

# Pier and Harbour Order (Sheerness) Confirmation Act, 1958

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**CHAPTER xli**

An Act to confirm a Provisional Order made by the Minister of Transport and Civil Aviation under the General Pier and Harbour Act 1861 relating to Sheerness. [1st August 1958.]

**W**HEREAS a Provisional Order made by the Minister of Transport and Civil Aviation under the General Pier and Harbour Act 1861 is not of any validity or force whatever until confirmation thereof by Act of Parliament:

And whereas it is expedient that the Provisional Order made by the Minister of Transport and Civil Aviation under the said Act which as amended is set out in the schedule to this Act be confirmed by Act of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Order as set out in the schedule to this Act shall be confirmed and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full validity and force. Confirmation of Order in schedule.

2. This Act may be cited as the Pier and Harbour Order Short title. (Sheerness) Confirmation Act 1958.

## SCHEDULE

## SHEERNESS PIER

*Provisional Order to provide for the vesting in William Hurst Limited of the Sheerness Pier to confer powers on the said Company with reference thereto and the maintenance management and improvement thereof and for other purposes.*

## PRELIMINARY

- Short title. 1. This Order may be cited as the Sheerness Pier Order 1958.
- Commencement of Order. 2. This Order shall come into operation upon the day when the Act confirming this Order is passed and that day is in this Order referred to as the commencement of this Order.
- Interpretation. 3. In this Order unless the context otherwise requires words and expressions to which by the enactments incorporated therewith or applied thereto respectively meanings are assigned have in this Order the same meanings and—
- “the Act of 1829” means the Act 10 George 4 c. cxx being an Act for maintaining the pier at Sheerness in the Parish of Minster in the Isle of Sheppy in the county of Kent;
  - “the Company” means William Hurst Limited;
  - “the Council” means the urban district council of Sheerness;
  - “the Harbours Clauses Act 1847” means the Harbours Docks and Piers Clauses Act 1847;
  - “the Minister” means the Minister of Transport and Civil Aviation;
  - “the Order of 1893” means the Sheerness Pier Order 1893 which was scheduled to and confirmed by the Pier and Harbour Orders Confirmation (No. 3) Act 1893;
  - “the pier” means the pier known as Sheerness Pier lately belonging to the Council under the powers conferred by the Order of 1893 and transferred to the Company by this Order together with all lands works and conveniences now or hereafter connected therewith;
  - “the Queen’s harbour master” means the Queen’s harbour master for the dockyard port of Sheerness;
  - “seaplane” includes a flying boat and any other aircraft designed to manœuvre on the water;
  - “the undertaking” means the undertaking in connection with and including the pier;
  - “vessel” includes a seaplane on the surface of the water.

## UNDERTAKERS AND INCORPORATION OF ACTS

- Undertakers. 4. The Company shall be the undertakers for carrying this Order into execution.

5.—(1) The Lands Clauses Acts except so much thereof as relates to the purchase and taking of lands otherwise than by agreement and to the entry upon lands by the promoters of the undertaking and except sections 127 to 131 of the Lands Clauses Consolidation Act 1845 are hereby incorporated with this Order. Incorporation of Lands Clauses Acts.

(2) For the purposes of the incorporation of the said Acts the expression "the special Act" in these Acts shall mean this Order.

6.—(1) In the application to this Order of the Harbours Clauses Act 1847 the expression "the special Act" shall mean this Order and the word "vessel" shall include a seaplane on the surface of the water: Application of Harbours Clauses Act 1847.

Provided that nothing in the Harbours Clauses Act 1847 or this Order shall in any circumstances require or authorise the pier master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

(2) Sections 6 to 13 16 to 23 25 to 27 29 to 50 66 to 68 79 to 82 and 84 to 96 of the Harbours Clauses Act 1847 shall not be incorporated with this Order.

#### VESTING OF PIER IN THE COMPANY

7.—(1) On and after the date of the commencement of this Order (in this section called "the date of transfer") the undertaking shall be transferred to and vested in the Company and shall subject to the provisions of this Order be held maintained used and enjoyed by the Company. Vesting of pier in Company.

(2) For the purposes of completing the title of the Company to the property and rights transferred to them by this Order this Order shall be deemed to be a conveyance by the Council to the Company on the date of transfer.

(3) In consideration of the transfer of the undertaking the Company shall pay to the Council as soon as practicable after the date of transfer the sum of five thousand five hundred pounds.

