[From THE DAILY COLONIST, January 30.]

THE LAW OF DIVORCE.

Chief Justice Davie Declines to Hear an Application in the Levy Case.

Uncertain Whether Provincial Courts Can Exercise the Powers of the English Act.

Mrs. Matilda Levy is applying to the courts for a judicial separation from her husband, Joseph Levy, of this city, and asking for alimony and the custody of their three children, alleging as the grounds of her petition cruelty on the part of her husband. Yesterday an application was to have been made in chambers by Mr. J. P. Walls on behalf of the respondent Joseph Levy, to strike out certain paragraphs of the petition on the ground that they were embarrassing and calculated to prevent a fair trial of the action. Mr. J. A. Aikman appeared for the petitioner.

Chief Justice Davie, before whom counsel appeared, refused to hear the application, giving as his reason that there being doubts as to whether the courts of British Columbia have the right to hear divorce cases, he preferred not to deal with any motions under the divorce act till these questions of jurisdiction shall have been determined.

British Columbia has since confederation continued to exercise the right of granting divorces, but there has been a divergence of opinion among the judges of the Supreme court as to the power of the province to adjudicate in such cases. The situation is succinctly set forth in "Gemmill on Divorce" as follows:

"After the union of the two colonies of Vancouver Island and the Mainland of British Columbia an ordinance, dated March 6, 1867, and passed by the legislature of British Columbia, enacted that the civil and criminal laws of England, as the same existed on the 19th November 1858, and so far as the same from local circumstances were not inapplicable were and should be in force in all parts of British Columbia save so far as they were modified by legislation on the subject between 1858 and 1867."

Under this ordinance jurisdiction to exercise all the rights and powers given under the English divorce act, 20 and 21 Vic., cap. 85 (1857), has been assumed by the Supreme court of British Columbia, but grave doubts have from time to time been expressed as to its rights to do so.

The subject was argued in 1877 in the case of S. v. S., which was a suit for nullity of marriage, and exhaustive judgments were rendered, the majority of the judges holding that the Supreme court of British Columbia has in British Columbia all the jurisdiction conferred on the "court for divorce and matrimonial causes" in England. The late Chief Justice, Sir Matthew Begbie, dissented, and said that he thought parts of the act were inapplicable to British Columbia and were never intended to be applicable.

He held that when the English act came into existence all matters relating to matrimonial causes were to be dealt with under that act by a court composed not of judges appointed thereto by the crown, but of ex-officio personages selected not by the crown but by the act itself from five other district courts, and that a suit for nullity could only be heard before three of these judges. He was of opinion that that was a court of entirely distinct formation from the then court of British Columbia, presided over by a single judge appointed directly by the crown, and if the legislature of British Columbia had even in 1859 or 1869 expressly conferred upon the court here jurisdiction in matrimonial causes under that act, that grant of jurisdiction would not have extended to confer power to hear petitions of nullity, which by the act itself were to be heard before three judges. He thought that the court now has no more than the jurisdiction conferred on it in 1869, and that the subsequent incidental alteration by the Federal government of the number of judges to three could not augment the heads of jurisdiction so as to include questions of divorce. He was therefore of opinion that the court had no authority to hear the petition for nullity or to make any order thereon.

The late Mr. Justice Gray on the other hand was of opinion that the legislative adoption by British Columbia in March 1867 of the English law as it existed in England on the 19th of November 1858, did not necessitate the adoption of the machinery by which the English law was carried out in England, but coupled with the language constituting the Supreme court in British Columbia was a direct legislative sanction and authority to carry out that law in the province by local tribunals and local machinery, and clothed the Supreme court of the province with ample power to hear and determine divorce and matrimonial causes. Mr. Justice Crease agreed with the view of the matter taken by his colleague, the late Mr. Justice Gray.

In regard to the case cited above, a note is appended to the chapter on Divorce and Matrimonial Causes, in the draft of the Revised Statutes now before the legislature, stating:

"In view of the fact that in the case before cited the court had not the advantage of argument against the applicability of the act, the petition for nullity of marriage not having been opposed, the decision delivered cannot be held to be a final determination of the question of the application or non-application of the statutes to this province; and it is submitted that the whole matter should, before these statutes are finally incorporated into the revised statutes, be referred, under the Supreme court reference act, to the full court for decision."

