

Legislative (1895) Department.

ORDINARY MS.

G.O., No. 23-34

Dated 17th April 1895

INDEXED.

[Despatch Abstract.]

MADRAS HEREDITARY VILLAGE OFFICERS' ACT.

Submitting copy of the -- as assented to by His Excellency
the Governor, for the assent of His Excellency the Governor-General.
Copy to the Government of India, Legislative Department.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

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MADRAS ACT No. OF 1895.

An Act to repeal Madras Regulation VI of 1831, and for other purposes.

WHEREAS it is expedient to provide more precisely for the succession to certain hereditary village offices in the Presidency of Madras; for the hearing and disposal of claims to such offices or the emoluments annexed thereto; for the appointment of persons to hold such offices and the control of the holders thereof; and for certain other purposes; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Hereditary Village Offices Act, 1895; and it shall come into force from such date as may be notified by Government.

(2) Section 5 applies to the whole of the Presidency of Madras; the rest of the Act applies to the whole of the said Presidency except the scheduled districts as defined in the Scheduled Districts Act, 1874.

2. (1) Madras Regulations II of 1806 and VI of 1831 are hereby repealed; and, on and after the commencement of this Act, no portion of Madras Regulation XXIX of 1802 shall continue to apply to any local area which is not a permanently-settled proprietary estate.

(2) From the preamble of Act XXIV of 1859 (An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George), the words "and improve the condition of the village police" shall be omitted; and, for the definition of the word "Police" in section 1 of the same Act, shall be substituted the following clause, namely:—

"The word 'Police' shall include all persons appointed under this Act."

(3) In clause (c) of the definition of the word "Estate" in section 4 of the Madras Proprietary Estates' Village Service Act, 1894, after the word "palaiyam", shall be inserted the words "or jaghir"; and, in sub-section (1) of section 15 of the same Act, between the words "among the" and the words "holders of the offices", shall be inserted the words "families of the last".

3. This Act shall apply to the following classes of village offices, provided that emoluments have been attached thereto:—

- (1) hereditary village offices in local areas to which the Madras Village Cess Act, 1893, has been, or may be, extended;
- (2) hereditary village offices to which the Madras Proprietary Estates' Village Service Act, 1894, is extended;
- (3) other hereditary village offices in proprietary estates except (i) the offices forming Class (4) below and (ii), in proprietary estates wherein Madras Regulation XXIX of 1802 remains in force, the office of village accountant;
- (4) the hereditary offices of village artizans and village servants such as the following, namely:—

- (i) the village carpenter,
- (ii) the village blacksmith,
- (iii) the village barber,
- (iv) the village washerman,
- (v) the village potter,
- (vi) the village astrologer,
- (vii) the village purohit or priest.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—
“Emoluments” means and includes—

- (i) lands ;
- (ii) assignments of revenue payable in respect of lands ;
- (iii) fees in money or agricultural produce ;
- (iv) money-salaries and all other kinds of remuneration ;

granted or continued in respect of, or annexed to, any office by the State.

“Proprietary estate” and “Proprietor” mean, respectively, an Estate and Proprietor as defined in the Madras Proprietary Estates' Village Service Act, 1894, as amended by this Act.

“Village” means any local area now recognized as a village or hereafter declared by Government to be a village.

Emoluments attached by the State to certain offices inalienable and not liable to attachment.

5. The emoluments of village offices, whether such offices be or be not hereditary, and, in the scheduled districts as defined in the Scheduled Districts Act, 1874, all such emoluments and other emoluments granted or continued in remuneration for the performance of duties connected with the collection of the revenue or the maintenance of order, shall not be liable to be transferred or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Madras Act II of 1894.

Madras Regulation VI of 1831, Sec. 2. Act XIV of 1874.

Villages may be grouped or divided.

6. (1) In any local area in which the Madras Village Cess Act, 1893, is in force the Board of Revenue may, subject to rules made in this behalf under section 20, group or amalgamate any two or more villages or portions thereof so as to form a single new village or divide any village into two or more villages and, thereupon, all hereditary village offices to which the said Act applies in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist and new offices, which shall also be hereditary, shall be created for the new village or villages. In choosing persons to fill such new offices, the Collector shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have been abolished.

Madras Act IV of 1893.

Effect of grouping and division upon village offices.

Reduction of village offices.

(2) If two or more village offices exist in any village in which the Madras Village Cess Act, 1893, is in force, the Board of Revenue may, subject to the approval of Government, direct that the number of such village offices shall be reduced and, thereupon, the Collector shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices.

Madras Act IV of 1893.

Power of Collector over village officers in Government villages and proprietary estates.

7. (1) The Collector may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove the holder of any of the offices forming Class (1) in section 3, and suspend, dismiss or remove the holder of any of the offices forming Class (3) in the said section, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village officer concerned.