(4) As from the date of transfer all estates interests rights powers privileges and authorities of the Council in over and in respect of the undertaking shall cease and determine and the Council shall thenceforth be freed and discharged from all obligations and liabilities in respect thereof.

(5) Subject to the provisions of this Order nothing in this Order contained shall be held to prejudice or affect any action or suit or right or cause of action or suit or any remedy which immediately before the date of transfer may have been pending by or against the Council or which the Council may have against any person or which any person may have against the Council but all such actions suits right causes and remedies may be enforced or prosecuted by or against the Council as if this Order had not been made.

8.—(1) The unrepealed provisions of the Act of 1829 except sections 83 and 84 are hereby repealed. Partial repeal of Act of 1829 and Order of 1893.



(2) The Order of 1893 except sections 21 and 42 to 46 is hereby repealed.

(3) Section 21 of the Order of 1893 shall have effect as if it were incorporated with this Order and for the purpose of such incorporation as if—

- (a) for references to the Local Board there were substituted references to the Company as defined in this Order ;
- (b) for references to the Board of Trade there were substituted references to the Minister of Transport and Civil Aviation ;
- (c) for the words “at the time of the passing of the Act confirming this Order” there were substituted the words “under the Medway Conservancy Acts 1881 to 1939 or any enactment amending or extending the same”.

#### LANDS

Power to take  
lands by  
agreement.

9. Subject to the provisions of this Order the Company may by agreement purchase and hold for the purposes of this Order any lands in addition to those vested in the Company under and in pursuance of this Order not exceeding in the whole twenty acres but with respect to such additional lands nothing in this Order or in the Acts incorporated therewith shall exempt the Company from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them thereon.

Grant of  
easements by  
persons under  
disability.

10.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit subject to the provisions of those Acts grant to the Company any easement or right required for the purposes of this Order in or over or affecting any such lands (not being an easement or right of water in which some person other than the grantor has an interest).

(2) The provisions of the said Acts with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

Retention and  
disposal of  
lands.

11.—(1) (Notwithstanding anything in the Lands Clauses Acts to the contrary) the Company may—

- (a) retain and hold and use for such time as they think fit any land or interest in land acquired by them under this Order ;
- (b) sell lease exchange or otherwise dispose of any such land or interest no longer required for the purpose of the undertaking in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of payment in any other form) ;
- (c) sell exchange or dispose of any rents reserved on the sale lease exchange or other disposition of any such land or interest ;
- (d) make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition ;

(e) on any such exchange pay or receive money for equality of exchange.

(2) Nothing in this section shall release the Company or any person purchasing or acquiring any land or interest in land from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which the land or interest has been conveyed or leased to or otherwise acquired by the Company or any persons from or through whom the Company have derived title to it.

#### LIMITS

12.—(1) The limits within which the Company shall have authority and within which the powers of the pier master may be exercised shall be the pier as it exists at the commencement of this Order and the area of water within a distance of three hundred feet from the jetty head at the western extremity of the pier as so existing and the area of water within a distance of fifty feet from the structure of any other part of the pier as so existing which limits are in this Order referred to as "the limits of this Order". Limits of Order.

(2) A map showing the limits of this Order having been signed in quadruplicate by an Assistant Secretary of the Ministry of Transport and Civil Aviation and one copy thereof having been deposited at the office of the Ministry of Transport and Civil Aviation another copy thereof shall be deposited at the office of the clerk of the Kent County Council another copy thereof shall be deposited at the office of the clerk of the Council and another copy thereof shall be deposited at the registered office of the Company.

(3) In case of any discrepancy between the limits delineated in the said map and the limits described in subsection (1) of this section the said map shall be deemed to be correct and shall prevail.

13. Section 52 of the Harbours Clauses Act 1847 in its application to the Company and the pier master shall extend to empower the pier master to give directions prohibiting the mooring of vessels within the limits of this Order. Directions of pier master.

14. Section 53 of the Harbours Clauses Act 1847 in its application to the Company and the pier master shall not be construed to require the pier master to serve a notice in writing of his directions upon the master of a vessel but such directions may be given verbally or otherwise communicated to such master but a notice which is not in writing shall not be deemed to be sufficient unless in the opinion of the court before whom any case may be heard it was not reasonably practicable to serve a written notice on the master of the vessel. Orders of pier master need not be in writing.

#### WORKS AND POWERS

15.—(1) Subject to the provisions of this Order the Company may within the limits of this Order maintain alter improve extend remove renew and replace the pier and construct maintain alter and improve approaches steps landing-places jetties wharves buoys Power to construct maintain and improve works.

moorings cranes lights beacons roads sewers drains watercourses pipes apparatus for electric light and power warehouses offices sheds and other works and conveniences and may also from time to time lay down and maintain rails tramways sidings and turntables on and along the pier.

