

ment of costs and the fees of medical and other witnesses shall apply. Appeal shall lie from the judgment of the Circuit Court of the County or the Common Law Courts of Baltimore City to the Court of Appeals as in other civil cases, and such appeals, shall have precedence over all cases except criminal cases.

The attorney-general shall be the legal adviser of the Commission and shall represent it in all proceedings whenever so requested by any of the commissioners. In all court proceedings under or pursuant to this article, the decision of the Commission shall be *prima facie* correct and the burden of proof shall be upon the party attacking the same.

Practice, evidence, prayers.

There is nothing in this section which attempts to confine trial (on appeal) to testimony taken before commission. A jury trial implies the right of either party to call witnesses; party attacking decision of commission may upon appeal introduce any proper oral evidence. The legislature intended to secure to appellant benefit of art. 15, sec. 6, of the Constitution. *Frazier v. Leas*, 127 Md. 575. And see *American Ice Co. v. Fitzhugh*, 128 Md. 385; *Bethlehem Corp. v. Simmons*, 143 Md. 509.

The practice under the clause of this section requiring the submission to jury of questions of fact considered. The issues should be analogous to those sent from orphans' court or from courts of equity, and should be confined to ultimate issues involved in finding of commission. Hernia. Evidence of medical experts. Prayers. *Schiller v. B. & O. R. R. Co.*, 137 Md. 240. And see *Bethlehem Corp. v. Simmons*, 143 Md. 510.

This section does not revive practice that grew up under act of 1894, ch. 185 (repealed by act of 1900, ch. 641), authorizing special findings of fact by jury. Refusal of question of fact which presents only real issue in case not ground for reversal. Proper practice is to present questions of fact to court so that they may be passed upon before jury is sworn. *Central Construction Co. v. Harrison*, 137 Md. 258.

Case involving whether an aneurism resulted from a blow received in the course of employment. Burden of proof. Evidence. Prayers. This section does not mean that evidence must be offered in court in addition to that before commission. *Stewart & Co. v. Howell*, 136 Md. 433.

Burden of proof.

In view of the portion of this section, dealing with burden of proof, lower court would not have been justified in ruling as a matter of law that an injury did not occur in course of, and arise out of, claimant's employment—see notes to sec. 65. Prayers. *Thistle Mills v. Sparks*, 137 Md. 121; *Coastwise, etc., Co. v. Tolson*, 132 Md. 206; *Jewel Tea Co. v. Weber*, 132 Md. 178; *Bell v. Steen*, 137 Md. 392.

Employer held not, as a matter of law, to have met burden of proof imposed by this section—see notes to sec. 65. *Beasman v. Butler*, 133 Md. 384.

Generally.

While an insurance carrier may appeal from a decision of commission, such appeal must be taken in county where accident occurred and where insurance was obtained, and not in county where the main office of insurance company is situated. Purpose of workmen's compensation law; how it will be construed. If a state carried insurance, its appeal from a decision of the commission would have to be made in court for county where business was obtained, and not to Anne Arundel or Baltimore city courts. *Brenner v. Brenner*, 127 Md. 192.

Where compensation has been awarded against an employer, latter may not thereafter set aside the award in equity on the ground of mistake, in that claimant was not its employee. When equity will relieve on ground of mistake. Where an appeal is provided by statute, such appeal is exclusive as to objections going to legality or regularity of proceeding. *U. S. F. & G. Co. v. Taylor*, 136 Md. 545.

The right to open and close argument follows burden of proof, and hence upon appeal appellant has such right. *American Ice Co. v. Fitzhugh*, 128 Md. 383.

An appeal not taken in time, as provided by this section, must be dismissed, as court is without jurisdiction. *Holland Mfg. Co. v. Thomas*, 136 Md. 78.

An order of commission denying motion to reopen a case is appealable. *Bethlehem Corp. v. Simmons*, 143 Md. 507.