



ANNO DECIMO SEXTO & DECIMO SEPTIMO

VICTORIÆ REGINÆ.

Cap. cxxvi.

An Act for making Turnpike Roads from *Upton Saint Leonard's* to *Brimpsfield* and *Birdlip* in the County of *Gloucester*. [4th August 1853.]

WHEREAS the Construction of a Turnpike Road from the present *Stroud, Gloucester, and Painswick* Turnpike Road in the Parish of *Upton Saint Leonard's* in the County of *Gloucester*, to join in the Parish of *Brimpsfield* in the same County the present Turnpike Road leading from *Foston's Ash* Turnpike Gate to *Birdlip*, and of a Turnpike Road from the intended Turnpike Road herein-before described in the Parish of *Cranham*, to join the present Turnpike Road leading from *Cheltenham* to *Birdlip* in the same County, would be of public Advantage; but the same cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

I. That in citing this Act for any Purpose whatsoever it shall be sufficient to use the Expression "The *Upton Saint Leonard's* Turnpike Roads Act, 1853." Short Title.

[*Local.*]

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II. That

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Interpre-
tation of
Terms.

II. That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction ; (that is to say,)

The Expression "the Trustees" shall mean the Trustees for the Time being acting in the Execution of this Act :

The Word "Lands" shall include Messuages, Tenements, and Hereditaments of any Tenure :

The Expression "Toll Gate" shall include Turnpikes, Bars, Chains, and Side Gates :

The Expression "the Roads" shall comprise the Roads to be made and maintained under the Powers of this Act :

The Word "Person" shall include Corporation.

Appoint-
ment of
Trustees.

III. That all Her Majesty's Justices of the Peace for the Time being acting for the County of *Gloucester*, together with *James Ackers, Charles Baker, William Baylis Baker, John Nash Belcher, William Buckle, Jacob Clements Clerk, Charles Thomas Cox, John Cox, Thomas Dunn, Samuel Gream Fenton, James Agg Gardner, William Henry Gwinnett, Samuel Higgs Gael, William Gingel, James Goodrich, Henry Cox Goodlake, Charles Gyde, Edmund Hopkinson, John Hall, Charles Brooke Hunt, James Hutchinson, Weston Hicks, William Henry Hyett, James Wittit Lyon, Henry Dalton Wittit Lyon, John Lawrence, John Mills, William Yarnton Mills Clerk, Daniel Yarnton Mills, William Moore Clerk, Peter Matthews, Edmund Lambert Newman, Thomas Aylmer Pearson, Alfred Protheroe, William Palling, William Ridler, George Russell, William Nash Skillicorne, Joseph Cooper Straford, Robert Strong the elder, Clerk, Henry Charles Capel Somerset, George Briscoe Whalley, Lindsey Winterbotham, Robert White Winning*, and their Successors, being duly qualified to act as Trustees of Turnpike Roads in *England*, shall be Trustees for putting this Act into execution.

Power to
appoint
additional
Trustees.

IV. That the Trustees may from Time to Time, at any Meeting under this Act, elect any Number of Persons duly qualified to act as Trustees of Turnpike Roads in *England*, not exceeding Three in the whole, to be Trustees for executing the Purposes of this Act, in addition to the Trustees hereby nominated ; and the Trustees so elected shall have the same Powers and Authorities for executing this Act as if they had been hereby nominated.

Meetings of
Trustees.

V. That the Trustees shall hold their First Meeting at the *George Inn* at *Birdlip*, or at some other convenient Place in the Neighbourhood of the Roads, at Noon on the Fourth *Wednesday* next after the passing of this Act, and may then and from Time to Time thereafter adjourn to and meet at such Times and Places in the Neighbourhood of the Roads as they shall think proper.

VI. That

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VI. That the Trustees may appoint Committees out of their own Number to take the Care and Management of any particular Part of the Roads, or to execute any of the other Purposes of this Act, according to such Instructions and Regulations as shall be laid down by the Trustees at any Meeting; and such Committees and the Surveyor may proceed and act according to such Appointment, but shall always be accountable to the General Meetings of the Trustees, according to the Instructions and Regulations so to be made.