(2) No line of rails or tramway constructed under the powers of this Order shall be used for the public conveyance of passengers unless and until the same has been inspected and certified by the Minister to be fit for such traffic.

(3) Any electric light and power or other apparatus constructed and maintained under this Order shall be so constructed used and maintained as to prevent any interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

(4) Nothing in this Order shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1935 to which the provisions of section 15 of the Electric Lighting Act 1882 or the provisions of the Public Utilities Street Works Act 1950 apply except in accordance with and subject to the provisions of those enactments.

Penalty for obstructing works.

16. Any person who wilfully obstructs any person acting under the authority of the Company in setting out the lines of the works or who pulls up or removes any poles or stakes driven into the ground for the purposes of such setting out shall for every such offence be liable to a penalty not exceeding five pounds.

Power to dredge and sell materials.

17.—(1) The Company may deepen dredge scour and excavate any portion of the foreshore and bed of the sea to the extent necessary to secure a sufficient waterway and approach to the pier for vessels using the same.

(2) All sand mud and other materials dredged up or removed shall be the property of the Company and they may sell or otherwise dispose of or remove or deposit the same as they think fit.

(3) The powers of the Company under this section shall be exercisable subject to the provisions of section 36 (Crown rights) of this Order and in particular and without prejudice to that general limitation any consent given to the exercise of such powers by the Crown Estate Commissioners on behalf of Her Majesty may be given subject to such restrictions and conditions including the payment by the Company to the Crown Estate Commissioners of royalties rents or sums of money in respect of materials raised from any place below high-water mark and sold by the Company under this section or in respect of any place below high-water mark upon which materials may be deposited as may be fixed by the Crown Estate Commissioners :

Provided that no materials raised under the provisions of this section shall be deposited in any place below high-water mark of ordinary spring tides otherwise than in such a position and under such restrictions and regulations as may be fixed by the Minister.



(4) The powers of the Company under this section shall not be exercisable except with the written consent of the Kent River Board within the area bounded on the landward side by a line drawn along the seaward toe of the section of the sea wall lying between the junction of the sea wall with the southern wall of Her Majesty's Dockyard at Sheerness and the point of termination of the said sea wall in the borough of Queenborough and on the seaward side by an imaginary line drawn in a southerly direction and at a uniform distance of twelve hundred and fifty feet from the first-mentioned line.

(5) The consent required for the purposes of the last foregoing subsection shall not be unreasonably withheld and may be given subject to such reasonable terms and conditions as the Kent River Board may think fit to impose. Any difference between the parties as to whether such consent has or has not been unreasonably withheld or as to the reasonableness of any such terms and conditions shall be referred to and determined by a single arbitrator to be appointed by agreement between the parties or in default of agreement by the President of the Institution of Civil Engineers on the application of either party after giving notice in writing to the other party.

#### POWERS OF SALE AND LEASING

18.—(1) The Company may (if authorised so to do by their memorandum and articles of association and subject to the powers and provisions thereof) with the previous consent in writing and upon such terms conditions and restrictions as may be approved by the Minister sell the undertaking and the purchaser to the extent authorised by his conveyance shall have and may exercise all or any of the powers conferred upon the Company by this Order or which the Company have or might exercise under this Order and shall be subject to all the liabilities and obligations in respect of the undertaking to which the Company are subject and shall perform all the duties of the Company under this Order. Power to sell undertaking.

(2) The Company shall within one month after the date of any conveyance made under this section deposit a certified copy thereof at the Ministry of Transport and Civil Aviation and shall upon failure to do so be liable to a penalty not exceeding twenty pounds.

19.—(1) The Company may with the previous consent in writing of and upon such terms conditions and restrictions and for such period as may be approved by the Minister lease the undertaking to any company corporation or person. Power to lease undertaking.

(2) As from the commencement of any lease made under the last preceding subsection the lessee during the continuance of and to the extent provided in his lease shall have and may exercise all or any of the powers conferred upon the Company by this Order or which the Company have or might exercise under this Order and shall be subject to all the liabilities and obligations in respect of the undertaking to which the Company are subject and shall perform all the duties of the Company under this Order.

(3) No lease made under subsection (1) of this section shall be assignable without the previous consent in writing of the Minister and the provisions of this Order with respect to such lease or to the lessee shall apply to any such assignment or to the assignee respectively.

