ANNO QUADRAGESIMO SEXTO

GEORGII III. REGIS.

CAP. LXXX.

An Act to provide for the more effectual Examination of Accounts of the Expenditure of the Publick Money in the *Weſt Indies*, and for the better Diſcovery of Frauds and Abuſes therein.

[3d *July* 1806.]

WHEREAS by an Act paſſed in the Forty-firſt Year of His preſent Majeſty's Reign, intituled, *An Act to authorize His Majeſty to appoint Commiſſioners for the more effectual Examination of Accounts of Publick Expenditure for His Majeſty's Forces in the* Weſt Indies, *during the preſent War*, divers Proviſions were made for the more ſpeedy and effectual Examination of the ſaid Accounts during the then exiſting War: And whereas it was by the ſaid Act provided, amongſt other Things, that nothing therein contained ſhould prevent the Commiſſioners for auditing Publick Accounts, appointed under an Act, paſſed in the Twenty-fifth Year of His preſent Majeſty's Reign, intituled, *An Act for better examining and auditing the Publick Accounts of this Kingdom*, from inveſtigating or paſſing or making up any of the ſaid Accounts of Expenditure in the *Weſt Indies*, but that on the contrary, the Commiſſioners to be appointed under the ſaid firſt-mentioned Act ſhould act in Aid only of the ſaid Commiſſioners for auditing Publick Accounts: And whereas it is expedient that ſome further and more effectual Proviſion ſhould be made for the more ſpeedy and effectual Examination of the ſaid Accounts of Expenditure in the *Weſt Indies*, and alſo for diſcovering and preventing Abuſes in the ſeveral Departments concerned therein; be it therefore enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That, from and after the paſſing of this Act, the ſeveral Powers and Authorities by the ſaid recited Act of the Forty-firſt Year of His Majeſty's Reign, given to or veſted in the Commiſſioners appointed under the ſame Act, ſhall ceaſe, determine, and be no longer executed,

41 G. 3. c. 22.

Powers given by Act 41 G. 3. c. 22. to ceaſe.

II. And

His Majesty may appoint Commissioners for enquiring into the Abuses and examining the Accounts of Persons concerned in the Expenditure of the Public Money in the West Indies and on the Continent of South America.

II. And be it further enacted, That from and after the passing of this Act, it shall and may be lawful for His Majesty to appoint Five Commissioners under the Great Seal of *Great Britain*, for enquiring into all Frauds and Abuses that have been at any Time since the First Day of *January* One thousand seven hundred and ninety-three, or that may hereafter during the Continuance of the present War, and until the Expiration of Twelve Calendar Months after the Ratification of a Definitive Treaty of Peace with all the Powers with whom His Majesty is at present at War, or may hereafter be engaged in War during the Continuance of the present War with *France*, be committed by any Persons whatever concerned in the Management or Custody of the Publick Stores or Provisions, or in supplying or furnishing, advancing, applying, or expending any Money, Bills, Provisions, Stores, or other Articles, for the Publick Service, or in negociating Bills, or in contracting for the Hire, or in hiring or letting of any Vessels for the said Service, or in any other Way whatever concerned in the Expenditure of Publick Money in any of the Islands in the *West Indies* or on the Continent of *South America*, and for examining the Publick Accounts of all Commissaries, Deputy Commissaries, Deputy Paymasters, and all other Officers and Servants in the Military and Civil Branches of the Army, or of the Ordnance or Engineer Departments, and of all other Persons whatever, who have been or shall or may be concerned in the Expenditure of the Publick Monies, or in supplying or furnishing, advancing, applying, or expending, any Money, Bills, Provisions, Stores, or other Articles for the Publick Service, or in negociating Bills, or in the contracting for the Hire, or in hiring or letting of Vessels for the said Service, or who have had or shall or may have the Management or Custody, Receipt or Issue, of any Part of the Publick Stores or Provisions in any of the Islands in the *West Indies* or on the Continent of *South America*, from the said First Day of *January* One thousand seven hundred and ninety-three, until the Expiration of Twelve Calendar Months from the Ratification of a Definitive Treaty of Peace as aforesaid.

Treasury may appoint Officers and Clerks to assist the Commissioners, and allow them Salaries and incidental Charges.

