

LEGAL OPINION HOLDS THE DIRECT PRIMARY LAW

BOSS LISSNER FEARS GOING BEFORE CAUCUS

Candidate Works Takes Floor in Person in His Hunt for Votes

Spalding's Absence From Scene of Senatorial Contest Is Regretted

Thin walls of the Works fortifications. If Spalding had come to Sacramento this week and shown himself to the members of the legislature his election could have been assured by the holding of the men who were instructed for him and by the accession of men who will not vote for Works unless they are forced to jump on an eleventh hour band wagon to save their political faces.

Inroads Not Deep

The Spalding men are by no means ready to concede the defeat of the San Diego nominee. The San Diego committee made a check up today, and discovered that the inroads made by Lissner were not as deep as the loss of the executive committee would have them believe. Some of the legislators instructed for Spalding, however, are indignant and admit it. They say that Spalding owed as much to the people who nominated him as to the primary polls and that the duty of protecting the primary vote is as heavy on the shoulders of Spalding as it is upon their own. They declare that if in the end Lissner is able to override the law and the popular will, it will be because Spalding refused to show himself to members of the legislature, who have never seen him and who have been told that he is everything that is bad in politics.

They do not want Spalding to come to Sacramento to plead for votes on the floor of the legislature. They want the Works-Lissner fashion, nor to ask any man for his vote. They do want him to come and show the legislature and public that he is not the kind of man he has been painted to be.

Hope for a Slump

The Lissner forces are apparently no longer disposed to take advantage of any quibble that might be the subject of the question of incomplete organization of the assembly on Monday. They are confident that if Spalding does not show up this week he will be able to go to a first ballot on Tuesday which will show Spalding short of a majority. If it does not show Works far enough in the lead to induce a slump to him and his election is a matter of a few days. None believes tonight that Lissner would be willing to go into a party caucus tomorrow with his candidate or that he would be willing to permit the two houses to ballot separately in the United States senator. He is short of votes in the senate. He undoubtedly believes that he could drive up a lead in the assembly with some Democratic assistance. A party caucus is a matter of a different shade and there is no reason to believe that if a caucus were held tonight that Spalding would not lead. If, indeed, he called to show a strength approximating a clear majority of a joint caucus.

LISSNER FEARS CAUCUS

There is another reason for Lissner's fear of a caucus. He knows, as every one else knows here, that some of the men who are instructed for Works do not want to vote for him, and he fears that their desire to dump the Los Angeles jurist might be worked out through a coalition on an outsider if they were permitted to shut themselves up in caucus that could bind its participants and protect them as well.

I know, because they have told me, that there are men in the Works ranks who would welcome an opportunity to vote for any Los Angeles candidate other than Works. There are others who contend that if the direct primary law is to be repealed by command of the chairman of the state central committee the dictator could not be heard to object if that repeal resulted in the election of one other than his own personal candidate who was rejected at the primary polls. That spirit would be as dangerous as gunpowder in a caucus.

WOULD CORRECT ERROR

Assemblyman E. C. Hinkle of San Diego introduced yesterday a resolution to correct an assembly error, which had resulted in omitting the recording of the senatorial returns in the journal. The senatorial returns were put in the senate journal yesterday and will appear in the assembly journal tomorrow, where they will be an official reminder to every member of the legislature of the manner in which the lists of known, probable and possible votes for Works. It was admitted by some of the participants that there was no enthusiasm, but all of them contended that the indications were that Works had the toga won. Lissner went there several better by declaring that his San Francisco forecast of 70 votes on the first ballot for Works was too modest by at least 10, and that his revised forecast was 80 or more Works votes on the first ballot.

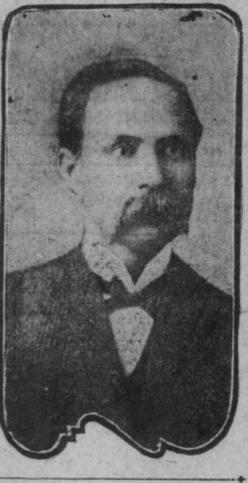
ROBBED AND BEATEN—Herman Rodolph was held up and robbed yesterday night in a fruit saloon and beaten severely. His pockets yielded only 10 cents. He lives at 15 Howard street.

