

PRESIDENTS LAUREL, ROXAS, AND QUIRINO: CONTRIBUTIONS TO THE DRAFTING OF THE 1935 CONSTITUTION

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Abstract

Of the 202 delegates elected to the 1934 Constitutional Convention which was tasked to draft a Constitution under the Philippine Independence Act, Jose Laurel of Batangas, Manuel Roxas of Capiz, and Elpidio Quirino of Ilocos Sur subsequently became Philippine Presidents. Catapulted to the highest Philippine government position, their involvement with the 1934 Constitutional Convention established significance to that Convention and its output – the 1935 Constitution. The study aims to find out based primarily on the Constitutional Convention records the contributions and philosophy of Laurel, Roxas and Quirino in the drafting of the 1935 Constitution. It employed historical narrative in the analysis and interpretation of events within MacCormick's and Weinberger's Neo-Institutionalism. The study reveals that Laurel stressed constructive conservatism as a guiding principle in the drafting of the Constitution. His most significant contributions were the Bill of Rights and an independent judiciary. Roxas strongly assisted in the stewardship of the proceedings and espoused a Constitution premised on clear-cut political hypotheses. Quirino had minimal participation as he had other concurrent government positions. However, his proposals on the few occasions he participated had a substantial impact on the output of the Convention. Their ideas, statesmanship and wisdom reflected the dynamics of politics within the context of institutional socio-political realities.

Keywords: constitution, bill of rights, drafting, government

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1.0 Introduction

The 1934 Constitutional Convention, which drafted the 1935 Constitution, while deriving its authority from an act of the United States Congress, is a milestone in Philippine constitutional history. It was the first time the Filipinos under American rule were allowed to write a fundamental law that would guide them towards autonomy and independence. Previous organic acts such as the Philippine Bill of 1902 and Jones Law had little if any participation among Filipinos in their enactment.

Of the 202 delegates elected to the 1934 Constitutional Convention, three later became Presidents of the Philippines, namely Jose P. Laurel of Batangas, Manuel Roxas of Capiz, and Elpidio Quirino of Ilocos Sur. Their association and involvement with the 1934 Constitutional Convention have established significance to that body and its output – the 1935 Constitution. Subsequent constitution-framing bodies, namely, the 1971 Constitutional Convention and the 1986 Constitutional Commission have not produced any Philippine President, although Presidents Garcia and Macapagal were elected as delegates to the 1971 Constitutional Convention after they had served their terms.

Similarly, in the 1787 Philadelphia Convention, which drafted the original United States Constitution, two delegates later became presidents of the United States. They were George Washington, who was the unanimous choice as the presiding officer, and James Madison, one of the most active delegates (Hofstadter, Miller, & Aaron, 1959). The 1934 Constitutional Convention on several occasions quoted events and deliberations that transpired in the 1787 Philadelphia Convention.

At least three separate editions of the journals of proceedings of the 1934 Constitutional Convention are

available to researchers. These are the published volumes edited by three legal luminaries, Dr. Salvador Laurel (1966), Delegate Agripino Escareal (1965), and Delegate Vicente Francisco (1961-1965 serialized journals). The 1973 and 1987 Constitutions have superseded the 1935 Constitution. Thus, there has been no known recent study of the records of events that transpired during the framing of the 1935 Constitution. This research is directed to gain insightful gems of wisdom contributed by Laurel, Roxas, and Quirino in the history of the Philippine constitutional process

2.0 Theoretical Framework

The study made use of Neo-Institutionalism as espoused by MacCormick and Weinberger as a theoretical framework. According to these scholars, law and regulations act upon social norms and practices. They mentioned that legal system has a dual character, namely, as a genuine system of rules, and as a real existing element of social reality (De Groot, & Vrielikn, 1998). Leadership is a part of institutionalism. The study, therefore, presents the ideas of Laurel, Roxas and Quirino based on their participation in the 1934 Constitutional Convention, and how such ideas bridged the gap between the ideal and socio-political realities.

