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Act: Employment of Women, Young Persons and Children

1928. évi V. törvénycikk az iparban, valamint némely más vállalatban foglalkoztatott gyermekek, fiatalok és nők védelméről. 1928. évi január hó 12. napján. (1928. évi Országos Törvénytár, 3. szám, pag. 203.)

Act no. V of 1928, respecting the protection of children, young persons and women employed in industry and in certain other undertakings. Dated 12th January, 1928.

1. In so far as this Act makes no provision to the contrary, it shall apply to:—

1. establishments and undertakings covered by Act no. XVII of 1884¹ and Act no. XII of 1922², and also all building undertakings;
2. mining and metallurgical undertakings, and subsidiary establishments and establishments for further manufacture connected therewith;
3. industrial undertakings connected with State monopolies;
4. the transport of passengers and goods by road;
5. the transport of passengers and goods by rail;
6. the handling of goods at docks, quays, wharves and warehouses;
7. manufacturing and repairing workshops maintained by railway and shipping undertakings;
8. manufacturing and repairing workshops maintained by the State Post Office, Telegraph and Telephone Department.

The Act shall apply to the above-mentioned establishments and undertakings irrespective of their management—whether by the State, by counties or county boroughs or communes or by private persons.

2. The provisions of this Act shall not apply to:—

1. agriculture, forestry, stock raising, fisheries, horticulture, viticulture, sericulture and apiculture;
2. the managing departments of railway undertakings;
3. the management and operation of the State postal, telegraph and telephone services.

The provisions of sections 12, 13 and 14 of this Act shall not apply to women over eighteen years of age employed in connection with the transport of passengers or goods by road or rail, or in the handling of goods at docks, quays, wharves or warehouses.

The provisions of sections 12, 13, 14 and 15 of this Act shall not apply to shops and stalls. Nevertheless, the Minister of Commerce may extend the application of the provisions laid down in the above-mentioned sections to shops and stalls in general or in certain branches of commerce or in particular towns or communes.

3. For the purposes of the provisions of this Act the term "child" (gyermek) shall mean a person who has not yet attained the age of

¹ Industrial Code.

² Act respecting the amendment of the Industrial Code embodied in Act no. XVII of 1884. Extract in Legislative Series, 1922 (Hung. 1).

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fourteen years, and the term "young person" (fiatalkorú) shall mean a person who has attained the age of fourteen years but not that of eighteen years.

4. A child who has not yet attained the age of fourteen years shall not be employed in any of the establishments or undertakings specified in section 1. Nevertheless, as a transitional measure, pending the raising of the age limit for compulsory attendance at an elementary day school to fourteen years, children may be employed when they have attained the age of twelve years.

In the undertakings specified under no. 2 of section 1, children who have attained the age of twelve years shall not be employed even as a transitional measure, except on surface work and subject to the consent of the mines directorate.

5. The regular employment of a child or young person shall not affect his liability to attendance at school as provided in Act no. XXX of 1921³. The employer shall not hinder the child or young person in the discharge of this liability. Time spent in school shall be included in the hours of work of the child or young person.

6. Children, young persons and women shall not be employed regularly in the establishments or undertakings specified in section 1 unless the fact that the child, young person or woman is physically fit for the work to be performed by him or her is attested by a certificate of a public medical officer (medical officer of health of a town, commune or district) or a medical practitioner employed by a workers' insurance fund or miners' benefit society, or, in the case of railways open to public traffic, the railway medical officer.

The employer shall be responsible for the making of the medical examination. The expenses of the medical examination shall be defrayed by the employer.

The procedure to be followed in connection with the medical examination, its repetition and the fee payable for the examination shall be prescribed by an Order issued by the competent Minister in agreement with the Minister of Social Welfare and Labour.

In the undertakings specified under no. 2 of section 1, young persons under the age of sixteen years shall not be employed in underground work without the consent of the mines directorate, even if their fitness for such work is attested by a medical certificate, and shall be restricted to particular kinds of work.

7. A child, young person or woman shall not be caused to perform any work which is in excess of his or her physical strength or endangers his or her health or physical or moral welfare, or in the case of a child or young person any work which endangers his or her development.

Every employer who employs a child, young person or woman shall equip and manage his establishment in conformity with the requirements essential to the protection of the health and physical and moral welfare of such employees. These requirements may be specified by the competent Minister by Order after consultation with the representatives of employers and employees.