Madras Regulation VI of 1831, Sec. 7.

Proviso.

Provided that, when a Village Munsif who is also the head of the village is suspended or removed under the Madras Village Courts Act, 1889, such suspension or removal shall involve his suspension or removal from the office of head of the village.

Madras Act I of 1889.

Power of Tahsildar and Deputy Tahsildar over village officers in Government villages.

(2) A Tahsildar or Deputy Tahsildar may, of his own motion or on complaint and after enquiry, fine the holder of any of the offices forming Class (1) in section 3 for any of the causes specified in sub-section (1) and in such amount as the Board of Revenue may, by general or special order, prescribe. The provisions of sub-section (1) in regard to the recording of reasons and the furnishing of copies shall apply to proceedings taken under this sub-section.

Power of proprietor over village officers in proprietary villages.

8. A proprietor may, of his own motion or on complaint and after enquiry, suspend, dismiss or remove the holder of any of the offices in his estate forming Class (3) in section 3, except the village accountant, the head of the village and the village watchman or police-officer, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village officer concerned.

9. The powers conferred on a Collector by sub-section (1) of section 7 over the holders of the village offices forming Class (3) in section 3, except the offices of village accountant, head of the village and village watchman or police-officer, shall not be exercised, unless, for reasons to be recorded in writing, the Collector is satisfied that the proprietor concerned has neglected to exercise in an adequate manner the powers conferred on him by section 8.

Limitation of power of Collector over certain officers in proprietary estates.

10. When a vacancy occurs in any of the village offices forming Class (1) in section 3, the Collector shall fill up the vacancy in accordance with the provisions of the following sub-sections.

Rules to be observed in making appointments to certain offices in Government villages.

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

- (a) is not of the male sex ;
- (b) has not attained the age of majority ;
- (c) is not physically and mentally capable of discharging the duties of the office ;
- (d) has not qualified according to the educational test prescribed for the office in question by the Board of Revenue by rules made under section 20 ;
- (e) has been convicted by a Criminal Court of any offence which, in the opinion of the Collector, disqualifies him for holding the office.

(2) The succession shall devolve on a single heir according to the general custom and rule of primogeniture governing succession to impartible zamindaris in Southern India.

Primogeniture to be observed.

(3) Where the next heir is not qualified under sub-section (1), the Collector shall appoint the person next in order of succession who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

In certain cases person other than direct heir may be appointed.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Collector may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer ; provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Temporary disqualification of heir in certain cases.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Collector shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if he remains disqualified under sub-section (1) for sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Collector shall fill up the vacancy as provided in sub-sections (2) and (3).

Procedure to be adopted where heir is a minor.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Collector does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder ; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

Rules to be observed in making appointments to certain offices in proprietary estates.

General qualifications requisite in all cases.

Law or custom of succession to be observed.

In certain cases person other than direct heir may be appointed.

Procedure to be adopted where heir is a minor.

In case of village artisans, law or custom of succession to be observed.

Provisions relating to suits for offices, for recovery of emoluments and for registry as heir.

No suit for declaratory decree.

Procedure in case of dispute as to nature of emoluments.

Rejection of claim when claimant is ineligible for appointment.

Limitation of time within which suits may be brought.

Limitation in case of minority.

11. When a vacancy occurs in a proprietary estate in any of the offices forming Class (3) in section 3, the proprietor shall fill up the vacancy in accordance with the provisions of the following sub-sections.

- (1) No person shall be eligible for appointment who—
 - (a) is not of the male sex;
 - (b) has not attained the age of majority;
 - (c) is not physically and mentally capable of discharging the duties of the office.
- (2) The succession shall devolve in accordance with the law or custom applicable to the office in question at the date on which this Act comes into force.
- (3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).
- (4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to perform the duties of the office until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (c) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).

12. The succession to village offices forming Class (4) in section 3 shall devolve in accordance with the law or custom applicable thereto at the date on which this Act comes into force.

13. (1) Any person may sue before the Collector for any of the village offices specified in section 3 or for recovery of the emoluments of any such office, on the ground that he is entitled under sub-section (2) or (3) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (2) or (3) of section 10 or sub-section (2) or (3) of section 11 or section 12 of this Act, as the case may be, to hold such office and enjoy such emoluments; or, being a minor, may sue before the Collector to be registered as heir of the last holder of any such office.

Provisos:—

- (i) No suit shall be entertained for a mere declaratory decree.
- (ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Collector shall decide the claim on the assumption that only the said assignment constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

(2) If, at any time before the completion of the trial of a suit preferred under this section for any office or for the recovery of the emoluments of any office, it appears to the Collector that the claimant is not eligible for appointment under sub-section (1) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (1) of section 10 or sub-section (1) of section 11 of this Act, as the case may be, he shall pass an order rejecting the plaint.