Trustees
may appoint
Committees.

VII. That inasmuch as Plans and Sections of the intended new Roads, together with Books of Reference thereto, have been deposited at the Office of the Clerk of the Peace for the County of *Gloucester*: Therefore the Trustees may make, complete, and maintain the intended Roads respectively as herein-after described in the Lines and in and through the Lands delineated in the Plans and described in the Books of Reference, and according to the Levels shown upon the Sections so deposited as aforesaid, together with all such Footpaths, Bridges, Embankments, Ditches, Drains, Fences, and other necessary Works upon or near thereto respectively as they may think requisite, and for the Purposes aforesaid they may take possession of the Lands and Premises described in such Plans and Books of Reference, making Satisfaction to the Owners thereof and other Persons interested therein for all Damage which such Owners or other Persons may respectively sustain thereby; and the Trustees, the Surveyor, and Workmen may from Time to Time enter upon the said Lands, and mark and stake out the same for the Purposes of this Act, at such Times and in such Manner as they or the Surveyor shall think necessary or expedient.

Works to
be made
according to
deposited
Plans.

VIII. That the Roads by this Act authorized to be made are as follows; (that is to say,)

Description
of Roads.

First, a Road to commence by a Junction with the present Turnpike Road leading from *Stroud* through *Painswick* to *Gloucester* at or near to a Place in the Parish of *Upton Saint Leonard's* in the County of *Gloucester* situate about Midway between *Winnycraft's Farm* and the *King's Head* Inn, and to terminate in the Parish of *Brimpsfield* in the same County by a Junction with the present Turnpike Road leading from *Foston's Ash* Turnpike Gate to *Birdlip* at or near to the Southern End of *Buckholt Wood*:

Secondly, a Road to commence by a Junction with the Road firstly herein-before described at or near to *Cranham Cottages*, otherwise *Todd's Cottages*, in the Parish of *Cranham* in the said County of *Gloucester*, and to terminate by a Junction with the present Turnpike Road leading from *Cheltenham* through

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through *Birdlip* to *Stroud* at or near the Point where the last-mentioned Road is joined by the present Road from *Todd's Cottages* to *Birdlip*.

Power of
Deviation.

IX. That the Trustees may, in the Construction of the Works by this Act authorized, deviate from the Lines thereof to the Extent delineated upon the said Plans, but not to any greater Extent, in passing through a Town or Lands continuously built upon, than Eleven Yards, and not to any greater Extent elsewhere than One hundred Yards from the said Lines, nor in any Case into any Lands not described in the Plan of such Work or the Book of Reference thereto, without the Consent in Writing of the Owner and Occupier of such Lands, and no Deviation shall be made from the Lines of the said Works where no Limits of Deviation are shown on the said Plans.

Deviations
from Levels.

X. That the Trustees shall have full Power and Authority to deviate from the Levels of the said Works as marked on the Sections so deposited as aforesaid to any Extent not exceeding Five Feet, or, upon obtaining the Consent in Writing of the Owner and Occupier of the Land in which such Deviation is intended to be made, to any greater Extent than Five Feet.

Lands may
be taken
notwith-
standing
Errors in
Book of
Reference,
&c.

XI. That the Works by this Act authorized may be made in or through any Lands delineated on the said Plans, although such Lands, or the Situations thereof, or the Names of the Owners, Lessees, or Occupiers thereof, may happen to be omitted, mis-stated, or erroneously described in the said Plans or Books of Reference, in case it shall appear to any Two or more Justices of the Peace for the County of *Gloucester* in Petty Sessions assembled, and be certified by Writing under their Hands, that such Omission, Mis-statement, or erroneous Description proceeded from Mistake; and the Certificate of the said Justices shall be deposited with and remain in the Custody of the Clerk of the Peace of such County for the Time being.

Road not
to be con-
structed
through a
certain Rick-
yard.

