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unless such person, in this Act called a "foster-mother," is licensed for any such purpose in respect of such house, and such house is also registered as a nursing home under this Act. A.D. 1918

(2) The Secretary or any person authorised by him may receive payment of any sum in advance for the keep and care of any child in a nursing home, and may pay out such money in such monthly instalments as he deems requisite. In case of the death of the child, any sum unexpended after payment of funeral expenses shall be returned to the person entitled to receive the same. Payments.

**105** The Secretary shall cause a register to be kept in which shall be entered the name of every foster-mother who applies to be licensed, and to have her house registered as a nursing home under this part, and the situation of such nursing home, together with the maximum number of children that may be nursed therein, and such other particulars as may be prescribed. Manner of licensing and registration.  
*Ibid.*, s. 7 (Tas.).

Every such licence or registration shall, unless cancelled under this part, remain in force until the Thirty-first day of December next following the making thereof, and no longer, unless the same is renewed.

Licences and registrations may be renewed during the month of December in which the same expire, and renewals shall take effect from the first day of January next ensuing, and shall, unless cancelled under this part, remain in force for One year.

No fee shall be payable for any licence or registration or renewal.

The secretary shall give to the licensed foster-mother a licence and a certificate under his hand of the registration of the nursing home or renewal of registration, which shall in all matters be *primâ facie* evidence of such licence, registration, or renewal. The certificate in respect of the nursing home shall disclose the maximum number of infants permitted to be kept therein.

**106** The Secretary may refuse to licence any foster-mother or to renew any licence unless he is satisfied that the applicant is of good character, and able properly to nurse and provide for any infants in her care or charge, and is in good health and free from any constitutional disease or complaint. Secretary may refuse to register.  
*Ibid.*, s. 8 (Tas.).

The Secretary may refuse to register or renew the registration of any nursing home, unless he is satisfied that the house is suitable for the purpose, and is situated in a suitable locality.

**107**—(1) Every licensed foster-mother shall keep at her nursing home a roll, in which she shall immediately enter the name, sex, and age of each infant retained in or received into her care or charge. Roll of nursing home.  
*Ibid.*, s. 9 (Tas.).

She shall, immediately, also enter in such roll opposite the name of each infant the date when such infant was so retained or received, and the full names and places of residence and occupations of its parents, and of the person by whom such infant was left, or from whom it was received, and, if such last-mentioned person is a married woman, the

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full name and the occupation of her husband, and also particulars of the periodical payments to be made in respect of such infant and by whom they are to be made.

In case of default in the making of any such periodical payments she shall also, within Three days after the same become due, give written notice in prescribed form to the Secretary of the fact of such default.

(2) If any such infant is removed from such nursing home, whether before or after attaining the age of Five years, such foster-mother shall immediately after such removal enter in such roll the date of such removal and the full name and place of residence and occupation of the person by whom such infant was removed.

(3) Every licensed foster-mother shall cause the person from whom an infant is received, or by whom an infant is removed, to sign such entry, and shall forward to the secretary a copy of each such entry within Three days after the reception or removal of each infant.

(4) She shall at all times forthwith upon demand by any officer of the department or member of the police force of or above the rank of sergeant produce such roll to such officer or member, who may examine and peruse the same, and, if he thinks proper, retain it.

Duty and responsibility of foster-mother.  
*Ibid.*, s. 10 (Tas.)

**108** It shall be the duty of every licensed foster-mother to provide every infant, while in her care or charge, with proper and sufficient clothing, food, nursing, and attention, and with all other necessaries of life, and to keep every part of the nursing home at all times in a fit and proper state for the reception of infants, and to do, observe, and carry out all the acts, requirements, and directions prescribed by this Act or by any order of the Secretary or authorised officer in relation to the nursing home. And the Secretary or authorised officer is hereby empowered to make any such order having for its object the effectual execution of the foregoing provisions.

