

Bill No. 84 of 1950.

A BILL TO AMEND THE ALBERTA LABOUR ACT.

NOTE.

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This Bill amends *The Alberta Labour Act*, being chapter 8 of the Statutes of Alberta, 1947.

Section 5 is amended by the addition of a new subsection (5) enabling the Minister to appoint a secretary, a chief executive officer and such other officers and servants as may be required by the Board.

Section 7 is amended by the addition of a new subsection (1a). When the Board of Industrial Relations is holding an inquiry investigating any employment the employer or any person in his employment is entitled to present evidence and arguments before the Board.

Subsection (2) of section 8 is struck out and a new subsection is substituted. The purpose of the amendment is to clarify the subsection and in particular to make it clear that it is not applicable in cases of collective bargaining under Part V of the Act. The new subsection provides that the Board may arbitrate between employers and employees in any case where, in the opinion of the Board, there has been a violation of any provision of Parts I, II, III, or IV or of any order, regulation or schedule made pursuant to those Parts.

Section 9(1)(c) is slightly amended by the addition of the words "or produce". The section deals with powers of inspection and the purpose of the amendment is to make it clear that an inspector has the right to require an employer to produce certain statements respecting wages and hours of employees.

Section 14 is amended to include a reference to subsections. Subsection (6) provides that an employer who violates the provisions of section 10 is guilty of an offence. Subsection (7) provides that an employer who falsifies records of hours or of wages or gives any other false information to the Board respecting wages or hours is guilty of an offence and liable to a penalty.

Section 14 is amended to include a reference to subsection (1) of section 10. The provisions of the Act relating to hours of work do not apply to persons holding positions which are supervisory or managerial. Under these circumstances there is no reason why an employer should record the hours of work of such persons. The effect of the amendment is to exempt the employer from the necessity of recording the hours of work of persons holding managerial or supervisory positions.

Section 17 is struck out and a new section is substituted. The amendment clarifies the intention of the present section. Also, when employees have been notified of their hours of work or of their shifts these are not to be changed without twenty-four hours' notice to the employee.

Section 24 (9) is amended. This subsection deals with handicapped employees and enables the Board to authorize wages less than minimum wages for handicapped employees. The effect of the amendment is that the Board will act under this subsection upon the request of the handicapped employee.

Section 26 is amended by striking out clauses (a) and (b) of subsection (1). This section provides that where an employee wishes to bring an action against his employer to recover the minimum wage he must do so within twelve months of the time the cause of action first accrued. The section also provides that the employee must give notice of his intention to bring the action within six months. The effect of the amendment is to strike out the requirement relating to notice within six months.

Section 33 is amended. Subsection (2) (c) of this section presently enables the Board to prohibit the employment of a pregnant woman on night shifts during her pregnancy. The effect of the amendment will be to enable the Board to prohibit the employment of such a woman on night shifts for two months after delivery. Subsection (2) (e) of this section is also amended. This subsection enables the Board to require certain classes of employers to retain the services of a qualified first aid attendant. The effect of the amendment is to make the subsection applicable to an employer who operates an industry in an isolated area irrespective of the number of his employees.

Section 34 is amended to provide that no child shall be employed in any employment other than that covered by the present section without the consent of the Board.

Four new subsections are added to section 43. The new subsection (2) provides that for the purpose of computing holidays with pay where a business is sold the employment shall be deemed to have been continuous and uninterrupted by the sale. Subsection (3) provides that an employer who violates an order of the Board by failing to give his employees holidays with pay is guilty of an offence and liable to a penalty. Subsection (4) provides that the magistrate before whom an employer is convicted under subsection (3) shall order the employer to give holidays with pay to the employee within such time as may be fixed by the court, or if the employment has terminated, to pay to the employee the moneys to which he is entitled in lieu of holidays with pay. Subsection (5) provides that if the employer fails to pay the sum ordered to be paid by the court in lieu of holidays with pay or fails to give the holidays with pay ordered to be given by the court the employer is guilty of an offence and liable to imprisonment.

Section 45 is amended by striking out clauses (b), (c) and (d) and by substituting a new clause (b) in their stead. The new definition of "schedule" includes holidays with pay.