XII. Provided always, That if the Owner for the Time being of a certain Rickyard, numbered 19 in the Parish of *Upton Saint Leonard's* on the said Plan, shall require the Trustees to construct the Road to the West of the said Rickyard instead of through the same, and shall provide and give up a sufficient Quantity of Land for that Purpose, upon Compensation being made for the same, the Trustees shall construct the said Road accordingly.

8 & 9 Vict.
c. 18. not to
apply to
this Act.

XIII. That "The Lands Clauses Consolidation Act, 1845," shall not apply to the Works by this Act authorized, nor be incorporated with this Act.

XIV. That

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XIV. That all the Clauses and Provisions of the Public General Acts now in force relating to Turnpike Roads in *England*, with respect to the taking, Purchase, and Sale of Lands for the Purpose of widening, diverting, altering, or improving any Road, the Conveyances of such Lands, the Compensation to be made for the same, and the making out of Titles thereto, shall (except where those Clauses and Provisions are inconsistent with this Act) extend and apply to the Lands to be purchased for the Purposes of this Act; but nothing in those Acts or any of them contained shall prevent the Trustees from taking or pulling down any Dwelling House or Building, or taking in or making use of any Garden, Yard, or Paddock, Park, planted Walk or Avenue to a House, or any inclosed Ground planted as an Ornament or Shelter to a House, or planted and set apart as a Nursery for Trees, or any Part thereof respectively, which is delineated on the Plans and described in the Books of Reference so deposited as aforesaid, either with or without the Consent in Writing of the Owners, Proprietors, or other Persons interested therein.

As to Construction of certain Provisions of General Turnpike Acts.

XV. That the Freehold and Inheritance in the Lands so purchased shall not (notwithstanding any Provision in any of the Acts now in force for regulating Turnpike Roads in *England*) by means of any such Purchase, or any Conveyance or Assurance made in pursuance thereof, be vested in the Trustees, but such Freehold and Inheritance shall, notwithstanding such Purchase and Conveyance or Assurance, remain and be vested in the Owners for the Time being of the adjoining Land from which the same shall have been taken, subject to a perpetual Right of Way in, over, or upon the Lands so purchased.

Freehold, &c., of Lands to remain in Owners of adjoining Lands.

XVI. That the Trustees shall have the same Rights and Powers of cutting, digging, and using the Lands taken by them for the Purposes of this Act; and also erecting any Toll Houses or other Buildings, or of building any Arch or Arches thereon, as they would have had in case they had purchased the Fee Simple or the whole Estate and Interest in such Lands.

Trustees to have Power of digging and using Lands, &c.

XVII. That the Powers of the Trustees for the compulsory Purchase of Lands for the Purposes of the Works by this Act authorized, and shown on the said Plans, shall not be exercised after the Expiration of Three Years from the Commencement of this Act.

Period for compulsory Purchase of Lands.

XVIII. That the Works by this Act authorized, and shown on the said Plans, may be completed within Four Years from the Commencement of this Act, and on the Expiration of that Period the Powers by this Act given for executing the same shall cease to be exercised.

Period for Completion of Works

XIX. That the Trustees may demand and take, at the several and respective Toll Gates which shall by virtue of this Act be upon or on

Tolls.

[*Local.*]

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the Sides of the Roads, such Tolls as the Trustees at any of their Meetings may direct, not exceeding the Tolls following; (that is to say,)

For every Horse or other Beast drawing any Coach, Barouche, Sociable, Berlin, Chariot, Chair, Phaeton, Caravan, Omnibus, Taxed Cart, Hearse, Litter, or other such Carriage, Sixpence:

For every Horse or Beast drawing any Waggon, Wain, Dray, Cart, or other such Carriage, Sixpence:

For every Horse or Mule, laden or unladen, and not drawing, Twopence:

For every Ass, laden or unladen, and not drawing, One Penny:

For every Dog drawing any Truck, Sledge, Barrow, or other like Carriage, One Penny:

For every Drove of Oxen, Cows, or Neat Cattle, Tenpence *per* Score, and so in proportion for any greater or less Number:

For every Drove of Calves, Hogs, Sheep, or Lambs, Fivepence *per* Score, and so in proportion for any greater or less Number:

For every Carriage or Vehicle drawn or propelled by Steam Machinery or any other Power (except Animal Power), the Sum of One Shilling for each Wheel thereof:

And the Tolls hereby made payable at any Toll Gate which shall be by virtue of this Act upon or across the Roads or on the Sides thereof shall be taken before any Horse, Animal, or Carriage whatsoever liable to Toll shall be permitted to pass through the same.

