THE MEMPHIS DAILY APPEAL.

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The Memphis Appeal.

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JNO. R. M'CLANAHAN.....LECHRAS TROUSDALE, BENJAMIN F. DILL.

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8.	3 50	4 00	4 50	5 00	5 50	6 00	6 50	10 00	12 00	15 00	18 00	27 00	35 00	60 00	75 00
9.	4 00	4 50	5 00	5 50	6 00	6 50	7 00	12 00	15 00	18 00	20 00	30 00	40 00	75 00	100 00
10.	4 50	5 00	5 50	6 00	6 50	7 00	7 50	15 00	18 00	20 00	25 00	37 50	50 00	100 00	125 00
11.	5 00	5 50	6 00	6 50	7 00	7 50	8 00	18 00	20 00	25 00	30 00	45 00	60 00	125 00	150 00
12.	5 50	6 00	6 50	7 00	7 50	8 00	8 50	20 00	25 00	30 00	35 00	52 50	70 00	150 00	175 00
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TO THE LADIES.

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J. ERSK WALKER.....W. L. MCCONNICO

WALKER & MCCONNICO, OFFICE, Memphis, Tenn. Office, No. 22 South side Court Square. apl8

DR. T. F. PEYTON, OFFICE on the corner of Jefferson and Second streets, in Worsham's Building. 1y-jul-8

WILLIAM KENNEDY, Jr., ATTORNEY AT LAW—Office over Savings Bank, Main street, Memphis, Tenn. my19-1y

DR. CREIGHTON'S OFFICE HOURS For attending Diseases of the EYE AND LUNGS! ARE from 9 to 11 A. M. and 2 to 4 P. M. The balance of his time will be devoted to general practice. N. B.—Persons wishing Dr. Creighton's services must consult this advertisement. feb25-tf

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TO TEACHERS.

THE undersigned, President of the Memphis Female Seminary, at Harrisburg, will be in Memphis for a short time, for the purpose of procuring a first-rate Teacher for the above Institution. To a man of family this offers a fine opening, as the situation can be obtained on very favorable terms.

W. A. BOON, T. W. WHITE. n17-dw*

George W. Benson, TEACHER of the PIANO and GUITAR, and all kinds of String and Brass Instruments. Orders left at M. A. Bohm's Music Store, No. 258 Main street. n5-tm

Executors' Notice

THE undersigned, having qualified as Executors upon the estate of the late GIDEON FLANNERY, deceased, hereby give notice to all persons indebted thereto to make immediate payment to GIDEON FLANNERY & BRO., and to come forward and discharge the same. And persons having claims against the said estate will present them to the undersigned for settlement.

JAS. FLANNERY, MARY FLANNERY, Executors.

n24-d1m

Lights, Newton & Bradbury's Pianos.

NINE superior PIANOS just received from the establishment of Messrs. Lights, Newton & Bradbury, which we are offering at the lowest cash prices. Persons in quest of a good Piano Forte, further notice from us will not be necessary. With every assurance that purchasers will get a No. 1 Piano, we submit them for their inspection. [n27] McKINNEY & CO.

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WE are constantly receiving PIANOS from this great Southern manufactory, to which we would especially call the attention of purchasers. They are justly celebrated for their brilliant and immense volume of tone, and will compare favorably with the best Pianos the world can produce. We have to arrive this week, one of the finest rosewood Pianos in the Southern country. Price $1,000. Visitors and purchasers are solicited to call at our Piano Warerooms and examine them. [n27] McKINNEY & CO.

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EIGHT PIANOS from the celebrated manufactory of Messrs. Haven, Bacon & Co. We have been selling this make of Piano for several years past, and every instrument has been satisfactory. Persons in want of a fine piano will be some of the best instruments in New York. [n27] McKINNEY & CO.

J. H. ALBRECHT, KEEPS constantly on hand a supply of the best CIGARS AND TOBACCO, of all kinds, which he will sell low for Cash, at the old stand on Shelby street, Memphis. 2-p2-1y

New Furniture.