III. And be it further enacted, That the Lords Commissioners of the Treasury of *Great Britain*, or any Three or more of them, may appoint such Secretary or Secretaries, Officers and Clerks, and other Persons, to aid and assist such Commissioners to be appointed as aforesaid under this Act, as may from Time to Time be necessary, and may allow them such Salaries as shall be proper, and also reasonable Sums for incidental Charges, the same to be paid out of the Consolidated Fund of *Great Britain*, and to be issued clear of all Deductions.

Salaries to be paid out of the Consolidated Fund to the First and other Commissioners, and additional Salaries to Commissioners sent to the West Indies or the Continent of America.

IV. And be it further enacted, That there shall be paid, from and out of the Consolidated Fund of *Great Britain*, to such One of the said Commissioners who shall be first named in the said Commission, an annual Salary not exceeding One thousand five hundred Pounds, and to each of the other Commissioners, an annual Salary not exceeding One thousand Pounds; and that when any of the said Commissioners shall be sent out to the *West Indies* or to the Continent of *South America*, in Manner hereinafter mentioned, such additional Salary may be allowed and paid out of the said Fund to such Commissioner or Commissioners so to be sent out, as the said Lords Commissioners of His Majesty's Treasury, or any Three or more of them, may think fit, so as that the additional Salary payable to

every

every such Commissioner so sent out, shall not exceed the Sum of Five hundred Pounds.

Commissioners appointed under this Act to be subject to the same Regulations and invested with the same Powers as Commissioners for auditing Publick Accounts.

V. And be it further enacted, That the Commissioners to be appointed under the Authority of this Act, or any Two or more of them, shall be and they are hereby invested with such and the same Powers and Authorities, and shall perform the same Duties (except as herein-after excepted), and be liable to the same Controul, Regulations, and Directions, in every respect, in relation to the Examination of all Accounts hereby directed to be examined by them, and shall have the same Power of examining upon Oath, or otherwise, any Person or Persons touching the Receipt and Expenditure of Money forming the Charge and Discharge of any such Account, and touching all other Matters and Things necessary for the due Execution of the Powers vested in the said Commissioners by this Act, as the Commissioners appointed by virtue of the said recited Act of the Twenty-fifth Year of His present Majesty, for auditing the Publick Accounts, are now under the said last-mentioned Act, or by any other Law or any Usage or Custom invested with, or are subject and liable to, in relation to the Examination of any of the Publick Accounts of *Great Britain*; and the Examination of any such Accounts as are herein-before directed to be examined by the Commissioners to be appointed under this Act, or any Two or more of them; and all Matters and Things ordered, directed, or done by them in relation thereto, or to any Accountants, Sub-Accountants, or other Person or Persons concerned therein, or examined touching the same, in pursuance of this Act, shall be as valid and effectual in all Respects, and to all Intents and Purposes, as if the said Accounts had been examined, and the said Acts, Matters, and Things, done by the Commissioners appointed under the said recited Act of the Twenty-fifth Year aforesaid.

Commissioners, with Consent of Treasury, to select some of their Number to go to the West Indies or the Continent of America, who shall be vested with the same Powers as the other Commissioners, with certain Exceptions.

VI. And, to the Intent that the Objects of this Act may be more speedily and effectually carried into Execution; be it further enacted, That it shall be lawful for the said Commissioners, with the Consent and Approbation of the Lords Commissioners of His Majesty's Treasury, or any Three or more of them, from Time to Time to select and authorize Two or more of their Number, to proceed to the *West-Indies* or to the Continent of *South America*, there to enquire into the Frauds and Abuses, and to examine into the Accounts and Expenditure, and other Matters and Things herein-before mentioned; and such Commissioners, so selected and authorized, shall have full Power and Authority to execute, either separately or conjointly with the Persons herein-after named, or any of them, all the Powers, Authorities, and Duties herein-before specified with respect to the Commissioners to be appointed under this Act, except as herein-after excepted: Provided always, that notwithstanding any such Selection, and Absence from *England* in consequence thereof, of any One or more Commissioner or Commissioners, the remaining Commissioner or Commissioners shall and may proceed in the Execution of this Act as if such Selection had not been made.

Governors and other Officers empowered to act with the selected Commissioners in the Colonies.

