Wilson J., 2016b

Nation and government by John Wilson

1840

As members of the British Empire, New Zealanders once sang 'God save the King'. But since 1977 there has been another national anthem, 'God defend New Zealand', which today is often sung in Māori as well. Like the emblematic silver fern, it symbolises the emergence of a distinctive, independent democracy in the South Pacific.

The origins of nationhood

The Treaty of Waitangi

The story of New Zealand as a modern nation state began in 1840. In that year the country became a British colony when more than 500 Māori chiefs and representatives of Queen Victoria signed the Treaty of Waitangi. The treaty is the country's founding document.

The treaty in English and Māori

The treaty was written in English and translated into Māori. Most Māori chiefs signed this translation. It seems likely that the two peoples had a different understanding of certain key concepts.

After a preamble, which noted the need to provide for peace and good order, there were three 'articles'. The English version of the first article stated that the chiefs ceded 'the rights and powers of sovereignty' to the Queen of England. The English understood sovereignty to mean supreme or ultimate authority. The Māori translation was 'kāwanatanga' or 'governorship', and was derived from the word 'governor'. Māori might have understood this to mean power as exercised by the governor of New South Wales in Australia – a more distant and limited power than sovereignty.

In the second article the Queen guaranteed to Māori chiefs and tribes 'the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties'. In the Māori version, chiefs and tribes were promised 'te tino rangatiratanga'. This meant the full essence of chieftainship, which Māori may have interpreted to be much closer to absolute power. In addition, the phrase 'Forests

Fisheries and other properties' was translated as 'taonga' (treasures). This has subsequently been interpreted to include other treasures such as the Māori language.

The third article gave Māori the 'rights and privileges' of British subjects.

Exactly how the treaty was understood at the time is uncertain, and there have been many debates about its meaning since. All that can be said with certainty is that the chiefs who signed the treaty agreed that the British should exercise some sort of power or authority in New Zealand, and that people from Britain, Europe and Australia could settle in the country. They understood that in turn they were guaranteed possession of their lands, that they could maintain their own customs, and that the traditional authority of the chiefs would be upheld.

The treaty in law

The treaty still governs the relationship between the Crown and Māori. Its legal status has been debated, but the rights it proclaims are now enforceable in the courts, in certain circumstances.

The Waitangi Tribunal

The Waitangi Tribunal, first established in 1975, hears claims by Māori who believe they have been prejudicially affected by legislation or practices of the Crown. In 1985 the tribunal was empowered to hear claims relating to any actions by the Crown since 1840. More than 2,000 claims have been made to the tribunal. Ngāi Tahu made a successful claim on the grounds that promises were not honoured when the tribe sold its land to the government in the mid-19th century. Several North Island tribes have lodged claims that the confiscation of land during the wars of the 1860s was unjust. The tribunal makes recommendations on claims which the government can either accept or reject.

The tribunal can also be asked to report whether any proposed legislation runs contrary to the Treaty of Waitangi.

Once the Waitangi Tribunal has made a recommendation on a claim, the Office of Treaty Settlements negotiates a settlement between the tribe concerned and the Crown.

Against the odds

Today the copy of the Treaty of Waitangi signed on 6 February 1840 has an honoured place in the He Tohu exhibition at the National Library of New Zealand in Wellington. But it bears the scars of neglect. It had a narrow escape in 1841, when the Auckland public offices where it was kept burned down. In the later 19th century, while in storage in Wellington, the document was gnawed by rats and damaged by water. Later it was transferred to the Alexander Turnbull Library for safe-keeping, then placed on public display once the treaty was recognised to be one of the nation's founding documents.

From colony to nation

New Zealand as a colony

*840 Britain made New Zealand initially a dependency of New South Wales, and the end of that year it became a separate colony. As a colony, it adopted institutions of government and political practices from the 'mother country'.

To rule the country the government of the United Kingdom appointed governors, advised by appointed executive and legislative councils, but accountable only to the Colonial Office in London.

New Zealand becomes self-governing

In 1852 the British Parliament passed the New Zealand Constitution Act which provided for an elected House of Representatives and an appointed Legislative Council. The General Assembly (the House and Council together) first met in 1854.