WE are now receiving from Cincinnati, Louisville, Eastport and Nashville, this day, a large assortment of HOUSEHOLD FURNITURE, from New York, consisting of French Bedsteads, Wardrobes, Bureaus, Fancy Chairs, Tables, Sideboards, Rocking Chairs, Washstands, &c., &c. All of which is first class work, and will be sold low. [n7 1m] McKINNEY & CO.

THE DAILY APPEAL.

TUESDAY MORNING...NOVEMBER 30, 1858

Memphis and Little Rock Railroad Company's Bonds.

MESSRS. EDITORS: Two very remarkable communications appeared in your issue of the 27th inst., professedly in reply to an article over the signature of "S. T. M.," published in the APPEAL of the 24th inst.

They are remarkable not for the ability they display or the information they impart, but on account of their omissions and misstatements. They are the productions of gentlemen who have reasons of *their own*, independent of public considerations, for the positions which they occupy in relation to the bonds of the Memphis and Little Rock Railroad Company and the interest accruing thereon.

"D. J. L." after quoting an extract from our article, makes the following declaration as one of our positions: "That the mortgage on the Navy Yard to secure the payment of the bonds of the Memphis and Little Rock Railroad Company is illegal and unauthorized by the city charter, and that, therefore, the liability accruing under it should be repudiated."

We made no such statement in our article, nor ever thought of such a thing till we saw it in the communication of "D. J. L." We simply stated that under a strict construction of the language used by Congress in its act donating the yard to the city, we thought it could not be construed to authorize the appropriation of the Navy Yard and its revenues to the construction of a railroad in the State of Arkansas, entirely beyond the jurisdiction of the city of Memphis and of the State of Tennessee.

We did not hint the idea of "*repudiation,*" which seems to disturb the tender conscience of "D. J. L.," nor have we ever recommended such action on the part of our City Council. We have always been taught that there is a legal way to get rid of illegal obligations, and we have never desired to get rid of them in any other way.

"D. J. L." next says that we contended, "that the city cannot use her income to pay the interest on the Company's bonds when the revenues of the Navy Yard are exhausted."

We have said, and still say, that there is no obligation on the part of the city to pay the interest in question, except that which is created by the city ordinance of January 30, 1857, and the mortgage on the Navy Yard, both of which provide that the said interest shall be paid out of the $30,000 designated and set apart by them for that purpose, and that there is no authority conferred, either by the charter or ordinance of the city, on the Mayor to pay any portion of said interest out of any funds of the city except the $30,000 above mentioned.

"D. J. L." says, thirdly, that we contended "that the execution of the mortgage was unwise, originally, and that the Navy Yard should have been appropriated to the construction of Court House, water-works and school buildings." He furthermore says that this suggestion effectually demolishes our own position in so much as "it is an admission that the Board of Aldermen could have appropriated the Navy Yard to any purpose deemed by it advantageous to the city."

We deny but any such admission is deducible from what we have said on this point. We mentioned these objects to show that if the intention of Congress had been carried out by our Board of Aldermen, strictly, city purposes about which there can be no dispute, might have been accomplished, and the revenues of the Navy Yard distributed in our own midst. We do not admit that the City Council can dispose of the Navy Yard for any purpose it may choose. It can only make a sale or mortgage of it for such purposes and objects as are enumerated to the control of the Board of Aldermen.

The bonds of the Railroad Company, secured by mortgage on the Navy Yard, were issued under the authority of an ordinance of the City Council, approved January 30, 1857, which provided that the bonds so issued should be secured by deed of trust on the Navy Yard, and that the city, for affording such security and paying the debt and interest, should receive stock in the Company to the amount of $300,000, or the bonds of the Company for that amount, running for thirty years. This is the same thing, in a different form, as a subscription, by the city, to the stock of the company, to that amount would have been. Such a subscription, by the City Council, to the stock of the Company, would have been illegal, inasmuch as there is no authority conferred by the City Charter on the Board of Aldermen to do such an act. All the railroad stock held by the city has been subscribed, and its bonds issued for it under the special authority of the Legislature of Tennessee; and in every instance the exercise of the authority so to do has been forbidden by the Legislature, until the people of the city, after thirty days' notice of time and places of election, had voted in favor of such subscription. But it has been received for "D. J. L." to make the discovery that the City Council can, at its discretion, take stock in railroad companies, even after the section of the city charter conferring the power to do so, when required by a vote of the people of the city has been repealed, and the power entirely withdrawn from it.