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A. Caminetti, Who Objects to Being Minority Senator



PATRONAGE LIST STIRS MINORITY

Democrat Objects to Program Before Committees Are Announced

[Special Dispatch to The Call]

CALL HEADQUARTERS, SACRAMENTO, Jan. 4.—"I don't see how you count me and the other democrats as the minority in the face of the governor's speech concerning democrats last night," said Senator Caminetti in the senate this afternoon, when he opened the first heated argument of the thirty-ninth session over the resolution of Senator Roseberry for the immediate adoption of the patronage list. Caminetti claimed that the names should be voted for separately under the rule affecting the committee on contingent expenses.

"I don't want your measly \$150," he said. "I want it thoroughly understood that nobody has a right to program me for patronage, and if such has been the case I repudiate it, whether it was done in private caucus or open senate."

He capped the final burst of his feelings with a motion to cut the "paltry patronage" of the minority to \$2.50. The complete list of names for the committee on rules printed in the journal, and on the resolution of Senator Walker authorizing was given the president to appoint Tyrrell, Panaman, Wolfe, Bell, Black, Gates, Curtin, Lewis, Campbell.

Commerce and navigation—Welch, Burnett, Bryant, Wright, Cassidy, Finn, Hare, Julliard.

Conflicting expenses—Burnett, Bell, Campbell.

Corporations—Roseberry, Stetson, Larkins, Welch, Burnett, Gates, Hans, Beban, Caminetti, Holohan, Julliard.

County government—Hewitt, Thompson, Walker, Martinelli, Campbell, Julliard, Shanahan.

Education—Strobridge, Black, Birdsal, Roseberry, Regan, Wright, Avey, Thompson, Estudillo, Larkins, Curtin, Cartwright, Campbell, Julliard.

Executive communications—Avey, Strobridge, Regan, Holohan.

Federal relations—Wright, Gates, Beban, Walker, Holohan.

Finance—Cuttin, Black, Thompson, Hewitt, Boynton, Bell, Burnett, Hurd, Thompson, Estudillo, Larkins, Strobridge, Birdsal, Rush, Roseberry, Curtin, Caminetti, Cartwright, Sanford, Holohan.

Fish and game—Walker, Avey, Wolfe, Tyrrell, Welch, Birdsal, Stetson, Strobridge, Hans, Cassidy, Campbell, Shanahan.

Hospitals and asylums—Rush, Lewis, Ellis, Beban, Stetson, Regan, Avey, Welch, Holohan, Sanford, Julliard.

Irrigation—Lewis, Bills, Beban, Estudillo, Hurd, Bryant, Martinelli, Cartwright.

Judiciary—Stetson, Boynton, Cuttin, Estudillo, Gates, Hewitt, Larkins, Martinelli, Roseberry, Thompson, Tyrrell, Wolfe, Wright, Burnett, Caminetti, Campbell, Cartwright, Curtin, Shanahan, Julliard.

Labor, capital and immigration—Larkins, Cuttin, Martinelli, Boynton, Hurd, Cassidy, Campbell.

Prisons and reformatories—Finn, Birdsal, Strobridge, Tyrrell, Martinelli, Bills, Cassidy, Hare, Caminetti.

Public buildings and grounds—Wolfe, Walker, Lewis, Hurd, Julliard. Public health and quarantine—Re-

SPALDING SHOULD BE ELECTED ATTORNEYS GIVE THEIR VIEWS

With the object of securing expert opinion concerning the obligation placed upon the legislature by the direct primary law in relation to the election of a United States senator, The Call yesterday asked a large number of California's attorneys to say whether they believed the legislature was bound to name Spalding or Works. This is the question asked the attorneys: "Under California's direct primary law, in your opinion ought the legislature to elect Works or Spalding to the United States senate?"

Some answered "Works." In a great majority of cases the answer was "Spalding."

The names and opinions of the attorneys that follow make a tremendous weight of legal opinion on the side of what The Call believes to be the correct interpretation of the law:

SAN FRANCISCO HENRY C. MCPHIE—I think Spalding should be elected.

OSCAR AYER—I am under the impression that Spalding should be elected, as according to my reading of this law, it is the majority of districts to be considered.

LEWIS F. BYINGTON—I think that inasmuch as the people voted for the direct primary law they should stand by it. I understand that Works was in favor of dividing the state and I am opposed to a division of California and to those who instigate or favor such a movement.