New Zealand became effectively self-governing in all domestic matters (except 'native policy') in 1856, when responsible government (the executive having the support of a majority of the members of the House of Representatives) was accepted. Control over native policy passed to the colonial government in the mid-1860s. The New Zealand government became fully responsible for its own foreign relations in 1935 when the first Labour government explicitly claimed such responsibility.

A unitary state

The 1852 Constitution Act established a system of government in which some responsibilities and powers were held by provincial governments. The provinces, which had elected councils and superintendents, were particularly active in promoting immigration, and in land sales and development. But the colonial Parliament could abolish the provinces by a simple majority vote, and the provincial governments disappeared in 1876. Since then, New Zealand has had a unitary system of government, with Parliament the single and supreme source of power. The New Zealand Parliament has had only one chamber, the House of Representatives, since the Legislative Council was abolished in 1950.

Mightier than the sword

New Zealand took an individual stance in world affairs only slowly. One small but significant step came in 1919 when the prime minister, William Massey, signed the Treaty of Versailles, which ended the First World War. Previously British prime ministers had signed such major international treaties for New Zealand. The pen Massey used is on display in Parliament Buildings in Wellington.

Steps to full independence

New Zealand did not have to fight for the right to govern itself, and moved slowly down the road to full independence:

• In 1907, six years after its six neighbouring colonies had formed the Commonwealth of Australia, New Zealand was styled a dominion rather than a colony.

- In 1947 New Zealand adopted the Statute of Westminster (passed by the British-Parliament in 1931), which confirmed that the New Zealand Parliament alone had the power to make laws for the country.
- In 1986 the Constitution Act ended residual British legislative powers, making New Zealand formally responsible (as it had been in practice for many years) for its own system of government.
- In 2003 the right of appeal from New Zealand courts to the British Privy Council was abolished.

The capital

The seat of government was moved from the Bay of Islands to Auckland in 1841 and from Auckland to Wellington in 1865.

Capital gains and losses

In 1840 New Zealand's only sizeable European town was Kororāreka in the Bay of Islands. After British sovereignty had been proclaimed, Governor William Hobson established his seat of government at nearby Okiato. He named the new capital Russell. But in 1841, Hobson moved the capital to the shores of the Waitematā Harbour, where he had founded Auckland. The site of 'New Zealand's first capital' sank back into obscurity. In 1865 the seat of government was moved again, from Auckland to Wellington.

The constitution

Law and convention

New Zealand does not have a written constitution. The rules about how the country is governed are contained in acts of Parliament or embodied in 'conventions' (customary rules which lack legal standing).

Acts of Parliament

The Constitution Act 1852 established New Zealand's system of government. Subsequent acts of the British and New Zealand parliaments included further constitutional provisions. The Constitution Act 1986 consolidated these earlier acts and clarified certain conventions.

The Electoral Act 1993 sets out how elections are to be conducted and the qualifications for voters and members of Parliament.

Constitutional rights

New Zealand does not have a Bill of Rights, of higher status than the ordinary law of the country. Some rights are safeguarded under common law. Two acts of Parliament strengthened the protection of rights:

- The Bill of Rights Act 1990 specified the rights citizens could expect when dealing with the government.
- The Human Rights Act 1993 prohibited discrimination on various grounds.

System of government

Parliamentary democracy

New Zealand is a parliamentary democracy and a constitutional monarchy. The only body which can make laws is the elected House of Representatives.

The sovereign

Queen Elizabeth II is the head of state, or sovereign. On her accession in 1952 she was proclaimed in New Zealand 'Queen of this Realm and all her other Realms'. She reigns as the Queen of New Zealand independently of her position as Queen of the United Kingdom. Her representative in New Zealand, the governor-general, has symbolic and ceremonial roles and is not involved in the day-to-day running of the government, which is the domain of the prime minister.

The Queen's portrait appears on New Zealand's banknotes and coins (though no longer on most issues of postage stamps). The continued use of the image of the Queen is no longer an indication that New Zealand is in any way politically subservient to the United Kingdom, but the fact that the two countries still share a monarch does reflect their long-standing ties.

In New Zealand sovereignty is exercised by Parliament (both the monarch and the House of Representatives). A bill needs the assent of the Queen or her representative to become law; it is not sufficient for the House merely to pass a bill. Traditionally this assent is never withheld.