In the meantime it is expected that Mr. Walls will bring his application before another judge of the Supreme court, to-day if possible.

If you once try Carter's Little Liver Pills for sick headache, billiousness or constipation, you will never be without them. They are purely vegetable, small and easy to take. Don't forget this.

APPENDED is the programme that has been announced for the annual meeting of the Dairymen's Association of British Columbia, to open at 10 o'clock Friday morning in the New Westminster city hall. The forenoon will be devoted to the consideration of practical addresses and carefully prepared papers of interest to the dairying industry, and the afternoon to open discussion and experiments. After the President's address (Mr. Thomas Cunningham), the business of the meeting will be taken up in the following order: "Dairy Marketing," C. C. Eldridge, of Vancouver; "Cold Storage," W. H. Lee, of Westminster, and A. King, of Ladners; "Winter Dairying," H. F. Page, of Matsqui; competitive experiments with spraying machines, exhibitions with separators, open discussion and "the question box.

IRVINE'S LONG TERM.

Sentenced to Ten Years in the Penitentiary for Cutting and Wounding His Wife.

Robert Irvine, of View street, who a few nights before Christmas in a fit of jealous rage stabbed his wife with a large carving knife, will have ample time to repent of his crime. The knife, it will be remembered, was turned aside on one of the ribs, and by this Irvine was saved from being a murderer. After the cutting he left the city in a hurry and for several days kept under cover in Saanich. Then, thinking that all danger had passed, he returned to town on the 28th ultimo and was promptly taken in charge by special constable Fred. Heal, whom he had asked for "a lift in." Magistrate Macrae at once committed him for trial, and on Monday last he appeared before Chief Justice Davie in the Speedy Trials court and entered a plea of guilty.

Yesterday morning, before pronouncing sentence, the Chief Justice heard the evidence of Chief of Police Sheppard, to the effect that the prisoner had been twice previously convicted, on both occasions for assaults upon his wife. Once, more than ten years ago, he had wounded her with a knife and was at the assizes sentenced to three years in the penitentiary; on the second occasion, for beating his wife, he had served six months upon summary conviction. Chief Sheppard stated that the prisoner was a hardworking and industrious man when sober, but uncontrollable when intoxicated. His record had been excellent when he was in the penitentiary.

In pronouncing sentence the Chief Justice expressed much pain in dealing with the case, particularly as the prisoner's wife—the one who had so often and so grievously suffered at his hands—had been with him that morning, pleading for mercy for her husband.

But what was he to do? His Lordship inquired. It was worse than letting a wild animal loose, to restore the prisoner to liberty, for knowing the nature of a vicious animal he might be avoided or destroyed, while no one could tell when the prisoner's fury would exhibit itself.

He had read the depositions in the case carefully, and it appeared that had it not been for the prisoner's knife glancing upon a rib the wound would have been fatal and the prisoner would have answered with his life. If at the expiration of ten years from the deed which had sent him previously to the penitentiary, the prisoner was now found committing a worse one, barely escaping murder, what could be expected to happen in the future?

Prison seemed to be the only secure place for Irvine, where liquor cannot be had. There at all events he could be safe from harming anyone, and behave himself. A short sentence would not meet the case. It was better for his wife and all concerned that he should be out of harm's way, and it was therefore ordered that he be imprisoned in the penitentiary at New Westminster for a term of ten years.

THE annual congregational meeting of St. Andrew's Presbyterian church was held last night with a fair attendance of members and adherents. Reports were read from the various organizations, which all tended to show an improvement in the financial status of the church. After the discussion of these reports the following gentlemen were elected to fill the place of the retiring managers: A. G. McCandless, A. Carmichael, James Hogarth, D. McLean, J. E. Macrae, E. J. Riddell, J. A. Thomson, Thomas Horne and J. W. White, the first eight to serve for a term of two years and the last named to serve for one year, owing to a vacancy occurring through the resignation of one of the members. Messrs. H. F. Heisterman and Jas. Anderson were elected to the position of auditors. Votes of thanks were passed to the various workers during the past year. After business was finished refreshments were served by a committee of ladies, and everyone went home with a sense of happy satisfaction.

