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(Territory). Governor

Message of the governor of
Montana territory to the
legislative assembly

1881

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THE MESSAGE

OF THE

G GOVERNOR OF MONTANA TERRITORY

TO THE

LEGISLATIVE ASSEMBLY.

CONVENED JANUARY 10. 1881.

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MESSAGE

OF THE

GOVERNOR OF MONTANA TERRITORY,

TO THE

TWELFTH LEGISLATIVE ASSEMBLY.



Gentlemen of the Council and House of Representatives:

Throughout the year which has just closed, the people of Montana have prospered in an unusual degree. Agriculture has been prosperous, business has flourished, rich mines have been developed, stock growing has been remunerative, and many public improvements have been projected and successfully prosecuted.

In advance of any general legislation, I will submit to you a brief statement of the financial condition of the Territory and the several counties, and briefly present my views upon certain questions which appear to me to require legislative action.

The number and value of live stock as shown by the returns of the assessors of the several counties for the year 1880, are as follows:

Kinds,	Number.	Value.
Cattle.....	272,316	\$ 3,602,474 00
Horses.....	51,356	1,834,582 00
Sheep.....	219,978	635,963 00
Mules.....	2,032	115,823 00
Swine.....	9,664	40,822 00
Total value.....		\$6,289,664 00

Total assessment of the Territory for the years 1879, \$15,508,880 75—1880, \$15,609,502 00.

The following statement of the Territorial Auditor exhibits the indebtedness of the several counties:

NET INDEBTEDNESS OF THE COUNTIES MARCH 1ST, 1880, AND INCREASE OR DECREASE COMPARED WITH MARCH 1ST, 1879.

COUNTIES.	Total net indebtedness, March 1st, 1880.	Total net indebtedness March 1st, 1879.	Increase.	Decrease.
Beaverhead.....	\$ 29,511 26	\$ 25,726 35	\$ 3,786 01	.....
Choteau.....	24,693 35	7,839 01	16,773 34	.....
Custer.....	26,414 06	9,977 97	16,436 09	.....
Deer Lodge.....	62,122 60	31,752 49	22,370 11	.....
Gallatin.....	39,060 73	52,422 23	.....	2,362 50
Jefferson.....	80,866 52	69,880 49	10,926 03	.....
Lewis and Clarke.....	123,943 68	117,218 37	5,822 31	.....
Madison.....	84,860 24	81,655 12	3,235 12	.....
Meagher.....	23,826 35	30,938 54	.....	4,112 19
Missoula.....	131,614 97	100,629 00	30,985 97	.....
Total.....	\$679,849 86	\$ 516,030 57	\$ 110,333 98	\$ 6,464 69

Increase of indebtedness for the year ending February 29th, 1880, \$103,868.29, and accrued interest, not included in the statement of March 1st, 1879.

This exhibit is by no means a gratifying one, and is far from sustaining our boasted ability for local self-government. If our local indebtedness increases in the same ratio as heretofore, the Territory will not favorably impress Congress when she applies for admission into the Union as a State. This unfortunate condition of affairs cannot be attributed to our present form of Territorial government, or the system of appointments which has grown up under it, about which so much complaint is made, but must be chargeable to the people of the several counties in their capacity of citizens. I think much of the evil in county management results from the action of county commissioners in assuming legislative functions in paying pretended claims against the counties without authority of law. The Territorial Auditor cannot draw a warrant for the payment of a claim against the Territory without express authority of law. Now, why not apply this provision of law to county commissioners, and stop a leak which has done much to create the present indebtedness? I do not think county commissioners should be allowed so much discretion, for bad men will take advantage of it to serve their own purposes and that of their partisans. If a discretion is allowed, a maximum limit to such discretion should be fixed by law.