3.0 Research Methodology

The study used historical narrative method for a more comprehensive approach to analyzing and interpreting the participation and contributions of Laurel, Roxas, and Quirino, primarily based on the records of the 1934 Constitutional Convention, as complemented by other sources. The words and actions of those three delegates

would determine how they balanced the ideal norms of the reality and dynamics of politics. Forbath (1999) quoted Bruce Ackerman, who mentioned that narrative aims for more robust prescriptions that consist of rules of recognition. Such rules help identify the authoritative texts and meanings from the past. Also, Ackerman pointed out that historian is more interested in searching conversations with the past that provide greater latitude for interpretation for the present.

4.0 Results and Discussion

On March 24, 1934, United States President Franklin D. Roosevelt signed into law Public Act 127 of the 73rd United States Congress or the Philippine Independence Act, commonly known as the Tydings-McDuffie Law. An earlier independence law, Public Act 311 of the 72nd United States Congress or more popularly known as Hare-Hawes-Cutting Act, was enacted in 1933 through the lobbying of the independence mission headed by then Senate President Pro-Tempore Sergio Osmeña and Speaker Manuel Roxas of the House of Representatives. Senate President Manuel Quezon strongly objected the acceptance of that law primarily on the provision for the continuation of American rights to maintain military bases and the restriction of Filipino migration to the United States (Romero, 1979).

The disagreement resulted in the realignment of political forces in two blocks, the Pros headed by Osmeña and Roxas, who were for the acceptance of the Hare-Hawes-Cutting Act, and the Antis, led by Quezon, who were for the rejection of that law. The Antis outnumbered the Pros. The Philippine Legislature consequently rejected the Hare-Hawes-Cutting Act. From this rift, Quezon emerged as the victorious supreme leader. He sailed to the United States to work for the enactment of another independence act which resulted in the approval of the Tydings-McDuffie Law. The provisions of that law were almost exactly the same as that of the rejected Hare-Hawes-Cutting Act except for the substituted provision for future negotiation on naval bases and fuelling stations (Pacis, 1971).

Section 1 of the Tydings-McDuffie Law authorized the Philippine Legislature to provide for the election of delegates to a Constitutional Convention not later than October 1, 1934, to formulate and draft a Constitution for the government of the Commonwealth of the Philippines. On July 10, 1934, 202 delegates were elected to the 1934 Constitutional Convention. Constantino (1975) mentioned that out of the 202 delegates, 120 were Antis, 60 were Pros, with the rest considered as independents. The study presents the ideas of Laurel, Roxas, and Quirino in their participation as delegates to the 1934 Constitutional Convention. Their academic background and political career before their election as delegates are briefly mentioned to introduce their added qualifications as delegates to the Constitutional Convention. Delegate Salvador

Araneta (1973) cited Roxas and Quirino among the six outstanding delegates who were concurrently members of the Philippine Legislature. He did not mention Laurel because he was not a concurrent legislator at that time.

Jose P. Laurel

He was born in Tanauan, Batangas on March 9, 1891. In 1915, he obtained the degree of Bachelor of Laws, *salutatorian*, from the University of the Philippines. He landed second place in the 1915 bar examinations. He earned in 1919 his *Licenciado en Jurisprudencia* (equivalent to master's degree) from the *Escuela de Derecho* in Manila. After completing the degree, in the same year, he went as a government pensionado (scholar to the United States) to Yale University where he earned the degree of Doctor of Civil Law in 1920. While staying in the United States, he was admitted as a member of the American Bar (Lansang, 1970). He would obtain later another doctorate, Ph.D. from the University of Santo Tomas with his dissertation entitled "The Three Powers of Government" (Quirino, 1972).

After his return from his studies abroad, he immediately served as a high-ranking government official in the Executive Bureau. In 1923, he was promoted to Secretary of Interior, a position he served only for a few months. Due to a conflict with Governor-General Leonard Wood over an administrative case against an American police officer, he resigned from his post, triggering the Cabinet Crisis of 1923. He ran for senator in 1925 in the fifth senatorial district comprising the provinces of Batangas, Cavite, Marinduque, Mindoro and Tayabas. He won in that election. However, Claro M. Recto defeated Laurel in the latter's re-election bid in 1931. Laurel remained active in the legal profession both in the academe and law practice. He had written several law books, particularly about constitutional law. Students and professors of law regarded such writings as highly authoritative (Agpalo, 1992).

