when the Legislature grants several charters, it cannot be bound by the rule of uniformity.

In reply to the inquiry whether the Legislature may convert certain regions such as the Ilocos and Bicol into autonomous regions by enacting an organic act, Mr. Nollado replied that the Legislature shall determine the viability before granting autonomy.

As to whether the organic acts would have to be uniform or different in the sense that one would grant more autonomy to one region than the other, Mr. Nollado replied that in certain areas the organic acts may be uniform such as in the setting up of regional legislature and the executive department but the organic acts may also differ by taking into account the particular characteristics of the region. He adverted to the charters of several banks wherein most of the provisions are uniform while others are not. He added that should the Legislature decide to declare other areas such as Samar and Leyte, which are populated by Warays, and Southern Tagalog, Central Luzon and Central Visayas as autonomous regions each with its own organic act, the Legislature may do so, subject to the holding of the plebiscite. Mr. Nollado mentioned that the Constitutions of Switzerland, Spain and other countries which granted autonomy provided separate legislature and executive departments for the different cantons and regions within the country.

As to whether the regions were granted different autonomous powers such that one canton has more autonomous power than the other cantons, Mr. Nollado replied that generally the powers are the same.

Mr. Rodrigo then raised the question why it should be necessary, if the country is going to have a semi-federal system of government, that one region should be favored over the others.

In reply thereto, Mr. Nollado stressed that the Legislature has been given leeway to determine in which provisions there must be uniformity and where there would be no uniformity, taking into account economic factors, ethnic characteristics and idiosyncracies of the people living in the different regions.

As to whether there may come a time when half of the Philippines may be autonomous or semi-federal and the other half unitary, Mr. Nollado stated that before an autonomous region can exercise autonomous powers, there should be a charter to be passed by the Legislature. He noted that should Congress decide that only half of the country should be regionalized in the meantime, there would be no constitutional inhibition for the Legislature not to do so. He added that there would be a need for a plebiscite, a charter or an organic act to be passed by the Legislature.

Mr. Rodrigo noted that should the Body want to make the country semi-federal, it should make the whole country autonomous, in which case there will be uniformity and no favoritism. He stated that he is in favor of local autonomy and that it should be uniform throughout the country.

Mr. Bennagen, recalling what transpired during the first meeting of the Committee, noted that the reaction of Mr. de Castro at the time was the same as the reaction of many of the Members. He noted that the grant of regional autonomy would correct an extremely uneven development across regions, adding that the regional autonomy structure will make less developed regions catch up with the development process in the developed regions and is more responsive to the peculiarities of the region both culturally and geographically.

INTERPELLATION OF MR. DAVIDE

Upon inquiry of Mr. Davide, Mr. Nollado affirmed that when the Committee speaks of autonomous region, it could refer to any of the regions as well as the traditional regions Luzon, Visayas and Mindanao and that it may also constitute a portion of the 13 regions, or a province.

As to whether Cebu can apply as an autonomous region, Mr. Nollado replied that the provision states "The Legislature shall create autonomous regions consisting of provinces and cities with common historical . . ." and that in statutory construction the plural includes the singular and vice-versa and added that it could be a possibility.

As to whether the Negros provinces can also apply as a distinct autonomous region, Mr. Nollado answered in the affirmative. As to whether it can be a province or any of the islands belonging to a sub-province in Leyte such as the island of Maripeti, Mr. Nollado adverted to the case of Switzerland which has very small cantons and semi-cantons.

On another query, Mr. Nollado replied that the Legislature would have the discretion to create semi-autonomous regions. Mr. Davide noted that the Legislature could expand the territorial and political subdivisions as provided for in the Constitution, to which Mr. Nollado replied that it would be subject to plebiscite as required by the provisions of Section 3 of the Article.

To Mr. Davide's question whether it is the position of Mr. Nollado that an ordinary law can be enacted by the Legislature establishing other forms of political and territorial subdivisions like a semi-autonomous region, Mr. Nollado replied that it would be a possibility.