The fees and salaries of district and county officers are far in excess of a reasonable compensation for the official services per-

formed, and their reduction should receive your immediate attention. An examination of county records will show that county officers generally receive salaries far in excess of any other officers in the Territory. For example, the county clerks in some of the counties receive more compensation than the Judges of the Supreme Court, and in many of the counties the annual compensation of the county treasurers is one thousand dollars larger than the salary of the Territorial Treasurer. The remedy is in your hands, and I submit to you whether the substance of the people shall continue to be consumed in the payment of high salaries. A large local indebtedness and a high rate of taxation will deter immigration and seriously affect every industry of the Territory. The owners of live stock in many instances have changed their stock from counties where a high rate of taxation exists to those where taxation is less, and this change will go on until some of the counties will have but little live stock on their tax duplicate. The counties having the smallest debt and the lowest rate of taxation will, and should be, the most prosperous. I have always favored a statute limiting the power of the several counties to contract a debt beyond a certain amount, and I trust you will concur with me if any new county is organized at the present session.

In my opinion every public officer should receive a fixed salary, and the whole system of compensation by fees should be abolished. The value of the services of clerks and sheriffs can be as easily estimated as can those of the Territorial Auditor and Treasurer, and when parties litigant are to be taxed with costs, let it be taxed in favor of the county, and collected from such party as the court may direct, and, under suitable regulations paid into the county treasury. The fees of clerks and sheriffs heretofore charged against litigants, can, by a proper classification be commuted to a fixed sum, and be paid into the county treasury on the certificate of the clerk. I believe this system to be both practicable and judicious with respect to all officers who have heretofore been compensated in whole or in part by fees.

The officers of the Territory in charge of its finances having discharged their duties with so much fidelity, and the finances being in such an improved condition, that the Territorial Treasurer was enabled to place on the market at the 7 per cent. bonds authorized by your predecessors, at 4 and 11-16 per cent. above par, redeeming all the outstanding 10 per cent. bonds, making an annual saving of \$2,100 interest on the bonded debt. This is a very gratifying showing, in view of the fact that ten years ago the bonded debt of the Territory was drawing 15 per cent. per annum, and the debt was much larger than at present. The Territorial debt on the first day of the present month was :

Seven per cent. bonds outstanding,	-	\$70,000	00
Interest on the same,	- - - - -	2,450	00
One outstanding warrant,	- - - - -	161	00
		<hr/>	
Total liabilities,	- - - - -	\$72,611	00
Cash balance in treasury,	- - - - -	52,440	65
		<hr/>	
Net indebtednes,	- - - - -	\$20,170	35

* The money in the treasury applicable to the redemption of the outstanding bonds cannot be applied until January 1, A. D. 1883, when the option of the holders expires. I therefore recommend that the Treasurer be authorized to expend said money in the purchase of outstanding bonds at not exceeding par, or that he be authorized to safely invest the same until the option of the holders of the bonds expires. I think it not advisable to divert the money to other purposes, but to reduce the Territorial levy to two mills on the dollar and authorize the transfer of so much of the sinking fund to the warrant fund as may be necessary to meet the current expenses of the Territory. The levy suggested will be sufficient to meet the current expenses of the Territory and pay the bonded debt when it matures in 1883. I am convinced that you should reduce the rate of interest on Territorial and county warrants to seven per cent. The present rates of interest are in excess of rates paid by banks on deposits, and in some counties almost one-half of the debt is made up of accrued interest on warrants. I also recommend that the bonded debt of the several counties be funded at a lower rate of interest than is now paid, and that county warrants be bonded at a lower rate of interest than ten per cent. per annum. I think by judicious management the bonds of the several counties can be negotiated at seven per cent per annum.

I respectfully suggest the propriety of additional legislation for the protection of game in the Territory. In many parts of the Territory deer, antelope and elk are openly killed for the hides only, and no part of the carcass used for food. If this wholesale slaughter is to continue, the game of the Territory will soon be exhausted. It is recommended that the law be amended so as to prohibit, under severe penalties, the killing of elk, deer or antelope, except for food. This subject is submitted for your earnest consideration at the request of many of our best citizens.

