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AN ACT

FOR THE

SEQUESTRATION

OF THE

PROPERTY OF ALIEN ENEMIES.

ADOPTED AUGUST 30, 1861.

RICHMOND:
TYLER, WISE, ALLEGRE & SMITH.
ENQUIRER BOOK AND JOB OFFICE.

1861.

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For the Sequestration of the Estates, Property and Effects of alien Enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States.

WHEREAS, The Government and people of the United States have departed from the usages of civilized warfare in confiscating and destroying the property of the people of the Confederate States of all kinds, whether used for military purposes or not; *and whereas*, our only protection against such wrongs is to be found in such measures of retaliation as will ultimately indemnify our own citizens for their losses, and restrain the wanton excesses of our enemies: Therefore—

SECTION 1. *Be it enacted by the Congress of the Confederate States of America*, That all and every the lands, tenements and hereditaments, goods and chattels, rights and credits within these Confederate States and every right and interest therein held, owned, possessed or enjoyed by or for any alien enemy since the twenty-first day of May, one thousand eight hundred and sixty-one, except such debts due to an alien enemy as may have been paid into the Treasury of any one of the Confederate States prior to the passage of this law, be, and the same are hereby, sequestrated by the Confederate States of America, and shall be held for the full indemnity of any true and loyal citizen or resident of these Confederate States, or other person aiding said Confederate States in the prosecution of the present war between said Confederate States and the United States of America, and for which he may suffer any loss or injury under the act of the United States to which this act is retaliatory, or under any other act of the United States, or of any State thereof authorizing the seizure, condemnation, or confiscation of the property of citizens or residents of the Confederate States, or other person aiding said Confederate States, and the same shall be seized and disposed of as provided for in this Act: *Provided, however*, When the estate, property or rights to be effected by this Act were, or are, within some State of this Confederacy, which has become such since said

twenty-first day of May, then this Act shall operate upon, and as to such estate, property or rights, and all persons claiming the same from and after the day such State so became a member of this Confederacy, and not before: *Provided, further,* That the provisions of the Act shall not extend to the stocks or other public securities of the Confederate Government, or of any of the States of this Confederacy held or owned by any alien enemy, or to any debt, obligation, or sum due from the Confederate Government, or any of the States to such alien enemy: *And provided, also,* That the provisions of this Act shall not embrace the property of citizens or residents of either of the States of Delaware, Maryland, Kentucky or Missouri, or of the District of Columbia, or the territories of New Mexico, Arizona, or the Indian Territory South of Kansas, except such of said citizens or residents as shall commit actual hostilities against the Confederate States, or aid and abet the United States in the existing war against the Confederate States.

SEC. 2. *And be it further enacted,* That it is, and shall be, the duty of each and every citizen of these Confederate States speedily to give information to the officers charged with the execution of this law of any and every lands, tenements and hereditaments, goods and chattels, rights and credits within this Confederacy, and of every right and interest therein held, owned, possessed or enjoyed by or for any alien enemy as aforesaid.

SEC. 3. *Be it further enacted,* That it shall be the duty of every attorney, agent, former partner, trustee or other person holding or controlling any such lands, tenements or hereditaments, goods or chattels, rights or credits, or any interest therein, of or for any such alien enemy, speedily to inform the Receiver hereinafter provided to be appointed, of the same, and to render an account thereof, and, so far as is practicable, to place the same in the hands of such Receiver; whereupon, such person shall be fully acquitted of all responsibility for property and effects so reported and turned over. And any such person wilfully failing to give such information and render such account shall be guilty of a high misdemeanor, and upon indictment and conviction, shall be fined in a sum not exceeding five thousand dollars and imprisoned not longer than six months, said fine and imprisonment to be determined by the court trying the case, and shall further be liable to be sued by said Confederate States, and subjected to pay double the value of the

estate, property or effects of the alien enemy held by him or subject to his control.

SEC. 4. It shall be the duty of the several Judges of this Confederacy to give this Act specially in charge to the Grand Juries of these Confederate States, and it shall be their duty at each sitting well and truly to enquire and report all lands, tenements and hereditaments, goods and chattels, rights and credits, and every interest therein, within the jurisdiction of said Grand Jury, held by or for any alien enemy, and it shall be the duty of the several Receivers, appointed under this Act, to take a copy of every such report, and to proceed in obtaining the possession and control of all such property and effects reported, and to institute proceedings for the sequestration thereof in the manner hereinafter provided.

