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Railroads as Sites of Social Conflict: Railway Companies, Trespassers, and the Law in the Late Ottoman Empire

Can Nacar

Abstract: From the second half of the nineteenth into the early twentieth century, people in different regions of the Ottoman Empire witnessed numerous railroad accidents that caused death, injury, and property damage. These accidents became a major source of concern for the Ottoman ruling elites, and they worked on measures to prevent them from occurring. One of the early measures was a regulation to delineate the offenses and penalties for railroad safety violations. This study provides an overview of this June 1867 regulation and investigates its implementation within the context of its articles dealing with stock animals trespassing onto railroad tracks and other restricted sites. One of the major goals of this regulation was to impose restrictions on the movements of animals along railroad tracks. However, these restrictions were contested and resisted in both rural and urban areas. Hence, lengthy conflicts and negotiations ensued involving the owners of trespassing animals, railway companies, and various government offices. Examining some of the conflicts in the European and Anatolian provinces of the empire, this article demonstrates that animal owners from various ranks of society played an important role in shaping the content and implementation of railroad safety regulations.

Introduction

The period from about 1850 to 1914 was one of intense railroad building in different parts of the world. In France, for instance, the railroad network expanded from 1,931 km in 1850 to some 17,000 km in 1869 and to 33,000 by 1914. While the United States possessed nearly 8,000 km of track in 1847, railroad lines in the country extended to more than 300,000 km by the early 1890s. In India, the construction of railroads began in 1850 and over the next fifty-five years, more than 40,000 km of track were completed.[1]

1. Leslie Page Moch, *Moving Europeans: Migration in Western Europe since 1650* (Bloomington: Indiana University Press, 2003), 121; James Cortoda, *All the Facts: A History of Information in the United States since* 1870 (New York: Oxford University Press, 2016), 73; Ian J. Kerr, *Engines of Change: The Railroads that Made India* (London: Praeger, 2007), 6–9.

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In comparison to these countries, the Ottoman Empire came late to the railroad age.[2] In the European provinces of the empire, the first railway line was opened in 1860 between the Black Sea coastal town of Köstence and Cernavoda.[3] By the end of the 1890s, four more lines had been built in this region funded by European capital. The new lines, extending to nearly 2,000 km, connected the port city of Salonica to the imperial capital and interior towns of Mitrovica and Monastir, as well as from Istanbul to Sofia via Edirne. In Anatolia, the first tracks were laid between Izmir and Aydın in the early 1860s, but the great expansion of railroads occurred after1890. While, for instance, the German-financed Anatolian Railway Company built a line from the Marmara Sea town of Izmit to Ankara in central Anatolia, with a branch to Konya, French entrepreneurs extended the Izmir-Kasaba Railway in western Anatolia to Uşak and Afyon. As a result of these and other efforts, Anatolia acquired some 2,900 km of track by the early twentieth century. Finally, in the Arab provinces of the empire, railroad building began in the early 1890s funded by French capital. Yet, in 1900, the government of Sultan Abdülhamid II (r. 1876–1909) took the lead by initiating the Hejaz Railway project, intended to connect Damascus to Mecca. In the following nine years, more than 1,450 km of track were completed and the line ultimately reached the Holy City of Medina in September 1908.[4]

The coming of the railroad had major social impacts in different regions of the empire. The iron tracks often became the sites of conflict between the government, European railway companies, and people from different sectors of society. For instance, as studies on Ottoman labor history demonstrate, railroad workers played a notable role in a wave of strikes that swept across the empire after the 1908 Constitutional Revolution. In the six-month period between July and December 1908, they organized about thirty strikes, disrupting transportation and commerce in the empire's Anatolian, Arab, and Balkan provinces. This widespread labor unrest caused serious concern for both the Ottoman ruling elites and railway companies. Thus the government

2. The first railway line in the Ottoman Empire was opened in Egypt, between Alexandria and Cairo, in 1856. See Charles Issawi, *An Economic History of the Middle East and North Africa* (New York: Columbia University Press, 1982), 54.

3. Ali Akyıldız, "Bir Teknolojik Transferin Değişim Boyutu: Köstence Demiryolu Örneği," *Osmanlı Araştırmaları Dergisi* 20 (2000): 314–15.

4. Donald Quataert, "The Age of Reforms: 1812–1914," in *An Economic and Social History of the Ottoman Empire, Volume 2: 1600–1914*, ed. Halil İnalcık with Donald Quataert (Cambridge, UK: Cambridge University Press, 2004), 807–08; Sadiye Tutsak, "Batı Anadolu'nun Ulaşım Meselesinde Uşak-İzmir Yolu Yapım Çalışmaları," *Tarih İncelemeleri Dergisi* 29, no. 1 (2014): 315; Murat Özyüksel, *Hicaz Demiryolu* (Istanbul: Tarih Vakfı Yurt Yayınları, 2000), 159, 260.

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quickly passed a provisional law in October 1908 abolishing the unions in public service companies such as ports, railways, and tramways, and making the organization of strikes in these enterprises more difficult. Less than a year later, in August 1909, the new Ottoman Parliament made this provisional law permanent (with a few minor changes). These moves soon proved effective in curbing labor militancy. Between 1909 and 1914, a large proportion of railroad workers in the empire did not participate in any strike. [5]

The strike laws of 1908 and 1909 were products of a particular historical moment when the interests of the leading cadres of the constitutional revolution overlapped with those of major capitalist entrepreneurs in the empire. Hence, in their preparation, the concerns and demands of railroad workers and their counterparts in other public service companies were not taken into account. This study seeks to address how, apart from such particular moments, conflicts between railway companies, people from different ranks of Ottoman society and government officials were negotiated and settled. For that purpose, it focuses on a legal regulation on the safety of railroads and investigates its implementation within the context of its articles dealing with stock animals trespassing onto railroad tracks and other restricted sites.