But, were we to undertake to correct all the errors and misrepresentations of "D. J. L.'s" singular production, we might fill a volume. There is one statement, however, in his article, which is so glaringly erroneous that we cannot pass it over in silence. While amusing himself in pointing out our ignorance of the rule of law regulating the rate of interest, and vindicating the propriety of paying the seven per cent. on the bonds of the Railroad Company, he says: "In the case before us, however, the city of Memphis had nothing to do with fixing the rate of interest which the coupons of these bonds bear, and, of course, 'S. T. M.'s' argument is worse than fallacious, for it is utterly baseless." [Cheers.]

This assertion of our friend becomes the more extraordinary when we recollect that he was a member of the City Council when the transactions which we are now reviewing took place; and of course should be better advised in relation to them than others not occupying such a position.

The charter passed by the Board of Aldermen on the 30th of January, 1857, provides in its first section after specifying the conditions preliminary to the execution of the mortgage on the Navy Yard to secure the payment of the company's bonds for $300 000—that they shall be "payable fifteen years after date with seven per cent. interest thereon, payable semi-annually either in the city of Charleston or New Orleans." This is the authority which the company had for issuing the bonds, and the rate of interest is fixed in the ordinance of the city and no where else. The deed of trust on the Navy Yard simply repeats the language of the ordinance as to the rate of interest and the place of payment, which it is to be paid—to the legality of the rate of interest—(seven per cent.) we would not spend time in discussing it if the debt on which it is paid had been legally made and the rate of interest not specified in the law authorizing it. But it is well known that writers on commercial law, in treating of the rate of interest and in showing that the law of the place of the execution of a contract determines the amount of interest that may be charged, cite Story's commentaries almost invariably to obligations growing out of commercial transactions—and do not include the bonded indebtedness of municipal corporations payable fifteen or thirty years after date.

The Bonds of the city of Memphis have never been issued but under the special permission of the Legislature of Tennessee, and only for the purposes specified by the Legislature, and have never been allowed to bear more than six per cent. interest, no matter where they are payable. It is no answer to this fact to say that the city of Memphis has never issued its bonds for the $300 000 of stock in the Memphis and Little Rock Railroad Company, for the City Council not only authorized the Railroad Company to issue bonds for that amount, but in the ordinance authorizing such action on the part of the Company, as well as in the deed of trust on the Navy Yard, assumed absolutely and unqualifedly to pay the whole debt, principal and interest, and relieves the company from all obligation to make any provision whatever for the payment of any portion of it. The city occupies the position of principal to the debt, just as if it had issued its own bonds for the same amount, running for the same time and bearing the same interest. The Company, instead of being bound for the debt, is only obliged to give the city its stock for the amount, or its bonds running for thirty years, within twelve months after the completion of the road to St. Francis river, as a consideration for the city's assumption of the debt. Such, at least, is the construction we contend that the Board of Aldermen, under our city charter, can subscribe to railroad stock and issue the bonds of the city in payment thereof. The charter confines the City Council entirely to objects within the corporation, except in the few cases where its authority is specially extended with the view of preserving the health of the city. So far from the Board of Aldermen having the authority to issue the bonds of the city in payment of subscriptions to railroad companies, or assuming the payment of railroad bonds for such stock, and making such assumption a part of its bonded indebtedness, and thereby imposing heavy burdens on the tax payers of the city without their consent, unless the Legislature of the State has given it such authority, it is even seriously doubted whether the Legislature of the State can so far delegate its taxing power as to authorize city corporations to tax their citizens for such purposes as the building of railroads and other works of general utility to a State. Theodore Sedgwick, a very eminent lawyer of New York, in his able treatise on statutory and constitutional law, upon this very question, holds the following language:

"It has been held (by Courts) that the taxing power for local purposes may be delegated to the local authorities; and on this ground, acts authorizing municipal corporations to subscribe to railroad corporations have been sustained against the objection that they were void, as being a delegation of the supreme authority. But from that it appears to me, notwithstanding the weight of authority on this head, that a delegation of the power to municipal corporations to tax their citizens for works of such large and general utility as railroads, cannot be fairly called a taxation for local purposes, nor justified on that ground. The road may benefit the locality, but it is not easy to see how it can be properly called a local object."

