

county, file in the circuit court for said county a petition, in writing, attested by the oath of some one or more of the petitioners, alleging that five or more adjacent acres of oyster beds, bars or rocks, in such county, have been omitted from such survey, or that five or more acres of barren bottoms have been included in such survey, and designating the location of same by a plat, or as near as may be with reasonable certainty by such land marks as will locate and designate the beds alleged to have been omitted or included, a judge of the circuit court for the said county, after due notice given to the board of shell fish commissioners, shall proceed to hear testimony and decide the case, as provided in the succeeding section, but this section shall not apply where the ground claimed by the petitioners has been legally taken up prior to April 2, 1906.

See notes to sec. 104.

An. Code, 1924, sec. 107. 1912, sec. 94. 1906, ch. 711, sec. 92.

104. Upon hearing a case presented by petition under the preceding section, the judge shall determine the question whether the ground referred to in said petition is a natural bed or barren bottom, and his finding on said question shall be final, and shall be entered upon the records of the board of shell fish commissioners in their office in the city of Annapolis, and properly marked on the copies of the plats as hereinbefore required.

Since this section provides that finding of court shall be final, court of appeals has no power to review such finding unless lower court exceeds its jurisdiction. Lower court held to have jurisdiction. Fraud not made out. Constitutionality of secs. 103 and 104 upheld. *Cox v. Bennett*, 123 Md. 358.

An. Code, 1924, sec. 108. 1912, sec. 95. 1906, ch. 711, sec. 93. 1914, ch. 205, sec. 93.

105. Such amended survey shall be filed in the offices of the Clerks of the Circuit Courts for the respective Counties in which the original surveys hereinbefore provided are required to be filed, and when so filed shall be conclusive evidence in all the Courts of this State as to whether the area embraced therein is or is not a natural oyster bed, bar or rock, subject, however, to the rights of resurvey, review and appeal hereinafter provided.

An. Code, 1924, sec. 109. 1912, sec. 96. 1906, ch. 711, sec. 94.

106. Whenever a petition is filed in the circuit court for any county, as authorized in section 103 of this article, the parties so petitioning shall deposit twenty-five dollars, to be returned to the petitioners if the judge shall determine in favor of the petitioners; but if the judge shall determine adversely to the petitioners, then said sum to be applied, so far as necessary, to the payment of costs incurred in the proceedings under said petition, and the balance to be returned to said petitioners.

An. Code, 1924, sec. 110. 1912, sec. 96A. 1914, ch. 265, sec. 94A.

107. The Conservation Commission ¹ may at any time hereafter re-survey and re-examine any portion of the areas of the Chesapeake Bay and its tributaries in the State of Maryland for the purpose of correcting surveys theretofore made by them, and if upon such resurvey the Commission shall find that natural beds or bars have been incorrectly located, they shall prepare a revised or amended chart showing the natural bed or

¹ Formerly the Board of Shell Fish Commissioners. See Art. 19A.