VII. Provided always, and be it enacted, That the Governor and Lieutenant Governor, or Person acting as Governor, of each and every of His Majesty's Colonies and Settlements in the *West Indies* or *South America*, and the Commander in Chief, or Commanding Officer for the Time being, in each of the said Colonies and Settlements respectively, present in any such

ſuch Colony or Settlement, ſhall have Power to act with and aſſiſt the Commiſſioners ſo ſelected and authorized in the Execution of their Office, and of the Powers and Authorities by this Act given, in the ſeveral Colonies or Settlements reſpectively, as fully as if they had been by Name included in the original Commiſſion to be iſſued by virtue of this Act: Provided alſo, that nothing herein contained ſhall extend to authorize ſuch Commiſſioners, ſo ſelected and authorized, or the Perſons ſo aſſiſting and acting with them in the Execution of their ſaid Duties, to grant any ſuch Certificate of Allowance as is herein mentioned; but ſuch ſelected and authorized Commiſſioners and Perſons as laſt aforeſaid, ſhall, and they are hereby required, to report and tranſmit a correct and accurate Statement, under their Hands and Seals, of ſuch preparatory Inquiries, Inveſtigations, and Examinations, as ſhall be had by them, together with the Evidence relating thereto, to the Board of Commiſſioners in *England*, acting by virtue of this Act, who are hereby authorized and empowered to examine, and allow the Accounts of Expenditure to which the ſame ſhall relate, and to grant a Certificate thereof in the Manner herein provided; and ſuch Examination and Allowance, or the Certificate thereof, being produced to the Commiſſioners for auditing the Publick Accounts, ſhall be as valid and effectual to enable the final Audit, Statement, and Declaration of the ſaid Accounts, as if ſuch preparatory Inquiries, Inveſtigations, and Examinations, and the Evidence relating thereto, had been actually made and taken by the ſaid Board granting ſuch Certificate of Allowance.

Selected Commiſſioners to tranſmit Statements of Examinations to the Board of Commiſſioners acting in England.

VIII. Provided alſo, and be it enacted, That it ſhall be lawful for the ſaid Commiſſioners of the Treaſury, or any Three or more of them, by their Warrant, to appoint and authorize the Secretary attending ſuch Commiſſioners ſo to be ſelected as aforeſaid, in the Event of the Death or Reſignation of One of the ſaid ſelected Commiſſioners, to act in the room of the Perſon ſo deceaſed or reſigning, until His Majeſty's further Pleaſure ſhall be ſignified thereupon; and ſuch Secretary, ſo authorized, ſhall have full Power and Authority to act in ſuch Caſe as One of the ſaid Commiſſioners ſo ſelected, in the ſame Manner, and with all the ſame Powers and Authorities, as he might have done if his Name had been inſerted in the original Commiſſion, and he had been One of the Commiſſioners ſelected as aforeſaid.

Commiſſioners of the Treaſury may authorize the Secretary to the ſelected Commiſſioners to act in the Place of one of them deceaſed or reſigning.

IX. And be it further enacted, That for the better Execution of this preſent Act, the Commiſſioners to be appointed in purſuance hereof, or any Two or more of them, and alſo the Commiſſioners to be ſelected as aforeſaid, or any One of them, and any Perſon or Perſons appointed under this Act, to act in the Place of any ſuch Selected Commiſſioners deceaſed or reſigning, or to act with ſuch Selected Commiſſioners, ſhall be, and they are hereby authorized to meet and ſit from Time to Time, in ſuch Place or Places within this Kingdom, or in the *Weſt Indies* or Continent of *South America*, as they ſhall find moſt convenient, with or without Adjournment, and to ſend their Precept or Precepts, under their Hands and Seals, for any Perſon or Perſons whomſoever, and for ſuch Books, Papers, Writings, or Records, relating to any of the Matters to be enquired into, examined, and inveſtigated as aforeſaid, in purſuance of this Act, as ſhall be neceſſary for carrying into Execution all the Purpoſes of this Act; all which Perſons are hereby required and directed punctually to attend at ſuch Time and Times, Place and Places, as ſhall be

Commiſſioners to meet where convenient, and to ſend Precepts for Perſons, Papers, and Records.

be appointed by such Precept or Precepts, and to perform, fulfil, and obey all such Orders and Directions as the said Commissioners shall make and give in Execution of the Powers and Authorities by this Act given to them: Provided always, that the Execution of every such Precept issued in the *West Indies* or Continent of *South America*, shall be confined to the Island, Colony, or Plantation, in which the same shall be issued.