One of the major goals of the Railroad Safety Regulation, dated June 1867, was to impose restrictions on the movements of non-railway personnel and animals, and punish those who violated them with fines. However, as was the case with the Land Code of 1858,[6] the provisions of this regulation were continuously contested, resisted, and negotiated. In different regions of the empire, many animal owners did not comply with the restrictions it imposed and refused to pay fines assessed for their violations. Hence, there ensued lengthy conflicts involving these people, railway companies, and government officials, mainly from the Ministry of Trade and Public Works. This study demonstrates that the parties to these conflicts sought to bring their claims or defend their cases in the administrative and judicial

5. Kadir Yıldırım, *Osmanlı'da İşçiler (1870–1922): Çalışma Hayatı, Örgütler ve Grevler* (Istanbul: İletişim Yayınları, 2013), 244–87, 315–35; Yavuz Selim Karakışla, "Osmanlı İmparatorluğu'nda 1908 Grevleri," *Toplum ve Bilim*, no. 78 (1998): 187–208; Donald Quataert, "Working on the Anatolian Railway," in *Social Disintegration and Popular Resistance in the Ottoman Empire, 1881–1908: Reactions to European Economic Penetration* (New York: New York University Press, 1983), 71–93.

6. Huri İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in *New Perspectives on Property and Land in the Middle East*, ed. Roger Owen (Cambridge, MA: Harvard University Center for Middle Eastern Studies, 2000), 3–61; Yücel Terzibaşoğlu, "'A Very Important Requirement of Social Life': Privatisation of Land, Criminalisation of Custom and Land Disputes in Nineteenth-Century Anatolia," in *Les acteurs des Transformations Foncières Autour de la Méditerranée XIXe Siècle*, ed. V. Guéno and D. Guignard (Paris: Karthala, 2013), 25–48.

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forums that seemed most advantageous to them. For the animal owners, it argues, the forum to choose and tactics to be utilized in the course of their struggles depended to a large extent on the economic and political power they possessed. To overcome their opponents, powerful actors, such as local notables and large landowners, were able to mobilize more resources than the urban and rural poor. However, this does not mean that the members of the latter group were destined to failure in their struggles. On the contrary, in the early twentieth century, they, at least temporarily, forced the Ottoman ruling elites to make a significant change to the content of the 1867 regulation.

Railroad Accidents in the Ottoman Empire and the Railroad Safety Regulation of 1867

During the strike wave of 1908, railroad workers mainly demanded higher wages and shorter working hours. Some of them also asked their employers to introduce safety devices, such as air brakes for trains. Mentzel argues that this was because they had become very aware of the hazardous nature of their profession. In the early twentieth century, he notes, people in different regions of the empire witnessed numerous railroad accidents that caused deaths, injuries, and extensive property damage.[7] Apparently, such accidents were also commonplace in the second half of the nineteenth century. For example, in mid-March 1882, a train car carrying eight railroad workers collided with a horse-driven cart at a crossing near Haydarpaşa, Istanbul, and derailed. Consequently, one of the workers died and one was severely injured.[8] Meanwhile, on the night of 18 October 1885, a train heading to Aydın from Izmir hit six water buffaloes grazing on the track and thirteen of its cars were derailed and smashed. The train's engine driver, fireman, and a porter were killed in the accident, and its brakeman was injured.[9] Nine years later, in 1894, a troop train

7. Peter Mentzel, "Accidents, Sabotage and Terrorism: Work Hazards on Ottoman Railways," in *Frontiers of Ottoman Studies: State, Province and the West*, vol. 2, ed. Colin Imber, Keiko Kiyotaki and Rhoads Murphey (New York: I.B. Tauris, 2005), 225–40. Railroad accidents were also commonplace in other parts of the world. For instance, in the United States, there were around 300 train collisions per year in the 1870s. This figure rose to about 1,200 by the end of the century. In India, according to official statistics, 194 passengers were killed and 570 were injured in railroad accidents between 1901 and 1905. Kerr argues that if other victims of accidents, such as railroad employees and trespassers, were added, these numbers would swell. See Mark Aldrich, *Death Rode the Rails: American Railroad Accidents and Safety, 1828–1965* (Baltimore: The Johns Hopkins University Press, 2006), 45, 73; Kerr, *Engines of Change*, 99–100.

8. BOA, T-HPD 1319/41, docs. 1–5 (28 Şubat 1297/12 March 1882).

9. BOA, T-DMİ 887/53 (9 T. evvel 1301/21 Oct. 1885).

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derailed in the province of Salonica, killing thirty-five passengers and injuring forty-one others.[10]

Since railroad accidents caused considerable human and material damage, they became a major source of concern for the Ottoman ruling elites. Like their counterparts in Egypt, they worked on measures to prevent them from occurring.[11] One of these early measures was the promulgation of a regulation in 1867 that delineated the offenses and penalties for railroad safety violations. This regulation was composed of twenty-two articles and four sections. The first section (articles 1 to 7) primarily stipulated punishments for those who caused railroad accidents and other mishaps. Article 1 stated that a person who caused a death by intentionally destroying tracks, impeding the movement of trains, or derailing train cars would be sentenced to death. If these acts caused an injury rather than death, the punishment was imprisonment from one to three years. According to Article 4, a person who through carelessness, neglect, or non-compliance with laws and regulations caused a railroad accident that killed or injured someone would be sentenced to imprisonment from eight days to two years and pay a fine not exceeding twenty gold liras. The following two articles delineated the responsibilities and liabilities of railway companies and employees. Article 5 stipulated that if an engine driver was not on duty when his train was moving, he would be sentenced to imprisonment from six months to two years. According to Article 6, companies had to immediately report railroad accidents to railroad commissioners who worked for the Ministry of Trade and Public Works.[12]

While the second section of the regulation (articles 8 to 13) contained provisions regulating construction activities and fire safety on and near railroad lands, the third section (articles 14 to 20) dealt with trespassers and unruly train passengers. Article 14 stated that a person who, individually or with his/her animals, trespassed on the track or other restricted railroad sites would be fined twenty piasters. If, the same article continued, a horse or any other animal was found on the track, it would be seized and not released until its owner paid a fine. The fine varied depending on the size of the animal. For the release of a sheep or a goat, its owner had to pay five piasters. However, to secure the return of a camel, a cow, or an ox would cost the owner fifty piasters. Article 15 stipulated that passengers caught without a ticket were liable to pay up to

10. BOA, T-DMİ 1033/86, doc. 2 (28 Haz. 1321/11 July 1905).

11. For Egypt, see On Barak, *On Time: Technology and Temporality in Modern Egypt* (Berkeley: University of California Press, 2013), 39.