PAUL A. BEBEROT—According to my interpretation of the statute I think the honor should go to Spalding.

CARROLL COOK—No question in my mind. Spalding is the man who has the support of the districts and ought to be elected.

H. C. SCHAEFFER—Under the direct primary law Spalding ought to be elected.

WILLIAM H. JORDAN—The majority of the districts elected Spalding and therefore he should be elected.

BENNY AGER—I understand it they ought to elect Spalding. I consider that every individual member is pledged to his constituency to do so.

J. N. DE LAVERGNE—Spalding, although no particular study has been given to the legal phase of the question.

REBE SCHNEIDER—Spalding.

H. K. COUNTRYMAN—Under the law, Spalding.

WILLIAM P. HUMPHREYS—I think they ought to elect Spalding.

OAKLAND M. C. CHAPMAN—I favor Spalding for United States senator. He received the endorsement of the people at the election, as long as it is a referendum by the people the legislature should elect him.

P. J. CROSBY—In my judgment, inasmuch as Spalding won out in the primaries and the primary vote calls upon the legislature to choose Spalding, I do not see how he can be elected.

B. F. WOOLVER, city attorney—If the primary law means anything, the people have expressed themselves for Spalding and he should be the nominee.

DUDLEY KINSELL—With the present law in the statute books the legislature should vote for Spalding.

ABE P. LEACH—The legislature ought to elect Spalding. If the primary law has any significance at all it should be followed, and Spalding won in the primaries.

E. NUSSBAUMER—If the direct primary law is to be strictly followed Spalding should be the nominee.

GEORGE W. REED—Spalding is the man who should be chosen.

E. E. TREFFEN—Spalding should be elected.

BERKELEY R. C. STAATS—Under the primary law, only the candidates carrying the greatest number of districts is eligible for selection by the legislature. A representative at the legislature can, under the law, vote for either the man who carried his district or who carried the greatest number of districts in the state. The law says nothing of the man receiving the greatest popular vote.

GEORGE STODDARD, president of the Young Men's republican club—The law is perfectly clear in the matter. Spalding carried a majority of districts and should be elected.

San, Roseberry, Stetson, Beban, Holohan.

Public morals—Bell, Thompson, Black, Avey, Cartwright.

Revenue and taxation—Black, Thompson, Estudillo, Gates, Wolfe, Cassidy, Bryant, Wright, Curtin, Sanford, Cartwright.

Roads and highways—Gates, Roseberry, Bills, Birdsal, Julliard, Lewis, Hurd, Shanahan, Caminetti.

Rules—Boynton, Regan, Wolfe, Hewitt, Cartwright.

CALL HEADQUARTERS, SACRAMENTO, Jan. 4.—James W. Hamilton, the new assemblyman from Petaluma, has heard the complaints of his constituents. They are objecting because geese, brandt and ducks are being placed on the market at such prices as to make chickens unobtainable during the open season for game.

It is expected that there will be many other amendments to the game laws presented during the present session.

Will Exempt Widow's Half [Special Dispatch to The Call] CALL HEADQUARTERS, SACRAMENTO, Jan. 4.—R. Jones of Martinez will introduce in the assembly a bill amending the inheritance tax law so that the widow's half of community property will be exempted from the tax.

ALAMEDA WILLIAM HANCOCK JR., councilman—Spalding should be named by the legislature. I believe that popular sentiment favors the selection of Spalding by the legislature as one of this state's United States senators.

SAN RAFAEL JAMES W. KEYS—The honest legislature should have no difficulty in interpreting the primary law. The returns show that Spalding carried the majority of districts and also that a majority of districts sending representatives to the legislature were carried by him. He should be the next senator.

ED I. BUTLER—Without a doubt Spalding should be named by the legislature, if it is to regard the primary vote at all.

SAUSALITO L. C. FISTOLESI—Under the primary law I think Spalding should be the next senator.

E. A. VINCIGLIONE—The legislature is morally bound to elect Spalding.

CORTE MADERA E. C. CHAPMAN—Spalding should be chosen by the legislature.

SACRAMENTO JOHN W. JOHNSON—Under the provisions of the primary law the legislature ought to elect Spalding. Works is an open letter and in speeches before the election, the view that the majority of the districts carried by Spalding was not named, Lissner, Works and the rest of the outfit will go back on their own law.