Section 47 is amended by including holidays with pay in the subjects to be negotiated between employer and employees in an industry.

Section 48 is amended. It provides for the formulation of certain schedules at a conference between employers and employees. The amendment enables such a conference to formulate a schedule establishing a plan for holidays with pay.

Section 49 is amended. This section provides that if a schedule is agreed upon by employers and employees it may be declared in force by the Lieutenant Governor in Council. The effect of the amendment is that the schedule is to be agreed upon by a proper and sufficient representation of a majority of the employers and employees before it can be declared in force by the Lieutenant Governor in Council. The proviso to this section states that employers or employees may apply to have a schedule amended or rescinded after it has been in force for twelve months. This is also amended so that the application for rescission or amendment of the schedule may be made after ten months but the amendment or revocation will not be effective until after twelve months. The reference to wages and hours of labour in the section are struck out because they are now included in the new definition of "schedule".

Section 55 is amended. The amendment provides that the holidays with pay prescribed by any schedule shall not be less favourable to the employees than the provisions of this Act or of any orders or regulations made under the Act.

Section 57 is amended by substituting a new definition of the term "bargaining agent" and by adding a new definition of the term "employee". Excluded from the definition of the term "employee" are persons employed in a managerial or supervisory capacity and professional men who are employed. The definition of "trade union" is also amended to exclude employer-dominated organizations. Subsection (2) of section 57 is struck out and a new subsection substituted. This subsection has been merely reworded for purposes of clarification of its present intention.

Section 59 is amended. The reference to the Minister is deleted from several of the subsections. The effect of this is that an application for certification as a bargaining agent will be received and dealt with by the Board. A new subsection is added to section 59 between the present subsections (9) and (10). This subsection provides that a trade union which is influenced or dominated by an employer shall not be certified as a bargaining agent and that an agreement entered into by it shall not be deemed to be a collective agreement for the purposes of this Part.

Section 60 is amended by the addition of a new subsection (3a) immediately following subsection (3). This subsection provides that if an employer is an extra provincial company whose board of directors does not meet in the Province the company shall appoint a person resident in the Province with authority to bargain collectively and to conclude a collective agreement on its behalf. Such a collective agreement is binding on the company and the company is guilty of an offence if it fails to appoint a person in accordance with this subsection.

A new section 61a is added immediately after section 61. The section provides that where a business is sold the purchaser is bound by all proceedings under Part V of the Act relating to collective bargaining, conciliation and arbitration. If a bargaining agent was certified the certification remains in effect and if a collective agreement was in force the agreement continues to bind the purchaser as if it had been signed by him.

A new section is added after section 64. This section provides that no employer shall deny to any employee pension rights to which he would otherwise be entitled by reasons only of his participating in a legal strike or lock-out or by reason only of his dismissal contrary to the provisions of this Act.

Section 71 is struck out and a new section is substituted. The section requires the Conciliation Commissioner to transmit his report to the Board within the time limited by the terms of his appointment not exceeding fourteen days or within such longer time as may be unanimously agreed to by all the parties. In his report he is required to set out the matters upon which the parties have agreed and the matters upon which they cannot agree together with his recommendations both on the matters in dispute and on the advisability of appointing a Board of Arbitration.

Section 73 is struck out and a new section is substituted. It provides that where a Conciliation Commissioner is unable to bring about any settlement of the dispute the Board is to consider his report and may recommend to the Minister the appointment of a Board of Arbitration. If, in the opinion of the Minister, a further endeavor should be made to bring about agreement he may appoint a Board of Arbitration consisting of three arbitrators.

Section 80 is amended. Under subsection (2) it is mandatory at present for the award of the Conciliation Commissioner to be retroactive to the date of the application for his appointment or for the intervention of the Minister, as the case may be. The effect of the amendments to subsection (2) is that it is no longer mandatory for the award to be retroactive to the said date and it may be made retroactive to such earlier or later date as may be fixed in the award of the Board. Two new subsections are added to section 80. Subsection (8) provides that if the parties

in dispute agree to accept the award of the Board of Arbitration before the award is made, then the award, when made, shall be binding on the parties who shall give effect to it and include it in a collective agreement without submitting the award to a vote. Subsection (9) provides that after the Board of Arbitration has made its award and the award has been accepted by the employees by a vote and accepted in writing by the employer, the award shall be binding on the parties and shall be given effect to by having the award included in a collective agreement.

