

MAINE STATE LEGISLATURE

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SEVENTY-NINTH LEGISLATURE

HOUSE

NO. 246

House of Representatives, February 25, 1919.

Referred to Committee on Labor and Judiciary and 1000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Maher of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND NINETEEN

AN ACT to Amend Section Thirty-four of Chapter Fifty of the Revised Statutes, Providing for Taking and Use of Depositions. R. S., Chapter 50, Sec. 34, Relating to Proceedings Before the Industrial Accident Commission, Amended.

Be it enacted by the People of the State of Maine, as follows:

Section thirty-four of chapter fifty of the revised statutes
2 is hereby amended by inserting after the word "party"
3 in the fourth line of said section, the following words: 'and
4 consider such depositions as may be taken and used as here-
5 inafter provided,' and by adding after the period following
6 the word "affidavits" in the fifth line of said section, the
7 following words:

Depositions taken for the causes and in the manner hereinafter mentioned, may be used in all hearings before the industrial accident commission or the chairman thereof, and in appeals therefrom to the supreme judicial court.

The chairman of the industrial accident commission may issue commissions to take depositions to any United States consul, United States vice consul, any judge of any court of record in the United States or any foreign country, or to any notary public or justice of the peace in the State of Maine, for either of the following causes:

1. When the deponent resides out of, or is absent from the state.
2. When the deponent is bound to sea, or is about to go out of the state.
3. When the deponent is so aged, infirm or sick as to be unable to attend at the place of hearing.

Such deposition shall be taken by written interrogatories to be filed with the chairman, and the adverse party shall have ten days after written notice of such filing in which to file cross-interrogatories thereto, and if cross-interrogatories are not so filed within ten days after such notice, the right of cross-examination shall be considered waived.

The deponent shall be duly sworn and after his answers have been written out, the deposition shall be signed and sworn to by the deponent before the commissioner authorized to take it, and shall by him be sealed up and sent to the chairman of the industrial accident commission at Au-

6 gusta,' so that said section as amended shall read as fol-
7 lows :

'Sect. 34. If from the petition and answer there appear
2 to be facts in dispute, the chairman of the commission shall
3 then hear such witnesses as may be presented by each party,
4 and consider such depositions as may be taken and used
5 as hereinafter provided, or by agreement the claims of both
6 parties as to the facts in dispute may be presented by affi-
7 davits.

Depositions taken for the causes and in the manner
2 hereinafter mentioned, may be used in all hearings before
3 said industrial accident commission or the chairman there-
4 of, and in appeals therefrom to the supreme judicial court.
5 The chairman of the industrial accident commission may
6 issue commissions to take depositions to any United States
7 vice consul, any judge of any court of record in the Unit-
8 ed States or any foreign country, or to any notary public
9 or justice of the peace in the State of Maine, for either of
10 the following causes :

1. When the deponent resides out of, or is absent from
2 the state.
2. When the deponent is bound to sea, or is about to go
2 out of the state.
3. When the deponent is so aged, infirm or sick as to be
2 unable to attend at the place of hearing.

Such deposition shall be taken by written interrogatories
2 to be filed with the chairman, and the adverse party shall

3 have ten days after written notice of such filing in which
4 to file cross-interrogatories thereto, and if cross-interroga-
5 tories are not so filed within ten days after such notice the
6 right to cross-examination shall be considered waived.

The deponent shall be duly sworn and after his answers
2 have been written out, the deposition shall be signed and
3 sworn to by the deponent before the commissioner author-
4 ized to take it, and shall by him be sealed up and sent to
5 the chairman of the industrial accident commission at Au-
6 gusta.

From the evidence thus furnished the chairman shall,
2 in a summary manner, decide the merits of the controversy.
3 His decisions, together with a statement of the facts sub-
4 mitted, his findings of fact and rulings of law, and any
5 other matters pertinent to the questions raised at the hear-
6 ing, shall be filed in the office of the commission, and a
7 copy thereof certified by the clerk of the commission mailed
8 forthwith to all parties interested. His decision in the ab-
9 sence of fraud, upon all questions of fact shall be final.
10 Any party in interest may present copies certified by the
11 clerk of said commission of any order or decision of the
12 commission or of its chairman, or of any memorandum
13 of agreement approved by the commissioner, together with
14 all papers in connection therewith, to the clerk of courts
15 for the county in which the injury occurred; whereupon
16 any justice of the supreme judicial court shall render a
17 decree in accordance therewith and notify all parties. Such

18 decree shall have the same effect and all proceedings in
19 relation thereto shall thereafter be the same as though ren-
20 dered in a suit in equity duly heard and determined by
21 said court, except there shall be no appeal therefrom upon
22 questions of fact found by said commission or its chair-
23 man, or where the decree is based upon a memorandum of
24 agreement approved by the commissioner. Upon any ap-
25 peal therefrom the proceedings shall be the same as in ap-
26 peals in equity procedure and the law court may, after
27 consideration, reverse or modify any decree made by a
28 justice, based upon an erroneous ruling or finding of law.
29 There shall be no appeal from a decree based upon any
30 order or decision of the commission or of its chairman, or
31 upon any memorandum of agreement approved by the com-
32 missioner, which has not been certified and presented to
33 the court within ten days after the notice of the filing there-
34 of by the commission or its chairman. Upon the presenta-
35 tion to it of a certified copy of any decision of the chair-
36 man of the commission terminating, diminishing, increas-
37 ing or modifying any payments under the provisions of
38 section thirty-six, or under any decision of said chairman
39 or any agreement approved by the commissioner the court
40 shall revoke or modify its decree, if it has been based there-
41 on, to conform to such decision.'