This extract is sufficient (coming from such authority) to show that there is a doubt as to the power of a State Legislature to delegate the taxing power to municipal corporations for purposes other than such as are strictly local—and necessarily incident to a local corporation. Such being the case, it follows inevitably that without the most direct grant of power from the Legislature, municipal corporations are precluded from their very nature, and the objects for which they are created, from exercising such authority. Yet, notwithstanding these plain truths, which will appear so palpable to to every one, on slight reflection, we see and hear claims put forth in behalf of the powers and rights of municipal corporations (especially of Memphis, Tennessee,) which place them far above the Legislature itself.

We have now answered all that "D. J. L." says that has any bearing on the questions at issue. As to his attempts at wit and sarcasm, we do not deem them of sufficient importance to justify any remarks in reply to them, and will, therefore, leave them where he has placed them—*before the public.*

It would perhaps be discourteous to conclude this article without saying something in reply to the communication of our friend "S. T. M.," which reads more like the scribbling of a school-boy for his own amusement than the grave production of one of our City Fathers.

The whole design of his article is to convince us that the city ought to sanction the act of its authorities, and pay the railroad bonds and interest, whether it is right or wrong, on principle to do so. The sacrifice of principle to expediency and interest is the burden of his theme. We do not set far understrike his understanding or business capacity, as to believe that he would act on any such idea in his own transactions. If an agent in his employ makes contracts in his name, not only without his authority, but in direct violation of his instructions, he will not feel himself under any legal or moral obligation to comply with such contracts, when the parties contracting have his written instructions to his agent before them, and can learn precisely the extent of his authority to bind him. It is no excuse to say that innocent parties have bought the bonds of the company, on the faith of the city, and that the city, to preserve its credit, must pay the debt. If capitalists have invested their funds in such securities, without investigating their true character, it is both their fault and misfortune, and they should abide the consequences of their improvidence.

It is also gravely contended that at the time this debt was made by the City Council, the circumstances of the Railroad Company were such that if the City Council had not done as it did, the enterprise of building the road would have failed for want of funds. This may be true, but it appears singular to us that if the advantages of the road to the city and the State of Arkansas were so obvious as some contend they are, that the enterprise did not have prevailed on individuals interested in the city and the State of Arkansas to take the amount of stock and pay for it which the City Council took in addition to its valid subscription of $350,000 to the same; or, that the fact of necessity which is set up to justify the action of the Board of Aldermen cannot be depended upon. Under such a plea the City Council may do whatever it pleases and claim necessity as a justification.

We conceive it useless to extend this article in pointing out the absurdities of "A. S." and the folly of the plea of necessity interest and the public good which he has set up. It is nothing more than a revival of the general *welfare doctrine of ancient federalism or its most odious form* which will justify any usurpation of authority however monstrous it may be.

In conclusion, we submit to the people of Memphis that the ordinance of the City Council of January 30, 1857, authorizing the issuance of bonds to the amount of $300 000 by the Memphis and Little Rock Railroad Company, bearing seven per cent. interest per annum—the agreement of the City Council to mortgage the Navy Yard grounds and buildings to secure the payment of said bonds at maturity—the appropriation of $30,000 of the revenue arising from the rents and taxes of the yard to pay interest on said bonds and the assumption of the obligation by the city in said ordinance and mortgage to pay both principal and interest of said bonds for the comparatively valueless consideration of stock in the Company or its bonds for $300,000 at thirty years, were acts unwise, without the sanction of the power of the city and illegal in the exercise of it, without authority of law, but in direct violation of the provisions of our city charter.

S. T. M.

Serenade to Senator Douglas in St. Louis.

The personal and political friends of Mr. Douglas serenaded him on Wednesday night at the Planters' House, St. Louis, where himself and lady were stopping. In acknowledgment of the compliment Mr. Douglas said:

GENTLEMEN: I am very much gratified for this mark of your approbation. You must be filled with enthusiasm if you can come out and compliment a stranger on a night like this. I appreciate exceedingly this mark of your approbation of my conduct.