12. *Düstur: I. Tertib*, vol. 2, 340–41. In September 1872, the Railroad Administration was established under the Ministry of Trade and Public Works. After then, railroad commissioners and inspectors began to work there. See Vahdettin Engin, *Rumeli Demiryolları* (Istanbul: Eren Yayıncılık, 1993), 104.

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twice the amount of the ticket. According to the same article, passengers who bought second or third-class tickets but travelled in upper-class compartments would pay not only the price difference between the compartments but also a fine. According to Article 20, revenues from these fines would be equally shared between the Ottoman government and railway companies. While the companies would use this source of income to establish funds to help their "deserving" employees, the government's share would be distributed to provincial road funds.[13]

The fourth section (articles 21 and 22) delineated how railroad offenses were to be investigated and tried. Article 21 stated that if an offense mentioned in the first section of the regulation occurred, an employee of the railway company should report it to the railroad commissioner in charge of the line. The commissioner and a local police officer would immediately go to the event scene and conduct an investigation. After completing the investigation, the case would go before the court.[14] However, an offense mentioned under the third section of the regulation required a different investigative procedure. First, the employees of the railway company were to report the offense to a railroad inspector who, in turn, would go to the event scene to investigate the case. If, after this investigation, a passenger was found guilty, the inspector was to communicate to the guilty party the punishment stipulated for the offense. Then, at the station where the passenger was to disembark from the train, he or she would pay the fine to the station master who, in turn, would submit a copy of the receipt for payment to the railroad commissioner in charge of the line. If a passenger refused to pay the fine, the inspector was responsible for providing the name and description of him or her to the railroad commissioner who would then bring the case before the council (*meclis*) for adjudication. In other words, the plaintiff would be the commissioner, not the railway company.[15]

At this point, it is important to note that the regulation did not specify which councils were authorized to adjudicate such cases, and this initially led to some confusion. In at least one instance, government officials first brought a case before the council of judicial appeals (*meclis-i temyiz-i hukuk*) and then before the provincial administrative council in their district.[16] In the following years, it seems that the confusion was solved and cases began to come directly

13. *Düstur: I. Tertib*, vol. 2, 342–44, 346.

14. Ibid., 346.

15. Ibid., 347. Although Article 21 referred only to passengers, as will be shown below, the same procedures were applied to trespassers.

16. BOA, ŞD 1375/26, docs. 1–2 (7 T. evvel 1284/19 Oct. 1868).

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before the administrative councils for adjudication.[17] The next section looks inside these courts. It examines how litigants fought their cases and how the administrative councils handled them.

Looking at Two Court Cases: Railway Companies, Commissioners, and Trespassers

After the 1867 regulation was put into effect, railway companies in the Ottoman Empire frequently filed complaints against animals trespassing on the track or other restricted areas. Some of these complaints led to drawn-out legal battles between the companies, railroad commissioners, and the owners of the animals. One such example occurred in western Anatolia in 1868. When the gardener of a British citizen named Robert Wilkin was travelling by horse from Izmir to Bornova, the employees of the Izmir-Kasaba Railway Company stopped him and demanded a fine of fifty piasters on the grounds that he trespassed on the track.[18] The gardener rejected this charge as unfounded and stated that he did not have the money to pay the fine. In response, the company officials handed him over to a police officer to be detained and seized the horse.[19]

When Robert Wilkin was informed of these developments, he appealed first to the Izmir-Kasaba Railway Company and then to police officers to have his horse returned without paying the fine.[20] These efforts did not produce any positive results. Thereupon, the British consulate in Izmir intervened on behalf of Mr. Wilkin and brought his problem to the attention of the governor of Aydın province. The governor, in turn, sent the railroad commissioner in charge of the line a letter, asking his position on the issue. The response letter of the commissioner, Nihat Bey, showed that the company officials had obtained his approval for the seizure of the horse. He wrote that it would not be returned to Mr. Wilkin until he paid the fine of fifty piasters. Unable to work out a compromise between the parties, the governor remitted this case to the Council of Judicial Appeals in the sub-province of Izmir.

17. The administrative councils which were introduced by the Tanzimat reforms in the early nineteenth century exercised judicial powers. They mainly adjudicated disputes between individuals and state authorities. See Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave Macmillan, 2011), 70–71.

18. Quite possibly, this was the same Robert Wilkin who obtained from the Sublime Porte the concession to construct a railway line from Izmir to Aydın in 1856. However, one year later, he and his four partners sold this concession to a corporation in Britain. See A. Nedim Atilla, *İzmir Demiryolları* (Izmir: İzmir Büyükşehir Belediyesi Kültür Yayını, 2002), 56–58.

19. BOA, ŞD 1375/26, docs. 1–2 (7 T. evvel 1284/19 Oct. 1868).

20. Ibid. The gardener was released shortly after he was turned over to the police.

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The council initially questioned Mr. Wilkin and the railroad commissioner. As the parties gave conflicting versions of events, the council members launched an investigation to uncover what had happened on the road between Izmir and Bornova. This investigation, however, failed to uncover any conclusive evidence for one side or the other. This failure, according to a report by the governor of Aydın, mainly stemmed from the fact that the gardener, ill with malaria, was unable to come before the council to give his testimony. Moreover, the report noted that Mr. Wilkin and Nihat Bey were frequently absent from the court proceedings. Because of these factors, the case remained unsettled for several months. Hence, after a while, the parties began to formulate new demands of each other. Nihat Bey argued that in addition to the fine of fifty piasters, Mr. Wilkin should also pay the expenses incurred by the Izmir-Kasaba Railway Company and government for the care, feeding, and storage of his horse. Mr. Wilkin, conversely, noted that because his horse was seized, he had for a long time been forced to resort to renting a replacement. As compensation, he asked for the reimbursement of these expenses. Shortly after the parties submitted their demands to the Council of Judicial Appeals, the council members ruled that under the existing conditions, they could not adjudicate this case and sent it to the Aydın Provincial Administrative Council.[21]