The law prohibiting the firing of prairie grass has not been enforced, although many destructive fires have occurred during the past year in almost every section of the Territory. You should provide such legislation as will secure the punishment of the offenders and prevent such occurrences in the future. The protection of the stock ranges and timber are now matters of paramount importance to the people, and the subject demands

some legislation, and I trust you will give it such consideration as its importance demands.

The laws of the Territory prohibiting the sale of intoxicating liquor to the Indians is openly violated by parties in the vicinity of Fort Maginnis and Carroll. The lives and property of citizens in that section are seriously endangered by drunken Indians, who obtain liquor from traders, in violation of law. The county authorities do not appear to have power or disposition to enforce the law and suppress the traffic. Appeals have been made by citizens to the military and the civil officers of the United States, but they appear to be powerless to enforce the laws of the United States prohibiting the sale of liquor to Indians. It has become the duty of the Territory to enforce the law, and I therefore recommend that you authorize rewards to be offered for the arrest and conviction of persons engaged in selling or trading intoxicating liquors to Indians, and the confiscation of all property found in the possession of the offenders, or used by them in carrying on the illicit trade. The traffic can, and should be, suppressed; and I trust the legislature will not hesitate to give the subject the attention its importance demands.

Since the adjournment of the last legislature I obtained from the Attorney General of the United States a reduction in the compensation for keeping the Territorial convicts. The per diem now paid is seventy-five cents. The number of convicts is steadily increasing, and you will be required to make some provision for additional prison room, as the prison at Deer Lodge is now over crowded and there appears to be no probability that the United States will increase its capacity. I recommend that you authorize the confinement in county jails of such convicts as cannot be kept at the Deer Lodge prison. The number of Territorial convicts now confined in the United States prison at Deer Lodge is fifty-six (56.)

The amount realized from prison labor during the last fiscal year has been very small; the amount will appear in the reports of the financial officers of the Territory.

The reports of the judges of the Supreme Court, with vouchers accounting for the annual appropriation for the law library, for the years 1879 and 1880, are transmitted as required by law. Also the reports of the officers of the Historical Society with vouchers, covering the same period, accounting for the annual appropriation for said Society.

The contractor having charge of the insane has performed his part of the contract to my entire satisfaction. The number now receiving treatment is 39. The number that have died or been discharged since January 1, 1879, is 26. I respectfully recommend that you appoint a joint committee to visit the Asylum and report fully upon its condition. The present contract will expire in March of the present year, and I have no intimation

from the present contractor that he wishes to renew the same. This subject I commend to your earnest and careful consideration.

The evils resulting from the practice of opium smoking should be suppressed by law. Secret places of resort are kept where the habit is encouraged and the evil effects of the practice will soon be apparent on the youths who frequent these dens.

The annual reports of the Territorial Auditor and Treasurer are hereby submitted, to which your attention is respectfully directed. I suggest that you at an early day in the session appoint a joint committee of the two Houses to examine the books of said officers and their official transactions during the past two years.

The report of the Superintendent of Public Instruction which will be submitted to you by that officer, will give full information as to the condition of the public schools in the Territory. The policy of free public schools is so firmly fixed in the affections of the people that I do not anticipate any opposition to its continuance.

The advantage to society derived from the education of the masses is not now seriously questioned by any one. Lord Bacon has forcibly illustrated that learned States have been usually prosperous States, and that an instructed people have been for the most part, a rich, laborious, energetic and powerful people. Mr. Horace Mann, in one of his reports to the Board of Education in Massachusetts, showed by precise statistical details, collected from superintendents of manufacturing establishments, that throughout the whole range of mechanical industry, the well educated operative did more work, did it better, wasted less, used his allotted portion of the machinery to better advantage and greater profit, earned more money, commanded more confidence, rose faster and higher from lower to advanced positions, than did the uneducated operative.

Another educator says: "Education is economy, and ignorance means waste; that the skilled workman so forecasts and plans his work that every blow tells, while he economises his strength and stock; that even in humblest labor he will do more work, in better style, with less damage to tools and machinery, than the boor who can only use brute muscle."