On whether it is the position of the Committee that an ordinary legislation can establish a new political unit not included in the definition of political and territorial subdivisions in the Constitution, Mr. Nollado informed that when the Committee enumerated the provinces, cities, municipalities, barrios and autonomous regions as the territorial and political subdivisions of the Philippines, it took into account the existing local government units and the formation of future autonomous regions and that the provision does not prevent the Legislature from creating other political units.

Mr. Davide expressed doubt whether ordinary legislation can create such political units without amending the

Constitution. He noted that under the proposal there would be as many organic acts as there are regions aspiring for autonomy. Mr. Nollado stated that this is the clear implication of Section 9.

As to whether it is the concept of the Committee that the organic act would not be a general organic act applicable to all units that may apply for autonomy, Mr. Nollado replied in the affirmative, in view of the possibility of non-uniformity in some provisions. In this connection, he stated that the organic act to be granted by Congress shall set forth the provisions covered by Section 12.

On the possibility that the Constitution would mandate Congress to enact a Regional Autonomy Code under which regions wanting to become autonomous would apply, Mr. Bennagen stated that it could be done in terms of general principles subject to the provision that there would be variations to respond to the particular ecology and culture of the area.

As to when an autonomous region may begin to have a distinct juridical personality, Mr. Nollado stated that it would be when all the conditions required by the Constitution are complied with, namely, when there is an organic act and when majority of the voters in the region have opted to operate under an autonomous government.

On the observation that being an organic act, it may also be subject to the principles of initiative and referendum provided for in the Article on the Legislative and, therefore, may be rejected through a referendum all over the country, Mr. Nollado expressed willingness to consider an amendment that would make the creation of an autonomous region an exception to the rule. He agreed that it could also be amended by a vote of a certain percentage of the qualified electors all over the country if the organic act would be considered as a mere legislation and not a part of the Constitution.

On whether a component unit of an autonomous region could secede from the mother unit, Mr. Nollado pointed to Section 3 which provides that no autonomous region, province, city, municipality or barrio may be created, divided, merged, abolished, or boundaries substantially altered, except in accordance with criteria established by law. He also stated that after having complied with the criteria, it would be subject to the holding of a plebiscite, although there is no specific proposal regarding the applicability of such rule to autonomous regions.

Citing the specific case of Central Visayas composed of Siquijor, Negros Oriental, Bohol and Cebu, where almost one-half of the total voting population of the entire region comes from Cebu, Mr. Davide inquired whether Cebu, which rejected the move to establish an autonomous region, would be bound by the votes of the other provinces and compelled to become a member of that autonomous region, to which Mr. Nollado replied that he believes, without binding the Committee, that Cebu must comply. He stated, however, that Congress itself may lay down the conditions that if any province or unit decides not to join the autonomous region, that decision should be respected.

With respect to the local governmental units, Mr. Nollado affirmed that upon the effectivity of the new Constitution, the existing Local Government Code shall govern them, although any provision inconsistent with the new Constitution should be deemed repealed.

On the provisions on initiative, referendum and recall, Mr. Nollado stated that the provisions on initiative and referendum remain; however, the provision on recall was not included because the 1973 Constitution provided for its inclusion in the Local Government Code. He expressed willingness, however, to entertain an amendment to reinstate the provision on recall, otherwise it may no longer be available if it is already provided for in the Local Government Code.

On the position of the Committee with regard to the Metropolitan Manila Commission, Mr. Nollado agreed that the absence of a provision on metropolitan government would in effect abolish the existing metropolitan

government. He pointed out, however, that the existence of the municipalities under the Metro Manila Commission could be justified by Section 6 which provides that local government units may group themselves, consolidate or coordinate their efforts, services and resources for purposes commonly beneficial to them. In this connection, he informed the Body that mayors of Metropolitan Manila were in favor of dismantling the Metro Manila Commission but would like to set up a coordinating agency in lieu thereof. He opined that no plebiscite would be required for local government units to group together in pursuit of common objectives for their mutual benefit because the powers of the coordinating agency would be limited mainly to essential services like garbage collection and cleaning of streets.