³ Act to ensure the carrying out of the provisions respecting compulsory school attendance.

8. If a woman proves by means of a certificate of a public medical officer (medical officer of health of a town, commune or district) or a medical practitioner employed by a workers' insurance fund or a miners' benefit society, or, in the case of railways open to public traffic, the railway medical officer, that her confinement will probably take place within six weeks or that she is in danger of a miscarriage, she shall at her request be released from work at once.

A woman shall not be permitted to work during the six weeks following her confinement. If a woman proves by means of a certificate of a public medical officer (medical officer of health for a town, commune or district) or a medical practitioner employed by a workers' insurance fund or miners' benefit society, or, in the case of railways open to public traffic, the railway medical officer, that in consequence of her pregnancy or confinement she is so ill as to be unable to resume her work, she shall be entitled to refuse to perform the duties arising out of her employment for a further four weeks after the expiry of the above-mentioned six weeks. The contract of employment shall be deemed to continue during the period when the woman performs no work for the employer, provided that the employer shall not be bound to continue to pay wages unless the contract of employment specifically provides for his liability for payment of wages during this period.

Notice to terminate the employment during the period of six weeks before and six weeks after confinement shall be null and void if the employer was aware of the pregnancy or confinement at the time of giving notice, or if the woman informs him thereof at once in the case of notice given orally or within eight days in the case of notice given in any other manner. If on the expiry of this period the woman is unable to resume her work owing to an illness which is certified by a medical practitioner as specified in the preceding paragraph to be a consequence of the pregnancy or confinement, notice to terminate the employment shall likewise be null and void for the duration of this incapacity, up to a maximum of a further four weeks. If the employer gives notice to terminate the employment at a date which falls within the period specified in the first and second sentences of this paragraph, the date of the termination of the employment shall be postponed by the period specified in the first and second sentences.

The provisions of the third paragraph of this section shall not apply if the contract of employment was concluded for a fixed period and expires during the period specified in the said third paragraph in consequence of the expiry of the period fixed in the contract; further, the said provisions shall not apply if the contract of employment was concluded expressly for a particular purpose and this purpose has been achieved by the date for which notice is given. In addition, the provisions of the third paragraph shall not affect the right of an employer to dismiss a woman from his employment without notice if she has given any cause for this which is specified in the Act and is not connected with the pregnancy or confinement. Nevertheless, the employer shall not be entitled to avail himself of this right if he was aware of the legal grounds justifying immediate dismissal more than eight days before the cessation of work.

The provisions laid down in the preceding paragraphs and in section 20 shall apply also to inland and maritime navigation, aviation and subsidiary undertakings connected therewith.

9. If children, young persons or women are unable to continue their employment without danger to their health or physical or moral welfare, the employer shall at once remove them from the work in question at their request, provided that their right to make such request is attested by a certificate issued by a public medical officer (medical officer of health of a town, commune or district) or by a medical practitioner employed by a workers' insurance fund or a miners' benefit society, or in the case of railways open to public traffic by the railway medical officer, or on the instructions of the authority responsible for the supervision of measures for workers' protection in the establishment; he shall employ them in other work, as far as possible in the circumstances, or if this is certified by the authorities to be impossible, he shall dismiss them from his service without exacting any penalty prescribed for premature termination of the contract of employment.

Both the employer and the employee shall have the right to appeal against the instructions referred to in the preceding paragraph, or the certificate of the authority of first instance responsible for the supervision of measures for workers' protection in the establishment.

10. It shall be the duty of the competent Minister:—

- (a) to issue binding regulations concerning the installation of the undertaking, the performance of work and the discontinuance of the use of certain substances as conditions for the employment of children, young persons or women, for the purpose of protecting the health and physical and moral welfare of such employees;
- (b) to make the employment of children, young persons or women in certain establishments or on certain premises or in certain occupations or processes subject to specified conditions relating to the age or physical fitness of the said employees;
- (c) to fix the maximum weight which any person may cause to be moved, stopped, lifted, lowered, carried, drawn or pushed by a child, young person or woman;
- (d) to prohibit the employment of children, young persons or women in certain undertakings, on certain premises or in certain occupations or processes on account of the prejudicial influence thereof on the health, physical or moral welfare or development of the said employees or on account of the risk involved for them.

