ASSOCIATION OF PROFESSIONAL ARCHAEOLOGISTS

Box 101, McMaster University P.O., Hamilton, Ontario L8S 1C0

NEWSLETTER, VOLUME 2 NUMBER 2, 1990-1991

SECRETARY'S REPORT

This report provides a summary of APA Executive activities from April to September, 1991. The Executive continued to lobby in writing or in person with regard to pending legislation governing the practice of archaeology in Ontario and Canada as a whole. Notable here are the proposed Cemeteries Act and its implementation and the Federal Archaeological Protection Act. The Executive has written letters deploring the present situation in dealing with cemeteries in which landowners/developers are forced to bear the brunt for archaeological resource mitigations on their properties. This situation encourages landowners and developers to destroy and not report resources on said properties and we continue to lobby the responsible properties over the inappropriateness of this situation. As for the Federal legislation, the Executive, via President Hugh Daechsel, wrote to Minister of Communications the Honorable Perrin Beatty expressing some concerns with drafts of this Act such as the exclusion of the Canadian Parks Service and problems with the Permit granting procedures to carry out archaeological work. We received a positive response noting our concerns from the Minister

and this and other responses to our lobbying efforts will be printed in future issues of the Newsletter.

Another activity of the APA Executive. one which was designed to fulfil our mandate to improve the practice of archaeology, was the APA sponsored Historic Ceramic Workshop, held in Toronto on April 20, 1991 given by George L. Miller, Collections Research Specialist, Colonial Williamsburg. This workshop was funded by a grant from the Ontario Heritage Foundation to the APA and was organized and co-ordinated by APA member Dena Doroszenko. The workshop was sold out with 37 people attending and responses to a questionnaire circulated to attendees indicated all found it a highly rewarding experience and that many would be interested in future workshops on other topics dealing with both prehistoric and historic materials. If members would like to see the APA sponsor future workshops, they are encouraged to contact members of the existing and new incoming Executive.

In addition to the above activities, the Executive has also written letters expressing on behalf of our community to the general public, endeavours which we believe undermine the preservation of our archaeological heritage. For example, we have written to Henry Birks and

Sons Ltd. expressing our displeasure with their handling the sale in Canada of objects recovered by divers from the Spanish treasure ship Nuestra Sonora de Atocha, although, to say the least, their response was not favourable.

In addition to these lobbying and educational efforts, the Executive has undertaken a number of other activities in order to ensure the continuation and everyday working of the APA. First, a Grievance Procedure for dealing with allegations of misconduct against APA members has been developed as reported in this issue by Lawrence Jackson. Members are urged to read this procedure and suggest ways for its improvement prior to a future general vote on adopting it as APA policy. Second, as also reported elsewhere in this issue, nominations have been solicited and received for positions on the new Executive. Third, a bookkeeper has been hired to prepare our financial records for the audit required by our by-laws. Since a professional auditor is a major expense and given our limited funds, if anyone knows of an auditor who would undertake this task as a favour to our non-profit organization, please contact a member of the Finally, we continue to make Executive. attempts to increase our membership. Director Rita Michael, who as one of her specified duties is membership liaison officer, has personally contacted a number of archaeologists or investigators in related fields and convinced them to become Full or Associate members. We encourage other members to do the same. In addition, Executive members Lawrence Jackson and Chris Ellis have almost completed a pamphlet outlining the nature and goals of our organization which can be given out at various archaeological functions to attract new members.

Chris Ellis, Secretary, Submitted September 3, 1991.

REPORT OF EXECUTIVE NOMINA-TIONS COMMITTEE

As of October 27, 1991 (date of scheduled Annual General Meeting of the APA), a new Executive will be needed to serve for a two year period. Appropriately, a nominations committee was struck and the membership was asked to submit written nominations for the seven contested positions. Several nominations were received by the deadline of September 1, 1991. However, several individuals declined the nominations. The following have agreed to stand for Executive positions:

President:

- 1) Ann Balmer;
- 2) Lawrence Jackson

Vice-President: 1) Philip Woodley

Secretary:

None

Treasurer:

1) Rita Michael

Directors (3):

Bud Parker
Philip Wright

3 None

As it stands, there are still two openings on the Executive (Secretary and one Director position) and these vacancies will, under the existing by-laws, have to be filled by appointment of the new Executive. Anyone interested in filling these positions should contact the Chair of the Nominations Committee so he can provide a list for the incoming Executive. Note also that there is one contested position, that of President, and an election must be held. Position statements from the two presidential candidates will be found elsewhere in this Newsletter. If you are a full member of the APA (not an Associate or Subscriber) and have paid your membership dues for 1991-1992, you will find enclosed an election ballot. Please return this ballot to the Chair of the Nominations/Election Committee, Christopher Ellis, directly to his

address listed on the back page of the newsletter. This ballot must be received by the Committee by October 25, 1991.