In the political conflict that brewed in 1933 over the acceptance or rejection of the Hare-Hawes-Cutting Act, Laurel was identified with the Pros led by Senate President Pro-Tempore Osmeña and Speaker Roxas, who worked for the approval of that law. Recto, on the other hand, sided with the Antis led by Senate President Quezon. With the adoption of the substitute independence act, the Tydings-McDuffie Law, both Laurel and Recto were elected as delegates to the 1934 Constitutional Convention, representing the province of Batangas (Quirino, 1972).

In the opening of the Constitutional Convention on July 30, 1934, the body chose Delegate Laurel as the provisional President of the Convention. Immediately, after that, he presided over the election of Delegate Claro M. Recto as the permanent President. The pre-organization caucus already decided the arrangement. Recto was the choice of Senate President Quezon. (Aruego, 1973).

Laurel played a significant role in the 1934

Constitutional Convention, not necessarily in the plenary session debates but in the actual drafting of the Constitution. In a privilege speech delivered by Laurel on November 13, 1935, he stated that he had refrained from actively participating in the Convention debates to allow the more experienced and learned delegates to share their brilliant ideas in the formulation of the Constitution. What he said was a modest statement considering his academic and professional background in constitutional law. Originally, he was a member of the Sub-Committee of Seven which made the initial draft of the Constitution. He later requested to be relieved because of the conflict with his other schedules. In his stead, Delegate Conrado Benitez of Laguna was designated. The records of the Convention indicate that Laurel desisted from sharing his views on certain major issues to avoid being misconstrued as grandstanding. However, he delivered scholarly explanation on matters involving the report of the Committee on Bill of Rights, of which he was the Chairman, as well as issues about the judicial branch. (Escareal, 1965).

One of the most controversial subjects in the 1934 Constitutional Convention was the granting of suffrage right to women. Laurel did not participate in the debates nor deliver a privilege speech on the matter but voted consistently for granting such right. He allowed his other colleagues to read their pieces, as there were already too many who wanted to articulate their views on the issue. However, way back in 1928 when he was a senator, he actively supported the enfranchisement of women. He bewailed the fact that at that time, educated women could not vote, but illiterate men could, by property ownership and tax payments (Agapalo, 1992).

Laurel defended the draft of the Constitution against criticisms that it did not contain nor embody any philosophy of government. He believed that in the formulation of a Constitution, a conservative attitude should be adopted. According to him, this conservatism should be both constructive and progressive. The norm of action more appropriate at that time was constructive conservatism and not radicalism. He emphasized that while radicalism may be more democratic, in the long run, it may be more harmful to the country. He noted that innovations were necessary but in politics, particularly for issues of national importance, care should be done in going to untested waters. He further explained that in formulating a Constitution, there are three major considerations. These are forethought, caution and abiding faith in the ultimate justice (Escareal, 1965).

Laurel cited that constructive conservatism could be found in the draft of the Constitution through the adoption of several features. These included the adoption of a presidential form of government; establishment of a republican form of government; adoption of the doctrine of separation of powers; provision for Bill

of Rights; supremacy of the Constitution; and, the establishment of an independent judiciary (Laurel, 1966).

The draft of the Constitution was constructive and progressive according to Laurel because it was responsive to the changing conditions of the day. There were many articles in the draft of the Constitution which deviated from the systems prevailing in the United States. The most important of which were the adoption of a system of direct presidential elections instead of indirect and the provision for the term of office of the President for six years without re-election instead of four years with re-election. The other constructive and progressive provisions included security of tenure and compensation for members of the judiciary, permanence and stability of the members of the civil service, the creation of an independent constitutional office of the Auditor General, among others (Escareal, 1965).

For the requisites of a good Constitution, Laurel quoted from the Wisconsin State Supreme Court Chief Justice Winslow that it must embody with greater or less fidelity the spirit of the time of its adoption. Moreover, Laurel maintained that the Constitution should be able to address the problems and difficulties confronted by its framers, taking into consideration the political and socio-economic views from the respected sectors of society at that time. He further emphasized that breadth and elasticity should characterize the Constitution. He believed these were already present in the draft of the Constitution. Such features for him were necessary for the courts' exercise of judicial statesmanship in response to political, social and economic dynamism (Laurel, 1966). Laurel believed in a strong President under the executive branch and a unicameral legislature. The Constitutional Convention adopted both features (Agpalo, 1992).