Like the Council of Judicial Appeals in Izmir, the provincial administrative council first questioned Nihat Bey and Mr. Wilkin. Then, the gardener who had recovered from his illness gave his testimony. He stated that while riding from Izmir to Bornova, he took the cart-road and never trespassed on the track. However, three engine drivers of the railway company called as witnesses by Nihat Bey claimed to see him riding a horse on the track. After listening to both sides, the administrative council decided that the gardener could not be convicted of trespassing based solely on the testimony of the engine drivers, because, as the employees of the railway company, they stood to benefit from any revenue generated from the trespassing fine.[22] The seized horse, the council continued, was to be immediately returned to Mr. Wilkin who was also to be paid 1,000 piasters by the Izmir-Kasaba Railway Company as compensation for expenses incurred for renting the replacement horse. While issuing this ruling, the council members also highlighted two important points about the Railroad Safety Regulation. First, according to Article 21, when the gardener refused to pay the fine, the railroad commissioner and company officials did not have the authority to hand him over to the police. Second, according to

21. BOA, ŞD 1375/26, docs. 1–2 (7 T. evvel 1284/19 Oct. 1868).

22. As mentioned above, according to Article 20 of the Railroad Safety Regulation, the railroad companies would use revenues generated by trespassing and other fees to establish funds for their employees.

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Article 14, even if the gardener was found guilty of trespassing, he would have been fined twenty piasters, not fifty.[23]

More than thirty years after the settlement of this case, a similar course of events took place in Konya. In early March 1902, a gendarme who was on duty at the Pınarbaşı Station saw two horses and two foals trespassing on the shoulder of the track and informed the station switchman of this infraction. The switchman, Rüstem, attempted to seize the animals but was prevented from doing so by their owner, Hacı Mehmed Ağa, from the nearby village of Gerez. When these developments were reported to the railroad commissioner in charge of the line, he, in accordance with the Railroad Safety Regulation, brought the issue before the court of the Konya Provincial Administrative Council. The court panel, composed of the deputy judge, the mufti, the corresponding secretary of the province, and two elected members of the council convened to hear the case on 19 April 1902.[24] They first questioned the railroad commissioner, Hasan Efendi, and then listened to the testimonies of his three witnesses: Gendarme Ali, switchman Rüstem, and another Ali from Gerez.[25]

While the latter Ali stated that one morning, upon the request of switchman Rüstem, a gendarme summoned him to the Pınarbaşı Station, and once there he saw Hacı Mehmed Ağa riding a horse down the shoulder of the track, the other two witnesses claimed to see Hacı Mehmed's animals trespassing on the restricted area of the railroad.[26] In response to the latter allegation, Hacı Mehmed noted that he had only one horse. In the period between mid-February and mid-March 1902, he continued, neither this horse nor his other animals

23. BOA, ŞD 1375/26, docs. 1–2 (7 T. evvel 1284/19 Oct. 1868). While making this last point, the council members took into consideration the first section of Article 14. There it was stated that a person trespassing on the track or other restricted areas, individually or with his animals, shall be fined twenty piasters. However, when the railroad commissioner asked fifty piasters from the gardener, he was referring to the last section of the same article. This section stipulated fines for the owners of trespassing animals. It is important to note that in the following years, railway companies adopted a different policy with regard to trespassing fees. When a rider and his horse were caught on the track, they often demanded a fine of seventy piasters, twenty piasters for the rider and fifty piasters for the horse. See BOA, ŞD 1205/16, doc. 8 (23 T. sani 1311/5 Dec. 1895).

24. The judge, the müfti, and the corresponding secretary were all members of the administrative council.

25. BOA, ŞD 1753/4, docs. 3 and 8 (16 Mart 1318/29 March 1902 and 6 Nisan 1318/19 April 1902).

26. It is important to note that there was a minor difference between the testimonies of the gendarme Ali and switchman Rüstem. While the former claimed to see two horses and two foals, the latter stated there were three animals on the shoulder of the track. See BOA, ŞD 1753/4, doc. 8 (6 Nisan 1318/19 April 1902).

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went near the railroad tracks. However, based on the witnesses' testimonies, the court panel unanimously found Hacı Mehmed guilty of the trespassing charge and sentenced him to pay a fine of 110 piasters, one hundred piasters for the two horses and ten piasters for the two foals.[27] Losing the legal battle at the local level, the defendant immediately appealed this decision to the Court of Appeals in the Council of State, and it agreed to hear the case on 16 March 1903.[28]

Shortly before the scheduled date of the hearing, Hacı Mehmed Ağa presented a petition to the Council of State raising three objections to the provincial administrative council's decision. First, the testimony of the station switchman should not have been accepted as valid because he was an employee of the Anatolian Railway Company. Second, the gendarme named Ali worked under the supervision of the railway company officials at the Pınarbaşı Station. Hence, his statements before the administrative council could not be counted as credible. Finally, the other Ali did not provide testimony against the defendant. Instead, he claimed to see the animals just outside of the restricted areas of the railroad track. After listing his objections to the administrative council's decision, Hacı Mehmed also brought a serious accusation against the employees of the Anatolian Railway Company. According to him, when a resident of Gerez failed to supply the railroad employees with provisions, such as butter and yoghurt, they filed a false report stating that this villager and/or his animals got on the track. For this reason, many residents were about to leave the village permanently.[29]

At the end of the petition, Hacı Mehmed wrote that since he was living in poverty, he would not be able to go to the imperial capital to attend the appeal trial.[30] In fact, as a person holding the title of *ağa*, he should have been able to afford to travel to Istanbul.[31] Yet, by then judicial services had already cost him a considerable sum. He was charged by the Konya Provincial Administrative Council to pay the court fees.[32] While appealing his case to the Council

27. Ibid.

28. BOA, ŞD 1753/4, docs. 9 and 13 (9 Nisan 1318/22 April 1902 and 3 Şubat 1318/16 Feb. 1903). The Council of State, as the central agency of administrative justice, had three courts for each of the echelons of trial and appeal processes: the courts of First Instance, Appeal, and Cassation. See Carter V. Findley, *Bureaucratic Reform in the Ottoman Empire: The Sublime Porte, 1789–1922* (Princeton: Princeton University Press, 1980), 248–49.