INTERPELLATION OF MR. VILLACORTA

In his interpellation, Mr. Villacorta adverted to the points raised by the U P. Local Government Center, to wit:

1)

To ensure that local autonomy would help rather than hinder the promotion of democracy and efficiency at the local as well as national levels, the State shall undertake political and administrative reforms in local government;

2)

There shall be separate constitutional provisions against the maintenance and operation of local political dynasties; and

3)

The national government shall complement these measures by establishing clear and coordinated policies and standards to guide and gauge local government performance.

On the query whether the Committee, in providing for these areas of concern, contemplated to add new sections that would take care of these concerns, Mr. Nollado stated that the Commission had already adopted two safeguard provisions, one of which being the Article on the Accountability of Public Officers which is designed to eradicate, if not eliminate, graft and corruption in all levels of government.

Adverting to the Spanish Constitution, Mr. Villacorta observed that Article 143 thereof uses the word "may" whereas Section 9 of the Committee Report uses the word "shall" thereby rendering the creation of autonomous regions mandatory, to which Mr. Nollado replied that the word "may" in the Spanish Constitution refers to the provinces and people applying for autonomy, while the word "shall" in Section 9 refers to the corresponding obligation of Congress to create autonomous regions, adding that should Congress find the creation of autonomous regions not viable, it may deny the grant of an organic act, thus leaving some discretion to Congress.

Mr. Villacorta replied that Article 144 of the Spanish Constitution specifically provides that the Cortes Generales or the legislature may grant the powers of local autonomy, thus providing some flexibility.

On the suggestion to use in Section 8 the word "distinctive" instead of "common", Mr. Nollado expressed willingness to consider an amendment at the proper time.

INTERPELLATION OF MRS. QUESADA

Mrs. Quesada prefaced her interpellation by expressing support for the provisions of the Article on Local Governments.

With respect to Section 2, on sectoral representation, Mrs. Quesada observed that some guidelines on the

categories of sectors to be represented in the legislature should have been expressly laid down, to which Mr. Nollado replied that at the time this provision was being formulated, the Body had not yet approved the provisions on sectoral representation. He pointed out, however, that sectoral representation as provided in the Local Government Code is through appointment by the President.

On the suggestion to adopt the classification in the Article on the Legislative Department consisting of peasants, farmers, youth, urban poor, women and indigenous communities, Mr. Bennagen stated that, although such classifications could serve as a broad guideline, it may not be valid because the regions may not be sufficiently differentiated as to allow this kind of representation. He opined that it would be better for the Commission to be guided by a comprehensive investigation and systematic consultation with the regions with respect to existing sectors so that the existing realities in the regions may be considered.

On Section 12, on whether the autonomous regions would formulate their own standards and regulations insofar as health, welfare and other social services are concerned, Mr. Bennagen stated that there must be some general principles which should guide the implementation of social services at the various levels to enable the local governments to maintain a self-reliant social service program.

On whether the local government units would be able to respond to the national mandate of improving the level of health, Mr. Nollado stressed that the national mandate set forth in the Constitution should be considered binding and therefore, the provisions on health would bind these local government units to respond to such mandate. He agreed with the suggestion to qualify Section 12(7) to harmonize with Section 12(8).

On Section 8 which recognizes the sharing of proceeds of the exploitation and development of the national wealth, Mrs. Quesada placed on record the concern of the people of Negros Oriental in relation to their geothermal resources in Palimpinon which they felt did not really improve and hasten the development of the province. She urged the Commission to adopt the concept of local autonomy in answer to the people's cry for self-determination.

Replying thereto, Mr. Nollado thanked Mrs. Quesada for her sympathetic understanding of the Committee report as a sign of broadmindedness and generosity as well as magnanimity.

Mr. Bennagen noted that the Body had moved a great deal from the innocuous provision on regional autonomy to the threatening concept of federalism. He told the Body that when the Committee discussed this provision on autonomy, it had in mind the concrete elaboration of Section 11 of the General Provisions of the 1973 Constitution, a provision that was honored more in breach than in observance. He pointed out that historically, since the Spanish times, these indigenous cultural communities have been integrated to the national mainstream as "collectivities" in contrast to the effort of the national government to integrate Filipinos as individuals. It was for this reason, he stated, that these cultural communities carried over their distinction even when the Americans came in and it was further elaborated when the American government created a number of organizations that deal specifically with these cultural communities as "collectivities" and not as individuals. He pointed out that these groups had acquired distinctive characteristics and this would warrant an amendment proposed by Mr. Villacorta by classifying them as distinctive groupings.