The competent Minister shall issue the regulations to be laid down in pursuance of the first paragraph of this section after hearing the representatives of the persons concerned, within a year after the coming into operation of this Act and subsequently whenever necessary.

11. The food which the employer supplies for a child, young person or woman shall be palatable, nourishing and sufficient in quantity in view of the needs of the employee concerned.

Any dwelling or sleeping accommodation provided by the employer shall be hygienic and shall satisfy the requirements of decency and

morality; the employer shall see that the said accommodation is kept in a satisfactory condition as regards cleanliness and order.

Only persons of the same sex shall be housed in the same dormitory.

The competent Minister may issue more detailed regulations by Order for the administration of the provisions laid down in this section.

The provisions of this section shall not apply to children, young persons or women who are employed in an undertaking or establishment belonging to their parents, adopted parents, or husband or wife, as the case may be, and are relatives of the employer in the descending line or in the collateral line not farther removed than nephew or niece, or are married to the employer, provided in every case that they live in the same household as the employer.

12. In the undertakings and establishments specified in section 1, the employment of children, young persons and women at night shall be prohibited.

For the purposes of this Act "night" (éjjel) shall mean the period from 10 p. m. to 5 a. m.

Children, young persons and women shall be ensured a nightly rest period of not less than eleven consecutive hours.

13. The competent authorities may allow the nightly rest period of eleven consecutive hours guaranteed to women workers over the age of eighteen years by section 12 to be reduced to ten hours on not more than sixty days in the year in establishments influenced by the seasons and in all other establishments where exceptional circumstances demand this.

14. The competent Minister may by a generally binding Order authorise the employment of women over the age of eighteen years at night in establishments where raw materials or materials in course of treatment which are subject to rapid deterioration are worked up, under the conditions specified in the Order and subject to notice given in advance, when such night work is necessary to prevent the loss of these raw materials in course of treatment.

In these establishments the hours of work of women shall not exceed sixty hours a week and the hours of night work ten hours in twenty-four hours.

The competent Minister may issue more far-reaching and detailed provisions in the Order to be issued under the first paragraph of this section with reference to the hours of work of women, either in general or separately for certain special branches of industry.

15. Owners of undertakings may also employ young persons between the ages of sixteen and eighteen years and women over the age of eighteen years at night, subject merely to notification, if this is absolutely necessary in order to prevent an impending accident or catastrophe, or to effect repairs in the event of a derangement of the working of the undertaking or of a catastrophe, or in the event of an interruption in the work of the undertaking due to *force majeure* which could not have been foreseen and is not of a periodical character, or in case of an epidemic to take measures to combat it. Notice of such night work shall be given within twenty-four hours from the beginning thereof.

16. Male young persons over the age of sixteen years may be employed at night on processes which cannot be interrupted.

The establishments covered by the first paragraph of this section, the processes which may be carried on at night, and the period during which they may be carried on, shall be specified by the competent Minister by Order.

17. The Minister of Finance, as the supreme mining authority, may allow male young persons over the age of sixteen years to be employed in coal and lignite mines between 10 p. m. and 5 a. m., provided that they shall be allowed a rest period as a rule of fifteen hours and in any case of not less than thirteen hours (the latter not more than three times weekly) between two shifts, and that a week on day work shall be guaranteed after each week spent on night work.

18. When in case of serious emergency the public interest demands it, the competent Minister may suspend the prohibition of night work for male young persons between the ages of sixteen and eighteen years.

19. The Minister of Commerce, in agreement with the Minister of the Interior and the Minister of Social Welfare and Labour, may authorise the employment of women over the age of eighteen years between 10 p. m. and 5 a. m. in hotels, restaurants, cafés and other businesses in which food is prepared and served for consumption on the premises.

The Minister of Commerce may authorise the employment of women over the age of eighteen years between 10 p. m. and 5 a. m. on not more than three nights in the year for the purpose of stocktaking in commercial undertakings.

The Minister of Commerce, after hearing the representatives of employers and employees, may fix by Order the daily hours of work of the women employed between 10 p. m. and 5 a. m. under the first and second paragraphs of this section.