Losing her head

New Zealand's early postage stamps carried portraits of the reigning British monarch. The head of Queen Victoria was on the very first stamp, in 1855. When Queen Elizabeth II was crowned in 1953, a new stamp issue with the young monarch's head appeared. This was the last general issue of stamps to carry the monarch's portrait. In 1960 a new general stamp issue continued the tradition established with an 1898 'pictorial' issue, featuring New Zealand scenery, history and life. Most stamps, whether general or special issues, now carry images of distinctively New Zealand scenery, art and architecture, sports, and a host of other subjects.

When New Zealanders talk about 'the Crown' they are usually referring not to the Queen as a person but to the government as a whole.

The governor-general

Royal powers are exercised by the governor-general, appointed by the Queen on the recommendation of the prime minister. The title of the office was changed from governor to governor-general in 1917.

The governor-general's main function is to ask the leader of the majority party in Parliament (usually after an election) to form a government. He or she gives the royal assent to acts of Parliament and is the titular commander in chief of the armed forces.

The governor-general is required by convention always to follow the advice of ministers who enjoy the support of a majority of the members of the House of Representatives.

The first New Zealandborn governor-general

For many years, the Queen's representatives in New Zealand were usually members of England's minor aristocracy. The first New Zealand-born governorgeneral, Sir Arthur Porritt — an Olympic medallist — was appointed in 1967. Porritt had lived in England since 1923 and he retired to that country when his term was up. But all his successors to the highest office in the land have been New Zealand citizens and New Zealand residents.

Parliament

The single chamber of the New Zealand Parliament is called the House of Representatives. The nominated Legislative Council, also established by the 1852 Constitution Act, was abolished in 1950.

The important powers of the House of Representatives are:

- to approve the raising and spending of money by the government
- to pass laws.

The presiding officer of the House of Representatives, the speaker, is elected by the House.

Cabinet

The most powerful political body is cabinet. Its members are ministers of the Crown and it is chaired by the prime minister. Cabinet's power derives solely from conventions. The 1986 Constitution Act spelled out the convention that only members of the House of Representatives can be ministers.

The Executive Council

Not according to plan

New Zealand's Parliament
Buildings are an architectural
mish-mash. The three main
buildings are the 1899 Victorian
Gothic Parliamentary Library, the
early 20th-century Edwardian
Baroque Parliament House (only
part of a proposal for an imposing,
domed building) and a later 20th-

The Executive Council, presided over by the governorgeneral, dates from 1840. It is distinct from cabinet. It no longer makes policy decisions, but has formal functions and it makes statutory regulations (under powers delegated by Parliament). century executive wing, popularly called 'The Beehive'. The linking of three quite different buildings, and the failure to complete the main building to the original design, reflects the way New Zealand's system of government has developed — in a casual, haphazard way rather than following a 'grand scheme'.

The electoral system

Eligibility to vote

All citizens and permanent residents aged 18 years or over who are not in gaol are eligible to vote in parliamentary elections. New Zealand has had universal adult suffrage since women were given the vote in 1893.

Eligibility to stand for Parliament

Only New Zealand citizens are eligible to sit in Parliament. Women were given the right in 1919.

The term of Parliament

Parliament is elected for a three-year term. The term can be cut short by the prime minister asking the governor-general to dissolve Parliament and call a 'snap' election.

The size of Parliament

In 2019 Parliament had 120 seats. There were 64 general electorate seats, seven Māori seats and 49 party list seats. The number of seats can vary slightly, depending on the outcome of an election.

The voting system

For most of the 20th century New Zealand had a 'first-past-the-post' electoral system. Candidates who gained a simple majority in single-member constituencies were returned to Parliament.

In a 1993 referendum, New Zealanders voted for mixed member proportional (MMP) representation. Under this system each voter can cast two votes:

- The first is the party vote for the political party the voter wants to form the government. In general, the more party votes a party gets, the more members of Parliament it will have.
- The second is an electorate vote for the candidate the voter wants to be a local electorate member of Parliament. The candidate who gets the most votes is elected to be the MP for that electorate.

The total number of MPs a party has in the new Parliament is determined by the size of its party vote. For example, if a party gets 50% of the party vote it will be entitled to half the members of Parliament. If the party has not won in enough individual electorates to reach the number of MPs to which it is entitled, the number is made up from the 'party list' – a list of candidates, with the people the party most wants in Parliament at the top of the list. Each party draws up its list before the election.