SEC. 5. *Be it further enacted*, That each Judge of this Confederacy shall as early as practicable, appoint a Receiver for each section of the State for which he holds a court, and shall require him, before entering upon the duties of his office, to give a bond in such penalty as may be prescribed by the Judge, with good and sufficient security, to be approved by the Judge, conditioned that he will diligently and faithfully discharge the duties imposed upon him by law. And said officer shall hold his office at the pleasure of the Judge of the district or section for which he is appointed, and shall be removed for incompetency, or inefficiency, or infidelity in the discharge of his trust. And should the duties of any such Receiver, at any time, appear to the Judge to be greater than can be efficiently performed by him, then it shall be the duty of the Judge to divide the district or section into one or more other receivers' districts, according to the necessities of the case, and to appoint a Receiver for each of said newly created districts. And every such Receiver shall also, before entering upon the duties of his office, make oath in writing before the Judge of the district or section for which he is appointed, diligently, well and truly to execute the duties of his office.

SEC. 6. *Be it further enacted*, That it shall be the duty of the several Receivers aforesaid to take the possession, control and management of all lands, tenements and hereditaments, goods and chattels, rights and credits of each and every alien enemy within the section for which he acts. And to this end he is empowered and required, whenever necessary for accomplishing the purposes of this Act, to sue

for and recover the same in the name of said Confederate States, allowing, in the recovery of credits, such delays as may have been, or may be, prescribed in any State as to the collection of debts therein during the war. And the form and mode of action, whether the matter be of jurisdiction in law or equity, shall be by petition of the court setting forth, as best he can, the estate, property, right or thing sought to be recovered, with the name of the person holding, exercising supervision over, in possession of or controlling the same, as the case may be, and praying a sequestration thereof. Notice shall thereupon be forthwith issued by the clerk of the court, or by the Receiver, to such person, with a copy of the petition, and the same shall be served by the Marshal or his deputy and returned to the court as other mesne process in law cases; whereupon the cause shall be docketed and stand for trial in the court according to the usual course of its business, and the court or Judge shall, at any time, make all orders of seizure that may seem necessary to secure the subject matter of the suit from danger of loss, injury, destruction or waste, and may, pending the cause, make orders of sale in cases that may seem to such Judge or court necessary to preserve any property sued for from perishing or waste: *Provided*, That in any case when the Confederate Judge shall find it to be consistent with the safe-keeping of the property so sequestered, to leave the same in the hands and under the control of any debtor or person in whose hands the real estate and slaves were seized, who may be in possession of the said property or credits, he shall order the same to remain in the hands and under the control of said debtor or person in whose hands the real estate and slaves were seized, requiring in every such case such security for the safe-keeping of the property and credits as he may deem sufficient for the purpose aforesaid, and to abide by such further orders as the court may make in the premises. But this proviso shall not apply to bank or other corporation stock, or dividends due or which may be due thereon, or to rents on real estate in cities. And no debtor or other person shall be entitled to the benefit of this proviso unless he has first paid into the hands of the Receiver all interests or net profits which may have accrued since the twenty-first May, eighteen hundred and sixty-one; and, in all cases coming under this proviso, such debtor shall be bound to pay over annually to the Receiver all interest which may accrue as the same falls due; and the per-

son in whose hands any other property may be left shall be bound to account for, and pay over annually to the Receiver, the net income or profits of said property, and on failure of such debtor or other person to pay over such interest, net income or profits, as the same falls due, the Receiver may demand and recover the debt or property. And, wherever, after ten days' notice to any debtor or person in whose hands property or debts may be left, of an application for further security, it shall be made to appear to the satisfaction of the court that the securities of such debtor or person are not ample, the court may, on the failure of the party to give sufficient additional security, render judgment against all the parties on the bond for the recovery of the debt or property: *Provided, further,* That said court may, whenever in the opinion of the Judge thereof the public exigencies may require it, order the money due as aforesaid to be demanded by the Receiver, and if upon demand of the Receiver, made in conformity to a decretal order of the court requiring said Receiver to collect any debts for the payment of which security may have been given under the provisions of this Act, the debtor or his security shall fail to pay the same, then upon ten days' notice to said debtor and his security, given by said Receiver, of a motion to be made in said court for judgment for the amount so secured, said court, at the next term thereof, may proceed to render judgment against said principal and security, or against the party served with such notice, for the sum so secured with interest thereon, in the name of said Receiver, and to issue execution therefor.