20. Every woman who is nursing her own child shall be allowed a break of at least an hour in the working day, to be given in at least two instalments, for the purpose of nursing her child.

21. The competent Minister, after hearing the representatives of employers and employees, may fix the maximum daily hours of work of young persons and women employed in dangerous or unhealthy establishments or occupations, in order to protect them as far as possible from the consequences of such employment.

Children shall not be employed in the establishments with respect to which instructions are issued under the preceding paragraph of this section.

22. An employer shall not permit an employee covered by this Act to continue to work on his or her own account for extra pay at a time at which the said employee must not be employed in the undertaking, establishment or occupation.

Other employers covered by this Act shall not employ such an employee at a time at which the employment of the said employee within the meaning of this Act is prohibited.

23. The authority of first instance shall notify the industrial inspector of the permits issued for the exceptional reduction of the nightly rest period (section 13), or the enforceable decisions relating thereto, and of the notifications respecting the employment at night by way of exception of young persons over the age of sixteen years and women over the age of eighteen years (section 15) in the case of establishments subject to industrial inspection; the said authority shall keep a list of the permits issued and of the notifications received in the manner prescribed by the competent Minister.

24. Every employer shall keep a readily legible timetable posted up at a particular place in his establishment which is easily accessible to every employee, or at the place of employment if the work is not performed on enclosed premises but at a particular place.

The timetable shall show the hours of work of the children, young persons and women employed at the workplace of the employer, and also the working days, the time for the beginning and cessation of the hours of work and the breaks granted within the daily and weekly working periods.

The timetable of employees working with a different distribution of hours of work shall be separate. The authorities responsible for labour inspection in the undertaking may require the employer to keep that part of the timetable which affects employees in a particular room affixed in the room in question.

Except in the cases specified in sections 13, 15 and 17 and in the Order issued under sections 14, 16, 18 and 19, the employer shall not employ his workers outside the hours of work specified in the timetable. If a deviation from the hours of work specified in the timetable is based on a permit from the authorities, the employer shall affix the said permit or an exact copy thereof side by side with the timetable during the period covered by the exception.

The competent Minister may exempt small undertakings and establishments by a generally binding Order from compliance with the duties prescribed in this section.

25. If the employer reduces the remuneration agreed upon on any grounds whatever, he shall give a statement in writing to the child, young person or woman on the occasion of the payment of the remuneration, and in this statement shall give in detail the wages agreed upon and earned and particulars of the deductions made therefrom and the grounds for the same.

26. The competent Minister may issue an Order prescribing that in certain undertakings, establishments and employments the money wages due to children, young persons or women shall be paid only on production of a wages book or a wages card.

The employer shall issue the wages book or wages card to the employee free of charge.

Where the use of a wages book or wages card is compulsory, in the case of wages not paid at time rates, not only the wages actually paid but also the work (if any) given out to be performed outside the undertaking shall also be entered in the wages book or on the wages card at the time when it is given out.

The contents of the wages book or card and the rules for their use shall be prescribed by the competent Minister by Order.

27. The competent Minister may decree that in certain undertakings, establishments and occupations a list of the wages to be paid for particular operations, the method of calculation thereof, the conditions relating to the issue of tools or working appliances and materials, and other particulars relating to the rights and duties of employees arising out of the contract of employment, be drawn up and kept permanently affixed in a readily legible form in a place accessible to the employees in the rooms in which work to be performed outside the premises of the employer is issued to children, young persons or women, or is received from such employees.

The notice referred to in the preceding paragraph shall be dated, and if it comes into operation on another date, the date of its coming into operation shall be noted thereon; it shall be signed by the employer.

28. In undertakings, establishments and occupations in which this is necessary in the interests of decency and morality, the competent Minister may issue instructions by Order respecting the method and amount of the remuneration of children, young persons or women, or the method of fixing the same.

The competent Minister may direct by Order that certain expenditure connected with employment shall not be charged to children, young persons or women, and that the employer shall not offer certain benefits to such employees as part payment of wages or on any other account.

29. The provisions of sections 25—28 shall not apply to undertakings, establishments or employments in which, in addition to the employer no other persons are employed than his wife, relations in the descending line, collateral relations not farther removed than nephew or niece, wards or foster-children entrusted to his care by the authorities, provided that the said persons live in the same household with him.