A political party's representation in Parliament can be made up of both electorate and party-list members or only of party-list members (if the party gains more than 5% of the party vote but does not win any individual electorates). It is entitled to a number of MPs corresponding to the percentage of the party vote which it has gained. If a party wins an electorate seat it is entitled to a number of MPs corresponding to its percentage of the party vote, even if it gains below 5% of the party vote. If a party does not win an electorate seat and fails to gain 5% or more of the party vote, it is not entitled to any seats in Parliament.

The Māori seats

Māori have had separate representation in Parliament since 1867. Under the 1975 Māori electoral option, people of Māori descent can choose whether to vote in a general or a Māori electorate. In 2019 there were seven Māori seats. The number depends on how many voters opt to be on the Māori electoral roll.

Party in Parliament

The party which has a majority in the House of Representatives forms the government. Under MMP it is less likely than under 'first-past-the-post' that a single party will have a majority. Coalition or minority governments have become usual.

The caucuses (members of Parliament belonging to a particular political party) play important roles but their powers, like those of cabinet, are governed by convention.

The state sector and Crown entities

What is the state sector?

The agencies which help the government frame and implement policy are known collectively as the state sector. Organisations in this sector can be as varied as the

Ministry of Education, the Reserve Bank of New Zealand or the Inland Revenue Department. With few exceptions they are answerable to ministers of the Crown.

Ministries and departments

In February 2011 there were 38 departments or ministries. Some exist mainly to give policy advice to ministers. Others also have administrative roles. The Department of Conservation, for example, gives advice to its minister on conservation issues and also administers protected Crown land.

Officers of Parliament

A few individuals in the state sector are officers of Parliament and independent of the executive government:

- the ombudsman
- the controller and auditor general
- the parliamentary commissioner for the environment.

These officers review activities of the executive government and report directly to Parliament.

Tier 2 state sector

Beneath departments and offices of Parliament are a group of bodies which are legally separate from the Crown but indirectly accountable to ministers. They include:

Crown entities

In 2011, excluding school boards of trustees, there were 104 Crown entities, funded by the state and performing a range of functions. Important Crown entities include:

- 20 district health boards, which run the country's hospitals
- eight Crown research institutes
- eight universities, 18 polytechnics and three wānanga
- Radio New Zealand and Television New Zealand.

Public Finance Act Fourth Schedule Organisations

This small group of 57 organisations are mainly Trusts, Reserve Boards and Fish and Game Councils which are What happened to the Post Office?

funded by the state but do not operate under a full Crown entity governance regime.

State-owned enterprises

Before 1984, when selling state assets became government policy, the government ran many commercial enterprises directly, including the railways, the telephone system, a savings bank and the electricity system.

The government still owns enterprises which are run on commercial lines, among them power companies and the post office. There were 16 of these state-owned enterprises in September 2011.

Until the 1980s, post offices were at the centre of life in New Zealand towns and cities. The post office was a government department which operated both the postal and telephone systems and ran the Post Office Savings Bank. It was one of the largest business enterprises in the country. In 1900, 1,700 branches served a population of 800,000. But in 1987, as part of the sweeping reforms which followed the 1984 election, the department was split up. New Zealand Post has remained a state-owned enterprise, but the telephone system and savings bank were eventually sold into private hands. Post offices were replaced by agency post shops and most of the Post Office buildings have been put to new uses.

The legal system

Separation of powers

In New Zealand the judiciary (which interprets and enforces the country's laws) is separate from both the legislature (Parliament, which makes the laws) and the executive (which runs the day-to-day affairs of government). Judges are appointed by the governor-general. Convention denies the government the authority to direct judges and the Constitution Act spells out the limited circumstances in which they can be removed from office.

The courts

New Zealand has a hierarchy of courts:

- District Courts
- the High Court
- the Court of Appeal
- the Supreme Court, which replaced the Judicial Committee of the Privy Council as New Zealand's final court of appeal in 2003.

In New Zealand courts, judges act as neutral referees while opposing sides present their cases. New Zealand inherited the system of trial by jury from Britain.

Special courts

The Family Court and Youth Court are divisions of District Courts. The Employment Court hears cases brought under the Employment Relations Act, and the Environment Court hears matters raised under the Resource Management Act. The Māori Land Court rules on matters concerning land held on tenures peculiar to Māori.

