that, inasmuch as there was some doubt as to the legality of the impeachment, it was his duty not to surrender the functions of his office until that question had been determined. After the decision of Mr. Justice Hasbrouck he ceased to perform any executive functions, and it is unnecessary for me to say that he will not perform any in the future until the termination of this trial."

By thus recognizing the fact that Lieut.-Gov. Glynn is acting Governor the Sulzer lawyers make it practically impossible for the Assembly to further impeach the Governor by alleging that he usurped the powers of the Governorship.

HERRICK DEMURS TO THREE ARTICLES OF IMPEACHMENT.

But even then the final hour of trial was postponed. Judge Herrick interposed one more challenge to the order of proceedings. He demurred against three articles in the impeachment—the first, second and sixth counts of the indictment, which contain charges against the Governor in relation to campaign funds and Wall street deals, and the day was devoted to forensic battling of learned counsel on this legal contest. Until this point is settled the Governor can still postpone the day of answering guilty or not guilty.

The first article charges William Sulzer with filing a false statement of contributions to his campaign fund while a candidate for Governor, in violation of the election law.

The second article makes the same charge, but in violation of the penal law, and of perjury in making oath to the correctness of such statement.

The sixth article charges larceny by the defendant in having converted and appropriated to his own use campaign contributions made to him by various persons.

DEMANDS THAT LIMIT BE PUT ON CHARGES.

"The Assembly in preferring articles of impeachment and the court for the trial of impeachments so preferred," said Judge Herrick, "are both governed by laws of the State. The law of the State is that public officials can only be impeached 'for wilful and corrupt misconduct in office.'

"In asking that these articles be dismissed, we are not endeavoring to shield William Sulzer from answering the matters therein set forth. Sooner or later he must do so either here or at the bar of public opinion, and when that time comes—whether it be here or elsewhere—we have no apprehension but what those answers will be full and sufficient.

"While we are concerned for Mr. Sulzer, we have a greater and higher duty to perform than merely to prevent his being compelled to give an explanation of the charges contained in these several articles.

SAYS RULING WILL HAVE WIDE-SPREAD EFFECT.

"We are concerned for the proper administration of the law. We are concerned for the Governor of the State and all other executive officers who are subject to impeachment, for the precedent now to be set by you will not only control all future proceedings in this State, but will be vastly influential in controlling and directing similar proceedings in every State of the Union.

"It is claimed, as we understand, that inasmuch as the constitution merely provides that the Assembly shall have the power of impeachment and then provides for a court to try such impeachments—without stating for what causes impeachments will lie—that there is no limit to the causes for which the Assembly may impeach and no limit to the jurisdiction of this court in determining the causes for impeachment.

"In other words, that there is no law governing this tribunal as to what is an impeachable offense, except its own determination—that it is a law unto itself. If that be the law—if the Assembly can impeach for any cause that it sees fit, for acts done by an official during his term of office, as well as for acts done by him when a private citizen before he had become a public official, **thereby suspending him indefinitely from discharging the duties of his office, then the door is opened wide for an unscrupulous majority to impeach an official whose conduct in office has been upright and honest, who has stood in the way of graft and corruption, but purchaseo before coming into office has been guilty of some indiscretion or worse. To impeach, in fact, not for any official misconduct but because of his refusal to abuse the powers of his office.**

WOULD PUT EXECUTIVE AT MERCY OF ASSEMBLY.

"If you are simply called upon to determine as to whether such accused official has in fact committed the acts alleged in the articles of impeachment, then the executive department of the government is at the mercy not of the legislative department of the government but of a single branch of it.

"If you are to determine as to whether the act, if committed, is an impeachable offense, we respectfully submit that there must be some law governing your action by which it may be determined whether in truth and in fact an impeachable offense has been committed.

"The power of impeachment without any limitations may be used to remove a political adversary for differences of political opinions.

"In my own time I have witnessed such public political feeling that honest men believed that they would be doing their country a service in removing from public office officials holding adverse political views from their own. Some limit must be fixed for this great power, otherwise, in the last analysis of executive government in this State, we will have a government of men and not of laws.

"No case of impeachment in this country has been found where a public official has been impeached for offenses committed prior to his assumption of office. All are cases of misconduct in office.