FRANK J. O'BRIEN—My interpretation of the primary law is that Spalding ought to be elected.

JOHN W. S. BUTLER—In my opinion, the legislature should elect Spalding, as he got the majority of the districts called for in the law.

REDDING GEORGE W. BUSH—Spalding should be elected United States senator. That would be carrying out the plain spirit and intent of the law.

D. J. HALL—In my opinion, the intention of the primary law is that the candidate carrying a majority of the districts should be elected United States senator. Spalding should be elected under the law.

D. J. REID—The law provides for an advisory vote by districts. A majority of the district is for Spalding. Spalding should be elected.

W. E. HERZINGER—In those districts where a majority of the voters favored Spalding or Works for United States senator, the case may be, the senator or assemblyman of this district is morally bound to heed the wish of the voters and vote for the candidate the majority in the district favored.

MONTEREY CARROLL MARTIN—As they have seen it to favor Spalding in the majority of congressional districts that should be considered the argument in his favor is complete.

R. H. WILLEY—The people's vote being in favor of Spalding I think they should recognize the truth of the old adage, vox populi vox dei.

ATTORNEY JOHNSON—While I support the law the primary law I believe that under the law Spalding is entitled to the top.

STOCKTON ASSISTANT DISTRICT ATTORNEY C. P. RENDON—As I interpret it the choice should be made by the voters and not by the legislature—Spalding.

T. B. LOUITT—Spalding has received the recommendation of the majority of the districts and should be elected.

BEN BERRY—Although I personally prefer Works, Spalding should be chosen. As I consider the law the choice should be the man who carried the majority of districts.

D. V. MARCEAU—I believe it would be more within the spirit of the primary law to elect Spalding.

SAN LUIS OBISPO THOMAS A. NORTON—Under the primary law Spalding should receive the vote.

PAUL M. GREGG—Without going into the merits of the candidates or their fitness for the office, I believe that the direct primary law itself Spalding is entitled to the election by the legislature.

CHARLES A. PALMER—Under the direct law I consider Spalding should be chosen by the legislature.

GEORGE W. REED—Spalding should be chosen, as he is entitled to be senator under the primary law.

SALINAS C. F. LACEY—That Spalding was chosen does not admit of any doubt.

G. A. DOUGHERTY—The law is plain. The advisory vote on United States senator is by districts. Spalding is the choice for United States senator.

J. A. BARDIN—Spalding is the choice of the people by districts for United States senator, according to the direct primary law, the provisions of which are plain, and he should be elected.

THOMAS RENISON—As a legal proposition, if there is any virtue in the direct primary law, Spalding is the choice of the majority of the districts of the state for United States senator. The law does not insist on a majority of the vote of the state at large, but refers solely to a majority of the votes by districts.

RED BLUFF H. P. ANDREWS—I have no choice as between Works and Spalding for United States senator, but under the present primary law Spalding is entitled to the position.

SANTA CRUZ DISTRICT ATTORNEY BENJAMIN A. EXTON—The legislature is morally bound to elect Spalding.

JUDGE W. M. GARDNER—The legislature should name Spalding.

JUSTICE HARRY J. BIAS—Spalding was named by the people under our direct primary law and should be named by the legislature.

CHARLES C. HOUCK—Spalding undoubtedly should receive the vote of the legislature.

GEORGE B. CRITTENDEN—The legislature should name Spalding.

WILLOWS B. F. GEIS—Surely there should be no doubt as to which man the legislature should name for United States senator. Under the primary law the people bound the legislature to vote for Spalding.

JACKSON SEAGOLD AND SEAGOLD—According to the provisions of the direct primary law Spalding should receive the vote of the legislature for United States senator.

VISALIA E. O. MILLER—A strict observance by the legislature of the California direct primary law as it is written dictates, in my judgment, that Spalding should be elected.

BAKERSFIELD J. R. DORSEY—The legislature is under an obligation to name Spalding.

E. L. FORSTER—Spalding received the vote of a majority of the districts. That is sufficient to bind the legislature morally to vote for him.

VALLEJO P. E. LYNN—If the legislature abides by the direct primary law Spalding will be named United States senator.