Mr. Bennagen stated that these cultural communities have already arrived at a self-definition which separates them from the overwhelming majority of lowland Filipino Christians and it is in recognition of this self-assertion that the concept of regional autonomy is being proposed.

(In the course of Mrs. Quesada's interpellation, the President relinquished the Chair to Mr. Sarmiento.)

INTERPELLATION OF MR. SUAREZ

On the initial query of Mr. Suarez, Mr. Nollado affirmed that the main thrust of the proposed Article, specifically Section 9, is to decentralize the government in contrast to the centralized government initiated by the Spaniards, the Americans and even the 1935 Constitution. He opined that a unitary system is the cause of all the ills in the country and to stick to such a system would not keep the country out of the maverick shell of conservatism and obsolescence.

On the common characteristics which would serve as the basis for the legislature to create autonomous regions, Mr. Nollado stated that the Committee did not concentrate on the historical, linguistic or ethnic idiosyncracies but also considered other characteristics like economic, cultural and the like. He pointed out, however, that these characteristics may not necessarily co-exist, because some of them may not concur with each other such that it is possible that Congress may create an autonomous region on the basis only of some of these characteristics.

Additionally, Mr. Bennagen stated that the history of autonomous regions shows that there has been substantial characteristics which are distinctive from the concept of federalism and it is for this reason, he pointed out, that the provision would refer to regions which had shown distinctiveness with respect to culture and ecology. He affirmed that to a substantial degree, all of these characteristics must be common in one particular autonomous region:

On Section 15 which seeks to create Mindanao and Cordillera as autonomous regions, as to the reason why Davao, Palawan and Cotabato may not be included, Mr. Alonto stated that these provinces were originally part of the autonomous region under the Tripoli Agreement but they were excluded when the Marcos regime started establishing the two autonomous regions of Mindanao, namely, Regions IX and XII. He pointed out that these existing autonomous regions are only points of reference because Section 16 would authorize Congress to enact the organic act for the autonomous regions of Mindanao and the Cordillera within one year from the election of Members of the Legislature. He stated that pursuant to Section 9, Congress would have to take into consideration all factors that would justify the creation of autonomous regions.

On whether it is the intent of the Committee to include Davao, Cotabato and Palawan in the event an autonomous region is created, Mr. Bennagen stressed that what should be considered is not the existing political boundaries but the claim to ancestral land which is a claim to their peoplehood.

Additionally, Mr. Alonto pointed out that it is Congress that should determine the cities and provinces that would compose the autonomous region.

Mr. Nollado agreed with Mr. Alonto's statement that Congress should be given leeway to determine what shall compose a particular autonomous region.

Mr. Bennagen agreed with Mr. Suarez' observation that instead of "regions of Mindanao", it should be "regions in Mindanao" in order to reflect the meaning which the Committee would want to convey. He likewise stated that the Committee would present an amendment to Section 9 to change "provinces and cities" which are existing political categories into "areas and populations" because the existing boundaries do not represent cultural and ecological realities. He affirmed that the rule applicable to Mindanao would likewise apply to the case of Cordillera.

On Section 8, Mr. Bennagen affirmed that this would refer to proceeds like special charges from the exploitation of the natural resources in that area.

With respect to the creation of an autonomous region by virtue of an organic act that would be passed by

Congress, Mr. Nollado affirmed that the people within the area should be consulted before the establishment of an autonomous region through a plebiscite called for the purpose.

Mr. Suarez opined that the Cordillera and the Bangsa Moro should be exempted from the requirement of a plebiscite because historically, these people have for centuries been asserting their right to self-determination, to which Mr. Bennagen agreed and suggested that the Commission could declare both the Cordillera and the Bangsa Moro as autonomous regions via a Constitutional fiat.

Mr. Bennagen affirmed that pursuant to Section 9, the holding of a plebiscite is a condition sine qua non for establishing other autonomous regions.