The most significant contribution of Laurel was the article on the Bill of Rights. He was the Chairman of the Committee, which drafted the report. The Sub-Committee of Seven fully accepted the report of the Laurel Committee by incorporating it into the draft without modification. Laurel mentioned that while the Tydings-McDuffie Law specifically required the Constitution to include provisions for Bill of Rights, it was inconceivable for the framers not to include such. The Jones Law had it already. For Laurel, the Bill of Rights was the safeguard of liberties and immunities to ensure the safety and security of an individual against abusive leaders, fellow humans, and political entities (Laurel, 1966). Delegate Rafael Palma (1953) noted how Laurel vigorously and capably defended the declaration of individual rights and privileges. The proposed provisions remained intact after the floor deliberations.

In his sponsorship speech of the report of his Committee on November 19, 1934, Laurel extensively explained each of the rights incorporated under the proposed article on the Bill of Rights. He eloquently discussed section to section including the wisdom and

judicial precedents for each right. He mentioned the following in his sponsorship speech (Laurel, 1966): Every right that has been won is held in sacred esteem and guarded with intense jealousy by those who possess them. To protect and preserve those rights: such is the desire of the liberty-loving and the free. With this end in view, care has been taken to insert in constitutions what is commonly known as a Bill of Rights – a comprehensive statement of those invaluable conquests of the past (v.3, p.648)

Manuel A. Roxas

He was born on January 1, 1892, in the municipality of Capiz (now Roxas City), the capital of the province of Capiz. He finished his Bachelor of Laws, valedictorian from the University of the Philippines in 1913, and topped the bar examinations in the same year. The voters of Capiz gave him a mandate by electing him as their provincial governor in 1919. He won in 1922, 1925, 1928, 1931 and 1934, as the representative of the 1st district of Capiz in the House of Representatives, where he served as its Speaker for 11 consecutive years (Lichauco, 1952).

In 1932, Senate President Quezon sent Senate President Pro-Tempore Sergio Osmeña and Speaker Roxas on a mission to the United States to seek the granting of independence to the Philippines. There were earlier independence missions that went to the United States but failed to achieve their objective. Carlos Quirino (1992) cited that Quezon was too ill to head a new independent mission. Thus, he had asked Osmeña and Speaker Roxas to lead the mission instead. However, Delegate Jose Romero (1979), a close ally of Quezon, had another version of the sending away of Osmeña and Roxas. Romero mentioned that Quezon became suspicious of the political activities of Senator Osmeña and Speaker Roxas. The Speaker spearheaded a new organization called Bagong Katipunan which was clearly meant to be a national economic protectionism movement. Senator Osmeña assisted Roxas in his endeavor. Both never consulted Quezon on their idea. By sending them abroad to lead a new independence mission, Quezon would strengthen his contacts with local leaders who were wooed by Osmeña and Roxas. Also, having led many previous unfruitful independence missions, Quezon told his close allies that he was pessimistic that the United States Congress at that time would be sympathetic to the approval of an independence act. However, Osmeña and Roxas managed to secure an independence measure known as the Hare-Hawes-Cutting Act. Quezon adamantly rejected that law. As a result of the political split among political leaders in 1933 into Pros and the Antis over the issue of accepting that independence act, Roxas and Osmeña were ousted from their posts as Speaker and Senate President Pro-Tempore, respectively, along with their allies holding significant government positions. Roxas decided to run as a delegate

to the Constitutional Convention in 1934 under the substitute independence act, the Tydings-McDuffie Law.

Roxas and other Filipino leaders saw the need for a satisfactory working arrangement between the Pros and the Antis before the start of the Constitutional Convention (Cuaderno, 1937). Clashing visions as to how common good would be provided and protected were expected in the discussion and debates during the 1934 Constitutional Convention. Similar to what had transpired during the 1787 Philadelphia Convention, which drafted the United States Constitution, alternative visions of the community's general interest or common good had to be balanced with the partial and exclusive interests of individuals, groups and institutions. The conflict would entail distinctive marks of accommodation between principles and interests, which are part and parcel of democratic politics (Jillson & Eubanks, 1984).