"In other words, for more than two hundred years, including periods of political strife and animosities, when the passions of men ran high, when the pursuit of political adversaries was merciless nowhere in the English speaking world has there been an attempt to remove a public official from his position by impeachment for offenses alleged to have been committed before he became such an official.

ALLEGED OFFENSES NOT OFFICIAL ACTS OF SULZER.

"The acts alleged in the first, second and sixth articles of impeachment here presented are none of them acts of an official and are all acts cognizable by ordinary tribunals where the accused may be tried before a jury—where no one may sit in judgment upon him who has been engaged in procuring evidence against him, who has prejudged his case and declared him guilty without a hearing or who is actuated by political feeling or partisan animosity and when, if the accused is found guilty of the felony charged against him, his removal from public office follows."

Judge Herrick cited the case of Sheriff Guden of Brooklyn, who was removed from office by the Governor for acts committed partly before entering office and partly thereafter. Guden made a corrupt agreement before election to make certain appointments in return for votes. The case went to the Court of Appeals, where there was divided opinion. The Chief Judge and the majority did not consider whether the acts were committed before or after entering office, but placed the decision on the ground that the Governor possessed executive power of removal with which the courts would not interfere. But Judge O'Brien, in his separate opinion, said: "There must be a charge of some official misconduct on the part of the officer."

This was the nearest citation to question of acts before taking office that Judge Herrick could find. In concluding, Judge Herrick said:

"This court should so interpret the law as to confine impeachable offenses to wilful and corrupt misconduct in public office and not to extend it further **than it has ever before been extended** in this country or in England for over two hundred years, so as to include offenses committed by a private citizen before he became a public official.

"I cannot, I will not believe that this great court will set a precedent that will extend the law beyond what is written and place the honest public official who may have erred at the mercy of blackmailers and scandal mongers, political or otherwise, but will confine the power of impeachment to its primary purpose of removal from office of an unfaithful public official for misconduct in office only, leaving to the ordinary tribunals of justice his punishment for crimes committed while he was a private citizen."

Former Judge Vann in a carefully prepared brief also upheld the contention made by Judge Herrick.

BRACKETT ASSAILS SULZER IN REPLYING TO COUNSEL.

Former Senator Brackett, one of the counsel for the Board of Impeachment managers, vigorously attacked Gov. Sulzer.

"This," he said, "is no trial for disgusting manners, nor for lack of dignity, nor for immeasurable boastings. All of these may be offensive to the last degree, but they are not in the charges here, nor impeachable. The defendant is charged with crimes. So the controversy that has raged round the point whether crime must be charged against the offender or a mere violation of duty is not here at all.

"The defense rests, in large part at least, upon the proposition that, while crimes are charged against the defendant, they are not crimes committed during his official term, nor relating to the duties of his office, and, therefore, he may not be impeached because of them.

"When the members of the High Court of last resort sitting in, and a part of, this august tribunal, come to the courtesies of the next holiday season, must they feel that they are clasping hands with a perjurer and a thief, because the admitted perjury and larceny were committed fifteen minutes before 12 o'clock noon of Jan. 1, 1913, and therefore he cannot be impeached for their commission, whereas, if committed fifteen minutes after noon, he might be?

"When at the next regular session of the Legislature the Senate sends its committee to notify the Governor of the State that it is convened, must the message be taken to a criminal or one with criminal characteristics? And must such a man be permitted to send to the Houses of the Legislature his views on public affairs, and be allowed to approve or disapprove legislation here passed?

CITES CASE OF CRIMINAL ASKING FOR PARDON.

"When it comes to the dread issue of life and death must the criminal feel that he is applying to a fellow criminal for reprieve or pardon, and, if denied, go to his doom with the just feeling that he has been judged by an unclean man—a fellow criminal with himself?

"The questions are their own answer. None of these things must be nor can.

"He who exercises the functions of this great office must himself be clean—not necessarily free from fault, not blameless of every venial offense that afflicts our common humanity, but he must not have committed crime, nor anything in the nature of crime that unfits him for association with the great mass of decent and God fearing men and women over whom for a time he exercises authority.

"From the time a person is nominated for office he comes under the directions of the law. He is not yet an officer, but he is seeking to become one, and in order to become one, is required to conform to the directions of the statute.

