OPINION
51-212

July 6, 1951 (OPINION)

WORKMEN'S COMPENSATION

RE: Interpretation of Section 65-0509

This is in reply to a request for an interpretation of section 65-0509 of the North Dakota Revised Code of 1943, as amended by the 1951 Session Laws, with reference to the bold-faced language.

> 65-0509. Total Disability; Weekly and Aggregate Compensation. If the injury causes temporary or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent of his weekly wage, subject to the maximum and minimum limitations contained in section 65-0511. In case of temporary or permanent total disability, there shall be paid to such disabled employee an additional sum of five dollars per week for a dependent spouse plus two dollars per week for each dependent child under the age of eighteen years, and for each child over eighteen years and incapable of self support due to physical or mental disability and whose maintenance is the responsibility of the claimant. Dependency awards for the spouse and children may be made direct to the spouse at the discretion of the bureau. In no event shall the total weekly payment to the totally disabled employee exceed the sum of forty-two dollars per week, and in no case shall the compensation award exceed the actual wage of the disabled employee except in those cases on which the minimum compensation award is applied. In all cases where permanent disability awards have been made or where injuries are sustained subsequent to July 1, 1951, the benefits and dependency allowances obtainable under this title shall become effective as of July 1, 1951. Benefits payable for temporary disability resulting from injuries sustained prior to July 1, 1951, shall remain the same as those payable prior to July 1, 1951."

In this statute, as amended, we are primarily discussing the bold-faced phrase. Obviously the legislature intended to bring under this statute all permanent awards whether they were granted or awarded before or after July 1, 1951, and that the phrase "have been awarded" is an erroneous expression not stating the true intent meant to be conveyed. To substantiate the foregoing statement we shall take into consideration the statement "or where injuries are sustained subsequent to July 1, 1951." When the legislature made a special provision to include injuries sustained subsequent to July 1, 1951, it is also proper to assume that the legislature intended, and properly so, to give benefits to all permanent disability awards granted or awarded before or after July 1, 1951.

To say that the new law only allows "permanent disability awards" which "have been made" prior to July 1, 1951, and denies permanent

disability awards subsequent to July 1, 1951, would defeat the intent and the purpose of the statute.

This interpretation does not include benefits for temporary or partial disability. The benefits for temporary disability are limited to the last sentence of section 65-0509, as amended in 1951, and the benefits allowed for partial disability are set forth in section 65-0511.

Taking into consideration the title and meaning of section 65-0509 it is my opinion that the undisputable intent of the legislature is to allow all permanent total disability awards to come under the new provision and also permanent disability awards resulting out of an injury subsequent to July 1, 1951, to come under the new provision of the workmen's compensation benefits effective as of July 1, 1951. Any other interpretation would defeat the purpose of the amendment of section 65-0509.