

NORTH CAROLINA GENERAL ASSEMBLY  
1965 SESSION

CHAPTER 942  
SENATE BILL 342

1 AN ACT TO COMPENSATE J. H. WRAPE OF RANDOLPH COUNTY FOR DAMAGES  
2 SUSTAINED AS A RESULT OF SOIL EROSION DURING THE CONSTRUCTION OF  
3 NORTH CAROLINA STATE HIGHWAY PROJECT NOS. 8.15803 AND 8.15804.  
4

5 WHEREAS, the North Carolina State Highway Commission in August, 1959, completed  
6 new construction work on North Carolina Highway No. 49, West of Asheboro and in the  
7 vicinity of the lands and pond of J. H. Wrape; and

8 WHEREAS, in the construction of said new highway, considerable grading, filling, and  
9 cutting was required; and

10 WHEREAS, J. H. Wrape has maintained a four acre pond on his property since 1938, said  
11 pond being located 300 to 400 yards from the new highway construction; and

12 WHEREAS, the heavy grading operations in connection with the highway construction  
13 discharged tremendous quantities of dirt, silt and mud into the stream which feeds the Wrape  
14 pond; and

15 WHEREAS, the pond's usefulness for swimming, boating, baptisms, etc, has been  
16 destroyed by the deposit of "muck" from the said highway construction; and

17 WHEREAS, the North Carolina State Highway Commission has ruled that the deposit of  
18 the dirt, silt and mud in the Wrape pond did not constitute a "taking" within the meaning of the  
19 Eminent Domain Statute; and

20 WHEREAS, J. H. Wrape filed a claim with the North Carolina Industrial Commission  
21 under the Torts Claim Act for damages to his pond; and

22 WHEREAS, the North Carolina Industrial Commission concluded that the plaintiff has  
23 been damaged in the amount of twelve thousand dollars (\$12,000.00) and made the maximum  
24 award of ten thousand dollars (\$10,000.00); and

25 WHEREAS, upon appeal to the Superior Court of Randolph County, the award was  
26 confirmed; and

27 WHEREAS, upon appeal to the Supreme Court of North Carolina, the judgment of the  
28 Superior Court was reversed; and

29 WHEREAS, J. H. Wrape has no further recourse in the Courts to recover for damages  
30 sustained; and

31 WHEREAS, the Supreme Court of North Carolina in the case of J. H. Wrape, plaintiff, vs.  
32 North Carolina State Highway Commission, defendant, 263 N.C. 499, has inferred that some  
33 other branch of the State Government should see that J. H. Wrape is compensated for his  
34 damages; and

35 WHEREAS, the amount of damages sustained is not controverted, that being in the amount  
36 of twelve thousand dollars (\$12,000.00): Now, therefore,  
37

38 The General Assembly of North Carolina do enact:  
39

40 **Section 1.** For the purpose of instituting an action for the recovery of the sum  
41 alleged in the above preamble, the State of North Carolina does hereby waive any and all  
42 Statute of Limitations, and J. H. Wrape shall have six months from the date this Act is ratified

1 to institute an action in eminent domain against the North Carolina State Highway  
2 Commission. If the action is not instituted within said six months, it shall be forever barred.  
3 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.  
4 **Sec. 3.** This Act shall be in full force and effect from and after its ratification.  
5 In the General Assembly read three times and ratified, this the 11th day of June,  
6 1965.