Commissioners to examine on Oath.

X. And, for the rendering more effectual all such Examinations as are intended to be had under this Act, be it enacted, That it shall be lawful for the said Commissioners, Selected Commissioners, and other Persons, authorized to execute this Act, and they and each of them are and is hereby authorized and required, to examine upon Oath, or Affirmation of Persons being Quakers (which Oath or Affirmation they, or any One of them, are and is hereby authorized to administer) all Persons whom they shall find Occasion to call before them to be examined, touching all Matters and Things necessary for the Execution of the Powers vested in them by this Act.

Persons neglecting to attend or to produce Accounts, or refusing to be sworn, or to answer Questions may be committed.

XI. And be it further enacted, That if any Person or Persons summoned to appear under the Powers of this Act, shall wilfully neglect or refuse to appear in Obedience to such Summons or Precept, or to bring or produce any such Accounts, Books, Papers, Writings, or Records as aforesaid, that shall be in his, her, or their Possession, Custody, or Power, and which he, she, or they shall have been required by such Summons or Precept to produce, or shall refuse to be sworn, or, being Quakers, shall refuse to affirm, or being sworn, or being Quakers having affirmed, shall refuse to answer any lawful Question on Oath or Affirmation, touching or concerning any of the Matters aforesaid, then and in every such Case it shall be lawful for the said Commissioners, or any Two of them in this Kingdom, and they are hereby authorized and empowered, to make and issue their Warrant or Warrants under their Hands and Seals, for taking and apprehending any such Person or Persons, and committing him, her, or them to such Prison as they shall think fit, there to remain without Bail or Mainprize, until he, she, or they shall submit to be examined touching and concerning all such Matters and Things necessary for the Execution of the Powers given by this Act, or to make such Productions as aforesaid, as the Case may be; and if such Case shall happen in the *West Indies* or Continent of *South America*, then and in every such Case it shall be lawful for the said Selected Commissioners, or Persons appointed under this Act to act with such Selected Commissioner deceased or resigning, or to act with such Selected Commissioners, or any Two of them, to make or cause to be made summary Application to any Court or Courts of Justice in any Island or Place in the *West Indies* or the Continent of *South America*, if any such Court shall be then sitting, or if no such Court shall be then sitting, then to the Chief Justice or other Judge of any such Court; and every such Court, or Chief Justice or Judge respectively, is hereby authorized and strictly required, on such Application so made as aforesaid, to issue such Special Process against the Person or Persons who shall have been guilty of such Default as aforesaid, as such Court, or Chief Justice or Judge, may deem necessary, to compel the Appearance before such Selected Commissioners, or Persons appointed under this Act to act in the Place and Stead of any Selected Commissioners, or to act with such Selected Commissioners, as aforesaid, of any such Person or Persons, or the Production of any such Accounts, Books, Papers, Writings, or Records,

as aforesaid, or to compel such Person or Persons to be examined, and to answer any such Question in Manner aforesaid.

A Writ of Habeas corpus may be awarded for bringing Person in Custody to be examined.

XII. And whereas it is expedient to make Provision for bringing Persons detained in Custody, under Civil or Criminal Process, to be examined touching such Matters and Things as are necessary for the Execution of the Powers given by this Act; be it therefore further enacted, That from and after the passing of this Act, it shall be lawful for any Judge of His Majesty's Courts of King's Bench and Common Pleas respectively, or for any Baron of His Majesty's Court of Exchequer of the Degree of the Coif, at his Discretion, and also for any Judge of any Island, Colony, or Plantation in the *West Indies* or *South America*, to award a Writ or Writs of Habeas Corpus for bringing any Prisoner or Prisoners detained in any Gaol or Prison in that Part of the United Kingdom called *England*, or in any of the said Islands, Colonies, or Plantations, within the Jurisdiction of such Judge, as the Case may be, before the Commissioners to be appointed or selected in pursuance hereof, or any Two of them, in this Kingdom, or any One of them in the said *West Indies* or *South America*, to be examined touching the Matters and Things aforesaid, so always that such Writs shall be issued and executed only within the Jurisdiction of the Court whereof the Person issuing the same shall be a Judge or a Baron.

