

HOUSE No. 378

By Mr. McDonough of Boston, petition of the Massachusetts State C. I. O. relative to the method of determining total and permanent disability and to payments therefor under the workmen's compensation law. Labor and Industries.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Five.

AN ACT TO AMEND THE METHOD OF DETERMINING TOTAL AND PERMANENT DISABILITY AND PAYMENT FOR THE SAME UNDER WORKMEN'S COMPENSATION LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter one hundred and fifty-two of the General
2 Laws shall be amended by striking out section thirty-
3 four A and inserting in place thereof the following: —
4 *Section 34A.* At any time before or after an injury
5 an employee has received compensation to which he is
6 or may be entitled under section thirty-four or thirty-
7 five, or either of them, such employee and the insurer
8 may agree for application for a rehearing by either
9 party, a member, or, on review, the board may find,
10 that the disability suffered, by the injured employee
11 is total and permanent. After such an agreement or
12 finding, the insurer shall make or continue to make
13 payments under section thirty-four so long as com-

14 pensionation is payable under said section. In any
15 hearings or investigations under this chapter, loss of
16 both feet, or both legs or both eyes or injury to the
17 skull resulting in incurable imbecility or insanity, or
18 injury to the spine resulting in permanent and com-
19 plete paralysis of both legs or arms shall, in the absence
20 of conclusive proof to the contrary, constitute perma-
21 nent total disability. In other cases, permanent total
22 disability shall be determined in accordance with facts,
23 and the proof thereof shall be by weight of the evi-
24 dence. If an employee who has been agreed or found
25 to be totally and permanently disabled earns wages at
26 any time thereafter, payments of compensation for
27 the period during which such wages are earned shall be
28 made under the provisions of section thirty-five, other-
29 wise all payments shall continue to be made under the
30 provisions of section thirty-four.