Nominations Committee: Chris Ellis (Chair), Neal Ferris, Christine Dodd, Peter Timmins, Submitted September 3, 1991.

POSITION STATEMENTS OF CANDI-DATES FOR APA PRESIDENT

Ann Balmer:

I am honoured to run as a candidate for president of the APA. Since its founding I have served as treasurer, and have participated on several committees (including the Joint Committee and the Steering Committee on Regulation). In addition, I was involved in organizing the questionnaire on regulation and the two workshops held by the APA.

In the next few years I would like to:

- raise our profile and increase our credibility as a professional association;
- increase our membership (to strengthen our voice);
- continue a leadership role in dealing with the issue of the regulation of archaeology in Ontario, and setting professional standards;
- continue to work toward the conservation of archaeological heritage; and
- work with First Nation peoples to conserve aboriginal heritage.

I would like to see greater communication between the membership and the executive and increased participation by the membership in the activities of the association. I would also like to see all professional archaeologists working together cooperatively toward the above objectives.

Given the changes occurring with provincial heritage legislation, the next few years will be important ones for archaeology in the province. The APA has the opportunity to play a crucial role in this process of change.

Lawrence Jackson:

The Association of Professional Archaeologists began as a desire for an ethical organization in Ontario in 1988. I have worked for three years as a director of APA and have sought to improve its performance in representing the concerns of Ontario archaeologists. My work as a Director has focused on the basic organizing statements of the APA, its Code of Ethics, Grievance Procedures - drafted with the help of members Susan Wurtzburg and Rita Michael, revised Election Procedures, and, most recently, Conflict of Interest Guidelines for the Executive in response to a strongly perceived vacuum in the consulting industry.

Early in the growth of the organization I advocated a Canada wide approach. Together with our Vice President, Heather McKillop, I did not wish the APA to become narrowly focused on Ontario since I saw this as severely limiting the potential of the organization to grow and address larger problems which also effect Ontario. Although I have not had the opportunity on this Executive to serve in a liason capacity with other provincial organizations, our first formal linkage with another professional group, the Society of Professional Archaeologists, was established as a result of my contact with their Executive at the SAA meetings in Phoenix. I would like to see the APA expand its formal connections with other Ontario and Canadian organizations to enhance our ability to serve the interests of Ontario archaeology and archaeologists.

My vision of the direction of the APA over the next two years is to increase its level of professionalism - beginning to address the very real concerns of the membership and taking a stronger advocacy role. I would like to see the APA expand its membership and begin to serve the broader interests and concerns of Canadian archaeology. The future of licencing in Ontario, the growing cross-border trade in artifacts, availability of funding to keep both research and consulting alive and well, and the creation of better guidelines for the consulting industry are among my primary concerns.

I would also like to be able to assure members that the Executive under my Presidency will adhere to the ethical guidelines of the organization and that the APA will become active in challenging threats to the archaeological resource base and to the integrity of our archaeologists. I will try to serve the membership to the best of my abilities.

1991-92 DUES REMINDER TO ALL MEMBERS:

As the Association of Professional Archaeologists operates on a fiscal year, April 1, 1991 is the date for membership renewals. If you have not yet done so, please mail your membership dues for the 1991-1992 fiscal year to the A.P.A. mailing address. If you do not find a ballot in with this issue allowing you to vote for the new executive then you have not paid your dues.