Mr. Nollado stated that Mr. Bennagen was only expressing his personal opinion when he said that the Cordillera people should be exempted from the requirement of a plebiscite. He maintained that a plebiscite would still be necessary in order to ascertain the sentiments of the people therein.

On Section 14, specifically on the second sentence thereof, on Mr. Suarez' observation that this provision is dangerous because it may create regional warlords, Mr. Nollado explained that this provision was taken from the Tripoli Agreement with several conditions set forth therein. He pointed out, however, that the provision referred to contains certain qualifications because of the use of the phrase "when circumstances so warrant" and the words "subject to supervision by the national armed forces". Mr. Nollado further explained that under the Tripoli Agreement, the regional government is authorized to establish its own special forces and in order to temper the fear expressed from different quarters, the Committee laid down the following conditions, namely 1) when circumstances so warrant, 2) that they must be subject to supervision or even control by the national armed forces; and 3) that they shall be subject to provisions of law that may be provided by Congress. He stated that the Committee would be willing to entertain amendments to Section 14.

Mr. de Castro expressed disagreement with the establishment of special forces consistent with the decision of the Committee on General Provisions to dismantle the Civilian Home Defense Forces (CHDF) as a paramilitary unit. He feared that these special forces may provoke complaints from human rights people. He pointed out, however, that under the Article on General Provisions, a citizens' armed force is being proposed and this would be composed of trainees and reserve officers within the area who would be called upon to counter insurgency. He also informed of the proposal of Mr. Natividad embodied in the Article on General Provisions which seeks to create a national police force that would be under the supervision and control of the National Police Commission. Mr. de Castro stated that at the proper time, he would introduce amendments, together with Mr. Natividad, to professionalize the police agencies for the protection of the lives and properties of some 54 million Filipinos. He also confirmed apprehensions over the establishment of special forces whose functions were not defined.

On the possibility of the emergence of warlordism with the establishment of special forces, Mr. Bennagen stated that it should be considered from a sociological and historical perspective. He pointed out the observation of Mr. Rene Santiago of the Philippine Institute of Environmental Planners that warlordism is a creature of patronage politics whereby the President is forced to rely on ward leaders who, in turn, are given access to national powers, giving rise to an unholy alliance which perpetuates the underdevelopment of the countryside, destroys self-reliance, and does not put a premium on performance and viability. He added, however, that the emergence of people's organizations would be a strong antidote to the resurgence of warlordism, such that its continued existence would depend on whether it benefits the people or not. He stated that it is the aim of the provision for autonomous regions to benefit the people in relation to the national society.

Mr. Padilla, however, observed that it is not correct to say that the Tripoli Agreement authorizes the creation of special forces, but it only provides for a special regional security force, the conditions of which would be

discussed later.

Mr. Abubakar also pointed out that the apprehension regarding the special forces is that they do not belong to the local populace, such that they are not able to appreciate the local temperaments or attitudes, and misunderstandings often crop up. He stated that local officials, therefore, requested that special forces be organized from among the people of the province or region, in reply to which, Mr. de Castro noted that citizens' armed forces would be called to active duty pursuant to law and would be given enough training to fight local insurgents. He added that the local police force, which would be under the National Police Commission and whose members would be chosen from the people in the municipality, would be civilian in character. He also pointed out that these citizens' armed forces and local police force would be trained as professionals.

At this juncture, in connection with the question of Mr. Suarez, Mr. Nollado adverted to the pertinent provision of the Tripoli Agreement which states that special regional security forces would be set up in the area of autonomy for the Muslims in Mindanao, and the relationship between these forces and the central security forces would be fixed later.

On Mr. Suarez' query on whether there is a necessity of a plebiscite in Mindanao and the Cordillera before Congress could pass an organic act, Mr. Bennagen affirmed the need for such plebiscite, especially in the process of defining its boundaries.

In the event that some provinces of Mindanao object to its independence, Mr. Nollado opined that following the democratic process, the majority rule should be binding, but he stated that an amendment to solve such problem would be presented at the proper time.

ADJOURNMENT OF SESSION

Thereafter, on motion of Mr. Romulo, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of the following day.

It was 6:32 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO
Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA
President

Approved on August 12, 1986

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