RICHARD B. ANDREWS, an express driver, died suddenly of heart failure while driving his wagon on Broad street yesterday afternoon. It was just after the noon hour when, after delivering some lumber on Broad street, Mr. Andrews started back to his stand on Yates street. As the wagon reached Nicholles & Renouf's corner, Andrews was seen to fall back in his seat. He was at once lifted down and carried into the store and Dr. Ernest Hall called in, but nothing could be done, Andrews breathing his last in a few minutes. The deceased was a native of England and had mined a great deal both in Australia and this country, having arrived in British Columbia some 35 years ago. He was well known to old-timers and for the past 18 years had been engaged in the draying business. He was 72 years of age and is survived by two daughters, Mrs. Knott of this city, and Mrs. Donald McGillivray of Sumas. An inquest was considered unnecessary. The funeral will probably be conducted by the Odd Fellows, the deceased having been a member of No. 1 lodge, I.O.O.F.

One Honest Man.

DEAR EDITOR:—Please inform your readers, that if written to confidentially I will mail in a sealed letter, particulars of a genuine, honest home cure by which I was permanently restored to health and vigor, after years of suffering from nervous debility. I was robbed and swindled by the quacks until I nearly lost faith in mankind, but thank heaven, I am now well, vigorous and strong, and wish to make this certain means of cure known to all sufferers. I have nothing to sell, and want no money, but being a firm believer in the universal brotherhood of man, I am desirous of helping the unfortunate to regain their health and happiness. Perfect secrecy assured. Address with stamp:—L. A. Edwards, Jarvis, Ont.

A SET OF ROGUES

BY FRANK BARRETT.

[Copyright, 1895, by Macmillan & Co.]

CHAPTER II.

I was taking a turn or two outside the shed—for the sight of Jack Dawson hugging poor Moll to his breast and trying to soothe her bodily misery with gentle words was more than I could bear—when a drawer, coming across from the inn, told me that a gentleman in the cherry room would have us come to him. I gave him a civil answer and carried this message to my friends. Moll, who had stanched her tears and was smiling piteously, though her sobs, like those of a child, still shook her thin frame, and her father both looked at me in blank doubt as fearing some trap for further discomfiture.

"Nay," says Jack stoutly. "Fate can serve us no worse within doors than without, so let us in and face this gentleman, whoever he is."

So in we go, and, all sodden and bedrabbled as we were, went to follow the drawer up stairs, when the landlady cried out she would not have us go into her cherry room in that pickle, to soil her best furniture and disgrace her house, and bade the fellow carry us into the kitchen to take off our cloaks and change our boots for slip shoes, adding that if we had any respect for ourselves we should trim our hair and wash the grime off our faces.

So we enter the kitchen nothing loath, where a couple of pullets browning on the spit, kettles bubbling on the fire and a pasty drawing from the oven filled the air with delicious odors that nearly drove us mad for envy. And to think that these good things were to tempt the appetite of some one who never hungered, while we, famishing for want, had not even a crust to appease our cravings! But it was some comfort to plunge our blue, numbed fingers into a tub of hot water and feel the life blood creeping back into our hearts. The paint we had put on our cheeks the night before was streaked all over our faces by the snow, so that we did look the veriest scarecrows imaginable, but after washing our heads well and stroking our hair into order with a comb Mistress Cook lent us we looked not so bad, and thus changed, and with dry shoes to our feet, we at length went up stairs, all full of wondering expectation, and were led into the cherry room, which seemed to us a very palace, being lit with half a dozen candles—and they of wax—and filled with a warm glow by the blazing logs on the hearth reflected in the cherry hangings. And there in the midst was a table laid for supper with a wondrous white cloth, glasses to drink from and silver forks all set out most finely.

"His worship will be down ere long," says the drawer, and with that he makes a pretense of building up the fire, being warned thereto very like by the landlady, with an eye to the safety of her silver.

"Can you tell me his worship's name, friend?" I whisper, my mind turning at once to his worship of Tottenham Cross.

"Not I, were you to pay me," says he; "'tis that outlandish and uncommon. But for sure he is some great foreign grandee."