And every such foster-mother shall be held responsible not only for her own acts or default in relation to the nursing home, but also for any act or default of any member of her family, or of any person employed by her at or in connection with the nursing home.

Licences and registrations may be cancelled.  
*Ibid.*, s. 11 (Tas.)

**109** If at any time it is made to appear to the Secretary that any licensed foster-mother has been guilty of neglecting any infant in her care or charge, or is incapable of providing any such infant with proper food or attention, or that the nursing home is unfit for the reception of infants, or if for any other reason it appears to the Secretary desirable so to do, he may, after at least Seven days notice in writing, served by leaving the same at the nursing home, cancel the licence of such person and the registration of such nursing home.

The Secretary shall immediately remove from such nursing home all children of the State and place them in another nursing home, or make other adequate provision for them.

The Secretary may at any time after giving such notice of cancellation to any foster-mother, by order in writing under his hand, addressed to the person who is by contract or otherwise legally responsible for the maintenance of any infant (not being a child of the State) placed in the care of such foster-mother, require such person to at once remove

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such infant from the nursing home of such foster-mother, and place it in another nursing home, or make other adequate provision for it, and if the person so ordered, upon a copy of such order being served upon him, fails to forthwith obey such order he shall be guilty of an offence against this Act.

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The Secretary may also remove from any such nursing home any infant (not being a child of the State), and the Department may take it into its care temporarily, pending the restoration of such infant to its relatives or guardians, or until it can be lawfully disposed of; and in any such case the Secretary may recover the cost of the removal, maintenance, and clothing of and medical attendance upon such infant from the person, by contract or otherwise legally responsible for the maintenance of such infant.

The removal of any infant from the nursing home of any foster-mother whose licence has been cancelled under this section shall terminate any contract made with such foster-mother respecting such infant.

**110** Every licensed foster-mother shall, within Twenty-four hours after the death of an infant in her care or charge, give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held.

Notice to be given of death of infant; inquest to be held, and report made to Minister.  
*Ibid.*, s. 13 (Tas.).

The coroner holding such inquest shall inquire not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and also into any other matters in his opinion requiring investigation in the interests of public justice; and such coroner after holding such inquest shall report to the Minister the cause of death, and shall in such report make such remarks with respect to the matter as to him seem fit.

No infant dying while in the care or charge of a foster-mother shall (unless such infant is the child of such person) be buried without the production of a certificate under the hand of such coroner authorising such burial.

**111**—(1) The Secretary or any officer of the Department, accompanied, if thought desirable, by a legally-qualified medical practitioner, may at any time, subject to the regulations, enter and inspect any nursing home and inspect all infants therein, and examine the licensed foster-mother in order to satisfy himself or the medical practitioner as to the proper care, maintenance, and treatment of any infant, and may give any necessary advice or directions as to such care, maintenance, and treatment. One inspection at least shall take place in every Three months.

Inspection.  
*Ibid.*, s. 14 (Tas.).

(2) If any person refuses to admit the Secretary, or any such officer, or medical practitioner into any nursing home, or obstructs such Secretary, officer, or medical practitioner in inspecting any infant therein or the premises in which any infant is retained or received, or refuses to answer or answers falsely any questions such Secretary, officer, or medical practitioner may put for the purposes of this part, such person shall be guilty of an offence against this Act, and shall be liable on conviction in a summary way to a penalty not exceeding Ten Pounds.

Penalty.

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## PART VIII.

## PROCEDURE, PENALTIES, AND GENERAL PROVISIONS.

Children maintained in certified institution for Two years without objection by father, not removable without consent or order. Tas., s. 46. Vic., s. 76.

**112** Where any child being then destitute or neglected has been, without objection on the part of its father or other guardian, received into any certified institution and maintained therein for a period of Two years and upwards, such father or other guardian shall not be entitled to remove such child out of the custody or control of the managers of such institution without their consent in writing or the order of the Minister, unless such father or guardian satisfies the Minister that he did not know that such child was being so maintained, and that he has not been guilty of negligence with regard to such child whilst it has been so maintained.