Justices of the peace and tribunals

Individual citizens appointed justices of the peace perform minor judicial functions. Some tribunals, commissions and authorities have quasi-judicial roles. Commissions of inquiry are temporary bodies set up to look into specific matters.

The law

The law enforced by the New Zealand courts is a combination of the following laws:

- Common law. English common law became part of the law of New Zealand in 1840. New Zealand common law now also includes law derived from decisions made by New Zealand courts.
- Statute law. These are the current acts of the New Zealand Parliament.
- United Kingdom statute law. A small number of United Kingdom statutes remain part of the law of New Zealand.
- Subordinate legislation. Regulations are made by order-in-council under powers delegated by Parliament, and by-laws are made by local authorities.

Local government

A subordinate position

Local government in New Zealand is independent of, but subordinate to, central government. Local government gives consents under the Resource Management Act for different activities. The boundaries of local authorities are defined by the Local Government Commission.

Territorial local authorities

In 2019 there were 61 city (mainly urban) or district (rural, or both rural and urban) councils. Some local matters were handled by 110 community boards, which are independently elected. They were funded by and reported to a city or district council. City and district councils provide a wide range of services, from public libraries to waste-water treatment.

Regional councils

In 2019, 11 regional councils had responsibility for the environment and public transport. Regions can embrace several cities or districts. In addition six councils were 'unitary authorities' – a single elected council acting as both regional and city or district council.

Local elections

City, district and regional councils and community boards are elected at triennial local elections. The mayors of cities and districts are directly elected.

Local taxes

City, district and regional councils have the power to levy rates (taxes on land and buildings) to fund their activities.

Nationhood and identity

The name of the country

New Zealand was named, probably by a Dutch cartographer, some time after the Dutch explorer Abel Tasman made the first recorded European landfall in 1642. Australia was then known as New Holland, and so New Zealand was named after Zeeland, the other main Netherlands province.

The commonly accepted Māori name for the country is Aotearoa ('land of the long white cloud'). Some believe it was given by the early Polynesian navigator Kupe, but it came into widespread use only in the late 19th century. There are also Māori names for both the North Island and the South Island, most commonly Te Ika a Māui (the fish of Māui) and Te Wai Pounamu (greenstone waters).

Citizenship

A separate New Zealand citizenship was created by the British Nationality and New Zealand Citizenship Act 1948. The description 'British subject' remained on New Zealand passports until 1977.

Almost everyone born in New Zealand is a New Zealand citizen. New immigrants can apply for citizenship by grant, after meeting residence and English-language requirements.

The New Zealand flag

The New Zealand flag has the Union flag of the United Kingdom in one corner and – representing the Southern Cross, a constellation visible in the New Zealand night sky – four five-pointed red stars with white borders, all on a blue background.

Based on an 1869 version of the British blue ensign, it was adopted as the country's official flag in 1902.

The New Zealand coat of arms

The New Zealand coat of arms was adopted in 1911 and standardised in 1956. Elements of the design reflect the importance of overseas trade, farming and mining.

National anthems

New Zealand has two national anthems. 'God save the Queen [or King]' first came into use in 1840. 'God defend New Zealand' (written in 1876) was adopted as a national hymn in 1940 and in 1977 given equal status with 'God save the Queen'. A Māori translation is often sung before the English verses.

Official languages

New Zealand has three official languages, English, Māori and sign language. Māori became an official language in 1987. New Zealand sign language became a third official language in April 2006.

National holidays

Two statutory holidays relate to national identity. Waitangi Day is on 6 February, the anniversary of the signing of the Treaty of Waitangi in 1840, and has been a holiday since 1974. Anzac Day, on 25 April, is commemorated as the anniversary of the 1915 landing of New Zealand troops at Gallipoli, on the western coast of Turkey, during the First World War.

Although church and state are separate in New Zealand, Easter and Christmas are observed as holidays. Secular holidays include Labour Day, Queen's Birthday and the

'Hear our voices, we entreat'

In 1940 the government purchased the rights to Thomas Bracken's song 'God defend New Zealand' from a Dunedin musical firm, so that it could become the country's national song. Later, it was made the second national anthem. By the late 20th century it had largely eclipsed the official, British anthem, 'God save the Queen'. One line in the song continues to puzzle many. There is no agreement as to what Bracken meant by 'guard Pacific's triple star'. The most popular theory is that the line refers to the three main islands of New Zealand.

anniversary days of the various provinces, held on or close to the founding dates of each settlement.