SEC. 7. Any person in the possession and control of the subject matter of any such suit, or claiming any interest therein, may, by order of the court, be admitted as a defendant and be allowed to defend to the extent of the interest propounded by him; but no person shall be heard in defence until he shall file a plea, verified by affidavit and signed by him, setting forth that no alien enemy has any interest in the right which he asserts, or for which he litigates, either directly or indirectly, by trust, open or secret, and that he litigates solely for himself, or for some citizen of the Confederate States whom he legally represents; and when the defence is conducted for or on account of another, in whole or part, the plea shall set forth the name and residence of such other person, and the relation that the defendant bears to him in the litigation. If the cause involves matter which

should be tried by a jury according to the course of the common law, the defendant shall be entitled to a jury trial. If it involves matters of equity jurisdiction, the court shall proceed according to its usual mode of procedure in such cases, and the several courts of this Confederacy may, from time to time, establish rules of procedure under this act, not inconsistent with the act or other laws of these Confederate States.

SEC. 8. *Be it further enacted,* That the clerk of the court shall, at the request of the receiver, from time to time, issue writs of garnishment, directed to one or more persons, commanding them to appear at the then sitting, or at any future term of the court, and to answer under oath what property or effects of any alien enemy he had at the service of the process, or since has had under his possession or control belonging to or held for an alien enemy, or in what sum, if any, he is or was at the time of service of the garnishment, or since has been indebted to any alien enemy, and the court shall have power to condemn the property or effects, or debts, according to the answer, and to make such rules and orders for the bringing in of third persons claiming or disclosed by the answer to have an interest in the litigation as to it shall seem proper; but in no case shall any one be heard in respect thereto until he shall, by sworn plea, set forth substantially the matters before required of parties pleading. And the decree or judgment of the court, rendered in conformity to this act, shall forever protect the garnishee in respect to the matter involved. And in all cases of garnishment under this act, the Receiver may test the truth of the garnishee's answer by filing a statement, under oath, that he believes the answer to be untrue, specifying the particulars in which he believes the garnishee has, by omission or commission, not answered truly; whereupon the court shall cause an issue to be made between the Receiver and garnishee, and judgment rendered as upon the trial of other issues. And in all cases of litigation under this act the Receiver may propound interrogatories to the adverse party touching any matter involved in the litigation, a copy of which shall be served on the opposite party or his attorney, and which shall be answered under oath within thirty days of such service, and upon failure so to answer, the court shall make such disposition of the cause as shall to it seem most promotive of justice, or should it deem answers to the interrogatories necessary in order to secure a discovery, the court shall

imprison the party in default until full answers shall be made.

SEC. 9. It shall be the duty of the District Attorney of the Confederate States, diligently to prosecute all causes instituted under this act, and he shall receive as a compensation therefor two per cent. upon and from the fruits of all litigation instituted under this act: *Provided*, That no matter shall be called litigated except a defendant be admitted by the court, and a proper plea be filed.

SEC. 10. *Be it further enacted*, That each Receiver appointed under this act shall, at least every six months, and as much oftener as he may be required, by the court, render a true and perfect account of all matters in his hands or under his control under the law, and shall make and state just and perfect accounts and settlements under oath of his collections of monies and disbursements under this law, stating accounts and making settlements of all matters separately, in the same way as if he were administrator of several estates of deceased persons by separate appointments. And the settlements and decrees shall be for each case or estate separately, so that the transaction in respect to each alien enemy's property may be kept recorded and preserved separately. No settlement as above provided shall, however, be made until judgment or decree of sequestration shall have passed, but the court may at any time pending litigation, require an account of matters in litigation and in the possession of the Receiver, and may make such orders touching the same as shall protect the interest of the parties concerned.