29. BOA, ŞD 1753/4, doc. 16 (22 Şubat 1318/7 March 1903).

30. Ibid.

31. Somel writes that in civil life, the title of *ağa* was applied to chiefs, notables, and large landholders. See Selçuk Akşin Somel, *The A to Z of the Ottoman Empire* (Lanham, MD: Scarecrow Press, 2003), 7.

32. BOA, ŞD 1753/4, doc. 10 (5 Mayıs 1318/18 May 1902). The expenses of the trial were not prescribed in the court decision.

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of State and writing the petition in question, he probably sought legal advice from a professional attorney who charged him a service fee.[33] He apparently thought that if the travel costs to Istanbul were added to this list, his expenses would far exceed the amount of the fine imposed on him by the provincial administrative council. In any case, the Court of Appeals in the Council of State took his excuse into consideration and rescheduled the trial for 7 May 1903.[34] Despite this change of date, however, Hacı Mehmed did not alter his decision. When the Court of Appeals ultimately convened on the scheduled date, neither he nor a legal representative of him was in attendance. In his absence, the court approved the decision of the provincial administrative council.[35]

The cases of Mr. Wilkin and Hacı Mehmed show that, when deciding whether an animal trespassed onto railroad tracks or other restricted sites, the courts relied heavily on the testimony of witnesses who were not railroad employees. As the latter case suggests, by the early twentieth century, some animal owners and railroad workers understood this decision-making process well and they shaped their tactics accordingly. For instance, to discredit the testimony of gendarme Ali, Hacı Mehmed argued that he actually acted like an employee of the Anatolian Railway Company. Switchman Rüstem, on the other hand, asked Ali from Gerez to come to the Pınarbaşı station in order to produce one more witness who would confirm his allegation. Yet, in his testimony, Ali did not claim to see the defendant's animals trespassing on the restricted areas. This means that the court of the Konya Provincial Administrative Council, which based its decision against Hacı Mehmed on the witnesses' statements, did not take into account his testimony.

There are three possible reasons behind this attitude of the court. First, for one reason or another, the court panel might not have regarded Ali as a reliable witness. Yet, that was not very likely, because the court records show that neither the panel members nor the litigants questioned his reliability during the trial. Second, the court panel might have found out that Ali was not able to see the trespassing incident because he arrived on the scene (the Pınarbaşı

33. As Rubin demonstrates, in the late nineteenth and early twentieth centuries, legal representation and advice in judicial instances provided a significant advantage for those litigants who could afford them. "According to the official tariff from 1879 that regulated the attorney's fees," he writes, "clients had to pay their lawyers 50 *kuruş* [piasters] for the first 150 words in appellate petition, and an extra 10 *kuruş* for any addition 100 words." See Rubin, *Ottoman Nizamiye Courts*, 106.

34. BOA, ŞD 1753/4, doc. 19 (13 Mart 1319/26 March 1903).

35. BOA, ŞD 1753/4, doc. 22 (24 Nisan 1319/7 May 1903). The documents consulted do not specify why the Court of Appeals did not accept Hacı Mehmed's arguments. Local government officials informed him of the Court of Appeals' decision in January 1904. See BOA, ŞD 1753/4, doc. 23 (13 Ka. sani 1319/26 Jan. 1904).

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station) late. Hence, while making its decision, it relied solely on the statements of gendarme Ali. Third, at least some panel members might initially have found the testimony of Ali from Gerez convincing. Then, however, by using their political influence in the province, the railroad commissioner and the officials of the Anatolian Railway Company had them ignore it and issue a unanimous decision convicting Hacı Mehmed. Even if the court panel was not subjected to pressure by the plaintiff in this instance, local power relations certainly played an important role in determining the outcome of various other trespassing cases, as will be shown in the following section.

How to Avoid Punishment: Tactics Used by the Owners of Trespassing Animals

The conflict between Hacı Mehmed Ağa and switchman Rüstem was by no means unique in the late Ottoman Empire. In different regions of the empire, railway employees sought to seize animals that they claimed to have spotted on the track and keep them in stables until the required trespassing fines were paid. However, they were often prevented from doing so, especially when the owners of these animals were locally powerful actors. For instance, in late 1900, the Oriental Railway Company seized three donkeys that belonged to a certain Davud Kahya (a member of a notable family in Gevgili) near a switch in Karasulu and put them in a stable. Shortly afterwards, unidentified culprits went to the stable and took these donkeys away without the consent of the railway company. The company officials accused Davud Kahya of instigating this assault and took him to court. Yet, in the end, the defendant won the case because the company was not able to produce witnesses to prove that the donkeys were taken away by him or his men.[36]

In November 1901, a similar conflict took place between the Oriental Railway Company and a certain Selim Kahya, a close relative of Davud Kahya. On the forty-eighth kilometer of the Salonica-Mitrovica line, the employees of the company saw two donkeys that belonged to Selim on the track and seized them. According to a report by the company, when Selim Kahya was informed of this development, he did not seek to resolve the issue in accordance with the Railroad Safety Regulation. He neither paid the fine designated in Article 14 nor awaited, in accordance with Article 21, the decision of the local administrative council. Instead, one night, his men went to the stable where the donkeys were kept and took them away. In response, the company immediately filed a lawsuit against him, but, as with the previous year's case

36. BOA, T-DMİ 1034/14, doc. 1 (27 June 1905). According to a report by the Oriental Railway Company, Davud was a member of Derviş Kahyaoğulları family. See Ibid. I thank Özgün Forta for translating French documents in this file into Turkish.