National animal and flower

The flightless native bird, the kiwi, represents New Zealand, but it has no official status as a symbol. New Zealand does not have an official national flower, but the silver fern (Cyathea dealbata), which appears on army insignia and sporting team uniforms, is an unofficial national emblem. Other unofficial symbols are the red pōhutukawa (Metrosideros excelsa) and yellow kōwhai (Sophora spp.).

Kiwiana

The quirky things that contribute to a sense of nationhood are called 'kiwiana'. Among these are black gumboots, the wooden Buzzy Bee toy, pavlova cakes, plastic tikis, pāua shell ashtrays, marching girls and hefty railway crockery.

Magical pāua

New Zealand's most handsome shellfish, the pāua (Haliotis iris — related to the abalone of the northern Pacific), was important in the traditional Māori diet. It is now more widely popular, and its flesh is a valuable export. The lustrous inner shell, with opalescent greens and blues, is of cultural significance. Māori applied it as decoration (often for the eyes of carved figures on meeting houses), and it is also used in souvenirs and in fine jewellery.

New Zealand in the world

Security

New Zealand is a small country, with an extensive coastline and a substantial seaborne trade with countries in all parts of the world.

The British connection

New Zealand became part of the British Empire in 1840. The European (overwhelmingly British) settlers took the connection with Britain for granted, seeing themselves as an integral part of an extended 'British world'. Until the fall of Singapore in 1942 they regarded the British navy as the main guarantee of the country's security. New Zealanders served in both world wars.

Ally of the United States

During the Pacific War of 1941–45 the United States, not Britain, protected New Zealand against the Japanese. After the war, in 1951, New Zealand joined the United States and Australia in the ANZUS alliance. New Zealand's participation in the alliance ended when, as part of an anti-nuclear policy adopted in 1984, it declined to allow nuclear-armed or nuclear-propelled ships to enter its ports.

A South Pacific nation

New Zealand has close constitutional and other ties with the Cook Islands, Niue and Tokelau. The citizens of all three countries are also New Zealand citizens. The Cook Islands and Niue are fully self-governing states in free association with New Zealand. Tokelau is a dependent territory of New Zealand and though technically not self-governing, already enjoys a substantial measure of self-government. It is likely to become a self-governing state in free association with New Zealand, like Niue and the Cook Islands. New Zealand is a member of the Pacific Forum, the other members of which are the South Pacific island states, Australia and Papua New Guinea.

Australia

Australia is New Zealand's closest neighbour and its most important ally and trading partner. A formal closer economic relationship (CER) has been in place since 1983. Although New Zealand declined to join the Australian Federation formed in 1901, New Zealanders and Australians are free to enter each other's country to live and work. The two countries are fierce sporting rivals, but share many cultural characteristics. Anzac Day – the anniversary of the 1915 landing of troops from both countries on Gallipoli – is commemorated in both countries.

International organisations

New Zealand maintains bilateral relations with many countries and participates in world affairs through membership of the United Nations and the Commonwealth of Nations. At the founding conference of the United Nations in 1945, New Zealand championed a role for small nations in the organisation's affairs. In the Commonwealth, New Zealand has played a role out of proportion to its small size.

International trade

Overseas trade is very important to New Zealand's economic well-being. New Zealand participates in the WTO (World Trade Organisation), APEC (Asia Pacific Economic Cooperation Forum) and the OECD (Organisation for Economic Co-operation and Development) and is a persistent lobbyist for international trade liberalisation, especially in farm products.

Antarctica

New Zealand has a special association with Antarctica and was an original signatory to the Antarctic Treaty in 1959. The Ross Dependency is administered by New Zealand.

The Ross Dependency

The part of Antarctica administered by New Zealand is named after the notable British Antarctic explorer, Sir James Clark Ross. New Zealand produces special Ross Dependency stamps, which came into use in 1957. In the same year, a post office was established at New Zealand's Scott Base, when parties first started 'wintering over' on the ice. A new issue of Ross Dependency stamps appeared in 1967, when decimal currency began.

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