30. The employer shall keep a register of the children, young persons and women employed by him, showing the name, year, month, day and place of birth, and shall submit this register to the competent administrative authority at any time on its request, and also to the competent labour inspection authority. In the case of the establishments specified under no. 2 of section 1, this register shall be submitted to the competent mines directorate.

Regulations for the keeping of the register specified in the preceding paragraph shall be issued by the competent Minister by Order. The competent Minister may exempt small undertakings and establishments from the obligation to keep the register.

31. The authorities competent to take action for the purposes of this Act shall be the following:—

1. with respect to the undertakings, establishments and occupations specified in section 1 under nos. 1, 3, 4 and 6, the industrial authorities;
2. with respect to the undertakings, establishments and occupations specified in section 1 under nos. 5 and 7, the Central Railway and Shipping Inspectorate;

3. with respect to the undertakings, establishments and occupations specified in section 1 under no. 8, the competent branch post office or the General Post Office;

with respect to the undertakings, establishments and occupations specified in section 1 under nos. 1, 3, 4, 5, 6, 7 and 8, in the last instance the Minister of Commerce;

4. with respect to the undertakings, establishments and occupations specified in section 1 under no. 2, the competent mines directorate, and in the last instance the Minister of Finance as supreme mining authority.

32. The authorities competent to take action in the first instance in pursuance of section 31 shall supervise the observance of the provisions of this Act, in the case of undertakings covered by Act no. XXVIII of 1893⁴ in co-operation with the industrial inspectors. The competent Minister may also delegate the duty of supervision to the police authorities.

33. The competent Minister may order in respect of certain undertakings, establishments and occupations that for the purpose of the supervision of the observance of the provisions of this Act only officials of the administrative bodies of the competent authority shall have access to the premises, and subordinate officials or members of the wage-earning staff of such bodies shall not have access thereto unless empowered for the purpose by an authorisation in writing from the competent authority.

If work is performed in a private house or in premises which cannot be reached otherwise than through a private house, access to the workplace for the purpose of the supervision of the observance of the provisions of this Act shall not be permitted between 8 p. m. and 8 a. m. in the event of a protest on the part of the occupier, except on the production of an authorisation in writing from the competent authority.

In other respects sections 20—30 of Act no. XXVIII of 1893 respecting the protection of employees in industrial undertakings against accidents and respecting industrial inspectors shall apply, *mutatis mutandis*, even if supervision in pursuance of this Act is not exercised by an industrial inspector.

Section 127 of Act no. XVII of 1884¹ shall not apply to the jurisdiction of the industrial authority of first instance as prescribed in this Act.

34. An employer shall be deemed to be guilty of a contravention and shall be liable to a fine not exceeding 100 pengő, except where his action entails a heavier penalty under other provisions, in the following cases:—

- a) if he deviates from the timetable (section 24) to the prejudice of the workers with respect to the duration of the daily hours of actual work or the distribution and duration of the breaks allowed in the course of the daily shift, or the uninterrupted rest period to be granted after the daily shift, or the weekly rest period, without an authorisation given by this Act or an Order thereunder or a permit from the authorities;

⁴ Act respecting the protection of employees in industrial undertakings against accidents, and respecting industrial inspectors.

- (b) if he contravenes the provisions laid down in this Act or the Order issued thereunder respecting the contents or the affixing of the timetable or the permit from the authorities permitting a deviation therefrom (section 24) or the notification relating to conditions of employment;
- (c) if he contravenes the provisions of this Act or the Order issued thereunder relating to the statement in writing respecting changes in the remuneration (section 25) or the contents and use of the wages book (wages card) (section 26);
- (d) if he fails to keep the register (section 30) prescribed by this Act and the Order issued thereunder respecting the children, young persons and women in his employment.

If a contravention covered by the preceding paragraph is committed by a person who has already been sentenced for a contravention of the same kind, and a period of two years has not yet elapsed since he underwent the penalty, the fine shall be increased to not more than 200 pengő.