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the court ruled in favor of the defendant, this time because the railroad inspectors did not prepare a document reporting the seizure of the two donkeys on the track.[37]

As the railway companies knew that it was not an easy task to produce witnesses who would testify against locally powerful actors, they sometimes did not turn to the courts in the first place. Instead, they sought to resolve their cases through administrative channels. In late 1904 or early 1905, for instance, the Anatolian Railway Company submitted a petition to the Ministry of Trade and Public Works complaining about a *çiftlik* owner named Hacı Mustafa Efendi. The petition claimed that horses and cattle belonging to his *çiftlik* (landed estate) in Eskişehir often wandered onto the tracks and endangered the safe movement of railroad traffic. When the employees of the company tried to seize the trespassing animals, they were threatened by Hacı Mustafa Efendi. Thus, the petition concluded, the company would not accept any responsibility or liability for an accident caused by these animals. In response to this petition, the Ministry of Trade and Public Works sent a letter to the governor of Hüdavendigar province, asking him to warn the *çiftlik* owner not to let his animals trespass on the track.[38] The governor forwarded this letter to the *kaymakam* of Eskişehir who, in turn, passed it down to local police officers. When the officers held a meeting with Hacı Mustafa Efendi about the complaints voiced against him, he dismissed them as totally groundless. After this meeting, local government officials and their superiors in the imperial capital did not take further action with regard to the issue. Instead, they asked the railway company to substantiate its allegations with credible evidence and file a lawsuit against Hacı Mustafa Efendi.[39]

While not complying with the Railroad Safety Regulation, some locally powerful actors received support from government officials. For instance, at several times, the Oriental Railway Company complained that although

37. Ibid. This was not the only conflict between the Oriental Railway Company and Selim Kahya. In mid-November 1901, the employees of the company seized two water buffaloes that belonged to him at the Karasulu Station. However, his men then took the animals away without authorization. See Ibid. The archival documents show that similar incidents also took place in other regions of the empire. For instance, in July 1895, the Anatolian Railway Company seized two water buffaloes belonging to a man named Mehmed Ağa at the Biçer Station in Sivrihisar, Eskişehir. However, the company officials reported that less than a week later, Mehmed Ağa's brother went to the station and, despite the presence of gendarmes, took the animals back by force. See BOA, T-DMİ 951/59, doc. 1 (18 June 1895).

38. Eskişehir was administratively a district of Kütahya sub-province and Hüdavendigar province.

39. BOA, T-DMİ 1034/51, docs. 1- 3 (13 Haz. 1321/26 June 1905 and 12 Tem. 1321/25 July 1905). The sources I consulted do not mention whether the Anatolian Railway Company brought this issue before the court in the future.

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Davud and Selim Kahya engaged in unlawful acts, local government officials in Gevgili did not take action against them and their family members.[40] On the contrary, they sometimes helped them avoid punishment. For instance, quite possibly, the railroad inspectors deliberately did not file a report on the seizure of Selim Kahya's donkeys in November 1901. It is important to note that railway companies sometimes voiced similar complaints when they were involved in conflicts with imperial *çiftliks* (*çiftlik-i hümayun*), which were the sultan's estates, and state-run industrial enterprises. To give one example, in August 1902, one of the Oriental Railway Company's trains ran over a water buffalo and derailed in Küçükçekmece, Istanbul. After the accident, the company officials presented a petition to the Ministry of Trade and Public Works, alleging that the water buffalo belonged to the imperial *çiftlik* of Yarımbergos. The damages caused by this accident, they concluded, had to be covered by the Ministry of the Sultan's Treasury.[41]

The Ministry of the Sultan's Treasury, however, denied the company's allegation and refused to accept any responsibility for the accident. The Ministry of Trade and Public Works forwarded this response to the Oriental Railway Company and did not take any further action on the issue.[42] This attitude resulted in persistent protests by company officials. They presented several petitions to the Ministry of Trade and Public Works, stating that almost all inhabitants of Yarımbergos knew that the water buffalo in question belonged to the imperial *çiftlik.* Yet, neither the railroad commissioner in charge of the line where the accident occurred nor other local government officials went to the district to carry out an investigation in order to determine the owner of

40. BOA, T-DMİ 1034/14, doc. 1 (27 June 1905); BOA, T-DMİ 1041/1, doc. 1 (8 March 1906).

41. BOA, T-DMİ 1032/34, doc. 1 (5 April 1905); BOA, T-DMİ 1034/15, doc. 2 (3 Tem. 1321/16 July 1905). In the district of Küçükçekmece, there were a number of imperial *çiftliks* that had large animal populations and produced a variety of crops. Their names were as follows: Ayamama, Alemberdos, Alibey, Safra, Yarımbergos, and Tahtakale. See Salih Şahin, "Küçükçekmece Tarihi," in *Dünden Bugüne Küçükçekmece* (Istanbul: Küçükçekmece Belediye Başkanlığı, 2010), 136–142.

42. It seems that the Ministry of Trade and Public Works often followed this path when the railway companies claimed that a trespassing animal belonged to an imperial *çiftlik* or a state-run enterprise. In October 1905, for instance, a water buffalo got on the track at Küçükçekmece but then escaped without causing accident. Shortly afterwards, the Oriental Railway Company presented a petition to the Ministry of Trade and Public Works, alleging that the water buffalo belonged to the imperial *çiftlik* of Yarımbergos. In response, the Ministry of the Sultan's Treasury denied this allegation. The Ministry of Trade and Public Works forwarded this response to the railway company and sought to close the case without taking further action. See BOA, T-DMİ 1041/8, doc. 2 (10 Mart 1322/23 March 1906). For a similar case, see BOA, T-DMİ 1033/85 (28 Haz. 1321/11 July 1905).

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the water buffalo.[43] If such an investigation was not conducted, the petitions concluded, the Oriental Railway Company would ask the government to pay for the damages caused by the accident.[44] These petitions eventually led to a change in the Ministry of Trade and Public Works' attitude. About three years after the derailment of the train, in July 1905, ministry officials asked the Municipality of Istanbul to investigate the accident and prepare a report on its findings.[45]

These cases show that, by using their influence over local people and connections with government officials of various ranks, some members of notable families and *çiftlik* owners and administrators were able to avoid paying trespassing fines or, at worst, delay the investigation of allegations against them. When their animals were seized by railway companies, people from the lower ranks of society also sought to achieve these same ends. However, unlike the above-mentioned powerful actors, most of them did not have the resources (such as manpower and support from government officials) to attack the stables where the animals were kept. Likewise, turning to the courts of administrative councils did not seem to be a practical option for people of limited means. This was because once they came before these courts, like the users of the *Nizamiye* courts, they apparently had to pay a wide range of judicial fees.[46] Hence, they often adopted less confrontational tactics, while dealing with railway companies, railroad commissioners, and other government officials.