"There has thus been prefixed to the office what we may call an official vestibule, so placed that a person entering into the office must pass through it. And it is no stretch of language to say that the law practically makes an officer of a candidate—and of an officer-elect. He is certainly subject to the direction of the law from the moment he is nominated.

"The object of all this is patent. Misconduct as a candidate corrupts public duty in office. Wickedness in a candidate is as surely inherited by the official as any hereditary taint by the child from the parent.

DEFINES THE PROVISIONS OF LEGISLATIVE ACTS.

"By corrupt practices legislation the position of a candidate is legally, indissolubly linked with that of the official. It is as much required that he shall make this statement of the amounts received by him and the expenditures as it is required that he shall take the official oath as Governor when inaugurated. The one cannot be separated from the other, and one is as positive a direction as is the other.

"The making of a false statement of receipts and expenditures is just as much a violation of duty and the commission of a crime as is the violation of the official oath taken upon induction into office.

"In all this there is nothing of effort to convict the defendant of wrong. The world hates a liar, but it is not for lying that we ask conviction of William Sulzer. In pursuance of the imperative directions of the statute—a statute based on the soundest reasons—he is charged with filing a false certificate of contributions made to him. In doing so he violated the law and committed a crime. Appended to this false statement, thus filed, is an affidavit, duly sworn to before a magistrate, attesting the correctness of the statement.

"Argument is not here had as to whether the crime of perjury may be predicated upon this false affidavit. It is had on another phase of the case by another counsel than now argues. But, whether guilty of legal perjury—or whether, on a quibble that finds its congenial atmosphere at the Old Bailey or the Tombs Police Court, he shall escape judgment of that loathsome crime—he intended to commit perjury, and believed that he was committing it, in subscribing this oath.

"All the blackness of heart, all of intention to do wrong, all the revelations of infamous character that are demonstrated by a legally false oath are demonstrated by this intention and by the certificate itself—the violation of the statute designed to prevent corruption at the polls."

MISHAP CAUSES COMMOTION IN COURTROOM.

Several small incidents occurred to-day interrupting the stately solemnity of the impeachment court for the first time. A part of the heavy tapestry hanging on the wall over a door close beside Presiding Judge Cullen fell with its supporting framework. The crash, coming during a period of silence while Judge Herrick was making one of his most earnest points in argument, startled every one.

Judge Cullen rose from his chair because the heavy material fell close beside him. Judges, Senators, lawyers jumped up in alarm. No one was injured and after a few moments of confusion the trial proceeded in all its wonted solemnity.

Senator Torborg of Brooklyn went sound asleep during the Herrick argument and several times gave indications of snoring. The fall of the curtain aroused him from slumber before the snore reached its climax. Senator Wagner, President pro tem. of the Senate, lectured a number of his Tammany colleagues to-day for coming late to the session.

"You fellows will have to get here on time," he said, lecturing them like school boys. "The court begins at ten o'clock and we wont stand for any tardiness. Now see that you get here promptly in the morning and I don't want any being late either afternoon recess."

FOX CALLS IMPEACHMENT A SOP TO THE MOB.

Brackett was followed by Austen G. Fox of counsel for Gov. Sulzer, who assailed the impeachment charges as "a sop to public opinion." After citing numerous authorities, which he declared, proved his contention, he said:

"It was to be expected that, sooner or later, the popular branch of some Legislature, acting in the heat of political excitement, or in subservience to some popular demand, or, possibly, with a desire to gratify the personal enmity of some powerful political leader, might seek to overstep the well-settled limitations of their lawful authority. We cannot shut our eyes to the fact that there is to-day a large number of our fellow-citizens, led by distinguished and popular leaders, whose very political creed embodies an impatience of constitutional restraint, and who demand that the final test shall be, not a judicial interpretation of the Constitution, but the wish of the majority of the moment."

MURPHY TO CALL LEADERS AND FIX CAMPAIGN PLANS

Tammany Boss Willing to Go to Albany, but Has Not Been Called.

Tammany Leader Charles F. Murphy stated to-day that he has received no notice to appear before the Impeachment Court in Albany. He added that he does not expect to be called, but said he is perfectly willing to go to Albany if his presence is required by either side.