SEC. 11. When the accounts of any receiver shall be filed respecting any matter which has passed sequestration, the Court shall appoint a day for settlement and notice thereof shall be published consecutively for four weeks in some newspaper near the place of holding the Court, and the clerk of the Court shall send a copy of such newspaper to the District Attorney of the Confederate States, for the Court, where the matter is to be heard, and it shall be the duty of said District Attorney to attend the settlement and represent the Government and to see that a full, true and just settlement is made. The several settlements preceding the final one shall be interlocutory only, and may be impeached at the final settlements, which latter shall be conclusive, unless reversed or impeached within two years, for fraud.

SEC. 12. *Be it further enacted*, That the Court having jurisdiction of the matter shall, whenever sufficient cause is shown therefor, direct the sale of any personal property, other than slaves, sequestered under this act, on such terms as to it shall seem best, and such sale shall pass the title of the person as whose property the same has been sequestered.

SEC. 13. All settlements of accounts of receivers for sequestered property shall be recorded and a copy thereof shall be forwarded by the clerk of the Court to the Treasurer of the Confederate States within ten days after the decree, interlocutory or final, has been passed; and all balances found against the Receiver shall by him be paid over into the Court, subject to the order of the Treasurer of the Confederate States, and upon the failure of the Receiver for five days to pay over the same, execution shall issue therefor, and he shall be liable to attachment by the Court and to suit upon his bond. And any one embezzling any money under this Act shall be liable to indictment, and on conviction shall be confined at hard labor for not less than six months nor more than five years, in the discretion of the Court, and fined in double the amount embezzled.

SEC. 14. *Be it further enacted*, That the President of the Confederate States, shall, by and with the advice and consent of Congress, or of the Senate, if the appointment be made under the permanent Government, appoint three discreet Commissioners, learned in the law, who shall hold at the seat of Government two terms each year, upon notice given, who shall sit so long as the business before them shall require; whose duty it shall be, under such rules as they may adopt, to hear and adjudge such claims as may be brought before them by any one aiding this Confederacy in the present war against the United States, who shall allege that he has been put to loss under the act of the United States, in retaliation of which this act is passed, or under any other act of the United States, or of any State thereof, authorizing the seizure, condemnation or confiscation of the property of any citizen or resident of the Confederate States, or other person aiding said Confederate States in the present war against the United States, and the finding of such Commissioners in favor of any such claim shall be *prima facie* evidence of the correctness of the demand, and whenever Congress shall pass the claim, the same shall be paid from

any money in the Treasury derived from sequestration under this act: *Provided*, That said Board of Commissioners shall not continue beyond the organization of the Court of Claims, provided for by the Constitution; to which Court of Claims the duties herein provided to be discharged by Commissioners shall belong upon the organization of said Court. The salaries of said Commissioners shall be at the rate of two thousand five hundred dollars per annum, and shall be paid from the Treasury of the Confederacy. And it shall be the duty of the Attorney General or his assistant to represent the interests of this Government in all cases arising under this act before said Board of Commissioners.

SEC. 15. *Be it further enacted*, That all expenses incurred in proceedings under this Act shall be paid from the sequestered fund, and the Judges, in settling accounts with Receivers, shall make to them proper allowances of compensation, taking two and a half per cent. on receipts, and the same amount on expenditures, as reasonable compensation, in all cases. The fees of the officers of court shall be such as are allowed by law for similar services in other cases, to be paid, however, only from the sequestered fund. *Provided*, That all sums realized by any Receiver in one year for his services, exceeding five thousand dollars, shall be paid into the Confederate Treasury, for the use of the Confederacy.

SEC. 16. *Be it further enacted*, That the Attorney-General shall prescribe such uniform rules of proceeding under this law, not herein otherwise provided for, as shall meet the necessities of the case.

SEC. 17. *Be it further enacted*, That appeals may lie from any final decision of the court under this law, in the same manner and within the same time as is now, or hereafter may be by law prescribed for appeals in other civil cases.

SEC. 18. *Be it further enacted*, That the word "person" in this law includes all private corporations; and in all cases, when corporations become parties, and this law requires an oath to be made, it shall be made by some officer of such corporation.

SEC. 19. *Be it further enacted*, That the courts are vested with jurisdiction, and required by this Act, to settle all partnerships heretofore existing between a citizen and one who is an alien enemy; to separate the interest of the alien enemy, and to sequester it. And shall, also, sever all

joint rights when an alien enemy is concerned, and sequesterate the interest of such alien enemy.