APA GRIEVANCE PROCEDURES 1991

As Chair of the APA Grievance Committee, Lawrence Jackson worked with members Susan Wurtzburg and Rita Michaels to come up with a

mechanism for the handling of grievances by the Association. In formulating this procedure, we have drawn on the experience of the Society of Professional Archaeologists and the American Society of Civil Engineers, as well as the Ontario Archaeological Society and our own experience with different organizations. This procedure has been considered by the Executive of the Association of Professional Archaeologists at its February and March meetings, revisions incorporated, and this draft presented to the membership for comment. Please address your comments to: Lawrence Jackson, Chair, APA Grievance Committee, P.O. Box 493, Port Hope, Ontario L1A 3Z4. Your suggestions will be discussed at the next Executive meeting.

GENERAL RULES GOVERNING APA INVESTIGATIONS

- 1.The Grievance Committee shall consist of the Chairperson, who is an appointed Executive member of the Association, and two members of the Association. The Committee shall be convened when the Executive determines, on the recommendation of the Chair of the Grievance Committee that an alleged violation of the Code of Ethics requires investigation.
- 2. An allegation shall consist of a signed written statement concerning the activities of an Association member where these are thought to violate the Association's Code of Ethics.
- 3. The Chair of the Grievance Committee will direct Committee Members to investigate an allegation of misconduct within 30 days of receiving authorization from the Executive. The Chair will endeavour to keep an accurate written record of the process of investigation and all facts pertinent to the case. Legal counsel and investigation expenses will be provided by the Association.

4. At the Annual Business Meeting of the Association, the Chair of the Grievance Committee will report on the number of, and nature of, allegations received by the Executive, their disposition -- if investigated or currently under investigation. Disciplinary results of any completed cases will be reported.

- 5. The Grievance Committee and Hearing Board will, at all times, adhere to the Association's Code of Ethics, respecting confidentiality and the rights of members against whom allegations have been filed.
- 6. Records of investigation shall be open to Association members only on completion of a case and shall not be photocopied or otherwise disseminated. Records may be copied for use by a Hearing board but all copies must be returned to the files of the Association and accounted for by the Secretary. Copies of records kept by the Chair of the Grievance Committee shall be filed with the Secretary and provided to his or her successor on leaving the office of Chair.
- 7. When an allegation is referred by the Executive to the Grievance Committee, every effort will be made to resolve the case, according to established procedures, within a six month period. In cases of unusual complexity, the Chair may request additional time or support.
- 8. In any instance of declared personal conflict or inability of a Grievance Committee member to act, the chair shall ask another member of the Association to serve on the Committee with Executive approval.
- 9. The Grievance Committee will follow an established investigation procedure under the direction and co-ordination of the Chair of the Grievance Committee. Investigation will proceed only with unanimous consent of the Committee members.
- 10. In case of disagreement on the need to

proceed with the investigation, the Chair may dissolve the Committee and establish a new Committee with the consent of the Executive.

APA GRIEVANCE PROCEDURES 1991

1. Initiation of Proceedings

- a. A complaint must relate directly to the Code of Ethics of the Association of Professional Archaeologists and may be made only with reference to an Association member.
- b. A complaint must be filed in writing with reference to the appropriate section of the Code of Ethics and must be signed.
- c. A complaint may be made in writing to any member of the Executive of the Association who is then responsible for bringing it forward at the next Executive meeting.
- d. The name of the complaint writer (the allegator) and the individual against whom the complaint is filed (the respondent) will, at all times, be kept confidential by members of the Executive. Failure to maintain confidentiality shall be grounds for admonishment by the Association.

2. Referral of Complaint

- a. The Chair of the Grievance Committee, appointed by the Executive of the Association, shall draw a committee of two from the regular membership. These members will be asked to accept the position without identifying either the allegator or the respondent. Their appointment shall be subject to Executive approval.
- b. Each investigation will require a new Committee, except for the Chair who will be responsible for continuity and proper briefing of the new members of each Committee.

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- c. Any member of a newly formed Grievance Committee who feels that he or she has a conflict of interest shall declare such conflict and withdraw from the Committee. Said member shall not name either allegator or respondent or otherwise discuss the case after withdrawing from the Committee.
- d. No member of a Grievance Committee shall name either allegator or respondent except to other members of the Grievance Committee or as necessary with reference to the investigation procedure.