If no such consent is given or order made, or satisfactory proof furnished the Minister as aforesaid, the managers of such institution shall have the custody of the person of such child until it attains the age of Eighteen years.

Officer of Department may take part in all trials against children. W.A., s. 108. Q., s. 65 (1).

**113** At the hearing of any complaint under this Act any one officer of the Department or any one probation officer may be present, and examine and cross-examine witnesses, and be heard touching the acquittal or punishment of any child.

Order may be set aside. W.A., s. 110. Q., s. 66.

**114** If an order is made under this Act in respect of a child in the absence of his parent or guardian, to whom reasonable notice of the complaint had not been given, such order may for good cause shown be set aside by a children's court upon the application of such parent or guardian within Three months after the making of the order.

Order forwarded to an institution. N.S.W., s. 50. Q., s. 22.

**115**—(1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent or matron, and shall be a sufficient warrant for the detention of the child.

Certain orders and copies to be evidence.

(2) The production of—

- i. Such order so endorsed ; or
- ii. A copy of such order so endorsed with a memorandum purporting to be signed by the superintendent or matron of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to law : or
- iii. Any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy, shall, without proof of the signature of the person purporting to have signed the same, be evidence in all courts and proceedings —
- iv. Of the due making and signing of any such order, memorandum, or certificate : and
- v. Of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

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- i. Makes any false representation : or
- ii. Forges any licence or certificate : or
- iii. Fraudulently makes use of any forged licence or certificate knowing it to be forged : or
- iv. Falsifies any roll kept in pursuance of this Act : or
- v. Furnishes false particulars of any matter required to be entered in such roll, or to be otherwise furnished under this Act—

shall be guilty of an offence against this Act.

In any prosecution under this Act a copy of or any extract from any entry in the register kept by the secretary, purporting to be signed by the secretary, shall against the defendant be *prima facie* evidence of the facts therein stated.

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Forgery of certificate, &c.  
Va. No. 1198.  
s. 10.  
*Ibid.* (Q.), s. 19  
(Tas.), s. 42.

**117** Whosoever—

- i. Without the authority of the Minister, takes or removes any child of the State from any institution before the expiration of the period of detention of such child, or from its foster-mother, or foster-parent to or with whom such child is apprenticed or placed out before the expiration of the term of placing out or apprenticeship : or
- ii. Directly or indirectly counsels or induces any child of the State to abscond from any institution, or to break his apprenticeship indentures, or to abscond from his foster-mother, or foster-parent before such child had been regularly discharged, or before the expiration of such placing out or apprenticeship : or
- iii. Aids or abets any child of the State in so absconding or escaping, or who prevents any child of the State from returning to any institution or to his foster-mother or foster-parent, or who, knowing any child of the State to have been so taken or removed as aforesaid, or to have so absconded or escaped, harbours or conceals, or assists in harbouring or concealing such child : or
- iv. Being an officer or servant of the Department or of the managers of an institution, negligently or knowingly permits any inmate to escape—

shall be guilty of an offence against this Act.

Penalty: Twenty Pounds or imprisonment for Six months.

Penalty for taking, removing, harbouring, &c., State children.  
W.A., s. 112.  
Q., s. 68.

**118** Whosoever—

- i. Without the authority or permission of the Secretary, or of the managers of an institution, as the case may be, holds or attempts to hold any communication with any inmate : or
- ii. Enters any institution or any premises belonging thereto or used in connection therewith, and does not depart therefrom when required so to do by the superintendent, matron, or any officer or servant of such institution : or
- iii. After being forbidden by the Secretary or governing authority, as the case may be, so to do, holds or attempts to hold any communication directly or indirectly with any child of the State : or

Penalty for communicating with children in institutions.  
W.A., s. 113.  
Q., s. 69.