14. (1) No suit preferred before a Collector under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Act. Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Madras Regulation VI of 1831, section 4.

Madras Act II of 1894.

Act XIV of 1882, section 617.

Madras Act II of 1894.

Act XIV of 1882, section 617.

(2) No application for the execution of a decree or order passed under this Act shall be entertained, if made after the expiration of one year from the date of such decree or order.

Limitation of time within which execution of decree or order may be applied for.

(3) Decrees or orders passed under Madras Regulation VI of 1831 may be executed under the provisions of this Act; provided that no application for the execution of such decree or order shall be entertained, if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Act.

Execution of decrees and orders passed under Regulation VI of 1831.

(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.

Limitation when appeal preferred.

15. The District Collector may transfer to his own file any suit on the file of any Revenue officer in charge of a division of the district or from the file of one such officer to that of another or to the file of an Assistant or Deputy Collector not in charge of a division, for disposal.

Power of District Collector in regard to transfers of suits.

16. (1) The trial of suits under this Act shall be regulated by rules made by the Board of Revenue under section 20 and by the following provisions:—

Procedure to be observed in trying suits.

- (i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties who shall be entitled to be heard in person or by agent;
- (ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;
- (iii) The officer trying the suit shall record, in his own hand and in English, a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Date of hearing to be fixed and parties to be heard.

Witnesses may be produced or summoned.

Record of proceedings.

(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.

Obligation to obey summons.

17. Decrees and orders passed in suits under this Act may provide for payment of costs according to such scale and subject to such rules as may be prescribed by the Board of Revenue under section 20 and shall be executed in accordance with rules to be made by the Board of Revenue under the said section.

Decrees may provide for costs and shall be executed according to rules made by Board of Revenue.

18. (1) If, before or during the hearing of a suit under this Act or of an appeal against a decree or order passed in a suit under this Act, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the Board of Revenue and shall stay further proceedings until the said decision is communicated to him.

In certain cases, Collector may refer question of law to Board of Revenue.

(2) The Board of Revenue shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the said Board, and the correctness of the decision of the said Board shall not be contested in any appeal made under this Act.

Procedure to be followed in case of such reference.

Decision of Board of Revenue not to be contested.

19. All suits brought and appeals made under Madras Regulation VI of 1831 shall, after the commencement of this Act, be heard and disposed of as if they had been preferred under this Act.

Disposal of suits and appeals pending at commencement of this Act.

Board of Revenue may make rules on certain subjects.

20. The Board of Revenue may, with the approval of Government and after previous publication, make rules not inconsistent with this Act or with the Madras Proprietary Estates' Village Service Act, 1894, in regard to the following matters:—

Madras Act II of 1894.

- (i) the division, grouping and amalgamation of villages;
- (ii) the holding of enquiries under sections 6, 7 and 8 and the hearing of appeals under section 23;
- (iii) the educational qualifications required of the holders of the village offices forming Class (1) in section 3;
- (iv) the procedure to be followed in disposing of suits and appeals from decrees or orders passed in suits and the registers to be maintained in connection therewith;
- (v) the execution of decrees and orders passed in suits and the taxation of costs;
- (vi) the salaries and other allowances to be assigned to the holders of the village offices forming Class (1) in section 3 and the method of their payment;
- (vii) the duties of the holders of the village offices forming Classes (1) and (3) in section 3, and the descriptions and forms of the accounts and registers to be kept by them;
- (viii) the custody, production and transfer of the accounts and other records kept by the holders of the village offices forming Classes (1) and (3) in section 3;
- (ix) the publication of administration reports under the Madras Village Cess Act, 1893, the Madras Proprietary Estates' Village Service Act, 1894, and this Act;
- (x) any other matters calculated to enhance the efficiency of the village service.

Madras Acts IV of 1893 and II of 1894.

Jurisdiction of Civil Courts barred.

21. No Civil Court shall have authority to take into consideration or decide any claim to succeed to any of the offices specified in section 3 or any question as to the rate or amount of the emoluments of any such office or, except as provided in proviso (ii) to sub-section (1) of section 13, any claim to recover the emoluments of any such office.

Madras Regulation VI of 1831, Sec. 3.

Provided that, if, in any suit instituted under this Act, the defendant has pleaded before the Collector that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Act, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.

Proviso empowering Civil Courts to set aside the decisions of Revenue Courts on the question of jurisdiction.

22. Nothing herein contained shall affect the provisions of section 52 of Madras Act II of 1864 or the provisions of Madras Act IV of 1866 or, except as provided in sub-section (1) of section 6, shall be deemed to create or confer an hereditary right to any village office.