3. Investigation Procedures

- a. The Chair shall acknowledge receipt by the Association of a signed written complaint and will, at the same time, notify the respondent in writing of receipt of the complaint. The Chair will direct the Secretary to send a copy of the investigation and hearing procedures of the Association to both allegator and respondent.
- b. Upon receiving a signed written allegation of misconduct and receiving instruction from the Executive to proceed, the Chair shall make preliminary inquiries to determine if there is reasonable cause to believe there may have been a violation of the Code of Ethics.
- c. If there is reasonable ground to believe that a violation has occurred, the Chair will draw two Committee members from the membership and, following their approval by the Executive, brief them on the nature of the problem and their responsibilities with respect to the investigation.
- d. A complaint will only be investigated with reference to an activity taking place after the member or members concerned have been approved for membership in the Association.
- e. Once the Chair has been given Executive responsibility for carrying out an investigation, has made a preliminary investigation to

- determine if the charge may be warranted, formed a Grievance Committee and briefed it on its responsibilities, both allegator and respondent will be notified in writing that a formal investigation is ongoing.
- f. The members of the Grievance Committee will conduct an investigation, as directed and co-ordinated by the Chair, and prepare a report to the Executive which will be a finding of fact as well as a recommendation to the Chair.
- g. Upon a recommendation of the Committee and the Chair's referral of that recommendation to the Executive, the Chair will inform the allegator and respondent in writing of the outcome of the investigation. If the respondent is determined to be guilty of a violation of the Code of Ethics as specified in the charges, he or she will be asked to accept punishment as prescribed by the Executive.
- h. If the respondent is not willing to accept punishment and wishes to contest the findings of the Grievance Committee or the decision of the Executive, a formal hearing will be convened consisting of a Board of three members, including the President and Vice-President of the Association and a member-atlarge, or their representatives, at least one member of the Grievance Committee, and the Chair of the Grievance Committee.
- i. Only the Hearing Board of three members shall have voting privileges at the hearing. The function of the Chair and Grievance Committee members is to provide evidence arising from the investigation and make recommendations on the request of the Board. Both allegator and respondent have the right to be present at the hearing or to send a representative in their place. Such representative must, however, be a member of the Association. The Hearing may proceed in the absence of either allegator or respondent.

4. Disciplinary Action

a. Disciplinary action may be imposed on an Association member providing that the allegation of a violation of the Code of Ethics has been considered proved by the Executive and is not contested by the respondent, or is proved by a Hearing. In choosing disciplinary action, the Executive may take into consideration voluntary acceptance by the respondent.

i. Admonishment: shall consist of a statement entered into the permanent records of the Grievance Committee and filed with the Secretary of the Association calling the attention of the respondent to a violation of the Code of Ethics.

ii. Censure: shall consist of a formal statement, entered into the permanent records of the Grievance Committee and noted in the Association Newsletter, that the respondent is subject to censure for a violation of the Code of Ethics. This statement shall also be filed with the Secretary of the Association.

iii. Suspension: shall consist of temporary suspension of the respondent from membership in the Association for a period of one year. Notice of suspension shall be entered into the permanent records of the Grievance Committee, filed with the Secretary of the Association and noted in the Newsletter of the Association. Upon completion of the period of suspension, the respondent may be reinstated as a member if the Association and this shall likewise be noted in the permanent records of the Grievance Committee, filed with the Secretary, and noted in the Newsletter.

iv. Expulsion: shall consist of expulsion from membership in the Association for a period of not less than three years, following which the respondent may reapply for membership. Expulsion shall be entered into the permanent records of the Grievance Committee, filed with the

Secretary of the Association, and noted in the Association Newsletter.

5. Appeal Procedures

a. The respondent has the right of appeal of the results of a disciplinary hearing providing that sufficient evidence is presented to the Executive of the Association to convince them that a second hearing is required.

b. Appeal shall be in the form of a signed written letter to the Chair of the Grievance Committee and to the Executive advising them of specific new evidence bearing on the case. Enclosure of any new documentary evidence or signed statements by witnesses would be advisable.

c. If, in the judgement of the Chair and the Executive, this new evidence introduces substantial uncertainty as to the decision of the Hearing Board, a new hearing shall be convened with a date set by the Executive in consultation with the Chair of the Grievance Committee. Any decisions reached at a second hearing are not subject to appeal.