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iv Without the previous permission in writing of the Minister, removes any child of the State out of Tasmania, or suffers such child to be removed out of Tasmania—

shall be guilty of an offence against this Act.

Penalty for person disobeying order and quitting the State.  
Q., s. 70.

**119**—(1) Whosoever—

i. Refuses, fails, or neglects to comply with any maintenance order made against him under this Act, or attempts to leave the State without making arrangements for future payments to the satisfaction of the Department :

ii. Being a near relative liable to maintain any child—

(a) Unlawfully deserts such child : or

(b) Leaves without, or fails to provide with, adequate means of support any such child—

shall be guilty of an offence against this Act.

Penalty : Six months' imprisonment.

Penalty for desertion of child under certain circumstances.  
Q., s. 70 (1).

Court may determine matter in summary way.  
W.A., s. 118.  
Q., s. 70 (2).

(2) Upon the hearing of a complaint under this section, the court, if satisfied that the child has been or is about to be unlawfully deserted by the person complained against, or is actually without adequate means of support, and that such person is a near relative of such child, liable and able to contribute towards his maintenance, may order such person, either immediately or at some adjournment, to find good and sufficient security to the satisfaction of the court that he will comply with such order for maintenance, or that he will not desert or leave without adequate means of support such child.

The court, in default of such security being found, may commit such person to prison for any period not exceeding Six months, if such order is not sooner complied with.

Court may issue warrant for arrest of deserter upon complaint on oath.  
W.A., s. 117.  
Q., s. 70 (3).

(3) Upon complaint on oath by the Secretary, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under this section, any justice, if satisfied that there are reasonable grounds for believing that such offence has been or is about to be committed, may issue a warrant for the arrest of the person complained against, and such person may thereupon be arrested by any police officer accordingly.

Penalty for ill-treating State child apprenticed, &c.  
Q., s. 46.  
W.A., s. 53.

**120** Whosoever illtreats, injures, or neglects any child placed out with or apprenticed to him shall be guilty of an offence against this Act.

Penalty : Twenty Pounds or imprisonment for Six months.

Search Warrant.  
No. 51, 1907, s. 45 (Tas.).

**121** If it be made to appear to any justice by complaint on oath that there is reason to believe that any person is offending against this Act in any house or premises, or that any provision of this Act is being infringed in any house or premises, such justice may issue his warrant authorising any member or members of the police force to search any house or premises therein named, at any hour of the day or night, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of this Act.

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**122** All property, real or personal, given, devised, or bequeathed to the Department for the benefit of children of the State shall, subject to this Act, be held, invested, applied, or dealt with in such a manner as the Secretary (with the approval of the Minister) considers most conducive to the benefit or advantage of children of the State, or of the particular child or children of the State intended to be benefited.

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Gifts to Minister to be applied for benefit of objects of such gifts.  
W.A., s. 121.  
Q., s. 71.

**123**—(1) A children's court may, at any time, in a summary way, inquire into any disobedience of, or neglect to comply with, any order made under this Act, and for that purpose may summon and examine all proper parties and witnesses.

Court may enforce compliance with orders by fine or imprisonment.  
W.A., s. 122.  
Q., s. 72 (1).

In order to enforce compliance or punish the non-compliance with such order, a children's court may commit to prison for any period not exceeding Six months, unless the order shall be sooner complied with, the person found guilty of such disobedience, neglect, or non-compliance, or may impose upon such person a fine of not exceeding Fifty Pounds.

(2) Upon a complaint to the children's court, made under this section, in respect of any alleged disobedience of or neglect to comply with any order, the court may, instead of issuing a summons, issue a warrant for the arrest of the person against whom the complaint is made, and for the detention of such person until the hearing of the complaint, unless such person enters into a recognizance, with One or more sureties, in such sums as the court shall direct, conditioned for his appearance at the hearing of the complaint.

Warrant in first instance.  
W.A., s. 123.  
Q., s. 72 (2).