Mr. Murphy was asked if the change in the political situation since the death of Mayor Gaynor had altered his expectations any.

"Why, of course not," he answered. "I said before that we would win no matter who runs, and we will win just the same."

A statement made by Norman Hapgood to the effect that the late Mayor's heart was broken by the refusal of Tammany Hall to name him for Mayor was called to Mr. Murphy's attention. He said:

"You might just as well blame me for the rain of the past few days."

It is understood that Mr. Murphy will assemble his leaders some time Friday and the active campaign plans will be decided upon.

TOAST PRESIDENTS IN WATER

WASHINGTON, Sept. 23.—A toast to President Wilson and President Poincare and the traditional friendship between France and the United States was drunk in water last night by Secretary Bryan and the visiting French commission selecting a site at the Panama Pacific fair. The news leaked out when Major J. J. Dickinson, who was host, made a hot denial of a published story that Mr. Bryan had not drunk when the champagne glasses were raised for the toast, and that the French visitors were offended.

Major Dickinson explained that there was no champagne at the dinner, merely an old-fashioned cocktail, which the Frenchmen had expressed a curiosity to taste, and that as Mr. Bryan proposed the toast near the end of the dinner it was drunk with water.

CHILDREN GAIN FLESH TAKING Father John's Med. Pure, wholesome food.—Adv.

LEADERS AT THE REPUBLICAN CONVENTION.

NOT INSANE, SAY DOCTORS WHO TALKED WITH ACCUSED PRIEST

(Continued from First Page.)

sane. The physicians are Dr. Michael Erlwein of No. 12 Convent avenue, a member of St. Joseph's Church, of which Schmidt was an assistant pastor and a former friend of the accused murderer; Dr. John Herman Branth of No. 183 West Eighty-seventh street and Dr. Charles W. F. Horn of No. 220 West One Hundred and Twenty-seventh street. Schmidt told Warden Fallon he was willing to see them. They conversed with him in German.

A MATTER BETWEEN HIMSELF AND GOD, HE SAID.

"Having known Schmidt in his priestly state, said Dr. Erlwein to an Evening World reporter, "and having heard so much about his mental condition, I wanted to see him in what you might call his criminal state. I know him very well. He sent charity patients to me when he was at St. Joseph's.

"I told him he was in a bad fix. He said he knew it. I asked him if he was sorry he had killed the girl. He said that was a matter between himself and God; he wanted to die as quickly as possible, he said.

"I talked to him at some length. As far as I can see there is no difference between the Schmidt in the Tombs accused of murder and the Father Schmidt I knew. I think he is feigning insanity. He looks to me like a cornered rat figuring out a plan for escape."

"Schmidt's mind works perfectly," declared Dr. Branth. "I noted a statement he made to Dr. Erlwein. He repeated the same statement five minutes later word for word. In my opinion he is perfectly sane, but cleverly is trying to create the opposite impression."

"My interest in Schmidt," said Dr. Horn, "related to my studies of phrenology and facial expression. It is not true that Schmidt has a criminal head and face.

It is true that his face is asymmetrical, but there are very few perfectly symmetrical faces. Some of our greatest men have had faces that were pronouncedly asymmetrical.

"An examination of Schmidt's head shows that he possesses to a marked degree the qualities of secretiveness, cautiousness and combativeness. His bump of construction is large and explains his ability to make those counterfeiting plates in such a short time. Schmidt is not insane, but he is wonderfully cunning."

IS PRIEST HE CLAIMED TO BE, SAYS BOYHOOD FRIEND.

All doubt as to Schmidt's identity has been cleared up by the Rev. Father Francis Markert, teacher in the College of Techny, Techny, Ill., a boyhood friend of Father Schmidt in Germany. The theory had been advanced, and believed by some, that Schmidt, the priest, was dead and his papers had been seized by Anna Aumueller's murderer, an imposter.

Father Markert dispelled all doubt. He is on his way to Germany, and stopped at the Tombs, being promptly recognized by Schmidt, who called him by name. When asked if there was any message he wanted taken to his parents, Schmidt said:

"Nothing special; just give my love to my mother."

"I have known Father Schmidt since 1893," said Father Markert. "We entered the College of Mainz together. He was a brilliant student and very pious up to the time he was about twenty years old. Then he began to show a worldly disposition.