6. Legal Counsel

a. The Association shall provide free legal counsel to the Grievance Committee and its Chair regarding the wording of any public notice of disciplinary action. Such counsel will be responsible for ensuring that libel, slander, or other allegations of professional damage do not have grounds in the wording of said notices.

b. In the event that any respondent seeks legal damages against the Association or any individual member of the Grievance Committee or Hearing Board arising out of an investigation, the Association will provide legal representation and bear the costs of any subsequent action.

HEARING PROCEDURES: APA GRIEVAN-CES

- 1. A formal hearing shall be convened on the recommendation of the Chair of the Grievance Committee following presentation of the results of an investigation at a closed meeting of the full Executive. The Chair will make a full presentation of the facts of the case, noting the positions of both allegator and respondent, the conditions requiring a hearing, and the suggested course of the hearing.
- 2. A date for the formal hearing shall be set by the full Executive in consultation with the Chair of the Grievance Committee. The Secretary of the Association will provide written notice to all participants in the Hearing of the time, date, and place, as well as copies of the Grievance Procedures, Hearing Procedures, and Rules of Evidence.
- 3. The respondent and the allegator and/or their respective representatives shall have the right to be present throughout the hearing, including opening statements, presentation and disputation of evidence, and closing statements. The deliberations of the hearing board shall be in closed session and shall not extend beyond the date on which the hearing has been opened.
- 4. The agenda for the hearing shall be essentially as follows:
- i. Statement by the presiding officer specifying the nature of the board's deliberations, the manner and order in which evidence will be presented, rules on opening and closing statements, and the rules governing the voting of the board's members on the individual charge(s). The right of appeal for a second hearing shall also be stated, with its requirement of additional evidence which the APA Executive considers sufficiently compelling to reopen the case.
 - ii. The Chair of the Grievance Commit-

tee will then make a statement of the charge brought against the respondent citing the appropriate section of the Code of Ethics and identifying the allegator.

- iii. The respondent shall then have opportunity to state for the record whether he or she disputes the charge in full or in part and whether or not he or she is prepared to accept the findings of the board.
- iv. The Chair of the Grievance Committee shall state the manner in which the charge was initially investigated to determine the need for a full investigation.
- v. A member of the Grievance Committee, or the Chair of the Grievance Committee in the absence of the above, shall then present a detailed summation of the results of investigation of the claim, providing such documentary evidence or signed statements as are available.
- vi. The respondent or his or her representative shall then have opportunity for rebuttal bringing specific evidence to bear on the alleged violation(s). Documentary evidence and any signed statements shall be presented.
- vii. The presiding officer of the hearing shall then ask for any witnesses to be presented, first by the allegator and second by the respondent. The Chair of the Grievance Committee may also be asked to bring forward witnesses as revealed by the investigation procedures, either for or against the respondent; to present evidence to the board.
- viii. The hearing board shall then recess to consider the evidence presented and develop questions to be asked in the final phase of the hearing.
- ix. The presiding officer of the hearing shall direct the questions of the board and the final presentation of evidence. Questions may be

directed not only to the respondent and the allegator, but also to the Grievance Committee members and the Chair of the Grievance Committee.

- x. Concluding statements shall then be heard from the respondent and the allegator, or their respective representatives, and from the Chair of the Grievance Committee regarding either the charge or the evidence.
- xi. The board shall recess to consider its verdict and shall deliver the verdict at a reconvening of the hearing on the same date as it began.
- xii. The hearing board shall, in so far as possible, adhere to formal rules of evidence, and bear responsibility for determining relevance and acceptability. In the event that the respondent does not present or submit a defense, the board may proceed with the hearing and communicate its findings to the respondent in the prescribed manner.

OPERATIONAL PROCEDURES: APA GRIEV-ANCES

- 1. The Secretary of the Association shall bear responsibility for informing all members of the hearing board, the Grievance Committee, the allegator and the respondent of the convening of a hearing and, in the absence of either allegator or respondent at the hearing, will communicate the result of that hearing to those individuals.
- 2. The Secretary of the Association will proceed only at the direction of the Executive of the Association after being briefed by the Chair of the Grievance Committee. Notification of a hearing will be sent by registered letter to all participants postmarked no less than 30 days prior to the date of the hearing. Communication of the results of the hearing shall be sent to the respondent and allegator by registered mail as

soon as possible after the hearing is concluded.