I have just come through a political contest in which I have had a fierce war with abolitionism, but on both sides of the river the Democratic flag still waves in triumph. Abolitionism has received its death-blow. Pure Democratic principles—the principles of the Constitution and of the Union are in the ascendant, and will remain so for years to come. Whatever may be the fate of the Democratic party in the other free States, you may rest assured that Illinois can always be counted on as sound, whenever Democracy comes in contact with abolitionism and fanaticism. It is a matter of pride, as well as of pleasure, with all Democrats, that we can avow our principles the same in Massachusetts as in Illinois—the same in Kentucky as in New York—the same in Louisiana as in Massachusetts, wherever the Constitution is recognized as the supreme law of the land, there our faith is the same. Whether in the free States or the slave States, the same principles can be proclaimed alike—wherever the American flag waves over American soil. [Cheers.]

In Illinois that fearful and fatal heresy was first proclaimed, that this Union could not permanently endure, divided into free and slave States, as our fathers made it. Illinois has the credit for it, if it be a credit, of proclaiming first to the world that fatal heresy, and Seward, of New York, only copied from Lincoln when he repeated it. We have met the enemy, and broken the backbone of the monster in the fight that has just taken place in Illinois—that gallant State which never yet failed to sustain the Democratic banner. Our President and Vice President, stands where she ever has stood—true to the party, to its principles, and by the Constitution and the Union. [Cheers.]

We do not rejoice in the misfortunes of other free States which have deserted the Democratic banner in a Presidential election. In our State, the principles of popular sovereignty—the right of the people everywhere to form and regulate their domestic institutions to suit themselves has been vindicated. In Illinois, the Constitution as the supreme law of the land has been vindicated. There we hold that the rights of each sovereign State, whether it be free, or whether it be slave, are to be protected with equal vigor and fidelity by the constituted authorities. [Cheers.] Had it been made this government, divided into free and slave States, each having a sovereign power to regulate its domestic institutions to suit itself. We intend to maintain that Constitution and those sovereign rights of the States, old and new, as our fathers made them. [Cheers.] If you in Missouri will just take care of your own negroes, manage your own affairs, regulate your own domestic concerns to suit yourselves, and when you have done your business, let your neighbors alone, you will be at peace with the whole world "and the rest of mankind." [Applause.] We in Illinois have done that very thing. We first, while a Territory, adopted slavery, and established it two years, and then, finding we could make no money out of it, it was not profitable in our climate, it was not good for us and our posterity, and we abolished slavery, as we had a right to do. You in Missouri just follow our example, by doing just as you please. If you want it, have it; if you do not want it, abolish it; it is your business, not ours. [Applause.] Having decided our institutions to suit ourselves, we have performed our whole duty under the Constitution, and we recognize the right of every other State to do the same thing, without interference from any quarter whatsoever.

Now, my friends, if these great principles of State rights and State sovereignty are regarded, there is no reason why the North and the South, the East and the West, shall not be friends of a common confederacy. Let these great principles be guarded, and our political system is susceptible of indefinite expansion. We can then add to our Republic steadily, slowly, gradually, and just as fast as needed, Mexico, Cuba, and all the adjoining country, and adjacent islands, without endangering the confederacy. [Great applause.] It is the mission of Democracy to go on and expand, spread, extend the area of our republican institutions just as fast as we shall find that our increased population requires additional territory. That system of progress and expansion can never be carried on unless Congress adjure the right to interfere with the local domestic institutions of the Territories as well as of the States, and leave each free to decide for itself what their institutions may be.

The Democracy has a great mission before it. Look to the past and you will find that whatever is historical is the act of the Democratic party. The Democracy is the only historical party in this country. If this Union is preserved, if we transmit our institutions unimpaired to our latest posterity, it must be through the agency of that Democratic national party, which has preserved the union and the integrity of the Constitution wherever the American flag waves over American soil. My friends, I have unconsciously been led into a political speech, when I only intended to return you my thanks for this manifestation of your approbation. I have just come out of a contest in which I have had to fight the enemies of the Constitution, and for the peace and quiet of the Union. I am glad to find that the spirit of patriotism is still burning in every American heart on this side, as well as on the other bank of the Mississippi river. If we are faithful to these great principles there is a brilliant future waiting us in the times that are to come. In times past, the Whigs and Democrats fought for the Constitution, and now, since sectional men have united for sectional warfare, let all national men, whatever may have been their past creed, unite against sectionalism, and it is equally patriotic for the States and peace to the Union. [Applause.] Renewing to you my thanks for this manifestation of your kindness, I now bid you good night. [Cheers.]