SEC. 20. *Be it further enacted*, That in all cases of administration of any matter or thing, under this act, the court having jurisdiction, may make such orders touching the preservation of the property or effects under the direction or control of the Receiver, not inconsistent with the foregoing provisions, as to it shall seem proper. And the Receiver may, at any time, ask and have the instructions of the court, or Judge, respecting his conduct in the disposition or management of any property, or effects under his control.

SEC. 21. That the Treasury Notes of this Confederacy, shall be receivable in payment of all purchases of property or effects sold under this Act.

SEC. 22. *Be it further enacted*, That nothing in this Act shall be construed to destroy or impair the lien or other rights of any creditor, a citizen or resident of either of the Confederate States, or of any other person, a citizen or resident, of any country, State, or Territory, with which this Confederacy is in friendship, and which person is not in actual hostility to this Confederacy. And any lien or debt claimed against any alien enemy, within the meaning of this Act, shall be propounded and filed in the court, in which the proceedings of sequestration are had, within twelve months from the institution of such proceedings for sequestration; and the court shall cause all proper parties to be made and notices to be given, and shall hear and determine the respective rights of all parties concerned: *Provided, however*, That no sales or payments over of money shall be delayed for, or by reason of, such rights or proceedings; but any money realized by the Receiver, whether paid into the court, or Treasury, or still in the Receivers' hands, shall stand in lieu of that which produced said money, and be held to answer the demands of the creditors aforesaid, in the same manner as that which produced such money was. And all claims not propounded and filed as aforesaid, within twelve months as aforesaid, shall cease to exist against the estate, property, or effects sequestered, or the proceeds thereof.

APPROVED August 30, 1861.

DEPARTMENT OF JUSTICE,
RICHMOND, 12TH SEPTEMBER, 1861.

Instructions to Receivers under the Act entitled "An Act for the Sequestration of the Estates, property and Effects of Alien Enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war against the United States."—Approved 30th August, 1861.

I. The following persons are subject to the operation of the law as Alien Enemies :

1st. All citizens of the United States, except citizens or residents of Delaware, Maryland, Kentucky or Missouri, or the District of Columbia, or the Territories of New Mexico, Arizona, or the Indian Territory South of Kansas.

2nd. All persons who have a *domicil* within the States with which this Government is at war, no matter whether they be *citizens* or not: Thus the subjects of great Britain, France or other neutral nations, who have a domicile, or are carrying on business or traffic within the States at war with this Confederacy are alien Enemies under the law.

3rd. All such citizens or residents of the States of Delaware, Maryland, Kentucky or Missouri, and of the Territories of New Mexico, Arizona and the Indian Territory south of Kansas, and of the District of Columbia, as shall commit actual hostilities against the Confederate States, or aid, or abet the United States in the existing war against the Confederate States.

II. Immediately after taking your oath of office, you will take possession of all the property of every nature and kind whatsoever within your District belonging to alien Enemies as above defined.

III. You will forthwith apply to the Clerk of the Court for Writs of Garnishment under the 8th Section of the law, and will propound to the Garnishees the interrogatories of which a form is annexed.—These interrogatories you will propound to the following persons, viz :

1st. All Attorneys and Counsellors practicing law within your District.

2nd. The Presidents and Cashiers of all Banks, and prin-

cial administrative officers of all Rail Road and other corporations within your District.

3rd. All Agents of Foreign Corporations, Insurance Agents, Commission Merchants engaged in foreign trade, Agents of Foreign Mercantile Houses, Dealers in Bills of Exchange, Executors and Administrators of Estates, Assignees and Syndics of Insolvent Estates, Trustees, and generally all persons who are known to do business as Agents for others.

IV. In the first week of each month, you will exhibit to the Judge, a statement showing the whole amount of money in your hands as Receiver, and deposit the same for safe keeping, in such bank or other depository as may be selected for that purpose by the Judge—reserving only such amount as may be required for immediate necessary expenditure in the discharge of your duties as Receivers.

V. You are strictly prohibited from making personal use in any manner whatever, or investing in any kind of property, or loaning with or without interest, or exchanging for other funds, without leave of the Court, any money or funds of any kind received by you in your official capacity.