He could tell us no more, so we stood there all together wondering, till presently the door opens, and a tall, lean gentleman enters, with a high front, very finely dressed in silk stockings, a long waisted coat and embroidered waistcoat, and rich lace at his cuffs and throat. He wore no peruke, but his own hair, cut quite close to his head, with a pointed beard and a pair of long mustachios twisting up almost to his ears, but his appearance was the more striking by reason of his beard and mustachios being quite black, while the hair on his head was white as silver. He had dark brows also, that overhung very rich black eyes. His nose was long and hooked, and his skin, which was of a very dark complexion, was closely lined with wrinkles about the eyes, while a deep furrow lay betwixt his brows. He carried his head very high, and was majestic and gracious in all his movements, not one of which, as it seemed to me, was made but of forethought and purpose. I should say his age was about 60, though his step and carriage were of a younger man. To my eyes he appeared a very handsome and a pleasing, amiable gentleman. But, Lord, what can you conclude of a man at a single glance, when every line in his face, of which he had a score and more, has each its history of varying passions, known only to himself and secret phases of his life!

He saluted us with a most noble bow, and dismissed the drawer with a word in an undertone. Then turning again to us he said, "I had the pleasure of seeing you act last night, and dance," he adds, with a slight inclination of his head to Moll. "Naturally I wish to be better acquainted with you. Will it please you to dine with me?"

I could not have been more dumfounded had an angel asked me to step into heaven, but Dawson was quick enough to say something.

"That will we," cries he, "and God bless your worship for taking pity on us, for I doubt not you have heard of our troubles."

The other bowed his head and set a chair at the end of the table for Moll, which she took with a pretty courtesy, but saying never a word, for glee did seem to choke us all. And being seated she cast her eyes on the bread hungrily, as if she would fain begin at once, but she had the good manners to restrain herself. Then his worship (as we called him), having shown us the chairs on either side, seated himself last of all, at the head of the table, facing our Moll, whom whenever he might without discourtesy he regarded with most scrutinizing glances from first to last. Then, the door flinging open, two drawers brought in those same fat pullets we had seen browning before the fire and also the pasty, with abundance of other good cheer, at which Moll, with a little cry of delight, whispers to me:

"'Tis like a dream. Do speak to me, Kit, or I must think 'twill all fade away presently and leave us in the snow."

Then I, finding my tongue, begged his worship would pardon us if our manners were more uncouth than the society to which he was accustomed.

"Nay," says Dawson. "Your worship will like us none the worse, I warrant, for seeing what we are and aping none."

Finding himself thus beworshiped on both hands, our good friend says:

"You may call me senor. I am a Spaniard—Don Sanchez del Castello de Castelana." And then to turn the subject he adds, "I have seen you play twice."

"Aye, senor, and I should have known you again if by nothing but this piece of generosity," replies Dawson, with his cheek full of pasty, "for I remember both times you set down a coin and would take no change."

Don Sanchez hunched his shoulders cavalierly, as if such trifles were naught to him, but indeed throughout his manner was most high and noble.

And now, being fairly settled down to our repast, we said no more of any moment than I can recall to mind till we had done (which was not until naught remained of the pullets and the pasty but a few bones and the bare dish), and we were drawn round the fire at Don Sanchez's invitation. Then the drawers, having cleared the tables, brought up a huge bowl of hot spiced wine, a dish of tobacco and some pipes. Then don then offered us to smoke some cigarros, but we, not understanding them, took instead our homely pipes, and each with a bottle of hot wine to his hand and roasting before the fire, scarce saying a word, the don being silent because his humor was of the reflective, grave kind (with all his courtesies he never smiled, as if such demonstrations were unbecoming to his dignity), and we from repletion and a feeling of wondrous contentment and repose. And another thing served to keep us still, which was that our Moll, sitting beside her father, almost at once fell asleep, her head lying against his shoulder as he sat with his arm about her waist. As at the table, Don Sanchez had seated himself where he could best observe her, and now he scarcely once took his eyes off her, which were half closed, as if in speculation. At length, taking the cigarro from his lips, he says softly to Jack Dawson so as not to arouse Moll:

"Your daughter."

