Book Reviews/Comptes rendus

JANICE GROSS STEIN et al., Uneasy Partners: Multiculturalism and Rights in Canada. Waterloo: Wilfred Laurier University Press, 2007, xiii + 165 p., index.

CATHERINE DAUVERGNE, Humanitarianism, Identity, and Nation: Migration Laws in Canada and Australia. Vancouver: University of British Columbia Press, 2005, 241 p., index.

AVAGAIL EISENBERG (Ed.) Diversity and Equality: The Changing Framework of Freedom in Canada. Vancouver: University of British Columbia Press, 2006, 207 p., index.

STEPHEN TIERNEY (Ed.) Multiculturalism and the Canadian Constitution. Vancouver: University of British Columbia Press, 2007, 256 p., index.

GERALD KERNERMAN, Multicultural Nationalism: Civilizing Difference, Constituting Community. Vancouver: University of British Columbia Press, 2005, 144 p., index.

Constructing Multiculturalism: New Perspectives

Multiculturalism looms large in Canadian public discourse, but the picture that emerges is far from consistent. On the one hand, it appears to have a high level of popular support. According to the polls, most Canadians not only approve of our official endorsement of diversity, but think it makes the country a better place to live (Jedwab, 2006; Jedwab, n.d.). The impression we get from the media, on the other hand, is that it's a festering threat to the social fabric. Presumably at least some of this discrepancy may be attributed to the fact that when multiculturalism hits the headlines, it is usually in connection with some kind of disturbance. The Shariah law debates in Ontario. The airlift of 15,000 non-resident "Canadians" from Lebanon. The Herouxville anti-immigrant code of conduct. The Canadian Islamic Congress complaint against Maclean's for hatemongering. Exacerbating matters, the news is generally delivered in the most sensational manner possible. An on-line search of Maclean's archives in August 2008 turned up 94 headlines, of which the vast majority was cautionary, pessimistic, or downright alarming. But this is just media hype - right?

Perhaps. Certainly if we move up the ladder to more upscale publications, the picture is considerably less hysterical. Both Walrus Magazine and the Literary Review of Canada, for instance, seem to have gone out of their way over the last couple of years to maintain a careful balance between positive and negative perspectives. Even more reassuring, it's the most negative articles that tend to stimulate the most reader protest. Canadians, it would seem, don't want to hear bad things about their multi-culti nation. Lest one assume from this that the bad press is nothing but attention grabbing, however, it should be noted that the highbrow authors focus on much the same hot spots as the popular ones. True, they tend to be more moderate in their criticisms, and to offset their discussions of problems with assurances that multiculturalism is, at root, a "good thing," and to go out of their way to reject the simplistic views of the naysayers. Notwithstanding, the fact remains that it's the problems, not the successes, that they dwell on.

We find an interesting demonstration of this ambivalence in the aptly titled Uneasy Partners: Multiculturalism and Rights in Canada. Though published by an academic press, this anthology was a direct product of the public debate. In September 2006, Janice Stein, Director of the Munk Centre for International Studies at the University of Toronto, published an essay in the Literary Review of Canada on the conflict between religious and secular rights, as manifested particularly in debates over the religiously-justified subordination of women, which stimulated (among other things) columns by John Ibbitson and Haroon Siddiqui in The Globe and Mail and The Toronto Star. At the urging of Wilfred Laurier University Press, these three pieces, suitably expanded and augmented with invited responses from a variety of well-known journalists and scholars, were turned into a book. Does it make an interesting read? Yes. Does it add nuance and balance to the media-stoked controversy? At least on the surface. Does it paint an accurate picture of multiculturalism in Canada? In my view, not so much.

Stein's own stance on multiculturalism could best be described as apprehensive. While acknowledging the extent to which diaspora has enriched Canadian culture, she suggests that both the government and the courts have gone too far to accommodate religious sensitivities at the price of eroding the equality rights that Canadians hold so dear. This imbalance, she says, has triggered a range of negative developments, from localized battles over hijabs and kirpaans, through resistance to the use of public funds for separate schools or facilities, to the increased ghettoization of Canadian cities.