CITY ATTORNEY W. O'DONNELL—The primary law undoubtedly names Spalding.

CHARLES F. STEWART—Unquestionably Spalding should receive the vote of the legislature.

PETALUMA CITY ATTORNEY W. H. EARLY—I believe Spalding is entitled to the vote of the legislature.

WILLIAM B. HASKELL—Spalding is the man who should receive the vote at Sacramento.

SANTA ROSA FORMER SUPERIOR JUDGE RICHARD F. CRAWFORD—Spalding is entitled to election, under a technical reading of the act.

R. L. THOMPSON—Faying a strict regard to the provisions of the direct primary law, unquestionably Spalding was named by the people.

MODESTO J. W. HAWKINS—Spalding should be named United States senator by the legislature, for he won the advisory vote under the provisions of the primary law.

SANTA BARBARA JUDGE E. A. RIZOR—As Spalding received a plurality in the largest number of districts, it would appear to me that the construction of the new primary law entitles him to the position of United States senator.

J. WILLIAMS—If the legislature abides by the provisions of the primary law, Spalding should be the choice of the people for the United States senate. In this district, which comprises Santa Barbara county, Meese, who is not now a candidate, had the plurality. The only course for the assemblyman from this district is to vote for Spalding, as this assemblyman had made his principal fight on the grounds that he would abide by this provision of the primary law.

CITY ATTORNEY W. P. BUTCHER—Spalding should be elected.

Col. E. A. Forbes, Who Is Named for Adjutant General



G. S. HILL PLACED ON HARBOR BOARD

Epauletts Worn by Laucke Are Placed on Shoulders of Marysville Man

[Special Dispatch to The Call]

CALL HEADQUARTERS, SACRAMENTO, Jan. 4.—George S. Hill of Alameda, Alaskan prospector, real estate operator and personal friend of Governor Johnson, will succeed W. E. Dennison as a member of the San Francisco harbor commission.

Governor Johnson began today the work of reforming the recess nominations made by former Governor Gillett and the reconstruction of the ship of state. The first step toward the reforming of the Gillett nominations, which he withdrew immediately after taking the oath of office, was the announcement that he would nominate George S. Hill to be harbor commissioner, vice Dennison, whose nomination for reappointment had been sent to the senate by Gillett.

The second scalp which dangled at the belt of Governor Johnson carried with it the epauletts of Adjutant General Laucke, which were transferred to the shoulders of Colonel E. A. Forbes of Marysville, one of the organizers of the Lincoln-Roosevelt league, one of its first vice presidents, its candidate for delegate at large to the national convention in 1908 and a member of the republican state central committee.

The nomination of Hill to the San Francisco harbor commission was Johnson's first move toward the completion of a program which contemplates the rejection of a majority of the men nominated by Gillett.

Hill is new to the game of politics. He broke into the game when his friend Hiram W. Johnson was induced to enter the primary race for governor.

His friendship for Johnson was life long and he had been a college mate of the late Albert Johnson, the governor's distinguished brother.

Unlike Hill, the new adjutant general is a veteran politician, as well as a veteran volunteer soldier and national guardsman. The appointment of Forbes to succeed Adjutant General Laucke was something more than recognition of valued political services and a long labor in the field against the Herrin machine.

Governor Johnson believes that in Forbes he has chosen one of the best equipped men in California to head the national guard. There is something more than a probability that Forbes will name Major F. Cannon of Sacramento as his assistant adjutant general to succeed Colonel Hildbury, who was one of the brigade of applicants for Laucke's title, star and salary.

POSTAL SAVINGS BANKS PATRONIZED

Government Officials Pleased With Success of System

WASHINGTON, Jan. 4.—Gratification is expressed by the officials of the post office department over the first day's operation of the postal savings bank system.

Telegrams received by Postmaster General Hitchcock indicated that hundreds of persons in the 48 cities where the public depositories were opened availed themselves of the opportunity to deposit surplus cash. The deposits ranged from one to several hundred dollars.

The comparatively small amount deposited in the aggregate was due, in the opinion of the officials and in the light of the telegram received, to the nonarrival at many of the offices of the \$10, \$20, \$50 and \$100 certificates. In only one office thus far reported were there no deposits. That office was Clinton Forge, Va. The postmaster reports no deposits and bad weather.