As to
Fraction of
a Halfpenny
in Tolls.

XX. That in all Cases in which there shall be a fractional Part of a Halfpenny in the Amount of the Tolls by this Act authorized to be collected the Sum of One Halfpenny shall be taken in lieu of such fractional Part.

Limiting
Number of
Tolls to be
taken.

XXI. That for passing and repassing any Number of Times on the same Day with the same Horses or other Animals, Carriage, or Thing liable to Toll or Duty through all the Toll Gates erected or to be erected or continued on or on the Sides of the said Roads no more than One full Toll shall be taken.

Persons
having paid
Toll to
return Toll-
free the
same Day.

XXII. That all Horses, Animals, and Things (except Horses or Animals let for Hire, or drawing any Stage Coach, Waggon, Caravan, Omnibus, or other Stage Carriage, Postchaise, or other Carriage travelling for Hire, as herein-after mentioned,) in respect whereof the Tolls hereby authorized to be taken shall have been paid at any Toll Gate upon or on the Sides of any of the Roads, shall, except as in this Act otherwise provided, (upon a Ticket denoting such Payment being produced,) be permitted, in returning through the same Toll Gate, and in going and returning through such other Toll Gate (if any)

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any) as the Ticket for such Payment shall free, to pass Toll-free the same Day.

XXIII. Provided also, That the said Tolls shall be payable at each and every Toll Gate belonging to the Trustees in respect of Horses or other Beasts of Draught drawing any Waggon, Wain, Cart, Van, Caravan, or such like Carriage, for every Time during the same Day that any such Horse or other Beast of Draught shall pass through any of the Toll Gates of the Trustees drawing any other laden Waggon, Wain, Cart, Van, Caravan, or such like Carriage than that which such Horse or other Beast of Draught was employed in drawing at any former Time during the same Day, and at which Tolls shall have been paid.

Horses, &c.
drawing
different
Waggons,
&c.

XXIV. That the Tolls hereby made payable shall be paid for all Horses or other Animals let for Hire, and for all Horses or other Animals drawing any Postchaise or other such like Carriage travelling for Hire, as often as any new Hiring shall take place, in the same Manner as if no previous Payment of Toll in respect of such Horses or other Animals had been made on the same Day.

As to Post-
chaises.

XXV. That the Tolls hereby made payable for all Horses or other Animals drawing any Stage Coach, Omnibus, Van, Caravan, or other Stage Carriage conveying Passengers or Goods for Hire or Reward, shall be paid for every Time of passing or repassing along the Roads.

As to Stage
Coaches.

XXVI. Provided always, That all Horses and Animals drawing any Stage Coach, Omnibus, Van, Caravan, or other Stage Carriage conveying Passengers or Goods for Hire or Reward, in respect whereof the Toll by this Act authorized to be taken shall have been paid at any Toll Gate, shall, upon Production of a Ticket denoting such Payment, be permitted to pass once Toll-free on the same Day through any other Toll Gate which such Ticket would free in the Case of Horses or Animals drawing any other Carriage; and no further or additional Toll shall be payable in respect of any Stage Coach or other Stage Carriage as aforesaid, at any Toll Gate the Payment at which shall be freed by such Ticket as aforesaid, on account only of their conveying other Passengers, or of the Horses or Animals drawing the same having been changed.

Further
Regulations
as to Stage
Coaches.