The responses of her colleagues to these concerns are mostly reassuring. Siddiqui thinks the disaffection is overblown, exacerbated by media attention and lurking fears of terrorism. Ibbitson suggests that whatever frictions may exist, our laws are adequate to deal with them. David Robertson Cameron praises Canadian moderateness. Because our minorities feel less excluded, he says, they are less defensive, which in turn – media stoking notwithstanding – stimulates less backlash. Will Kymlicka cites cases and statistics to show that, whatever our warts, Canadian multiculturalism has been very successful in world terms. In this sense, the collection as a whole operates as a counterpoint to the anxiety that Stein evinces on our behalf.

Note, though, that I said "as a whole." Despite the generally hopeful tone of the book, the optimism is far from seamless. John Meisel worries that our strengths are also our weaknesses. The same values that have made Canadian society humane, open, and non-aggressive, he says, also make us a weak player on the world stage. Michael Valpy, even more pessimistically, points out that the current discord is rooted in real problems, like the global rise of religious fundamentalism and the failure of recent Canadian immigrants to thrive. So-called "multiculturalism-lite" food, fashion, and festivals - disguises the fractures, but resolving the underlying contradictions will need more than rhetoric. Even among the boosters, there is invariably a "but...." Multiculturalism has been a generally positive force, but there are problems – and they are getting worse. Two themes recur throughout the collection. The first has to do with the economic disadvantage of visible minorities in general and immigrants in particular, which has been aggravated in recent years by the shrinkage of government funding for adjustment programs and social transfers. Not much is said about this, beyond noting it as a concern, perhaps because it seems both self-evident and intractable. The second focuses on the ideological conflict that multiculturalism mobilizes between irreconcilable goals or values: diversity versus cohesion (Valpy), equality versus freedom (Stein). It's the exploration of this latter theme that provides the book's most interesting material.

Unfortunately, it also illustrates what, for me, is its primary weakness.

Why? Part of it is the reduction of a complex phenomenon to an abstract dichotomy. Diversity or cohesion. Equality or freedom. Oppressing women or violating deeply held religious convictions. A larger part, though, is the lack of context. Kymlicka notes that what is interesting about multiculturalism is not the fact – or the problem – of diversity, but the different ways it is dealt with at different locations. The observation points up the fact that there is little in these essays to show how our particular version of multiculturalism relates to the "large cultural system" (to steal a phrase from Benedict Anderson's book Imagined Communities, 19) that preceded and underlies it. Like the media treatments, most of these authors talk about the phenomenon of multiculturalism as if it were something sudden and new, a byproduct of postmodernism, right up there with globalization and the internet. Apart from a few token nods to the role of the Charter, and the "French fact," and the weak identity that supposedly makes us more accepting of difference, there is little sense of "place" in these accounts, and even less of history.

Noticing this gap clarified for me what I had been finding so irritating about recent constructions of the so-called multiculturalism question. Even for those authors who rise above current events, painting Canadian multiculturalism as a variant or a consequence of global phenomena is like discussing the American Revolution as an artifact of Enlightenment thinking without asking what particulars of the American colonial experience made it such fertile ground. In order to flesh out our particular context, I thought it would be interesting to look at how the Canadian version of multiculturalism relates to and emerges from the historic interplay between Canadian sentiment and Canadian institutions, between everyday experience and the public arena. For perspectives on this critical conjunction, I decided to check out what UBCP's Law and Society series had to offer on the subject.

The first book that caught my eye, Catherine Dauvergne's Humanitarianism, Identity, and Nation, is a comparison of Canadian and Australian approaches to migration law. While only indirectly related to my central topic, it seemed a good starting point for two reasons. First, immigration has become a flashpoint in recent Canadian views of multiculturalism. Second, in Dauvergne's treatment, migration law provides a privileged perspective on how we construct the categories that determine our inter-group relations.

The book begins by explaining the rationale for the project. Law and nation, says Dauvergne, are mutually constitutive - each defines the boundaries of the other. The subset of migration law and national identity extends this function by defining relationships across borders, between inside and outside, us and them. On the surface, migration law seems to be about the classification of others - worthy or unworthy, useful or burdensome, dangerous or vulnerable - but in making these distinctions we also define "self." Beneath the legal verbiage, migration law expresses national values and priorities. Sometimes the expression is quite direct. When we prioritize certain ethnic groups, points of origin, skills, education, financial resources, family relationships, etc., it reflects how we perceive the needs of insiders. The refugee subset is more elusive. There is a consensus among Western nations, based on our shared liberal values of freedom and equality, that we have to admit some applicants on the basis of their need, not ours. How the choice is made, however, says as much about the host as the incomers. This is where the study of migration law is most revealing.