The first official participation of Delegate Roxas was to second the nomination of Delegate Jose P. Laurel of Batangas as temporary chairperson of the Convention and later the nomination of Delegate Roxas as the President of the Convention. The arrangement was already pre-decided in the caucus days before the Convention started the first session. Considering that Roxas was the leader of the Pros, the gesture was meant to promote a harmonious working relationship among the dominant Antis and the minority Pros. His role was the de-facto floor leader of the Constitutional Convention (Aruego, 1971).

Roxas defended the draft of the Constitution against an accusation by several delegates, particularly Delegate Jose Reyes of Sorsogon that the Constitution as prepared by the Sub-Committee of Seven was not based on a definite philosophy. Roxas highlighted that the whole philosophy of the Constitution was premised on clear-cut political hypotheses. According to him, the primary hypothesis was that sovereignty resides in the people, and all powers emanate from them. Roxas pointed that the government is just the agency through which the will of the people is expressed. Secondly, he emphasized that the government under the draft Constitution was adapted to the prevailing conditions, circumstance and political outlook (Escareal, 1965).

Another issue which Roxas clarified was the system of checks and balance. He defended the argument of excessive concentration of power in the executive department precisely because the system of government was presidential. He noted that what Delegate Reyes contemplated in his criticism was the need to adopt a parliamentary system of government instead (Aruego, 1949).

Roxas lengthily defended the argument that the Constitution should extend beyond the Commonwealth period. He highlighted the need to examine the powers of the Convention. The Osias resolution that extended the coverage of the Constitution

beyond the Commonwealth period was subject to an impasse. During the August 29, 1934, session, Roxas suggested the following alternatives (Laurel, 1966):

1. Adopt a Constitution for the Commonwealth and insert mandatory provisions for independence law. Another Constitutional Convention to be called before the end of the transition period;
2. Adopt a Constitution which would be in force during the Commonwealth and continuously operative after the organization of the Republic; and,
3. Adopt a Constitution for the Commonwealth. Append an ordinance that would provide that such Constitution would be enforced during the transition period.

The issue had been subject to a very lengthy debate, so much so that after four weeks, there was an impasse. He supported the Quirino motion to suspend discussion of the matter on September 21, 1934, to ensure the maintenance of cordial relations among the members of the Constitutional Convention. Roxas assured the delegates, particularly his fellow Pros, that they were free to vote according to their convictions. Furthermore, he cited that they were not tied to any agreement in party caucus (Laurel, 1966).

Roxas was for a bicameral legislature consisting of a Senate whose members would be elected at-large, and a House of Representatives whose members would be elected by district. When it became apparent that majority of the bicameralists were against a Senate elected at-large, he opted to have a unicameral assembly (Escareal, 1965).

He also agreed with Delegate Cuaderno to leave to the legislature the proposals to nationalize trade and labor. According to him, there was a tendency among many members to include minor issues that could just be addressed through ordinary legislation. He further cited that too much restriction on ownership and control of business would just weaken the fiber of Filipinos as a nation, their character, initiative, and individuality. Roxas further argued that Filipinos should develop their nationality in an open field of competition (Laurel, 1966).

Malcolm and Laurel (1936) cited that Roxas left a profound influence on the 1935 Constitution. According to them, the erudition and eloquence of Roxas made him a dominant figure in the Constitutional Convention. Delegate Salvador Araneta (1973) mentioned that Roxas might be referred to as the brains of the Constitutional Convention. Roxas could brilliantly deliver speeches and forcefully debate both in English and Spanish. He made effective contributions to the proceedings as a member of the powerful Committee of Seven which wrote the preliminary draft of the Constitution, and the Committee on Style which polished the final version of the Constitution.

Delegate Jose Aruego (1949) highly praised Roxas for his passion, consistent hard work and dedication throughout the framing of the Constitution. Furthermore, Aruego

cited that Roxas had the wealth of experience, diligence and the keen perception that were of incalculable value.

Elpidio Quirino

He was born in Vigan, Ilocos Sur on November 16, 1890. He earned his Bachelor of Laws from the University of the Philippines in 1915. A few years after passing the bar, he served as the private secretary to then Senate President Manuel Quezon. His first involvement in politics was his election in 1919 as representative of the first district of Ilocos Sur. He was elected to the Senate in 1925 and was re-elected in 1931. He became part of Senate President Quezon's independence mission to the United States, which secured the passage of Tydings-McDuffie Law. Governor-General Frank Murphy appointed him Secretary of Finance in 1934. He was elected in the same year as a delegate from the 1st district of Ilocos Sur to the Constitutional Convention, a post that he concurrently served in addition to his positions as Secretary of Finance and Senator (Gwekoh, 1950).