Jack nods for an answer, and looking down on her face with pride and tenderness he put back with the stem of

He lifts it to his lips and kisses it.

his pipe a little curl that had strayed over her eyes. She was not amiss for looks, with her long eyelashes lying like a fringe upon her cheeks, her lips open, showing her good white teeth, and the glow of the firelight upon her face, but her attitude and the innocent, happy expression of her features made up a picture which seemed to me mighty pretty.

"Where is her mother?" asks Don Sanchez presently, and Dawson, without taking his eyes from Moll's face, lifts his pipe upward, while his big thick lips fell a-trembling. Maybe he was thinking of his poor wife as he looked at the child's face.

"Has she no other relatives?" asks the don in the same quiet tone, and Jack shakes his head, still looking down, and answers slowly:

"Only me."

Then after another pause the don asks: "What will become of her?"

And that thought also must have been in Jack Dawson's mind, for without seeming surprised by the question, which seemed a strange one to me, he answers reverently, but with a shake in his hoarse voice, "Almighty God knows."

This awed us all for the moment, and then Don Sanchez, seeing that these reflections threw a gloom upon us, turned to me, sitting next him, and asked if I would give him some account of my history, whereupon I briefly told him how three years ago Jack Dawson had lifted me out of the mire, how since then we had lived in brotherhood. "And," says I in conclusion, "we will continue with the favor of Providence to live so, sharing good and ill fortune alike to the end, so much we do love one another."

To this Jack Dawson nods assent.

"And your other fellow—what of him?" asked Don Sanchez.

I replied that Red Herring was but a fair weather friend, who had joined fortunes with us to get out of London and escape the plague, and how having robbed us we were like never to see his face again.

"And well for him if we do not," cries Dawson, rousing up, "for, by the Lord, if I clap eyes on him, though he be a Dick Turpin, he shan't escape the most horrid beating ever man outlived."

The don nodded his satisfaction at this, and then Moll, awakening with the sudden outburst of her father's voice, gives first a gape, then a shiver, and looking about her with an air of wonder smiles as her eye falls on the don, whereon, still as solemn as any judge, he pulls the bell, and, the maid coming to the room with a rushlight, he bids her take the poor weary child to bed, and the best there is in the house, which I think did delight Dawson not less than his child to hear.

Then Moll gives her father a kiss, and me another according to her wont, and drops a civil courtesy to Don Sanchez.

"Give me thy hand, child," says he, and, having it, he lifts it to his lips and kisses it as if she had been the finest lady in the land.

She being gone, the don calls for another bowl of spiced wine, and we, mightily pleased at the prospect of another half hour of comfort, stretch our legs out afresh before the fire. Then Don Sanchez, lighting another cigar and setting his chair toward us, says as he takes his knee up betwixt his long, thin fingers:

"Now let us come to the heart of this business and understand one another clearly."

[To be continued.]

WOODSTOCK, Jan. 29.—Solicitors Ball & Ball have issued a writ on behalf of Henry Kruger, of Blenheim, against Andrew Young, a prominent farmer, claiming $$3,000 damages for the seduction and ultimate death of his daughter Levina.

Milburn's Cod Liver Oil Emulsion with Wild Cherry and Hypophosphites combines the curative powers of Wild Cherry, Hypophosphites of Lime and Soda, and pure Norwegian Cod Liver Oil in perfectly palatable form. It is the best for coughs, colds and all lung troubles. Price 50c. and $1 per bottle.

BIRTHS.

HALL—At 99 John street, in this city, on January 25th, the wife of W. B. Hall, of a son.

BLAND—At Victoria West on the 15th inst., the wife of Henry J. Bland, of a son.

MARTIN—At No. 51 Kane street, on the 14th inst., the wife of H. C. Martin, of a daughter.

FLOYD—On January 25th, at "Leixlip Cottage," Oak Bay, the wife of J. Sterling Floyd, of a son.

MARRIED.

CRANE-HEWITT—In this city, on the 15th inst., at St. John's Church, by the Rev. Percival Jenns, Henry Crane, to Ella Ross-Nichols Hewitt, daughter of the late Captain H. I. Hewitt, of Maldon, Essex, England.