Dauvergne's next step is an explanation of her methodology. Liberal theory seems the most obvious jumping off point for analyzing migration law, she says, because (1) the two emerged historically from the same roots, (2) immigration is most important in settler societies with liberal roots, and (3) global culture is primarily shaped by liberal values. Counter intuitively, however, when it comes to understanding national priorities, it has only limited value. Liberal principles may dictate some sharing, but it won't tell us who, why, or how to choose. In the absence of a clear justice standard, says Dauvergne, the concept of humanitarianism has become central. It's here we find the key to the reflective function. While sounding reassuringly altruistic (which is, of course, part of its value), humanitarianism is such a vague and elastic notion that it can be

manipulated to serve political purposes, meet shifting imperatives, send desired messages, most of all, patch over ambiguities and inconsistencies in both policy and application. We can see this useful malleability, says Dauvergne, if we compare the approaches taken to immigration by two ostensibly very similar nations, Canada and Australia.

On the surface, they don't seem all that much different. Humanitarianism plays a major and seemingly very similar role in the rhetoric of both countries. When we look at the practice, however, it becomes clear that there are very different visions at work.

A few examples will suffice. In Australia, Dauvergne tells us, most immigrants are selected abroad, a process that implies few or no obligations for the potential host. Illegal migrants are detained on entry, and clearly labeled as aliens. There is strict control of numbers. The acceptance rate is low – only 10-13%. Hearings are pragmatic rather than legalistic, relying heavily on "hard" evidence rather than personal testimony. Decisions are formulaic, detailed, and boring. When anomalies arise, both frontline and ministerial discretion is narrowly defined and rarely exercised. The way the process is framed emphasizes host generosity rather than the rights or merits of the claimants. What this process bespeaks, says Dauvergne, is a nation that feels vulnerable on numerous levels. "Australian migration law sends the message that this nation is distant from those migrants it has most affinity with and surrounded by those whose values may threaten its control over its membership" (218).

In Canada, the principles at work are clearly quite different. "The impulse to control is weaker: targets are more flexible, discretion is more openly used, judicial decision-making is given a wider scope" (218). Reflecting this general looseness, the "boundaries" established by the process are significantly more porous. The overseas program is much smaller relative to the domestic program. Numbers are variable because of sponsorship provisions, but the acceptance rate is typically around 50%. Hearings put less weight on evidence, more on the ability of claimants to produce a coherent narrative. Rights discourse plays a highly visible part in the process. Courts talk about a "duty of fairness." Even the official terms of reference are less rigid. Admission criteria allow for a much wider range of circumstances, plus there is a catchall category of "compassionate considerations." Clearly this is a system where there is more room for individual treatment.

Why the difference? Obviously it's not just accident. The divergence we see here is far too systematic to be written off as circumstantial. Dauvergne herself speculates that there is less fear of incursion in Canada, but reading this text against the background of Canadian culture casts considerable doubt on this explanation. There are many who would claim that our fear of being overwhelmed by the elephant to the south is, for good or ill, the central fact of the Canadian experience. More likely possibilities would be a weaker sense of identity, empathy with the vulnerable, or a defensive rejection of the American example. Whatever the explanation, however,

Dauvergne's findings carry two important lessons for present purposes. One is that the choices we make in constructing our social reality are driven as much by psychological predispositions as by pragmatic political motives. (One might argue, for instance, that the Canadian immigration system is too ad hoc and unpredictable to be practical, but it is very Canadian.) The other is that multiculturalism in these two countries – arguably in any two countries – begins from a very different playing field.

Having established a conceptual baseline for my project, my second choice was a book whose title seemed to summarize the essence of the recent public debate: Avagail Eisenberg's Diversity and Equality. As described by its editor, this collection had its start in a "conversation among colleagues and students" at the University of Victoria that culminated in a symposium. This seemed a promising beginning, given that what I was looking for was alternatives to the rather monolithic media narrative.