**124** Every person authorised to take charge of any child ordered to be detained under this Act, for the purpose of conveying such child to or from any institution, or to a foster-mother, or foster-parent, shall while engaged in such duty, have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as any police officer has by common law or statute.

Persons in charge of State children to have privilege of constables.  
W.A., s. 125.  
Q., s. 73.  
Tas., s. 56.

**125** In cases where the age of any person is material, a children's court may decide upon its own view and judgment, whether any person charged or present before it has or has not attained any prescribed age. But nothing herein shall be construed to prevent the age of such person being proved.

Proof of age.  
Q., s. 74 (1).

**126** Any person who in any particular makes default in compliance with any provision of this Act for which no penalty is provided by this Act, shall be guilty of an offence against this Act.

General penalty.  
W.A., s. 126.  
Q., s. 75.

Penalty: Ten Pounds or imprisonment for Three months.

**127** Where any child is adjudged by a children's court to pay any sum or sums of money by way of penalty, it may also adjudge such child to pay the same either immediately or within such period as the court thinks fit, or by instalments.

Payment of sums of money adjudged to be paid.  
Vict. s. 31.

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Police magistrate  
or justice.

**128** Where a child is himself ordered by a children's court to pay costs in addition to a penalty, the amount of the costs so ordered to be paid shall in no case exceed the amount of the penalty, and (except so far as the court thinks fit expressly to order otherwise), all fees payable or paid by the informant in excess of the amount of costs so ordered to be paid, shall be remitted or repaid to him, and the court, magistrate, or justice, may also order the penalty, or any part thereof, to be paid to the informant in or towards the payment of his costs.

Application of  
Magistrates'  
Summary Pro-  
cedure Act.  
W.A., s. 127.  
Q., s. 76.

**129** Every proceeding under this Act for, or in respect of omissions, defaults, acts, or offences to which any penalty or punishment is attached, and all applications for orders where no other method of proceeding is by this Act provided, shall be had and taken, and may be heard and determined summarily before a children's court, police magistrate, or justices, as the case may be, under "The Magistrates' Summary Procedure Act," and any amendment thereof or any Act for the time being in force relating to summary proceedings of justices.

When costs  
ordered against  
Department.

**130** No costs shall be ordered against the Department or any officer thereof in any proceeding or matter unless the court having cognisance thereof (whether the Supreme Court or a judge thereof, or a children's court, as the case may be), shall be of opinion that the Department or officer has been guilty of wilful neglect or default.

Order to be a  
defence to actions.  
W.A., s. 129.  
Q., s. 77.

**131** In every action for anything done in obedience to any order it shall be sufficient for the defendant to justify under such order only, without setting forth the previous proceedings, and the production of the order or a duplicate or certified copy thereof shall be sufficient evidence to prove the fact of making such order.

Protection to  
Department and  
officers.  
W.A., s. 130.  
Q., s. 78.  
See No. 36 of  
1899 (Tas.).

**132** No action shall be brought against the Department or any managers of an institution or any person for anything done in pursuance of this Act, unless notice in writing of such action has been given to the defendant One month at least before the commencement of the action.

Appropriation.  
W.A., s. 131.  
Q., s. 80.

**133** All moneys received in respect of penalties and fees under this Act shall be paid into the Consolidated Revenue.

Expenses of  
administration.

**134** All expenses incurred in administering, carrying out, and enforcing this Act, shall be defrayed out of moneys from time to time appropriated by Parliament for the purpose.

Regulations.  
W.A., s. 81.  
Q., s. 81.