"The last time I saw him he was at Gonzenheim, Germany, and was assistant priest of that parish. A few weeks later he left the parish and I heard he had forged documents in connection with his degree of doctor of philosophy. I wrote to his brother, who replied that Schmidt was in a sanitarium."

At the chancellery of the Archdiocese, Fiftieth street and Madison avenue, it was said that Mgr. Mooney, after consultation with church authorities, had decided not to issue a formal statement in the case of Father Schmidt for the reason that in no previous instance had a priest, by means of forged papers, obtained recognition in this archdiocese.

USED MURET'S ROOMS TO CHANGE HIS CLOTHES.

"Dr." Ernest Muret, the bogus dentist and friend of Schmidt, issued a statement in his own defense to-day. He said the police are trying to work up public sentiment against him simply because he was friendly with Schmidt. He first met Schmidt, he said, in December, 1912, when the priest called on him to get some dental work done. They became friendly. Schmidt used his home at No. 201 St. Nicholas avenue, Muret said, as a place where he could change from clerical to lay garb when he wanted to go to the theatre.

Muret declared that Schmidt never mentioned the name of Anna Aumueller to him, nor did he ever mention the name of any other woman. He denied that he is any relation of Schmidt.

As for the photograph gallery at No. 516 West One Hundred and Thirty-fourth street, rented by Muret and Schmidt, where counterfeiting plates and piles of counterfeited bills were found, Muret says he took the place, at Schmidt's suggestion, for use as a studio for turning out picture postcards and advertisements. If the place was ever used for any other purpose, he declared, he knew nothing about it. He did not enter the One Hundred and Thirty-fourth street flat after the middle of August, when he quarreled with Schmidt.

THAW INDICTED FOR HIS ESCAPE, DECLARES JEROME

(Continued from First Page.)

ell does not act with the Executive in the matter of extradition, but happened to be in session and was invited to the chamber. Members of the bar and newspapermen were required to obtain tickets of admission at the office of the Secretary of State.

THAW ENTERS CHAMBER WITH HIS MOTHER.

Thaw, in the custody of United States Marshall Nute and Sheriff Drew of Colebrook, and accompanied by his mother and Joshua Thaw, reached the State House just before the hearing opened. There was no demonstration by the crowd as the party crossed the street from the hotel and passed through the little park in front of the capitol. As soon as the capitol doors swung behind Thaw, the throng rapidly dwindled and by the time the hearing began there was fewer than a hundred people in the State House grounds.

The proceeding was delayed until the arrival of Mrs. Felker, who entered the chamber with the Governor and Attorney-General James P. Tuttle.

In opening the hearing Gov. Felker said that he was inclined to hear whatever the lawyers had to say and without strict regard to what might be legally admissable.

Thaw's counsel waived the reading of the petition for extradition and Mr. Jerome addressed the Governor briefly. He declared that the documents asking for the extradition of Thaw spoke for themselves, and there was nothing for the Executive to do but to honor them. If any attack was to be made upon them it should come from the other side.

Judge William M. Chase, of counsel for Thaw, opened for the defense, saying that he would be followed by ex-Gov. Stone of Pennsylvania and George F. Morris, of Lancaster. Judge Chase, reading his argument, said in part:

"Harry K. Thaw, a resident of Pittsburgh, Pa., is before you charged with conspiring to escape from the asylum at Matteawan, N. Y. No indictment has been found against him, although a Grand Jury of that County has been in session since Sept. 8. Acting Gov. Glynn has asked for the extradition of Thaw under the provision of the United States Constitution covering such matters.

"You cannot surrender Thaw to New York Governor, simply because he is a fugitive from Matteawan."

On this point, also, authorities were cited.

"There is no decision," said the judge, "of the courts making escape of an insane person from an asylum an extraditable offense. If Thaw, unaided, has escaped from Matteawan it is not a crime. And as an insane person he was not capable of entering into a conspiracy to escape. Nor is there any testimony offered to show any participation on Thaw's part in any plans for his escape."

Upon the opening of the afternoon session George F. Morris of counsel for Thaw, laid stress upon the fact that in the proceedings of extradition, under the Constitution of the United States, the first duty was to see that the rights of the citizen were secured.