A New England orator says: "There is not an occupation of civilized life from the making of laws, and poems, and histories, down to the opening of New Jersey oysters with a broken jackknife, that is not better done by a bright than a dull man; by a quick than a slow mind." I wish to add another quotation. "Remember that the learning of the few is despotism; the learning of the multitude is liberty; and that intelligence and principled liberty is fame, wisdom, power."

The recent general election developed defects, or at least a

condition of indefiniteness, in the election laws of this Territory which should be remedied. This is especially so in relation to the powers and duties of the canvassing boards. A law under which, in Deer Lodge county, certificates of election were issued on an abstract of the votes certified to by a minority of the board against the protest of the majority, and under which, it is stated, the canvassers in Missoula county certified up the vote from a so-called precinct which the commissioners had refused to establish or appoint judges or clerks for, and which proceedings are, nevertheless, held by many to be covered by the present election law, cannot be a safe or sufficient one. So vague is it that canvassing officers have been in doubt whether they had authority to reject any returns certified up from a precinct, however manifestly defective or fraudulent they were; or whether the canvassing board is required to even certify to the abstract when made. If the duties are merely clerical, the board is a useless piece of machinery; if it is invested with powers, they should be fully and clearly defined. Each member should have an equal voice in the canvass. While candidates, believing their rights impaired, have remedy in the courts, great care should be taken that the will of the electors is accomplished without necessitating that tedious and expensive recourse. By fortunate accident the instances cited did not materially vary the results, but they have exemplified the defects of the law at an opportune time for you to correct it.

As the law exists, it is imperative that in case of a tie vote for district or county officers there shall be a new election ordered. Instances may occur where the office would not justify a new election, or where the candidates might desire to adjust the matter between themselves without another election. It is submitted for your consideration whether it would not be wise to empower the County Commissioners, in case of such agreement by the candidates, to commission one or the other in accordance therewith.

Before the next meeting of the Legislature it is probable there will be three large bodies of men engaged in the construction of railroads in Montana. Many of these will be non-residents, having no permanent interests in the Territory, but who, if permitted to vote may control the affairs of several counties. If, on investigating the present laws, you believe they are not sufficiently strong and clear to prevent non-residents, or otherwise disqualified persons from voting in Montana, or to inflict severe penalties for such voting, the best interests of the several counties and the Territory require that they should be made so.

I again recommend the enactment of a law requiring the observance of the Sabbath day as a day of rest.

The enactment of a statute requiring the taxation of jury fees to litigants in civil cases, should receive your attention at an

early day in the session. There can be no reason advanced that will justify the payment of jurors by the county while engaged in a trial of an issue of facts between citizens. The public can have no interest in, and should not be required to pay any part of the expenses of, litigation between individuals. I recommend the re-enactment of the statute of 1867, requiring the taxation of jury fees to litigants in all civil cases tried by a jury.