(4) The Company shall within one month after the date of any lease made under this section or of any assignment of the said lease deposit a certified copy thereof at the Ministry of Transport and Civil Aviation and shall upon failure to do so be liable to a penalty not exceeding twenty pounds.

#### BYELAWS

Byelaws.

20.—(1) The byelaws which may from time to time be made by the Company in exercise of the powers in that behalf conferred on them by section 83 of the Harbours Clauses Act 1847 may provide for the imposition of a penalty not exceeding five pounds for the breach or non-observance of any of the byelaws.

(2) Notwithstanding the provisions of the Harbours Clauses Act 1847 relating to the procedure for the making and confirmation of byelaws by the Company the provisions of subsections (3) to (7) of section 250 and section 252 of the Local Government Act 1933 shall apply to all byelaws to be made by the Company in respect of the undertaking and in the application of such last-mentioned provisions the Minister shall be the confirming authority.

Appointment of officers to enforce byelaws and regulations.

21. The Company may appoint officers for securing the observance of the byelaws and regulations made by the Company under this Order in respect of the pier.

#### INQUIRIES

Inquiries by Minister.

22. The Minister may cause to be held any such inquiry as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Order and section 290 of the Local Government Act 1933 shall apply to such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority.

#### LIFE-SAVING APPARATUS

Provision for life-saving apparatus.

23.—(1) The Company shall whenever required by the Minister provide at their own expense within the period specified by and to the satisfaction of the Minister a site on or near the pier and build on that site a house or other proper accommodation for rocket apparatus and other life-saving apparatus.

(2) If the Company fail to comply with this section they shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.

24. The officers of the coastguard and all other persons for the time being actually employed in connection with the apparatus for saving life may either permanently or temporarily without payment attach or cause to be attached to any part of the pier spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over the pier.

Life-saving apparatus may be attached to pier.

25. The Company shall at all times keep at convenient places on the pier and in obedience to any requirements which may be made by the Minister lifebuoys and lifelines in good order and fit and ready for use.

Lifebuoys to be kept.

### LIGHTS

26.—(1) The Company shall at or near the outer extremity of the pier below high-water mark of ordinary spring tides exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Corporation of Trinity House of Deptford Strond shall from time to time direct.

Permanent lights on works.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding twenty pounds and in the case of a continuing offence to an additional penalty not exceeding two pounds for every day on which after conviction thereof they so fail.

27.—(1) In case of injury to or destruction or decay of the pier or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Company shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House of Deptford Strond and shall apply to that corporation for directions as to the means to be taken.

Provision against danger to navigation.

(2) If the Company fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding ten pounds and in the case of a continuing offence to an additional penalty not exceeding one pound for every day during which they omit after conviction thereof so to comply or refuse or neglect to obey any direction given in reference to the means to be taken.

### MISCELLANEOUS

28. Notwithstanding anything in this Order any cables pipes or wires to be laid or placed under the powers of this Order by the Company on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides shall be laid or placed at such depth under or such height over the tidal waters or tidal lands as the Minister may require.

Cables pipes or wires under or across tidal waters.



Recovery of penalties.

29.—(1) All penalties and forfeitures recoverable under this Order or under any byelaw made in pursuance of section 83 of the Harbours Clauses Act 1847 may be recovered in a summary manner.

(2) Any costs or expenses recoverable as aforesaid may be recovered summarily as civil debts where the amount recoverable does not exceed twenty pounds.

Local lighthouse authority.

30. The Company shall within the limits of this Order be a local lighthouse authority for the purposes of the Merchant Shipping Act 1894.

Saving for Queen's harbour master.

31. Nothing contained in this Order or in any byelaws made thereunder shall take away alter prejudice or affect the jurisdiction or any of the rights powers authorities or privileges of the Queen's harbour master within the limits of this Order.

Saving for Kent River Board.

32. Nothing in this Order shall authorise the Company—

- (a) to remove or alter any sea defence or flood protection works maintained by or under the control of the Kent River Board ;
- (b) in any way to affect the efficiency of any of those works ; or
- (c) to obstruct the access of the board thereto.

For protection of British Transport Commission.