Eisenberg's introduction also seemed promising. She begins by noting that many of the issues around minority rights remain the same as they were a quarter century ago, but the public debate has a much higher profile. The Charter and its attendant hype brought about a sea change not just in the law but in public rights-awareness. A large part of the reason for this, she says, is that minorities and interest groups helped shape the document, giving them a sense of ownership. Not everyone was pleased, to be sure. The most frequently voiced concern was that the rights obsession, and the increased power of the courts, has weakened Canadian democracy. Eisenberg weighs evidence for and against this claim, and, noting the growth of public forums on political change, finds it unlikely.

Aside from the increase in participation, the other big plus of the post-Charter era was the development of better legal and political tools for rights-seekers and better theoretical tools for scholars. Among the latter, Eisenberg singles out Charles Taylor's "politics of recognition" and Will Kymlicka's concept of "multicultural citizenship" for special mention. Though differing in their assumptions and focus, she says, these two thinkers helped usher in a general shift of emphasis from sameness to difference. They also brought to the fore many of the quandaries that have come to define the terms of debate. Taylor highlighted the tension between individual and communalist values; Kymlicka deplored the Americanized nature of postwar liberalism, which made it a poor model for negotiating Canadian problems. Critics have suggested that putting so much effort into "recognition" hampers efforts to secure progressive economic redistributions, but if nothing else, the new theory gave rise to a rich, stillongoing conversation about how to reconcile equality and diversity.

In the last few pages of her introduction, Eisenberg introduces a notion with particular resonance for my own investigation. Understanding the meaning of rights in Canada, she says, must be grounded in the real history of particular groups, the failures as well as the successes. Ideas of religious freedom shaped by Catholic/Protestant relations, for instance, have been serially challenged by controversies around Jehovah's Witnesses in the fifties, Sikhs in the nineties, and Muslims today. The primary value of the book, she says, lies in its ability to capture such phenomena through its "partiality and local roots." Binding the diverse components together, meanwhile, are four important cross-cutting themes: the tension between the self-determination of aboriginal people and the mainstream emphasis on individual rights which leads to cultural homogenization; the more general tension between protecting rights and protecting cultures; the conflict between the accommodation of minorities and the protection of vulnerable members of such minorities; and new approaches to freedom of religion as something beyond mere cultural differences.

As interesting as this sounds in prospect, unfortunately, when it comes to performance the book fails signally to live up to its, or at least Eisenberg's, promise. The subject matter, for one thing, is much narrower than the leadin suggests. Five of the nine entries are on religion or aboriginal issues, one is on feminism, one is on children's rights, two are pure theory. More important, while the themes are as advertised, what isn't as advertised is the shortage of "real history." If I had to characterize this collection, the words that would spring most readily to mind would be abstract, or ungrounded. There are exceptions, to be sure. Eisenberg's own essay, on the development of the Supreme Court's "distinctive culture test" for assessing aboriginal entitlements, makes good use of particular cases. And John McLaren's piece about the accommodation of minorities in education is not only rooted firmly in a palpable past (as his main example, McLaren traces the legal treatment of religious minorities from the twenties to the present), but provides an admirably specific Canadian/American comparison. Some of the theoretical pieces are good, too, of their ilk – like Maneesha Deckha's nuanced comparison of deconstructionist versus postcolonial treatments of cultural claims in "Gender, Difference, and Anti-Essentialism." Regrettably, these pieces are anomalies. Most of the articles in this collection are, to me anyway, dense, finicky, and depressingly academic.

Is it legitimate to criticize a book for something it doesn't claim to do? Rereading it after the fact, I noted that the back cover blurb is carefully generalized. "Diversity and Equality critically examines the challenge of protecting rights in diverse societies such as Canada." "At stake in these debates about rights and autonomy in multicultural and multinational democracies is the very meaning of freedom." Counter this, though, is Eisenberg's aforementioned observation that rights can only be understood in the context of the particular experience of particular groups. Since that's what I believe myself – and not just of rights, but of law in general – I was naturally disappointed to find so little sign of such experience in this book.

After this letdown, I approached my third UBCP book, another anthology, with significantly lower expectations. Fortunately I was wrong again – though this time it was my pessimism that proved groundless. Stephen Tierney's Multiculturalism and the Canadian Constitution turned out to be the book I was looking for; the one I would choose as a course text or recommend to a colleague seeking a one-stop primer on multiculturalism.