VI. You are prohibited from employing, except at your own personal expense, any Attorney or Counsellor to aid you in the discharge of your duties, other than the District Attorney of the Confederate States for your District: and you are instructed to invoke his aid under the 9th Section of the law, in all matters of litigation that may arise under the law.

VII. You will take special care to avoid the loss or deterioration of all personal property perishable in its nature, by applying for the sale thereof under the provisions of the 12th Section of the law.

VIII. You will keep an account, showing exactly all sums received by you as allowances of compensation under the fifteenth Section of the law, setting forth the date and amount of each receipt of such sums: and as soon as the amount received by you, in any one year, shall reach the sum of five thousand dollars, you will pay over to the Assistant Treasurer of the Confederate States, most convenient to your domicile, all further sums allowed you as compensation, taking duplicate receipts therefor, one to be retained as a voucher by yourself, and the other to be forwarded by mail to the Secretary of the Treasury.

IX. Whenever, in the discharge of your duties, you dis-

cover that any attorney, agent, former partner, trustee or other person holding or controlling any property, rights or credits of an alien Enemy has wilfully failed to give you information of the same, you will immediately report the fact to the District Attorney for your District, to the end that the guilty party may be subjected to the pains and penalties prescribed by the 3d Section of the law.

J. P. BENJAMIN, *Attorney General.*

The following interrogatories to garnishees have been prepared for your use, together with a note annexed for the information of the garnishee.

1. Have you now, or have you had in your possession or under your control since the twenty-first day of May last, (1861,) and if yea, at what time, any land or lands, tenement or tenements, hereditament or hereditaments, chattel or chattels, right or rights, credit or credits within the Confederate States of America held, owned, possessed or enjoyed for or by an alien Enemy: or in or to which any alien Enemy had, and when, since that time, any right, title or interest, either directly or indirectly?

2. If you answer any part of the foregoing interrogatory in the affirmative, then set forth specifically and particularly a description of such property, right, title, credit or interest, and if you have disposed of it in whole or in part, or of the profit or rent or interest accruing therefrom, then state when you made such disposition, and to whom: and where such property now is and by whom held?

3. Were you since the twenty-first day of May, 1861, and if yea, at what time, indebted either directly or indirectly, to any alien Enemy or alien Enemies? If yea, state the amount of such indebtedness if one, and of each indebtedness if more than one; Give the name or names of the creditor or creditors, and the place or places of residence, and state whether, and to what extent, such debt or debts have been discharged, and, also, the time and manner of the discharge.

4. Do you know of any land or lands, tenement or tenements, hereditament or hereditaments, chattel or chattels, right or rights, credit or credits, within the Confederate States of America, or any right or interest held, owned, possessed or enjoyed directly or indirectly by or for one or more alien enemies since the twenty-first day of May, 1861, or in or to which any one or more alien enemies had since that time any claim, title, or interest direct or indirect? If yea, set

forth specifically and particularly what and where the property is, and the name and residence of the holder, debtor, trustee or agent.

5. State all else that you know which may aid in carrying into full effect the Sequestration Act of the 30th August, 1861, and state the same as fully and particularly as if thereunto specially interrogated.

A. B., *Receiver.*

NOTE.—The Garnishee in the foregoing interrogatories is specially warned, that the Sequestration Act makes it the duty of each and every citizen to give the information asked in said interrogatories. [Act of 30th August, 1861, Section 2.]

And if any attorney, agent, former partner, trustee or other person holding or controlling any property or interest therein of or for any alien Enemy shall fail speedily to inform the Receiver of the same, and to render him an account of such property or interest, he shall be guilty of a high misdemeanor, and, upon conviction, shall be fined in a sum not exceeding five thousand dollars, and imprisoned not longer than six months, and be liable to pay besides to the Confederate States, double the value of the property or interest of the alien Enemies so held or subject to his control. [Sec. 3.]

The Attorney General has also prescribed the following rule of practice for the Courts, by virtue of the authority vested in him under the 16th Section of the law:

RULE.

Garnishees, to whom written or printed interrogatories are addressed, may make appearance by filing written answers, sworn to before a Justice of the Peace or other competent officer, unless specially ordered by the Court to appear in person.

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