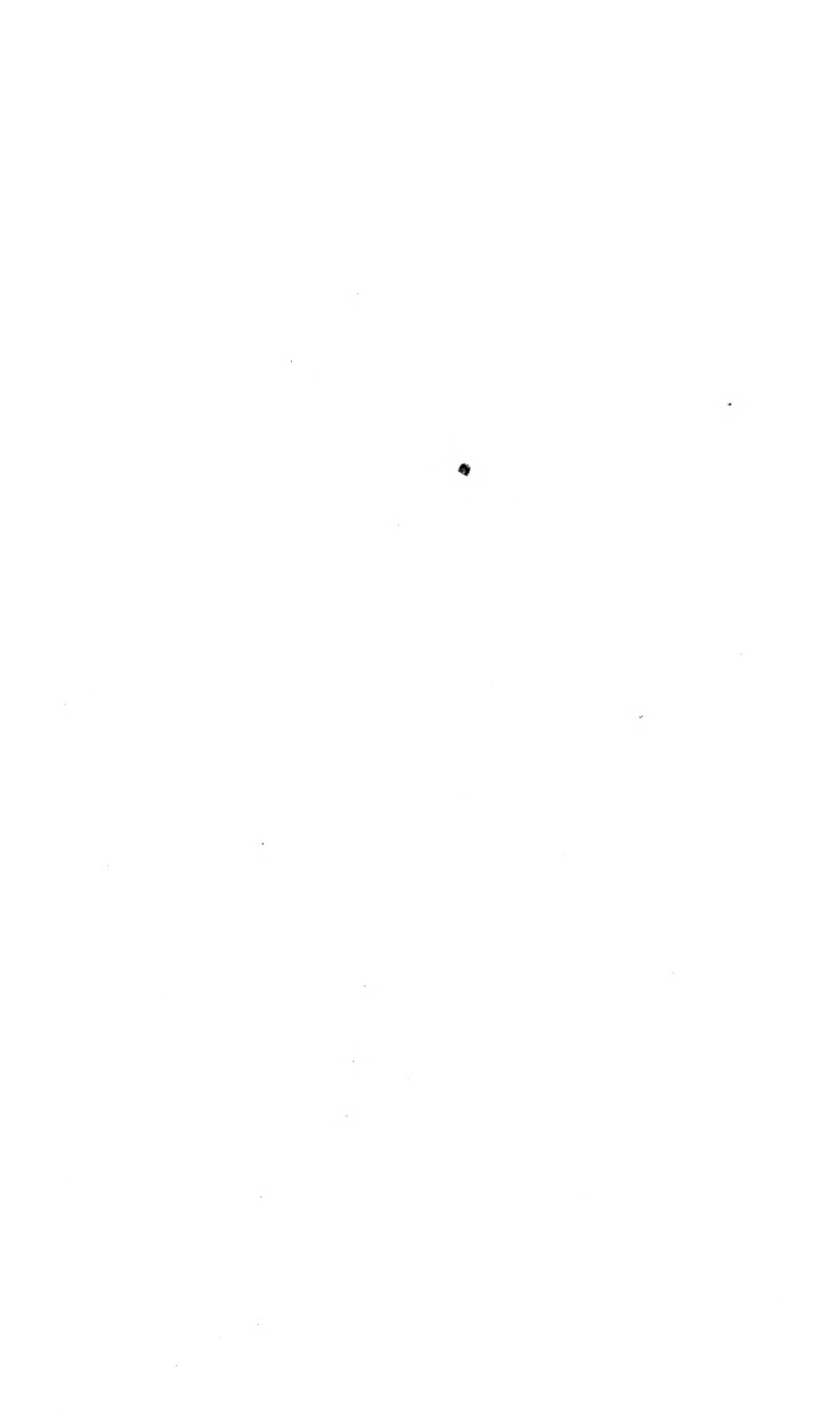
The present law requires that when the entire panel of jurors summoned at any term of court is exhausted, and no qualified jury obtained, a new venire shall issue. This causes great delay and expense, and you should remedy this serious defect by amending the law so as to authorize the sheriff, when the panel is exhausted, to summon the jurors from the body of the county. I understand it frequently occurs that persons are drawn as jurors, and summoned, who are exempt from jury service, and others are drawn who have not the legal qualifications for jurors. This matter should receive your careful attention to the end that the expenses of courts may be reduced.