RATS AND BATS INFEST MANSION

Question of Residence for Governor Johnson Worries Family and Legislators

House Is Not Habitable and Executive Must Find a Home Elsewhere

[Special Dispatch to The Call]

CALL HEADQUARTERS, SACRAMENTO, Jan. 4.—The question of a Sacramento residence for Governor Hiram W. Johnson is a matter that is not only causing a good deal of worry to the new chief executive of the state and the members of his family, but that has begun to engage the serious attention of the legislature. The governor must have an official home in this city, and it is no longer a secret that the present governor's mansion, owned by the state, is practically uninhabitable.

The old mansion at Sixteenth and H streets, which was at one time Joseph H. Steffen's family home, has fallen into most disreputable ruin. Worse than that, it is literally infested with bats. Governor Pardee discovered a swarm of "dit mice" in the attic of the mansion during his residence there, but remained for several weeks. Just about a week ago, to find bats making themselves at home in the library. He began a campaign of extermination and killed 14.

This morning Mrs. Johnson made her first inspection of the mansion, and received the shock that had been kept from her until that time. She was accompanied on her visit to the mansion by Mrs. Johnson and Mrs. D. M. Duffy and Mrs. Burton M. Towne. They returned again this afternoon accompanied by a committee, including Senators Stetson, Boynton and Bills and Assemblymen Chandler and March and an architect.

The inspection party said the house was infested with rats and bats, the plumbing was in bad condition and in almost every room. So bad is the condition of the lathing that it is said it will be almost impossible to replaster.

At the last session of the legislature an appropriation of \$150,000 was voted for the building of a new gubernatorial mansion, but Governor Gillett did not care to undertake the replastering of his term, and the matter was dropped. Governor Johnson said today that until some plans were perfected for building a new mansion, the replastering of the old one, it was probable he would rent a home somewhere in the city.

MANDAMUS SUITS TO GET VACANT OFFICES

Santa Clara County Supervisors Are Sued

[Special Dispatch to The Call]

GILROY, Jan. 4.—Mandamus proceedings have been brought against the supervisors of Santa Clara county to compel them to issue election certificates to Walter G. Fitzgerald, as justice of the peace in Gilroy township, and George Johnston and T. W. McIntosh, as constable and justice, respectively, in Redwood township.

A recent law passed in this state provides for two justices in a township with a population of more than 5,000 and two constables.

The matter will be decided January 13 by Superior Judge Welch.

Item Welcomed By Many Men

This recipe can be filled at home, so that no one need know of another's troubles, and the ingredients can be obtained separately at any well stocked drug store. They are in regular use and many different prescriptions are constantly being filled with them.

This will prove a welcome bit of information for all those who are overworked, gloomy, depressed, nervous and have trembling limbs, heart palpitation, dizziness, cold extremities, insomnia, fear without cause, timidity in venturing and general inability to act naturally and rationally as others do, because the treatment can be prepared secretly at home and taken without any one's knowledge.

Overworked office men and the many victims of society's late hours and dissipation will, it is said, find the restorative they are in need of.

If the reader decides to try it, get three ounces of ordinary syrup sarsaparilla compound and one ounce compound fluid balsam of capivi and let stand two hours; then get one ounce compound essence cardoli and once ounce tincture cadomene compound (not cardamon), mix all together, shake well and take a teaspoonful after each meal and one when retiring.

A certain well known medical expert asserts that thousands of men and many women are sufferers all because of dormant circulation of the blood and a consequential impairment of the nervous force, which begets the most dreadful symptoms and untold misery.

KELLY WORKING FOR AMENDMENT

San Francisco Supervisor Urges Ratification of Charter Provision

[Special Dispatch to The Call]

CALL HEADQUARTERS, SACRAMENTO, Jan. 4.—John A. Kelly, chairman of the finance committee of the board of supervisors of San Francisco, arrived tonight for the purpose of urging the legislature to ratify without delay charter amendment No. 10, which was approved at the recent city election. This amendment will permit a city official of San Francisco to leave the state more than once during his tenure of office. At present an official is removed from office automatically in case he makes more than one trip out of the state.

As Mayor P. H. McCarthy desires to make another trip east to work for the Panama-Pacific international exposition, Kelly is on the scene and urging the members of the San Francisco delegation to secure the ratification of the amendment.

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