Section 81 is amended. Subsection (1) of that section is amended for purposes of clarification. The amended subsection also authorizes the employer to give effect to a proposed change in wages or hours if he has the consent of the bargaining agent during the time that a strike or lock-out is prohibited. Subsections (4) and (5) of the same section are amended slightly for purposes of clarification.

Section 83 is amended and two new subsections are added to it. When an employee revokes a check-off which he has authorized the revocation is required to be in writing. When a check-off has been authorized the employer is required, at least once each month, to remit the dues deducted to the trade union named, together with a written statement of the name of the employee for whom the deduction was made and the amount of each deduction. The employer is obliged to continue these remissions until the order authorizing the check-off is revoked in writing signed by the employee and delivered to the employer. Upon receipt of a revocation the employer is required to give a copy of it immediately to the trade union concerned.

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*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 34 of 1950.

An Act to amend The Alberta Labour Act.

(Assented to , 1950.)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Alberta Labour Act*, being chapter 8 of the Statutes of Alberta, 1947, is hereby amended as to section 5 by adding immediately after subsection (4) the following new subsection:

“(5) Subject to the provisions of *The Public Service Act, 1947*, the Minister may appoint a secretary, a chief executive officer and such other officers and servants as may be required from time to time by the Board and may prescribe their duties and fix their remuneration.”.

2. The said Act is further amended as to section 7,—

- (a) by striking out the words “master or” where they occur in subsection (1);
- (b) by adding immediately after subsection (1) the following new subsection:

“(1a) At the inquiry any such person or employer shall be entitled to appear before the Board to present evidence and arguments on his behalf.”.

3. The said Act is further amended as to section 8,—

- (a) by striking out the words “or any other” where they occur in subsection (1);
- (b) by striking out subsection (2) and by substituting the following:

“(2) In particular and without limiting the generality of the foregoing, the Board may arbitrate between employers and employees in any case where, in the opinion of the Board, there has been a violation of any provision of Parts I, II, III or IV or of any order, regulation or schedule made pursuant to any of those Parts, and may,—

- “(a) compromise and settle such cases; and
- “(b) collect on behalf of any employee or employees any arrears of wages or any moneys due for overtime or otherwise; and
- “(c) accept such moneys so collected in full or partial settlement of the liability of any employer to any employee; and

- “(d) require any employer to pay to the Board or to the employee the moneys agreed upon in settlement of the liability of the employer to the employee; and
- “(e) do such other matters and things as may be necessary for the performance of the duties assigned to the Board by the provisions of this Act.”.

4. The said Act is further amended as to section 9, subsection (1), clause (c) by adding immediately after the word “furnish” the words “or produce”.

5. The said Act is further amended as to section 10 by adding immediately after subsection (5) the following new subsections:

“(6) Any employer who contravenes or neglects or fails to comply with any of the provisions of this section shall be guilty of an offence.

“(7) Any employer who falsifies any records of hours or of wages required to be kept under the provisions of this section or gives any false or misleading information to the Board respecting wages, hours, days or conditions of labour, shall be guilty of an offence and liable on summary conviction to a fine of not less than twenty-five dollars and costs and not more than five hundred dollars and costs and in default of payment shall be liable to imprisonment for a period of not less than thirty days and not more than one hundred and twenty days.”.

6. The said Act is further amended as to section 14, subsection (1) by adding immediately after the words “provisions of” the words “section 10, subsection (1) and of”.

7. The said Act is further amended by striking out section 17 and by substituting the following:

“17.—(1) Each employer shall notify his employees of the hours at which work begins and ends, and where work is carried on by shifts, of the hours at which each shift begins and ends, by means of the posting of notices in conspicuous places on the premises or other suitable place or by such other method as may be approved by the Board.

“(2) The hours shall be so fixed that the duration of the work shall not exceed the limits prescribed by or under this Part or Part IV.