XXVII. And whereas the Road secondly herein-before described was originally intended to terminate near the *Black Horse* Inn at *Birdlip* aforesaid: But inasmuch as the same, if so constructed, would be for some Distance nearly parallel with the said Road from *Cheltenham* through *Birdlip* to *Stroud*, and the Trustees of the last mentioned

Part of
Road from
Cheltenham
through
Birdlip to
Stroud to
be main

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tained by
the Trustees
of this Act.

tioned Road are desirous that the Trustees acting under this Act should adopt a Portion of the last-mentioned Road in lieu of constructing the Road secondly herein-before described, as originally intended, be it therefore enacted, That so much and such Part of the said Road from *Cheltenham* through *Birdlip* to *Stroud* (being One of the Roads now vested in or under the Control of the Trustees acting in the Execution of the Local and Personal Act of the First and Second Years of the Reign of King *William* the Fourth, Chapter 16,) as lies between the Point where the Road secondly herein-before described will join the same and the present Turnpike Road leading from *Gloucester* to *Cirencester* near the *Black Horse* Inn at *Birdlip* shall henceforth during the Continuance of this Act be vested in or under the Control of the Trustees acting in the Execution of this Act, to the same Extent and in like Manner as the same were vested in the Trustees of the said Act of the First and Second Years of the Reign of King *William* the Fourth, immediately before the passing of this Act, and the Trustees acting in the Execution of this Act shall henceforth maintain and repair the said Portion of Road, in exoneration of the Trustees acting under the said Act of the First and Second Years of the Reign of King *William* the Fourth, who shall no longer be required to repair or maintain the same.

No Toll to
be taken
between
Todd's Cot-
tages and
Birdlip.

XXVIII. Provided always, That no Toll Gate shall be erected, nor any Toll taken, either by the Trustees acting in the Execution of this Act or by the Trustees acting in the Execution of the said Act of the First and Second Years of the Reign of King *William* the Fourth, between the Western Side of *Todd's Cottages* and *Birdlip* aforesaid, either on the Road secondly herein-before described or on the aforesaid Portion of the Road from *Cheltenham* through *Birdlip* to *Stroud*.

No Toll Gate
to be erected
in Upton St.
Leonard's.

XXIX. Provided always, That it shall not be lawful for the Trustees to erect or maintain any Toll Bar, or to take any Toll, on such Part of the Road by this Act authorized to be made as shall be situate between the Junction of the said Road leading from *Stroud* through *Painswick* to *Gloucester* and the Fifth Furlong from such Junction as measured and marked on the Plan of the said Road deposited with the Clerk of the Peace for the County of *Gloucester*.

Power to
borrow.

XXX. That for the Purposes of this Act the Trustees may borrow on Mortgage of the Tolls any Sums not exceeding in the whole Four thousand Pounds.

Application
of Monies.

XXXI. That all Monies which shall come to the Hands of the Trustees by virtue of this Act shall be applied as follows:

First, in discharging the Expenses of obtaining and passing this Act, or incident thereto;

Secondly,

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Secondly, in making the Roads by this Act authorized, and in erecting Toll Houses and Toll Gates :

Thirdly, in defraying the necessary Expenses of Management, including Salaries of Officers, Repair of Toll Houses and Toll Gates, and incidental Expenses, not including Salaries of Toll Collectors, or the Expenses of prosecuting or defending Suits or Actions at Law, or Indictments, not exceeding Thirty Pounds *per Annum* :

Fourthly, in maintaining and repairing the Roads, not exceeding One hundred and twenty Pounds *per Annum* :

Fifthly, in paying Interest at the Rate of Three Pounds *per Centum per Annum* on all Principal Sums for the Time being due and owing on the Credit of the Tolls :

Sixthly, in reducing, paying off, and discharging all Principal Sums of Money which may be due and owing on the Credit of the Tolls :

Lastly, in maintaining, repairing, and improving the Roads.

XXXII. Provided always, That no Interest shall accrue on any Principal Sums borrowed on the Credit of the Tolls, until the Expenses of obtaining and passing this Act and incident thereto shall be fully discharged.

Interest not to accrue until Expenses of Act paid.