The subject matter of this collection is divided into two parts. The first part provides the context, the second uses case studies to zero in on key issues. Again the editor notes cross-cutting themes (3-4): "First, how might we explain in ideological terms the Canadian commitment to both cultural and territorial diversity?" "Second, what explanations can we find for the successes of Canadian constitutional law and policy" in the area of multiculturalism? Third, is there "a distinctive 'Canadian model' that differs from approaches taken elsewhere," or are the differences in outcome only coincidental? And last, how do we deal with "the tensions...between the accommodation of territorially based identities through federalism and a multicultural policy that accentuates the identities of non-territorial groups?" It is already clear from the wording of these questions that the focus of the book is specifically and recognizably Canadian.

Part 1 opens with what Tierney describes as three "reflective chapters," each of which examines a different aspect of Canada's constitutional evolution over the past half century.

The lead essay by Hugh Donald Forbes, predictably but appropriately, talks about Trudeau's role as the architect of multiculturalism. Of particular interest is his rejection of the common view that the policy was a cynical ploy to offset Quebec nationalism by shifting the focus of citizen identification. Trudeau's commitment to multiculturalism, says Forbes, was both longstanding and real. From passage of the Official Languages Act in 1969 to the entrenchment of the Charter in 1982, he devised a variety of complementary strategies – changing immigration policy, grappling with the Indian Act, establishing cultural subsidies and exchanges, beefing up the human rights system – to further his vision of "multiculturalism within a bilingual framework."

Chapter 2, by Michael Temelini, complements Forbes' account by providing a less considered side of the picture. Counter to what he terms as the "juridical paradigm," Forbes sees multiculturalism as an outgrowth of sixties radicalism, both at home and abroad. Using this "alternative" perspective as a point of entry, he reexamines early political initiatives from Diefenbaker's Bill of Rights to Pearson's "B & B" Commission, and applies lessons learned to past and current theories about how multiculturalism arose and how it works.

Chapter 3, by Will Kymlicka, looks more directly at Tierney's question about Canadian uniqueness. For Kymlicka, the real key to Canada's success in accommodating diversity lies less with political astuteness than with timing (grappling with issues raised in the early sixties by the Quiet Revolution made us readier to deal with later incursions), geography (because we haven't had to face masses of unwanted immigrants from neighbouring countries, our intake has been diversified and thus easier to digest), and luck. This doesn't diminish the success, he says, but it does mean that the model is probably not portable. The next two chapters move beyond the Charter to the ill-fated amendment initiatives of the late eighties, early nineties. Ian Peach's article, titled "The Death of Deference," is the most overtly ideological of the entries. Billing the Charter itself as a triumph of populism, Peach attributes the failure of the Meech Lake and Charlottetown accords to the government's reversion to its old elitist tactics. The problem with this approach is that it detaches one phase in the process from what is obviously a much longer and more complex evolution. Besides, watershed explanations - X happened, and everything changed forever - are vulnerable to post facto disconfirmation. If Canadians are no longer deferential, how do we explain the popularity of such a notable authoritarian as Stephen Harper? Absent the assumption of a watershed, one might equally well claim that Meech and Charlottetown failed because they weren't elitist enough - that Canadians reacted nervously to the idea of the feds offloading their responsibilities to the provinces. From this standpoint, I found Marc Chevrier's account of the same events both more useful and more compelling. Viewing the subject matter against the history of Canadian federalism, Chevrier claims that the failure of the accords was not unicausal - it resulted from the interplay of numerous factors, interests, players, and political manoeuvres, some new, some long-standing, but all contributing to what the author calls "a work in progress."

Chevrier's chapter makes a fitting conclusion to the first section. It also provides a good example of what I see as the main strength of this book – and what I found wanting in Eisenberg. Chevrier acknowledges competing theories and perspectives, but rather than arguing them in the abstract, he tests the various possibilities against particular events. In doing so, he puts multiculturalism in a much more interesting light, as one thread in an intricately interwoven tapestry.