In 1888, for instance, the employees of the Haydarpaşa-Izmit line seized five cattle that trespassed on the tracks at the Yarımca station.[47] It soon appeared that these animals belonged to a soldier serving in the armory crafts unit in the imperial capital. The soldier named Hüseyin neither prevented the

43. BOA, T-DMİ 1032/34, doc. 1 (5 April 1905); BOA, T-DMİ 1033/54, doc. 1 (23 May1905).

44. BOA, T-DMİ 1032/34, doc. 1 (5 April 1905). According to the company officials, damages caused by the accident amounted to 1,731 piasters.

45. BOA, T-DMİ 1034/15, doc. 2 (3 Tem. 132/16 July 1905). Unfortunately, the documents consulted do not mention the municipality's response to the Ministry of Trade and Public Works and how the case was ultimately resolved.

46. As Rubin demonstrates, each action of the *Nizamiye* courts (such as the issuance of a court decision and notification of the litigants and witnesses) had its price tag. See Rubin, *Ottoman Nizamiye Courts*, 44–47. The courts of the administrative council provided the same judicial services and, quite possibly, they also charged fees for them.

47. By the time this event took place, the Haydarpaşa-Izmit line was run by a British company. Yet, shortly afterwards, the Ottoman government awarded a long-term concession to Deutsche Bank to operate and extend the line. See Murat Özyüksel, *Osmanlı İmparatorluğu'nda Nüfuz Mücadelesi: Anadolu ve Bağdat Demiryolları* (Istanbul: Türkiye İş Bankası Kültür Yayınları, 2013), 55.

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railroad employees from doing their work nor attacked the stable where his cattle were kept. Instead, he filed a petition asking the Ministry of Trade and Public Works to excuse him from paying the required fine, because he had considerable financial problems.[48] The documents consulted do not mention whether the ministry officials accepted Hüseyin's demand. However, in any case, his petition was not unique in the late nineteenth and early twentieth century. When they were asked to pay trespassing fines, many non-elites also refused citing their dire economic situations.

An event that took place on 23 October 1894 provides some clues on how the Ottoman government and railway companies responded to them. The employees of the Oriental Railway Company in Preşova saw four cattle wandering on the tracks and seized them.[49] They then handed the animals over to local government officials and asked them to collect the required fine from their owners, in accordance with Article 14 of the Railroad Safety Regulation. While the owner of two of these cattle promptly paid the fine, the other owner did not, claiming to be a poor widow and this led to a long-lasting conflict. When notified of her sentence, the poor woman stated that she could not afford to pay a fine of one hundred piasters. In response, the local government of Preşova converted the fine into a five-day prison sentence. However, in a letter addressed to the governor of Kosovo, the commissioner of the Salonica-Mitrovica line remonstrated against this decision claiming that it was in violation of the Railroad Safety Regulation. He also asked whether the two cattle should be sold in order to cover the unpaid fine of one hundred piasters.[50] The provincial governor forwarded this letter to the governor of Pristina sub-province and asked him to make a decision on the issues in dispute.[51]

In his response, the governor of Pristina wrote that in accordance with orders,[52] if a person did not own any property other than his/her seized animal(s), he/she was imprisoned one day for each twenty piasters of the remaining fine. Yet, he did not make a statement about the sale of animal(s). Shortly afterwards, the Kosovo Provincial Administrative Council also considered this issue, but also left it unresolved. This was because, the council members noted,

48. BOA, T-HPD 1321/73 (24 Eylül 1326/6 October 1888).

49. Preşova was administratively a district of Priştine sub-province and Kosovo province. The Oriental Railway Company's Salonica-Mitrovica line passed through this district.

50. The railroad commissioner made this move probably because the officials of the Oriental Railway Company sent a letter to him protesting the local government's decision and demanding the sale of the two cattle.

51. BOA, ŞD 1976/1, doc.1 (11 Ka. sani 1310/23 January 1895).

52. The governor did not specify the orders to which he referred. Yet, as discussed below, the conversion of an unpaid fine to jail time was in accordance with the Imperial Ottoman Penal Code.

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the Railroad Safety Regulation did not specify whether an animal caught within the restricted areas of railroads could be sold if its owner failed to pay the required fine. As the local authorities were unable to resolve the issue, the provincial governor sought his superior's assistance in the imperial capital. In a letter dated January 1895, he asked the Ministry of Interior to determine what course of action the local government should take.

About one month later, the ministry officials brought this letter to the attention of the grand vizier who, in turn, asked the Council of State to consider it.[53] Meeting on 13 April 1895, the Reform Legislation Section of the Council of State ruled that according to the Imperial Ottoman Penal Code, if a person could not afford to pay a fine, he or she would instead be given an equivalent prison sentence.[54] To avoid depriving poor people of their means of livelihood, animals were not to be sold to cover fines imposed because livestock trespassed on railroad tracks.[55] Quite possibly, the council members thought a contrary decision would provoke widespread social unrest, because, especially in Anatolia, peasant households' most important means of production was their plow animals.[56]

While this decision represented a defeat for the railway companies, they suffered another and apparently more serious blow five years later. Apparently in response to the increasing number of petitions by poor cultivators in different regions of the empire, the Council of State ruled in late 1900 that even if the owner of a trespassing animal did not pay the required fine, he or she would be exempted from imprisonment and other penalties.[57] Yet, in order for that exemption to be possible, two specific stipulations had to be met. First, the person in question should not have any animal(s) other than the one(s) caught

53. BOA, ŞD 1976/1, docs. 1 and 2 (8 Şubat 1310/25 Feb. 1895 and 11 Ka. sani 1310/23 Jan. 1895); BOA, DH-MKT 347/23 (1 Nisan 1311/13 Nisan 1895).