THE WALKER ENCHANTS.

THE EXPEDITION STOPPED—GREAT DISCONTENT IN NORTH—THE GROUNDS OF WHICH A CLEARANCE IS REFUSED.

Correspondence of the New York Times.]

WASHINGTON, November 21.

It appears that Messrs. J. Hess & Co., of Mobile, made application to the Collector of that port for a clearance of the bark *Alice Painter*, with provisions and passengers for Greytown. The cargo consisted of flour, pork, beef, sugar, &c., and agricultural and mechanical implements, with a few small parcels of household goods. Between three and four hundred men, calling themselves colonists, were ready to embark, with a view, it was stated, of becoming resident citizens of Nicaragua. The Collector learned from a quarter not liable to be misunderstood, that the persons who proposed to emigrate by the vessel were furnished with passports from Senor Yrisarri, Envoy Extraordinary and Minister of Nicaragua.

The notice of the clearance of the vessel was given by Gen. Walker. From what can be gathered upon the subject, the Treasury Department has no doubt that the persons who have set on foot the present enterprise, whatever it may be, are in part, if not entirely, the same, as those who were concerned in the equipment, loading and clearance of the *Fashion* in the year 1857 (November) at the port of Mobile.

What subsequently transpired was wholly inconsistent with the truth of the representations at that time made to the Collector. As arms and ammunition to large supplies, were landed with the cargo in Nicaragua, it clearly appears that false manifests were used to procure the clearance of the Fashion; and it also appears that false papers, in relation to the character of the cargo were produced to lull suspicion as to the true character of the voyage.

These facts carry with them the irresistible conclusion, first, that the expedition escaped by false and deceptive proofs at the custom-house; and, second, that it was (in violation of the laws) a military expedition, set on foot in the United States, to be carried on from their territory and jurisdiction.

The persons who were active in promoting shipment, loading and clearance of the *Fashion*, are prominent in engaging in the shipment, loading and clearance of the *Alice Painter*. The pretences which were made use of to influence the clearance of the one, are the same as those now presented to obtain a clearance for the other.

It is a significant fact there has appeared in the newspapers a circular letter, and identical in its language with those of General Walker. Both of them invite emigrants to come to Mobile. They speak of associations have been formed in this country to colonize a foreign State, without any countenance or sanction of the authorities of the State, or any communication with them. When it is known under what circumstances these associations have been formed, their design appears more conspicuous.

The Secretary of State, it appears, inquired of Senor Yrisarri whether he had given passports to the emigrants, and found the fact to be true. Thereupon, he directed the Collector of the port of Mobile. Now, such have been issued under his authority, or within his information. If passports have been shown to the Collector, the fact furnishes another circumstance to make him distrust the good faith of the applicants. In fact, it should be conclusive on his action, as without proper passports it is admitted that these persons could not land in Nicaragua as peaceful emigrants. If these persons were presented with written passports from the Nicaraguan Minister, it would present an entirely different case, and one in which the Collector would be justified in granting a clearance.

For these reasons, only set forth in the reply to the Collector's letter, he is directed to withhold the clearance applied for.

It is not the province of the Collector to interfere with any lawful trade between Mobile and the port of San Juan de Nicaragua, or any other foreign port, or to prevent peaceful emigrants from proceeding in good faith to settle in Nicaragua, or any other foreign country. And should any such case occur, from the circumstances surrounding this one, clearance will be granted to such vessels.

These illegal expeditions have already embarrassed the efforts of the government of the United States. They violate the laws of nations and the acts of Congress, and with the national character. Nicaragua is entitled to repose in the confident belief that she will fully enforce the laws of the United States, shall maintain relations of peace and amity with her Government and people.

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