**135** The Governor may, from time to time, make regulations—

- i. Relative to the duties, powers, authorities, and privileges of inspectors, inspecting nurses, visitors, and all other persons engaged in the administration of this Act :
- ii. Relative to the appointment of probation officers, and adding to or varying the duties to be performed by them under this Act :



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- iii. Appointing places in Tasmania for the detention of children separate and apart from those appointed or available for the reception of adult prisoners :
  - iv. Relative to the management, control, and supervision of institutions :
  - v. Relative to the custody, maintenance, education, employment, placing out, and apprenticing of children of the State ; the visitation of such children at institutions, or apprenticed, or placed out ; the discipline of such children ; wages and rewards of such children :
  - vi. Relative to the management and control of property vested in the Department :
  - vii. Prescribing the records to be kept and reports to be made by managers of institutions and by licensees :
  - viii. Prescribing the form and contents of agreements, appointments, apprenticeship indentures, authorities, complaints, licenses, notices, orders, summonses, and all other instruments, and documents, and the mode of executing, serving, or delivering the same :
  - ix. Prescribing the mode in which applications for licences or registration shall be made and effected :
  - x. Prescribing the registers to be kept :
  - xi. Directing what particulars shall be entered in the registers, and rolls to be kept, and prescribing the method of keeping and verifying such registers and rolls :
  - xii. Arranging nursing homes into classes in such manner as seems fit, and fixing the maximum number of infants to be retained in or received into nursing homes of any particular class :
  - xiii. Enforcing drainage and the provision of sanitary conveniences for and sanitation generally in respect of nursing homes ; the cleansing and limewashing at stated times of the premises ; promoting cleanliness and ventilation therein ; enforcing the giving of notices and the taking of precautions in the case of any disease likely to affect the infants ; and generally for the good conduct of nursing homes :
  - xiv. Regulating the management and conduct generally of nursing homes and the treatment generally of infants retained or received therein :
  - xv. Prohibiting on the recommendation of the Chief Health Officer the administering to any infant of anything he deems harmful or undesirable :
  - xvi. The recovery from the persons legally responsible therefor of the costs of maintenance, clothing, and medical attendance :
  - xvii. Regulating the inspection from time to time of nursing homes and infants :
  - xviii. Prescribing the fees to be paid in respect of matters arising under this Act :
  - xix. Imposing penalties not exceeding Twenty Pounds in respect of any offence :

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xx. Prescribing the time and manner in which any act, deed, matter, or thing required by this Act to be done, and as to which the time or procedure is not provided, is to be done or performed :

xxi. Prescribing and providing for all matters and things he deems necessary or convenient to be prescribed or provided for, for fully and effectually carrying out and giving force and effect to the objects, purposes, powers, and authorities of this Act.

Forms.

**136** In so far as forms are not prescribed under this Act, the several forms which at the commencement of this Act are in use for the purposes of any Act hereby repealed may be used for corresponding purposes under this Act with such variations as the circumstances require. Where a form in use cannot be conveniently varied for any purpose under this Act, or there is no form in use to meet the case, a form reasonably adapted to the circumstances of the case may, until a form is prescribed, be used and shall be sufficient for its purpose.

Act to be construed liberally

**137** This Act shall be liberally construed to the end that its purpose may be carried out, to wit :—

That the care and custody and discipline of a child of the State shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help, and assistance.

Saving of Royal prerogative.

**138** Nothing in this Act shall be taken to derogate from or diminish the prerogative of pardon vested in the Crown.

**SCHEDULES.****(1)**

Section 3

Date.	Short Title.	Extent of Repeal.
39 Vict. No. 6	" The Juvenile Offenders Act, 1875 "	The whole.
45 Vict. No. 3	" The Chimney Sweepers Act, 1882 "	The whole.
60 Vict. No. 24	" The Youthful Offenders, Destitute and Neglected Childrens Act, 1896 "	The whole.
5 Edw. VII. No. 39	" The Youthful Offenders, Destitute and Neglected Children Act, 1905 "	The whole.

**(2)**

Section 19.

The St. Joseph's Roman Catholic Orphanage, Hobart; The Boys' Home, Hobart; The Girls' Industrial School, Hobart; The Girls' Industrial School, Launceston.

**The Acts of the Parliament of Tasmania [electronic resource]**

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