Nothing in this Act to prevent recovery of emoluments as arrears of revenue or to affect office which is not now hereditary.

23. (1) From every order passed by a Collector under section 6 or 7, and from every decree or order passed by a Collector in a suit preferred under section 13, an appeal shall lie, within one month, to the District Collector, or, if the said order or decree was passed by the District Collector, an appeal shall lie, within three months, to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final.

Provided that, in respect of the offices of head of the village and village accountant, a second appeal shall lie, within three months, to the Board of Revenue, against the decision on appeal of the District Collector in suits preferred under section 13 and in cases of dismissal of a village officer under section 7.

Second appeal in certain cases.

(2) From every order passed by a Tahsildar or Deputy Tahsildar under sub-section (2) of section 7, and from every order passed by a proprietor under section 8, an appeal shall lie, within one month, to the Collector whose decision shall be final.

Appeal against order of Tahsildar, Deputy Tahsildar or proprietor.

24. If the officer to whom an appeal is presented under this Act in the capacity of District Collector or Collector happens to be the officer who passed the decision which is appealed against in another capacity, he shall report the fact to the Board of Revenue or to the District Collector, as the case may be, and the appeal shall be disposed of by the said Board or District Collector and the order passed on appeal shall be final.

Disposal of appeal by officer who passed original order.

25. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications, shall *mutatis mutandis*, apply to suits, appeals, or applications for the execution of decrees or orders, instituted, preferred or made under this Act.

Certain provisions of Limitation Act to apply.

26. The Government may declare that the powers of punishing village officers which are vested in the Collector by this Act and by the Madras Proprietary Estates' Village Service Act, 1894, shall be exercised in any specified local area by the District Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or police-officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or police-officer passed by a District Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Magistrate, whose decision shall be final.

Power of Government to place village watchman under police authorities.

In the name and on behalf of Her Majesty the Queen, Empress of India, I assent to this Act.

Wenlock

Madras

8th April 1895

Governor of Madras

Legislative Department.
No. 40.

Fort Saint George
5th April 1895

From

A. Butterworth Esqr. I.C.S.

*Under Secretary to the
Madras Legislative Council*

To

The Private Secretary to the Right Honorable
the Governor.

Sir,

I have the honor to forward copy of the Act

An Act to repeal Madras Regulation
VI of 1881 and for other purposes.

specified in the margin which was passed
by the Madras Council for making Laws

and Regulations on the 20th ultimo, and to request that you will
submit it to the Right Honorable the Governor for his assent
in accordance with Rule ⁵⁶ 53 of the Council Rules.

I have the honor to be,

Sir,

Your most obedient servant,

A. Butterworth

Under Secretary to the Council

Returned duly signed.

Reelan

as per

S. A. M. 30

8/4

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Leg

From

U. G. S. to the
Governor

Dated. 8/4/95

Recd 8/4/95

Encl-1

Subject

Returning to the Act to
repeal Madras Regn. VI
of 1831 and for other purposes
Only signed by H.R. the Governor

* An Act to repeal Madras
Regulation VI of 1831, and for
other purposes.

1. Bill as introduced with Statement
of Objects and Reasons
2. Report of the 1st Select Committee
+ the Bill as amended by that
Committee
3. ~~Further~~ Report of the 2nd Select Committee
+ the Bill as amended by that
Committee.
4. Papers Nos 1-8 relating to the
Bill.
5. Proceedings of the Madras
Council, dated 14th November 1893,
26th Nov 1894, and 13th, 19th & 20th
March 1895.

For H.R. Secy
17th April 1895

10/4

No. 34

Copy with enclosures

Noted

Legislative Department

No. 33

The Secretary to the Govt of India
Revenue & Agric. Dept.

Sir,

I am directed to forward
copy of the marginally noted Act
which was passed by the Madras
Legislative Council on the 20th ^{11th} ~~11th~~
and received the assent of His Excellency
the Governor on the 8th instant, and
to request that it may be submitted
to His Excellency the Governor General
for his assent.

2. Two copies of each of the
papers specified in the margin are
enclosed for reference.

NT.

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noted on the margin forwarded to the
Government of India, Legislative Dept.,
with reference to its letters, dated
14 July 1879, No. 751, and 14 May 1889,
No. 1020.

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to the Bill dated 14 November 1893,
26 Nov 1894, and 13th, 19th, and 20th
March 1895 27

Given for copying _____
Copied _____ 189.
Examined _____
En signed _____

AGAIN G.O., No.
189

DATED

PRESENT No.

COPIES TO C. No

OF GOVERNMENT

OF GOVERNMENT

STATEMENT WITH DITTO

NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.--

- A = Copy in full.
- B = Not to be copied.
- F = Copy abstract only.
- Q = Copy heading only

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