The backdrop established, Part 2 refocuses the investigation on particular issues and cases: the political uses of language policy; the changing role of international treaties; former Chief Justice Brian Dickson's contribution to the development of a uniquely Canadian constitutional jurisprudence; the utility of section 27, the Charter's "multiculturalism clause;" the question of whether welfare should be a human right. A critic might claim that some of these articles are too technical to be fully appreciated by anyone but a legal insider. Difficulty notwithstanding, however, they provide an important complement to the broad strokes of Part 1, if only by illustrating the complexity of what has recently come to be viewed as an artifact of "the times." They also play an important illustrative function. As fiddling and quibbling as these legal analyses may seem to the layperson, they provide a tangible demonstration of how, in practical terms, policy, as an expression of communal values, is translated into concrete rules and practices. (See McGregor 2004.)

The last book on my list was not just the oddest, but the most infuriating. Whatever insights there may be in Gerald Kernerman's Multicultural Nationalism, unearthing them requires wading through a morass of overblown verbiage. Most annoying is the author's habit of circling back, over and over, to repeat the same points in slightly different terms. In the end, I was left unsure whether the exasperation was worth it. Well, that's not quite true. In the end, Kernerman's vision was intriguing enough to buy him some patience (though that didn't make it any less exasperating).

Let me see if I can capsulize the basics. According to Kernerman, because consensus on the constituents of identity eludes us, Canadians have been obsessed with finding some basis for cohesion. Some claim that the quest itself has become the core of Canadian identity. For Kernerman, however, the reality is more complicated. It isn't our commonalities that constitute identity, he says, so much as the shape taken by our disagreements, especially their stubborn resistance to closure. Attempts to mediate our differences invariably fail since every apparent synthesis contains seeds for further protest. As a result, no position is stable. The sticking point is that difference implies hierarchy, so someone is always left feeling slighted. If we try to subordinate differences within a common framework, on the other hand, the same someones claim that they are being denied their rightful distinctiveness. The genius of the Canadian system is that it accommodates rather than attempting to resolve this impasse.

How? At the risk of oversimplifying, it boils down to a shift from content to form. To explain, Kernerman borrows Foucault's concept of governmentality, the process by which people and groups are conditioned to regulate themselves. The liberal version of this must balance the vision of free individuals with the need for constraints to protect that freedom. It is therefore necessary to train people to self-express in safe ways. In Canada's case, this involves directing multiculturalism along less threatening lines to avoid the backlash that would destroy it. "Canadian nations, as imagining communities, take shape through ... line-drawing" (93), but the Canadian modus when nervous is exploring relation, not underlining division. The result, according to Kernerman, is a collective penchant for mediation through forms of social ritual. "Paradoxically, the citizen interaction that results from what I call multicultural panopticism is a basis for cohesion, even as it aims to define and differentiate" (93). Multiculturalism policy doesn't just allow spaces for such interactions to occur, but provides the scripts and categories that will govern them. The price of tolerance is the expectation that citizens will perform their prescribed identities. "[T]he common act of placing one's diversity on display constructs and reinforces a more general basis for cohesion unity" (101).

On one level, Kernerman's theory seems both novel and strained. On another – stripped of the postie jargon – it sounds very familiar. One of the things that struck me most about this book, in fact, is the way Kernerman's analysis, particularly his description of mechanisms for deferring divisive solutions, rehearses key features of the Canadian legal landscape. While the trends I am thinking of are ubiquitous, the Charter is a perfect case in point. As I have observed elsewhere (McGregor 2003), one of the most distinctive features of this document is something that Carolyn Tuohy, in her 1992 book, Policy and Politics in Canada calls "institutionalized ambivalence." What this term designates – and Tuohy sees it as a defining characteristic of Canadian social and political arrangements, not just of the Constitution – is a strategy for dealing with multiple tensions between conflicting sets of priorities or allegiances not by compromise but by incorporation. "[W]hat appears distinctive about Canadian institutions is their extraordinary capacity to embody conflicting principles within structures ambiguous enough to allow for ad hoc accommodations over time" (xvii). But note that phrase "allow for." The Charter's ambivalence inheres in a non-hierarchical juxtaposition of competing values. Ideally, such an arrangement promotes conciliation by resisting simple or draconian solutions. Differences are bridged simply through inclusion. According to Kernerman – and now that he has drawn my attention to it, I have to agree – Canada's version of multiculturalism does the same thing.

Read in conjunction with Tierney's more conventional histories, it seems to me that this insight, however tortuously articulated, provides an eminently satisfying last piece to the puzzle.

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Gaile McGregor, University of Western Ontario.

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