

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 348

(By Mr. Ross, of Mercer,) by request)



PASSED March 8, 1941

In Effect from Passage

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House Bill No. 348

(BY MR. ROSS, OF MERCER, by request)

[Passed March 8, 1941; in effect from passage.]

AN ACT authorizing the state compensation commissioner to
reopen the case of P. E. Scott.

WHEREAS, On October thirty-first, one thousand nine hundred twenty-eight, while employed by the Pocahontas Fuel Company in the capacity of a sawyer at said employer's sawmill near the town of McComas in the county of Mercer, this state, P. E. Scott received a head injury, consisting of a fracture of his skull, and was assigned claim number 5510-18 by the workmen's compensation commissioner, after having worked for same employer about thirty-five years immediately before said injury. The said P. E. Scott was a married man with a large family and still is; and

WHEREAS, On May first, one thousand nine hundred twenty-nine, the said P. E. Scott was requested to go to work for same employer and on August third, one thousand nine hundred

twenty-nine, while employed by same employer in the capacity of a sawyer at said employer's sawmill near the town of McComas in the county of Mercer, this state, P. E. Scott received another injury, resulting in the loss and amputation of his left arm and part of his right hand, and was assigned claim number 5786-12 by the workmen's compensation commissioner; and

WHEREAS, The employer of the said P. E. Scott was, at the time of aforesaid injuries, a subscriber to the workmen's compensation fund; and

WHEREAS, In the first part of January, one thousand nine hundred thirty-seven, P. E. Scott demanded a hearing before the commissioner for the purpose of obtaining a total and permanent disability and raising his weekly rating from eight dollars and twelve cents to sixteen dollars, and a final hearing was had before the commissioner on the eleventh day of February, one thousand nine hundred thirty-seven, and as the result of said hearing P. E. Scott was awarded a permanent and total disability and was given a weekly rating of eight dollars and twelve cents; and

WHEREAS, P. E. Scott has made a statement under oath that he never received notice of the commissioner's findings until

the expiration of thirty days after said findings, and that the law was at that time that such an appeal cannot be granted after the expiration of thirty days from the findings of the commissioner, and the said P. E. Scott further states under his oath had he received notice of the commissioner's findings he would have appealed same; and

WHEREAS, It is the opinion of competent lawyers that the evidence is such as to be conclusive in a court of record that said P. E. Scott was and is entitled to a weekly rating of sixteen dollars; and

WHEREAS, On September twenty-fourth, one thousand nine hundred forty, a request for reopening and hearing was filed by the said P. E. Scott with the state compensation commissioner, but was declined due to the fact that the commissioner found himself without jurisdiction to consider the claim since more than thirty days had elapsed since the date of his final findings; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Compensation Commissioner Authorized to*

2 *Reopen Case of P. E. Scott.*—The state compensation

3 commissioner is hereby authorized to reopen the case

4 of P. E. Scott, notwithstanding the fact that more than
5 thirty days elapsed since the date of the final findings
6 of said commissioner for which no timely appeal was
7 made, and to make such disposition of the case as would
8 have been proper had the application for reopening con-
9 tained evidence of some other fact or facts which were
10 not theretofore considered by the commissioner in his
11 former findings, and which would entitle such claimant
12 to greater benefits than he has already received, and to
13 allow such compensation to the said P. E. Scott as the
14 facts and conditions pertaining to the case may warrant.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. H. McKeown

Chairman Senate Committee

Leon Rice

Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Arthur Watkins

Clerk of the Senate

J. R. Kipp

Clerk of the House of Delegates

Byron B. Randolph

President of the Senate

Malcolm R. Arnold

Speaker House of Delegates

The within approved this the 14th
day of March, 1941

Matthew M. Neely
Governor.

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Filed in the office of the Secretary of State
of West Virginia MAR 17 1941

Wm. S. O'BRIEN,
Secretary of State