Given his other posts in the government, he did not actively participate in the proceedings of the Convention in the same manner as those of Delegates Laurel and Roxas. Delegate Salvador Araneta (1973) included Quirino among the six outstanding delegates who were concurrently Senators or members of the House of Representatives. He cited that Quirino's few speeches in the Convention, while short and extemporaneous, were brilliant and effective. Quirino candidly admitted that he was not entirely happy with his multiple positions. He did not object to the provision prohibiting members of the National Assembly to hold other simultaneous civil posts.

Quirino broke the impasse over the coverage of the Constitution to be drafted, whether it would apply for the Commonwealth period only or extend beyond. There was a pending resolution by Delegate Camilo Osias of the La Union, a member of the Pros to explicitly decide that the coverage would be beyond the Commonwealth period. It was already a month of protracted discussions, and the Convention had not reached any consensus yet. Finally, Quirino was tasked by his fellow Antis to move that it was no longer necessary for the Constitutional Convention to pass a resolution on the issue. The Pros were suspicious of the motives of the Antis. The ensuing debate between Delegates Osias and Roxas on one side and Delegate Quirino on the other side was described by Delegate Miguel Cuaderno of Bataan as an interesting contest of wits among these parliamentarians. Quirino proved that he could equally match the sagacity of Osias and Roxas (Cuaderno, 1937).

He objected to the creation of a Permanent Commission within the National Assembly. The intention of the proposal was to have an additional check against the President on the issue of appointments and to have a prosecutorial body for impeachment. Quirino believed

that the creation of such body might violate the spirit of a democratic government and would only be a self-serving body. For to him, the National Assembly should be allowed to deliberate on that issue. He underscored the economic philosophy of the Constitution, which was moored on placing the control of the national economy in the hands of Filipinos themselves. He sought clarification on the composition of the Supreme Court, resulting to a clearer rewording of the provision (Gwekoh, 1950).

5.0 Conclusion

A closer study of the contributions of the three delegates who later became Presidents of the Philippines, namely, Laurel, Roxas, and Quirino reveals the fundamental philosophy of the 1935 Constitution. Social, economic, and political considerations played important factors in balancing general interests. Such considerations are part of the dynamics of politics.

MacCormick's and Weinberger's Neo-Institutionalism mentioned that laws and regulations act upon social relationships and social practice. This theory had been validated in the drafting of the 1935 Constitution. Delegate Manuel Roxas emphasized that the government under the Constitution was adapted to the prevailing conditions, circumstance and political outlook. Thus, consensus building, the rule of majority and leadership play important roles in decision-making in response to social, political and economic conditions. Roxas called the 1935 Constitution as a fundamental law imbued with the clear-cut political hypotheses.

Although the 1934 Constitutional Convention was envisioned to be non-political, the delegates were divided between the Antis and Pros, as a result of the fracture of the mainstream political parties over the acceptance or rejection of the earlier independence law, the Hare-Hawes-Cutting Act. The wounds of the division would resurface. Roxas played a significant role so that the Antis and Pros would close ranks for the sake of the country. He further emphasized that the Constitution should contain principles including its limitations but should not contain details. For him, such details should be left to the legislature.

Laurel underscored that the Constitution was not an adventure into experimentations. Thus, he highlighted the need to have the 1935 Constitution rooted in constructive conservatism. He defended the draft of the Constitution as dynamic and progressive but not radical. He emphasized that the Constitution drafted had the essential features of forethought, caution and abiding faith in the ultimate justice. Despite his intellectual stature, Laurel demonstrated a shining example of humility. He was never overbearing but stood tall based on the principles he enunciated particularly in the Bill of Rights.

Quirino had limited participation, but this was more than compensated by the impact and quality of his contributions to the deliberations. Laurel,

Roxas, and Quirino proved their mettle as statesmen more than as politicians. Students of constitutional law and political history will find a treasure trove of the distilled wisdom of intellect and experience Laurel, Roxas, and Quirino had demonstrated in their contributions to the framing of the 1935 Constitution.

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