35. An employer shall be deemed to be guilty of a contravention and shall be liable to a fine not exceeding 100 pengő, except where his action entails a heavier penalty under other provisions, in the following cases:—

- (a) if he contravenes the provisions laid down in this Act (sections 12 and 15) or in the Order issued thereunder (sections 14 and 16—19) or the permit from the authorities (section 13) with reference to the distribution of the daily hours of work or the duration of the daily hours of actual work (sections 21—22) or the distribution and duration of the breaks (section 20) or the uninterrupted rest period to be granted after the daily shift;
- (b) if he contravenes the provisions laid down in the Order issued in pursuance of this Act or otherwise prescribed in pursuance of such Order respecting the nature and amount of the remuneration payable to children, young persons or women, or of the expenses imposed upon them in connection with the work or the benefits granted to them by the employer (sections 27—28).

If a contravention covered by the preceding paragraph is committed by a person who has already been sentenced for a contravention of the same kind by an enforceable judicial decision, and a period of two years has not yet elapsed since he underwent the penalty, the penalty in this case shall be detention for not more than five days and a fine not exceeding 200 pengő.

Any employer who hinders a child or young person liable to school attendance in the discharge of such liability (section 5) shall be punished in conformity with Act no. XXX of 1921³ or Act no. XII of 1922².

36. An employer shall be deemed to be guilty of a contravention and shall be liable to a fine not exceeding 200 pengő, except where his action entails a heavier penalty under other provisions, in the following cases:—

- (a) if he employs a child who has not yet attained the minimum age fixed by this Act (section 4);

- (b) if he fails to observe any of the conditions of employment prescribed in respect of the physical fitness of the child, young person or woman or the medical certification thereof (section 6), or employs a child, young person or woman in establishments, premises or occupations in which such employment is prohibited (section 7), or employs a woman during the period after her confinement when such employment is prohibited (section 8), or fails to release from work at her request a woman who is expecting her confinement (section 8, first paragraph);
- (c) if he contravenes the provisions laid down in the interests of the physical or moral welfare of children, young persons or women in this Act or the Order issued thereunder with respect to the installation of the establishment, the performance of work, and the avoidance of the use of certain substances (section 10);
- (d) if he contravenes the provisions of the Order issued in pursuance of section 10, items (b)—(d), respecting the prohibition of the employment of children, young persons or women in certain establishments or premises or in certain occupations or processes, including employment in handling a weight exceeding the permitted maximum, or respecting the conditions for such employment;
- (e) if he fails to perform the duties imposed on him by this Act or the Order issued thereunder with respect to the supply of food or living accommodation (section 11).

If the contravention is committed by a person who has already been sentenced for a contravention of the same kind by an enforceable judicial decision, and a period of two years has not yet elapsed since he underwent the penalty, the penalty in this case shall be detention for not more than fifteen days and a fine not exceeding 200 pengő.

37. A fine imposed in pursuance of section 34, first paragraph, item (c), section 35, first paragraph, items (a)—(b), or section 36, first paragraph, items (a)—(e), shall be assessed separately in respect of each employee affected by the contravention. Nevertheless, the total amount of the fines imposed in police court proceedings shall not exceed 2,000 pengő even on this basis.

Proceedings in respect of contraventions covered by sections 34—36 shall be within the competence of the administrative authority acting in the capacity of a police court.

38. If the authorised representative of an employer has committed a contravention covered by sections 34—36 and the employer has been guilty either wilfully or through negligence of failure to perform his supervisory or checking duties, the employer shall also be punished for the contravention in accordance with the said sections.

A person who could not even by the exercise of ordinary care have avoided the commission of an act constituting a contravention shall not be liable to a penalty on account of the contravention under sections 34—36.

39. On the date of the coming into operation of this Act, section 65, the last paragraph of section 115, section 116, and the second and third paragraphs of section 117 of Act no. XVII of 1884,¹ and Act no. XIX

of 1911⁵ respecting the prohibition of night work for women employed in industrial undertakings, shall be repealed in so far as they apply to the children, young persons and women covered by this Act.

The provisions of sections 4, 12—16, 18 and 19 of this Act which are contrary to the provisions of Act no. XV of 1923⁶, concerning the regulation of employment in the bakery trade, shall not apply to industrial undertakings for the production of bread, bakers' wares or confectionery.

40. The date of the coming into operation of this Act shall be fixed by the competent Ministers with respect to the undertakings, establishments and occupations within their respective jurisdictions.

⁵ Bulletin of the International Labour Office (Basle), vol. VII, 1912, p. 211.

⁶ Legislative Series, 1923 (Hung. I).

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