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STATE DECLARES RECKLESS DRIVING COST 21 LIVES

Connecticut Board Gives Six Causes of the Fatal New Haven Wreck.

HARTFORD, Conn., Sept. 23.—Lack of an adequate signal system, the bunching of six trains within a ten-mile stretch of track and reckless driving by the engineers in a fog are given as causes for the collision between the Bar Harbor and the White Mountain expresses on the New York, New Haven and Hartford Railroad at North Haven, Sept. 2, resulting in twenty-one deaths, by the Public Utilities Commission in its report on the accident, made public to-day. Six specific causes are assigned, as follows:

Lack of an adequate signal system—Had signal 23 been connected with a distant signal, the engineers of the Bar Harbor second section and the White Mountain Express first section would have been warned of its position when half a mile or more distant.

Bunching of six passenger trains, during a fog with the signal system then in use in the ten-mile section between Wallingford and the Air Line Junction.

Reckless running in a fog on the part of Engineer Wands of the Bar Harbor Express, who passed block signal No. 23 when it indicated stop, and the consequent clearing of signal No. 27 for the first section of train No. 95 following.

Failure of Flagman Murray of the Bar Harbor Express to go back a sufficient distance to offer any protection whatever to his train.

The indifference of Conductor Adams of the Bar Harbor, who did not show sufficient interest in the safety of his train, knowing that a train was following, to see that his flagman was doing his duty, and for stopping his train and calling in the flagman, who otherwise would have been left, to flag the White Mountain Express.

Engineer Miller's reckless running of the White Mountain in a fog, and his failure to control his train and be prepared to stop before passing signal No. 23.

Engineer Miller, Flagman Murray and Conductor Adams are at present under bonds awaiting trial as the result of the finding of Coroner Mix fixing criminal responsibility for the wreck upon them.

GIRL DIES OF INJURIES.

Edith Weichert Was Hurt While Motorcycling.

Disobedience to her mother has resulted in the death of Miss Edith Weichert, sixteen years old, of No. 77 Enfield street, Cypress Hill. Five weeks ago the girl went out for a ride on a motorcycle with Conrad Miller, eighteen years old, of No. 86 Stone avenue, Brooklyn, after she had promised her mother that she would not go.

The young people went to Coney Island, and while returning along Pitkin avenue, near Rockaway avenue, their machine was struck from behind by an auto. The girl's skull was fractured and young Miller sustained a fractured hip. Both were taken to St. Mary's Hospital. Miss Weichert died last night.

The mother is a widow and lives with her son at the Enfield street address.

President Wilson at the Primaries.

PRINCETON, N. J., Sept. 23.—President Wilson reached here at 12:25 this afternoon to vote at the primaries. Quite a little crowd of his fellow-residents of Princeton met him, and he shook hands right and left.

Sport COATS of Worumbo Chinchilla—the best cloth that's made, all colors.

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Ask any friend who has bought a Solitaire Diamond Engagement Ring of Lambert Brothers whether he and the wearer of the ring were not equally pleased with it.

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And your friend could also tell you about Lambert Diamond prices some things you ought to know. Lambert customers—new ones particularly—raise their eyebrows at some of these prices. There is nothing surprising about them when you realize that all Lambert Diamonds are paid for in spot cash, bought in large quantities, imported direct and mounted in the Lambert factory just above the Lambert store in a section where rents and other costs of operation are low.

We made large importations of fine Diamonds before the duty was raised.

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ASSORTED ICE CREAM CARAMELS—A delightful little luxury sure to please every lover of the caramel. These have velvety Van. Cream centres, outside flavored Van., Strawberry and Chocolate. POUND BOX 10c

Special for Wednesday
FIG AND RAISIN KISSES—A combination of prime Spanish Figs and Sultana Raisins, finely minced and blended with Van. Sugar Cream. POUND BOX 10c

Suggestion for Tuesday
SPECIAL MIXED CANDY—A specially selected assortment of our favorite confections in a variety of styles, flavors sufficient to please the taste of everyone. POUND BOX 15c

Suggestion for Wednesday
MIDGET STICKS. Just as sweet and wholesome as the kind our grandparents used to buy for us, only these are dainty little sticks that the "kiddies" like much better. PER TIN 15c

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