54. The Council of State was apparently referring to Article 37 of the Imperial Ottoman Penal Code. This article reads as follows: "Fine is the taking of money from a person as determined by the law. Where both imprisonment and a fine are awarded against a guilty person, and he cannot pay the fine by reason of his inability, his period of imprisonment is extended by adding one-half of the term of his imprisonment; and if only a fine is awarded and he cannot pay it, he is put in prison for a period of from twenty-four hours to three months according to the amount of the fine." See John A. Strachey Bucknill and Haig Apisoghom S. Utidjian, *The Imperial Ottoman Penal Code: A Translation from the Turkish Text* (London: Oxford University Press, 1913), 24.

55. BOA, DH-MKT 347/23, doc. 2 (1 Nisan 1311/13 Nisan 1895). According to a ruling of 1872, before being put into effect, this decision was apparently examined and approved first by the Council of Ministers and then by the sultan. See Findley, *Bureaucratic Reform*, 246.

56. Şevket Pamuk, *Osmanlı Ekonomisinde Bağımlılık ve Büyüme, 1820–1913* (Istanbul: Tarih Vakfı Yurt Yayınları, 1994), 101.

57. BOA, T-DMİ 1035/40, doc. 2 (7 Ağus. 1321/20 Aug. 1905).

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within the restricted areas of railroads and, second, these animals should be used for plowing.[58] This move by the Council of State probably increased the popularity of Abdülhamid II's government among poor cultivators. However, it also invited strong protests from the railway companies.

In July 1904, for instance, the Anatolian Railway Company submitted a petition to the Ministry of Trade and Public Works complaining of local government officials' excessive indulgence towards poor cultivators in their districts. According to the petition, the officials labeled all oxen, cows, water buffaloes, and even horses seized on the track as plow animals. Hence, if these animals belonged to poor cultivators, they were immediately returned to them.[59] Since this petition did not lead to a change in the situation, the company submitted another one to the same ministry in July 1905. After a brief investigation, the company officials wrote, it was found that government officials who were criticized in their previous petition were actually implementing the 1900 decision of the Council of State. This decision granted people the freedom to destroy the track and its verges, and hence endanger the safety of passengers and employees of the railroads. Thus, it should be immediately repealed by the government. Otherwise, the petition concluded, the company would not accept any responsibility and liability for accidents caused by animals trespassing on the tracks.[60]

In contrast to the former one, the latter petition by the Anatolian Railway Company drew support from various government offices. In a letter addressed to the Ministry of Trade and Public Works in August 1905, the Railroad Administration wrote that a plow animal seized on the track should by no means be sold by the government or railway companies to cover an unpaid fine, if it was its owner's main source of livelihood. However, those who could not afford to pay their fines should not be released without any punishment. Instead, the letter concluded, in accordance with the Imperial Ottoman Penal Code, the unpaid fine should be converted into a prison sentence.[61] The ministry officials soon brought this letter to the attention of the Reform Legislation Section of the Council of State. Taking into account points made by the Railroad Administration, the council ruled that its 1895 decision would be binding for all

58. Ibid. Güran notes that in the Ottoman Empire, agricultural producers used mostly oxen to plow their lands. In the European provinces, horses were also used for this purpose. See Tevfik Güran, *19. Yüzyıl Osmanlı Tarımı Üzerine Araştırmalar* (Istanbul: Eren Yayıncılık, 1998), 86.

59. BOA, T-DMİ 1035/40, doc. 1 (7 July 1905).

60. Ibid. To put pressure on the government to take action, the petition noted that such an accident might involve a train full of soldiers.

61. BOA, T-DMİ 1035/40, doc. 2 (7 Ağus. 1321/20 Aug. 1905).

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animal owners who were unable to pay their fines.[62] This meant that poor cultivators were no longer able to benefit from the immunity accorded by the 1900 decision of the Council of State. They would from then on be imprisoned for unpaid fines but, in any case, most prison sentences would not exceed several days.[63] Moreover, as their trespassing animal was ultimately handed back to them, they would not be deprived of an important means of livelihood.

Conclusion

This study shows that while in some cases railway companies and railroad commissioners worked together to collect fines from the owners of trespassing animals, in others the companies did not receive any real support from the commissioners and other concerned government officials. The latter was especially the case when trespassing animals allegedly belonged to economically and politically powerful actors in the imperial capital and provinces. In response, the companies voiced strong protests against government offices and officials, acting in accordance with the interests of these actors. The conflict between the Oriental Railway Company and the imperial *çiftlik* of Yarımbergos shows that these protests could at times force the government, specifically the Ministry of Trade and Public Works, to reinvestigate cases that had been previously closed by local officials.

Railway companies were not the only actors taking action to defend their interests. Some members of local notable families and *çiftlik* owners prevented the seizure of their animals trespassing on tracks and in other restricted areas by threat or the actual use of force. When sued by railroad commissioners and railway companies, these people knew that the courts primarily looked at the testimonies of witnesses who were not the employees of railway companies. By using their influence over local people and connections with government officials, they were often able to prevent the plaintiffs from producing such witnesses or other evidence. Moreover, a large number of people petitioned for exemption from trespassing fines based on claims of poverty and financial hardship. These petitions left their imprint on the text of the Railroad Safety Regulation. The Council of State's decision that provided poor cultivators with one plow animal immunity from any liability in trespassing cases was appar-

62. BOA, DH-MKT 2609/106 (28 Ka. sani 1321- 10 Feb. 1906). In late 1905, this decision was approved by the Council of Ministers and put into effect. Then, the Ministry of Interior issued a circular ordering the governors and other concerned government officials to implement this decision.

63. As mentioned above, a person was imprisoned one day for each twenty piasters of the fine unpaid. According to the 1867 regulation, when an ox, a water buffalo, or a horse was seized on the track, its owner should pay a fine of fifty piasters. This means that, if he/she failed to pay this amount, he/she would be imprisoned for 2.5 days.

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ently a response to them. Although, upon protest from railway companies, this decision was ultimately annulled, poor animal owners unable to pay their fines were not left completely empty-handed. In order to maintain the loyalty of these people, the government did not make a decision that would dispossess them of their animals. This was the compromise that the Ottoman ruling elites found between the interests of their subjects and of those European railway companies.

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