“(3) When the employee has been so notified the hours shall not be changed except with at least twenty-four hours' notice to employee.”.

8. The said Act is further amended as to section 24 by striking out subsection (9) and by substituting the following:

“(9) In the case of any employee classified by the Board as a part time employee or apprentice or learner, the Board

may, by permit in writing, authorize the payment of a wage less than the minimum wage fixed under subsection (1), and may in any case limit and define the number of part time employees or apprentices or learners to whom the lesser wage fixed under this subsection may be payable by any employer.”.

“(10) In the case of any employee classified by the Board as handicapped, upon the written request of any such employee, the Board may, by permit in writing, authorize the payment of a wage less than the minimum wage fixed under subsection (1), and may in any case limit and define the number of handicapped employees to whom the wage fixed under this subsection may be payable by an employer.”.

**9.** The said Act is further amended as to section 26, subsection (1),—

- (a) by striking out the words “, and unless,—”;
- (b) by striking out clauses (a) and (b).

**10.** The said Act is further amended as to section 33, subsection (2),—

- (a) by adding immediately at the end of clause (c) the words “and for two months after delivery”;
- (b) by adding immediately after the words “in an industry” where they occur in clause (e) the words ‘or who operate any industry in an isolated area where less than fifty employees are engaged”.

**11.** The said Act is further amended by striking out section 34 and by substituting the following:

“**34.** No child shall be employed,—

- “(a) in or about the premises of any factory, shop or office building;
- “(b) in any other employment without the consent of the Board.”.

**12.** The said Act is further amended as to section 43,—

- (a) by renumbering the same as subsection (1);
- (b) by adding immediately after subsection (1) the following new subsections:

“(2) For the purpose of computing the holidays with pay to which the employee is entitled in any case where a business or part thereof is sold, leased or transferred, the employment of the employee shall be deemed to be continuous and uninterrupted by such sale, lease or transfer.

“(3) Any employer who contravenes any order of the Board made under this section by failing to give his employee holidays with pay shall be guilty of an offence and liable on summary conviction to a penalty of not less than ten dollars and costs and not more than five hundred dollars and costs.

“(4) The magistrate or judge before whom any employer is convicted under subsection (3) shall,—

“(a) order the employer to give holidays with pay to the employee within such time as may be fixed by the court; or

“(b) in any case where the employment has terminated, order the employer to pay to the employee or into court on behalf of the employee all moneys to which the employee is entitled in lieu of such holidays with pay.

“(5) In default of the payment of the penalty under subsection (3) or compliance with the order made under subsection (4), the employer shall be guilty of an offence and liable on summary conviction to imprisonment for a term of not less than ten days and not more than ninety days.”.

**13.** The said Act is further amended as to section 45 by striking out clauses (b), (c) and (d) and by substituting the following:

“(b) ‘schedule’ means a schedule of maximum hours of work, days of labour, minimum wages and holidays with pay.”.

**14.** The said Act is further amended as to section 47 by striking out the words “and hours and days of labour in each industry in the said zone or zones” and by substituting the words “, hours and days of labour and holidays with pay in each industry in the said zone or zones”.

**15.** The said Act is further amended as to section 48,—

(a) by striking out the words “of wages and hours and days of labour”;

(b) by adding immediately after clause (k) the following new clause:

“(l) establish a plan for holiday with pay.”.

**16.** The said Act is further amended as to section 49,—

(a) by striking out the words “of wages and of hours of labour”;

(b) by adding immediately after the words “sufficient representation” the words “of the majority”;

(c) by striking out the word “twelve” where it occurs in the proviso and by substituting the word “ten”;

(d) by adding immediately at the end of the proviso the words “, effective after the expiry of twelve months from the date the schedule was declared in force”.

**17.** The said Act is further amended as to section 55,—

(a) by adding immediately after the word “greater” the words “nor shall the holidays with pay be less favourable to the employees”;

- (b) by striking out the words “and Part II” and by substituting the words “, Part II and Part III”.