33. For the protection of the British Transport Commission (hereinafter referred to as "the Commission") the following provisions shall unless otherwise agreed in writing between the Company and the Commission apply and have effect:—

(1) In this section—

"the railway" means Railway No. 2 authorised by the South-Eastern and London, Chatham, and Dover Railways Act 1902 ;

"the engineer" means an engineer to be appointed by the Commission ;

"plans" includes sections specifications and particulars :

(2) If the Company desire to carry out under the powers of this Order any works which will or may affect the railway or the use thereof for the purposes of the Commission's undertaking they shall give to the Commission not less than twenty-eight days' notice in writing of their desire to carry out such works accompanied by sufficient plans of the proposed works and shall not commence to carry out such works until the plans thereof have been approved by the engineer or (failing such approval) have been settled by an arbitrator to be appointed as hereinafter provided :

Provided that the approval of the engineer shall be deemed to have been given unless he signifies his disapproval within the said period of twenty-eight days :

(3) The Company shall give to the Commission fourteen days' notice in writing of their intention to commence the works



which when commenced shall be carried out with all reasonable dispatch in accordance with the plans approved or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as not to interfere with delay or interrupt the traffic on the railway and if any such interference delay or interruption shall be caused or take place the Company shall notwithstanding any such approval as aforesaid pay to the Commission full compensation for any loss which they may sustain by reason of any such interference delay or interruption:

- (4) Any difference arising between the Company and the Commission or the engineer under this section shall be settled by a single arbitrator to be agreed between the parties or failing agreement to be appointed on the application of either party after notice in writing to the other by the President of the Institution of Civil Engineers.

34. Section 8 (Power to Sheerness Urban District Council with respect to Railway No. 2) and subsections (5) (6) and (7) of section 12 (For protection of urban district council of Sheerness) of the South-Eastern and London, Chatham, and Dover Railways Act 1902 shall notwithstanding anything in this Order continue to apply and have effect as if—

Power to and protection for Company in respect to Railway No. 2 authorised by Act of 1902.

in the case of the said section 8 for references to the Two Companies and the Managing Committee there were substituted references to the British Transport Commission and for the reference to the urban district council of Sheerness there was substituted a reference to the Company; and

in the case of the said subsections of the said section 12 for references to the South Eastern Company and the Council respectively there were substituted references to the British Transport Commission and the Company.

35. Notwithstanding the transfer of the undertaking to the Company or anything contained in this Order—

Saving for rights of access to public urinal.

(1) the Council and their officers workmen and contractors may at any time free of charge pass across so much of the land forming part of the pier as may be necessary for the purpose of inspecting repairing cleansing maintaining or renewing the urinal constructed by the Council in pursuance of an agreement dated the twenty-fifth day of August nineteen hundred and ten and made between the Commissioners for Executing the Office of the Lord High Admiral of the United Kingdom of Great Britain and Ireland of the one part and the Council of the other part; and

(2) the public shall be entitled free of charge to pass across so much of such land as may be necessary for obtaining access to or egress from the said urinal.

## Crown rights.

36. Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty first had and obtained for that purpose.

Saving for town  
and country  
planning.

37. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

## Costs of Order.

38. All costs charges and expenses of and incident to the preparing and obtaining of this Order and otherwise incurred in reference thereto as taxed by the proper officer shall be paid by the Council.

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*Table of Statutes referred to in this Act*

| Title or short title   | Session and chapter     |
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| An Act for maintaining the pier at Sheerness in the Parish of Minster in the Isle of Sheppy in the County of Kent ... .. | 10 Geo. 4 c. cxx.       |
| Lands Clauses Consolidation Act 1845 ... ..  | 8 & 9 Vict. c. 18.      |
| Harbours Docks and Piers Clauses Act 1847 ... ..   | 10 & 11 Vict. c. 27.    |
| General Pier and Harbour Act 1861 ... ..   | 24 & 25 Vict. c. 45.    |
| Telegraph Act 1878 ... ..  | 41 & 42 Vict. c. 76.    |
| Electric Lighting Act 1882... ..   | 45 & 46 Vict. c. 56.    |
| Pier and Harbour Orders Confirmation (No. 3) Act 1893 ... ..   | 56 & 57 Vict. c. xxxix. |
| Merchant Shipping Act 1894 ... ..  | 57 & 58 Vict. c. 60.    |
| South-Eastern and London, Chatham, and Dover Railways Act 1902 ... ..  | 2 Edw. 7 c. ccliv.      |
| Local Government Act 1933 ... ..   | 23 & 24 Geo. 5 c. 51.   |
| Town and Country Planning Act 1947 ... ..  | 10 & 11 Geo. 6 c. 51.   |
| Public Utilities Street Works Act 1950 ... ..  | 14 Geo. 6 c. 39.        |

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