Such Commissioners not to proceed to the final Settlement of any Account, but to investigate the Articles forming the Charge and Discharge of such Account, and grant Certificates of Allowance, which, with the Vouchers being produced, may be allowed by the Commissioners for auditing the Accounts as a sufficient Discharge.

XIII. Provided always, and be it enacted, That the said Commissioners, so to be appointed, shall in no Case proceed to the final Audit, Statement, or Declaration of any Account whatever, but that such Commissioners shall and may proceed to the Investigation of all Articles forming the Charge and Discharge of any such Account, so examined by them; and that in such Cases, where they shall find any such Articles of Charge and Discharge to have been properly authorized, and duly and regularly charged, incurred, and vouched, they shall and may grant to the Accountant a Certificate of Allowance for the same, which Certificate or Certificates, together with the Receipts, Vouchers, or other proper Proof of actual Expenditure, may be produced by such Accountant to the Commissioners for auditing the Publick Accounts, and may by them, if they think fit, be allowed as sufficient Vouchers for such Articles of Charge and Discharge in the Account of such Accountant, or be further examined into, as the Case may appear to them to require: Provided always, that nothing herein contained shall be construed to prevent the Lord High Treasurer, or the Commissioners of His Majesty's Treasury, or any Three or more of them, from directing and authorizing the said Commissioners for auditing the Publick Accounts to make, or the said Commissioners from making, any Allowances to the said Accountants, or any of them, by Warrant under the Hand of the said Lord High Treasurer or the Hands of the said Commissioners of the Treasury, or any Three or more of them.

Accountants and others, subject to the Examination of the Commissioners under this Act, shall demean themselves as directed by the 25 G. 3. c. 52. and shall

XIV. And be it further enacted, That all Accountants, Sub-Accountants, and other Persons, concerned in any Accounts, or in any Proceedings whatever, that shall be enquired into or examined under this Act, shall and they are hereby required to demean themselves in such Manner in all Respects, and to do all such Matters and Things as by the said recited Act of the Twenty-fifth Year aforesaid is directed and required in the Case of Persons examined before the Commissioners appointed under that Act, and shall be subject and liable to such Pains, Penalties, and Forfeitures, for

any

any Breach, Non-performance, Failure, or Neglect thereof, as by virtue of the ſaid laſt-mentioned Act they would have been ſubject and liable to, in caſe ſuch Accounts had been under the Examination of the Commiſſioners appointed under the ſaid laſt-mentioned Act. be liable to the ſame Penalties for any Neglect therein as they would have been under that Act.

Perjury.

XV. And be it further enacted, That in caſe any Perſon or Perſons, in the Courſe of their Examination upon Oath, or, being Quakers, upon Affirmation, before any ſuch Commiſſioners appointed under this Act, or any Two of them as aforeſaid, in *Great Britain*, or before any ſuch Selected Commiſſioners, or either of them, or any Perſon or Perſons appointed under this Act, to act in the Place of any ſuch Selected Commiſſioner deceaſed or reſigning, or to act with ſuch Selected Commiſſioners as aforeſaid, in the *Weſt Indies* or on the Continent of *South America*, ſhall willfully and corruptly give falſe Evidence, ſuch Perſon or Perſons ſhall be and is and are hereby declared to be ſubject and liable to ſuch Pains and Penalties as by any Law now in being, Perſons convicted of wilful and corrupt Perjury are ſubject and liable to in *England*: Provided always, that if any ſuch Offence, ariſing out of Proceedings under this Act, ſhall be committed in the *Weſt Indies*, or on the Continent of *South America*, it ſhall and may be enquired of, tried, and determined, either in the Place where the ſame ſhall be committed, or in His Majeſty's Court of King's Bench in *England*, upon an Information to be exhibited by His Majeſty's Attorney General, or an Indictment found, in which Information or Indictment the Offence may be laid and charged to have been committed in the County of *Middleſex*; and in caſe of ſuch Proſecution in *England*, the ſeveral Powers mentioned and contained in a certain Act of Parliament, made in the Forty-ſecond Year of His Majeſty's Reign, intituled, *An Act for the trying and puniſhing, in* Great Britain, *Perſons holding publick Employments, for Offences committed Abroad; and for extending the Proviſions of an Act, paſſed in the Twenty-firſt Year of the Reign of King* James, *made for the Eaſe of Juſtices, and others, in pleading in Suits brought againſt them, to all Perſons either in or out of this Kingdom authorized to commit to ſafe Cuſtody*, relating to the iſſuing and executing Writs of Mandamus; and the taking, returning, delivering, receiving, and preſerving Examinations in purſuance thereof, and the allowing and reading ſuch Examinations in Evidence, and the taking Copies thereof, and alſo relating to the Examination of Witneſſes upon Interrogatories, ſhall and may be exerciſed and put in uſe in the ſame Manner as in Caſes of Proſecution inſtituted under the Authority of the ſaid laſt mentioned Act. Offences committed in the Weſt Indies or America may be tried where committed, or in any County in England.