**18.** The said Act is further amended as to section 57,—

- (a) by striking out clause (b) of subsection (1) and by substituting the following:

“(b) ‘bargaining agent’ means a trade union that acts on behalf of employees,—

“(i) in collective bargaining; or

“(ii) as a party to a collective agreement with their employer;”;

- (b) by adding immediately after clause (e) of subsection (1) the following new clause:

“(f) ‘employee’ does not include,—

“(i) a manager or superintendent or any other person who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations;

“(ii) a member of the medical, dental, architectural, engineering or legal profession qualified to practise under the laws of the Province and employed in that capacity;”;

- (c) by relettering clauses (f), (g), (h) and (i) of subsection (1) as clauses (g), (h), (i) and (j);

- (d) by adding immediately at the end of clause (i), now relettered as clause (j), of subsection (1), the words “but does not include an employer-dominated organization”;

- (e) by striking out subsection (2) and by substituting the following:

“(2) Any person who was an employee or who was dismissed from his employment, as the case may be, immediately before,—

“(a) an application for the certification of a bargaining agent is made;

“(b) an application for the appointment of a Conciliation Commissioner is made;

“(c) the occurrence of any lock-out or any strike taking place after compliance with sections 68 to 81 inclusive;

shall be deemed to be an employee within the meaning and for the purpose of this Part until the application has been disposed of or until the strike or lock-out is terminated, as the case may be.”.

**19.** The said Act is further amended as to section 59,—

- (a) by striking out the words “the Minister shall refer it to the Board for inquiry and report upon” where they occur in subsection (5) and by substituting the words “the Board shall inquire into”;

- (b) by striking out the words “, or association,” where they occur in subsection (5), clause (a);
- (c) by striking out clause (c) of subsection (5) and by substituting the following:
  - “(c) any other question of fact that in the opinion of the Board may be material in considering the application for certification of a bargaining agent.”;
- (d) by striking out the words “and report to the Minister within twenty-one days after the matter has been referred to it” where they occur in subsection (6) and by substituting the words “within twenty-one days, exclusive of statutory holidays, after it receives the application”;
- (e) by striking out the words “this section shall” where they occur in subsection (7) and by substituting the words “this subsection shall”;
- (f) by striking out the words “reports to the Minister that it” where they occur in subsection (9);
- (g) by striking out the word “Minister” where it occurs following clause (c) of subsection (9) and by substituting the word “Board”;
- (h) by striking out the words “reports that it” where they occur following clause (c) of subsection (9);
- (i) by adding immediately after subsection (9) the following new subsection:
  - “(10) Notwithstanding anything in this Part, any trade union or organization of employees, the administration, management or policy of which is, in the opinion of the Board,—
    - “(a) influenced by an employer so its fitness to represent employees for the purpose of collective bargaining is impaired; or
    - “(b) dominated by an employer;
 shall not be certified as a bargaining agent of employees nor shall an agreement entered into between such trade union or organization of employees, and such employer be deemed to be a collective agreement for the purpose of this Part.”;
- (j) by renumbering subsection (10) as subsection (11).

**20.** The said Act is further amended as to section 60 by adding immediately after subsection (3) the following new subsection:

- “(3a) If an employer is an extra provincial company whose board of directors does not meet in the Province,—
  - “(a) the company shall appoint a person resident in the Province with authority to bargain collectively and to conclude a collective agreement with the certified bargaining agent and to sign such agreement on behalf of the company;

- “(b) the collective agreement signed by such person shall be binding on the company;
- “(c) the company shall be guilty of an offence if it fails to appoint a person in compliance with clause (a).”.

**21.** The said Act is further amended by adding immediately after section 61 the following new section:

“**61a.** Where a business or part thereof is sold, leased or transferred, the purchaser, lessee or transferee shall be bound by all the proceedings under this Part before the date of sale, lease, or transfer, and the proceedings shall continue as if no change had occurred, and,—

- “(a) if a bargaining agent was certified the certification shall remain in effect; and
- “(b) if a collective agreement was in force that agreement shall continue to bind the purchaser, lessee or transferee to the same extent as if it had been signed by him and no changes shall be made in the agreement during its term without approval of the Board.”.