XXXIII. That whenever and so long as the Interest upon all Mortgages charged upon the Tolls arising on the Roads under the Provisions of this Act or any of them shall be duly paid within One Calendar Month next after the same shall become due, no Holder of any such Mortgage shall be entitled to enter into possession of any Toll Gate, Toll House, or Building upon the Roads, or into the Receipt of the Tolls arising thereon, or of the Rent payable upon the letting of such Tolls ; and every Mortgagee entering into possession of any such Toll Gate, Toll House, or Building, or into the Receipt of such Tolls or Rent, shall pay the Interest from Time to Time becoming due upon all the said Mortgages, without any Priority or Preference, and may also reimburse himself all Costs to which he may be entitled ; and every Mortgagee so in possession or receipt as aforesaid shall, within Twenty-one Days next after each of the half-yearly Days whereon the Interest on such Mortgages shall be payable, render to the Clerk to the Trustees for the Time being a full and true Account of his Receipts and Expenditure while so in possession or receipt as aforesaid, with proper Vouchers for the same ; and if it shall appear by any such Account that the Interest due on all such Mortgages up to the last of such half-yearly Days, and all such Costs as aforesaid, have been fully paid and satisfied, then such Mortgagee shall, when thereunto required by the Trustees, pay over to their Treasurer the Balance (if any) remaining in his Hands, and deliver up Possession of all Toll Gates, Toll Houses, and

Mortgagees not to take possession, except for Arrears of Interest.

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Buildings to the Trustees, or any Person appointed by them to receive the same, and discontinue the Receipt of the said Tolls and such Rent as aforesaid, anything in this Act, or in any Statute or Law in force relating to Turnpike Roads in *England*, to the contrary notwithstanding.

As to Mode
of discharg-
ing Debt.

XXXIV. That when and so often as the Sums applicable to the Discharge of the Principal Monies due under this Act shall amount to One hundred Pounds, the Trustees shall, at some General Annual or other Meeting (of which Meeting, and of the Objects thereof, so far as the same relate to the Application of such Sums, Ten Days previous Notice at the least shall be given in some Newspaper published in the County of *Gloucester*); or by Notice in Writing addressed or given to each Creditor at his usual Place of Abode, apply such a Portion thereof (as the Case may require) in or towards the Discharge of the Principal Monies for the Time being due on the Credit of the Tolls to the Creditor entitled to any such last-mentioned Monies who shall, by Proposal in Writing transmitted to the Clerk for the Time being of the Trustees before such Meeting, have offered to accept the lowest Composition in respect of such Monies, and after Payment to such Creditor as aforesaid shall apply the Surplus (if any) of such Sum, or a Portion thereof, as the Case may require, in or towards the Discharge of other Part of the said Principal Monies to the Creditor entitled to any such last-mentioned Monies who by Proposal as aforesaid shall have offered to accept the next lowest Composition in respect of such Monies, and so and in like Manner until the Sum applicable to such Payments shall be exhausted; and if and whenever Two or more Creditors shall by such Proposals as aforesaid have offered to accept an equal Rate of Composition, the Trustees may determine by Lot the Preference between or among such Creditors, or may divide the Sum applicable rateably between or among such Creditors, as the Trustees shall think fit; and if there be no such Proposal as aforesaid with reference to any Sum so applicable, or if there be any Surplus of any Sum after applying the same, so far as may be necessary, in or towards the Discharge of the Monies to which all such Proposals relate, the Trustees may apply such Sum, or the Surplus thereof, (as the Case may be,) rateably amongst the Creditors entitled to the said Principal Monies, or may pay the same to such of them as may be determined by Lot, as the Trustees think fit.

Roads not
exempt from
General Act.

XXXV. That nothing herein contained shall be deemed to exempt the Roads comprised in this Act from the Provisions of any General Act relating to the Consolidation or other improved Arrangement of Turnpike Roads which may pass during the present or any future Session of Parliament.

XXXVI. That

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XXXVI. That this Act shall commence on the Fourth *Wednesday* next after the passing thereof, and shall continue in force for the Term of Twenty-one Years, and thence to the End of the Session of Parliament which shall then next follow.

Commence-
ment and
Term of Act.

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