OTTAWAY-ROSS—On Christmas Day, at Christ Church Cathedral, by Rev. Arthur Beanlands, William Edward Ottaway, of Dover, Kent, England, late of Toronto and Ingersoll, Ont., youngest son of Thomas Ottaway, to Flora Victoria, youngest daughter of the late Alexander Ross, of this city, and granddaughter of the late Charles Ross, Chief Factor of the Hudson Bay Co., B.C.

DIED.

BAKER—On the 11th instant, at 368 Johnson street, Thomas H., son of M. Baker, aged 32 years and 8 months.

SKINNER—At "Farleigh," Quamichan, on January 13th, Mary Lowdham Skinner, widow of the late T. J. Skinner, formerly of Essex, England, at the age of 80 years.

SMITH—In this city, on the 24th inst., Moses Rowe Smith, a native of London, Ontario, aged 64 years.

SINCLAIR—In this city, on the 12th inst., Annie, youngest daughter of Mr. John Sinclair, of Springbank, aged 21 years.

CARTER'S LITTLE LIVER PILLS.

CURE

Sick Headache and relieve all the troubles incident to a bilious state of the system, such as Dizziness, Nausea, Drowsiness, Distress after eating, Pain in the Side, &c. While their most remarkable success has been shown in curing

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Headache, yet CARTER'S LITTLE LIVER PILLS are equally valuable in Constipation, curing and preventing this annoying complaint, while they also correct all disorders of the stomach, stimulate the liver and regulate the bowels. Even if they only cured

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Ache they would be almost priceless to those who suffer from this distressing complaint; but fortunately their goodness does not end here, and those who once try them will find these little pills valuable in so many ways that they will not be willing to do without them. But after all sick head

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CARTER'S LITTLE LIVER PILLS are very small and very easy to take. One or two pills make a dose. They are strictly vegetable and do not gripe or purge, but by their gentle action please all who use them. In vials at 25 cents; five for $1. Sold everywhere, or sent by mail.

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FOR SALE—Tenders will be received for the purchase of the Hetherington Farm, being Lot No. 107, on the official Map of Comox, containing about 200 acres more or less; about 110 acres are under cultivation, well fenced, with buildings and orchard; coal rights included; also about 200 acres of bush lands adjoining the farm, can be divided to suit purchaser. Parties tendering will state whether for the whole 400 acres, or for the 200 acres of cleared land or part of it. Tenders to be mailed to JOHN MUNDELL, Sandwick, P.O., up to February 8th, 1896. By order of the Executors.

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H. O. BARBOUR, of Little Rocher, N.B., writes: "As a cure for coughs Pyny-Pectoral is the best selling medicine I have; my customers will have no other."

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MAIL CONTRACT.

Sealed tenders addressed to the Postmaster-General will be received at Ottawa until noon on Friday, the 28th February, for the conveyance of Her Majesty's mails on proposed contracts for four years in each case, each way between Cedar and Nanaimo, Kamloops, P.O., and C.P.R. Station, Mission City and Mount Lehman, from the first April next.

Printed notices containing further information as to conditions of proposed contracts may be seen and blank forms of tender may be obtained at the Post Offices of Cedar, Nanaimo, Kamloops, Mission City and Mount Lehman, and at this office.

E. H. FLETCHER, P.O. Inspector.

Post Office Inspector's Office, Victoria, B.C., 17th January, 1896. ja26-3tw

S. A. STODDART,

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Continued from Former Advertisements.

Stemwind Elgin B. W. Raymond, ruby jewelled, double sunk second dial, adjusted to heat, cold and position, warranted 20 years, in Nickel cases $15 Gold Filled $20, Silver $19. Elgin, 17 jewels, with all the latest improvements in Gold Filled 20 year cases $28 50, in Silver cases $25, Ladies' Solid Gold 14 karat Elgin or Waltham Watches $20, Elgin 7 jewel stemwind, in Nickel cases $6, in Gold Filled $10, in 21 years' guaranteed Gold Filled cases $15, in solid 14 karat Gold cases (weight nearly 3 oz.) $40.

Diamond and other Precious Stone Rings from $2 up.

Eight day striking Clocks in Oak or Walnut cases, visible pendulum, from $4 to $5.

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