**22.** The said Act is further amended by adding immediately after section 64 the following new section:

“**64a.** No employer shall deny to any employee any pension rights or benefits to which he would otherwise be entitled,—

- “(a) by reason only of his ceasing to work as the result of a lock-out or while taking part in a concerted stoppage of work due to a labour dispute where such lock-out or stoppage of work has been enforced by the employer or participated in by the employee, as the case may be, after all steps provided or contemplated by law have been taken through negotiation, collective bargaining, conciliation and arbitration to settle such dispute; or
- “(b) by reason only of dismissal contrary to this Act.”.

**23.** The said Act is further amended as to section 66, subsection (4) by striking out the words “on duty” and by substituting the word “working”.

**24.** The said Act is further amended by striking out section 71 and by substituting the following:

“**71.** The Conciliation Commissioner, within the time limited by the terms of his appointment not to exceed fourteen days or within such longer time as may be agreed to by all parties, shall transmit a report to the Board setting out,—

- “(a) the matters upon which the parties have agreed;
- “(b) the matters upon which the parties cannot agree and his recommendations with respect thereto; and

"(c) if the parties cannot agree, his recommendation as to the advisability of appointing a Board of Arbitration."

**25.** The said Act is further amended as to section 72 by adding immediately after the words "Upon receipt of the report" the words "from the Board".

**26.** The said Act is further amended by striking out section 73 and by substituting the following:

"**73.**—(1) Where a Conciliation Commissioner is unable to bring about any settlement or adjustment of the dispute, the Board shall consider his report and may recommend to the Minister the appointment of a Board of Arbitration.

"(2) If, in the opinion of the Minister, a further endeavour should be made to bring about agreement between the parties to a dispute, the Minister may appoint a Board of Arbitration consisting of three arbitrators."

**27.** The said Act is further amended as to section 80,—

(a) by striking out the words "shall in all cases" where they occur in subsection (2) and by substituting the word "may";

(b) by adding immediately after the word and figures "section 60," where they occur in subsection (2) the words "or to such earlier or later date as may be fixed in the award of the Board,";

(c) by adding immediately after subsection (7) the following new subsections:

"(8) Notwithstanding subsection (7), if the parties in dispute agree in writing that they will accept the award of the Board of Arbitration before the Board of Arbitration makes its award then the award of the Board of Arbitration shall be binding on the parties and they shall give effect to it without submitting it to a vote and shall include the terms of the award in a collective agreement.

"(9) In any case where the award of the Board of Arbitration has been accepted by the employees and the employers under the provisions of subsection (7), or accepted by the employees under the provisions of subsection (7) and accepted in writing by their employer, the award shall be binding on the parties and they shall give effect to it and include the terms of the award in a collective agreement."

**28.** The said Act is further amended as to section 81,—

(a) by striking out of subsection (1) all the words following the word and figures "section 80," and by substituting the following:

"(a) no employer who is a party to the dispute shall cause a lock-out;

“(b) no employees who are parties to the dispute shall go on strike;

“(c) none of the parties shall alter any of the conditions of employment except that the employer, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours;

but the relationship of employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute”;

(b) by striking out the word “affected” where it occurs in subsection (4) and by substituting the words “entitled to vote”;

(c) by adding immediately after the words “without the consent of the employees” where they occur in subsection (5) the words “or the bargaining agent”.

**29.** The said Act is further amended as to section 83,—

(a) by renumbering the same as subsection (1) ;

(b) by adding immediately after the word “revoked” where it occurs in subsection (1) the words “in writing”;

(c) by adding immediately after subsection (1) the following new subsections:

“(2) The employer, at least once each month, shall remit the dues deducted to the trade union named in the order together with a written statement of the name of the employee for whom the deduction was made and the amount of each deduction until the order is revoked in writing signed by the employee and delivered to the employer.

“(3) Upon receipt of a revocation of an order to deduct union dues the employer shall immediately give a copy of the revocation to the trade union concerned.”.

**30.** This Act shall come into force on the first day of July, 1950.

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FIRST SESSION  
TWELFTH LEGISLATURE

14 GEORGE VI

1950

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**BILL**

An Act to amend The Alberta  
Labour Act.

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Received and read the

First time .....

Second time .....

Third time .....

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HON. DR. ROBINSON.

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