Commiſſioners to be ſworn.

XVI. And be it further enacted, That the ſaid Commiſſioners to be appointed under this Act, and the Perſons ſo aſſiſting them, or ſo acting in the Place of a Commiſſioner dead, or reſigning, as aforeſaid, ſhall, before they ſhall enter upon the Execution of the Power veſted in them by this Act, take an Oath before the Chancellor of the Exchequer in *Great Britain*, or before the Governor or Commander in Chief, or any Judge of any of His Majeſty's Courts in the *Weſt Indies* or in *South America*, which the ſaid Chancellor of the Exchequer, Governor, Commander in Chief, or Judge, is hereby ſeverally authorized and required to adminiſter; the Tenor whereof ſhall be as followeth; (that is to ſay),

Oath.

'I *A. B.* do ſwear, That, according to the beſt of my Skill and Knowledge, I will faithfully, impartially, and truly execute the ſeveral Powers and Truſts veſted in me by virtue of an Act, intituled, [*here inſert the Title of this Act*].'

Officers and Clerks to be sworn.

And the said Commissioners, or any Two of them, shall, and are hereby authorized to administer to every of the Officers and Clerks who shall be appointed to act under them, as before directed; and such Officers and Clerks are required, before they enter upon the Execution of their Duties under this Act, to take the following Oath:

Oath.

'I *A. B.* do swear, That, according to the best of my Abilities, I will faithfully execute the Duties of my Office, and be obedient to the Orders I may receive from my lawful Superiors.'

Under certain Circumstances Vouchers to be received unstamped.

XVII. And be it further enacted, That it shall be lawful for any of the said Commissioners, to be appointed under this Act, and any Person appointed to assist such Commissioners as aforesaid in their Examination of any Accounts, for any Periods preceding the Thirty-first Day of *December* One thousand eight hundred and four, to admit and allow of Receipts and Vouchers for any Monies so expressed therein to have been paid within this Kingdom, although such Receipts or Vouchers shall not have been stamped according to Law.

Commissioners receiving Salaries, not eligible to sit in Parliament.

XVIII. And be it further enacted and declared, That no Commissioner to be appointed by virtue of this Act, who shall receive any Salary for the Execution of his Duty as such Commissioner, shall, during his Continuance in such Office, be capable of being elected or of sitting as a Member of the House of Commons.

Limitation of Actions.

XIX. Provided always, and be it further enacted, That no Action shall be brought against any of the said Commissioners, or any other Person or Persons whomsoever, for any Matter or Thing whatsoever done or committed under or by virtue or in the Execution of this Act, unless such Action shall be brought within Six Calendar Months next after the doing or committing of such Matter or Thing; or if such Matter or Thing shall be done in the *West Indies* or Continent of *South America*, then within Six Calendar Months after the Return or coming to *England* of the Party or Parties complaining and complained against: Provided also, that if any Action or Suit shall be hereafter commenced or prosecuted against any Person or Persons for any Matter or Thing done under or by virtue or in the Execution of this Act, such Person or Persons may plead the General Issue, and give this Act and the Special Matter in Evidence; and if the Plaintiff shall become nonsuited, or suffer Discontinuance, or forbear further Prosecution, or if Judgment shall be given for the Defendant or Defendants, such Defendant or Defendants shall recover Treble Costs, for which he, she, or they, shall have the like Remedy as where Costs by Law are given to Defendants.

General Issue.

Costs.

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