- 3. A secretary will be provided by the Association to record the proceedings of the hearing which will remain confidential unless a second hearing is granted. The board convened for a second hearing shall have full and confidential access to the proceedings of a first hearing or any previous hearing bearing on the case at hand.
- 4. The Chair of the Grievance Committee shall be responsible for ensuring that one or both members of his or her committee are available for the hearing. In their absence, the Chair may respond with specific evidence gathered as a result of their investigations at the required points in the hearing.
- 5. The Chair of the Grievance Committee shall draft the letters of appointment of members of the Grievance Committee, as well as letters specifying charges to the respondent, acknowledging receipt of an allegation and notifying respondent and allegator of the convening of a hearing. These letters will be provided to the Secretary of the Association in sufficient time to allow due notification of the concerned persons.
- 6. The Executive of the Association shall direct the President and Vice-President of the Association to declare their availability to serve on the hearing board and the absence of any reasonable conflict with the case in question. The President and Vice-President may delegate their position on the hearing board to another director of the Association. A third hearing board member shall be solicited by the Chair of the Grievance Committee in consultation with the President and Vice-President of the Association and shall be subject to the same process of Executive review.
- 7. All records of the hearing and the records of the Chair of the Grievance Committee and the Grievance Committee members shall be filed with the Secretary of the Association within one

month of a decision by the hearing board.

RULINGS OF THE HEARING BOARD

1. The hearing board for APA Grievances, specifically violations or alleged violations of the Code of Ethics by members of the Association, shall have a series of decisions possible at the conclusion of a hearing.

Ruling #1: Case proved; sufficient evidence is believed to have been presented to warrant punishment of the respondent.

Ruling #2: Case proved; case referred; sufficient evidence is presented to warrant referral of the evidence to a legal authority within Canada for prosecution of an indictable offense.

Ruling #3: Case not proved; insufficient evidence is believed to have been presented to warrant punishment of the respondent.

Ruling #4: Case dismissed; the evidence presented to the hearing board is judged to be of spurious intent on the part of the allegator and a warning is issued.

2. The rulings of the hearing board are binding upon Association members. If a second hearing reverses or alters the decision of a previous hearing, at that time proper notice shall be provided of a new decision. Either exoneration or a second finding of violation of the Code of Ethics by the respondent shall be duly noted in the Association Newsletter and entered into the permanent files of the Secretary and the Chair of the Grievance Committee. The findings of a second hearing may not be contested.

Lawrence Jackson, Chair, Grievance Committee, Submitted May 1991 VOLUME 2(1) 11 *

The following is a summary of expenses, submitted by Treasurer Ann Balmer (September 11, 1991), for the workshops hosted by the APA. We would like to thank the Ontario Heritage Foundation for their financial support, and thank the OAS for mailing the regulation workshop flyer with Arch Notes.

Workshop on Regulation of Archaeology in Ontario

Income	Proposed	Actual
OHF Grant 1	1000.00	1301.86
OHF Grant	5000.00	5000.00
Registration	900.00	1105.00
Total Income	6900.00	7406.86
Disbursements		
Questionnaire costs	1000.00	1301.86
Planning & Advertising	1000.00	581.42
Registration Package	1000.00	181.68
Room Rental	500.00	450.00
Catering	1000.00	911.43
Post Workshop Report	2500.00	715.00
Total Disbursements	6000.00	4141.39
BALANCE	900.00	3265.47
	1	

Historic Ceramic Workshop, April 20, 1991

Income		
OHF Grant #3	1100.00	1100.00
Registration	400.00	946.90
Total Income	1500.00	2046.90
Disbursements		
Advertising	100.00	11.50
Speaker honorarium	300.00	300.00
Travel & meals (speaker/panel)	800.00	261.93
Room rental	125.00	240.75
Copying (workshop materials)	100.00	111.00
Phone calls & parking	NA	25.65
Total Disbursements	1475.00	1000.83
BALANCE	25.00	1046.07

ANNUAL GENERAL MEETING

The Annual General Meeting of the APA will be held during the Ontario Archaeological Society Meetings in Ottawa on the weekend of October 25-27, 1991. A room has been booked at the Skyline Hotel (where the OAS meetings are being held), for 1 PM on Sunday, October 27 for our meeting. The exact room number and an agenda for the meeting will be sent to members in early October. Members are urged to attend.

OFFICERS OF THE APA (Until October 1991)

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