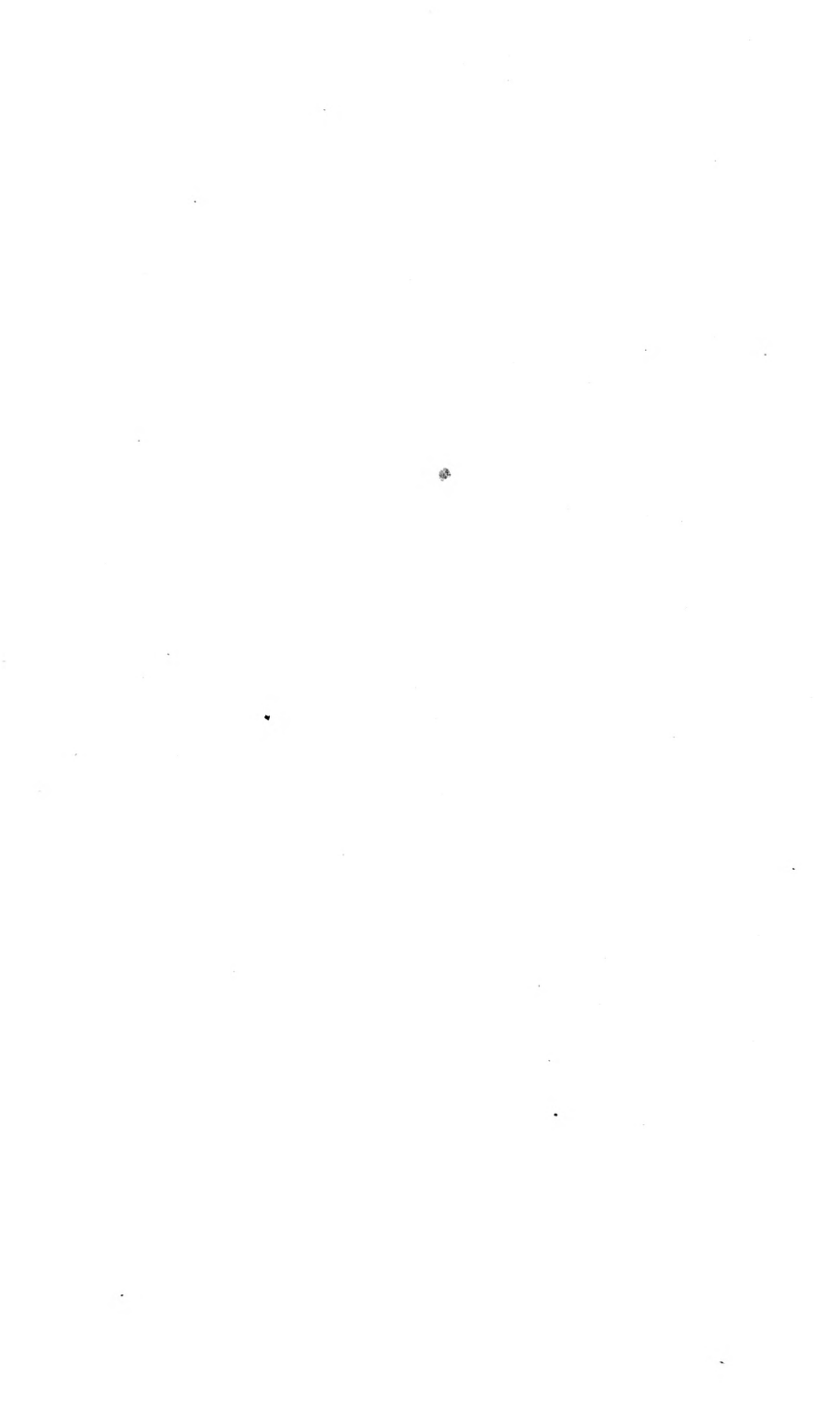
I think that all towns and cities of the Territory, not now organized under charters, should have a simple and inexpensive organization under a general law. The towns and cities of many of the States are organized under a general law, which prescribes the duties of the officers, and requires them to serve without compensation, except those whose duty it may be to preserve the peace or protect the property of the citizens. Towns and cities organized under this system are well governed, and at a very small cost. The laws should not be compulsory upon towns and cities to organize under the law, but allow them to do so upon the petition of a certain number of residents.

I sincerely congratulate you and the people of the Territory upon the fact that two railroads have reached our borders and promise to be rapidly constructed to our business centres. We cannot overestimate the advantages to be derived from railroad communication with the great cities of the East. With water communication and competing lines of railroads, Montana will always have the advantage of cheap rates for freight and passenger traffic. With the early and certain influx of population and capital, and the construction of railroads through the Territory, the future of Montana must be bright and promising.

I shall be glad to concur with you in every measure that may be calculated to promote the general welfare of the people.

B. F. POTTS.





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