any proper oral evidence upon such appeal; see notes to art. 101, sec. 70. Frazier *v.* Leas, 127 Md. 577.

There is no appeal from the action of the circuit court to the court of appeals, provided the circuit court had jurisdiction. Cumberland, etc., Co. *v.* Martin, 100 Md. 166; Gadd *v.* Melvin, 82 Md. 646; Smith *v.* Goldsborough, 80 Md. 62; Greenland *v.* Harford County, 68 Md. 62; Jay *v.* Harford County, 120 Md. 51.

There can be no appeal under this section from an order of the county commissioners removing a road supervisor; his remedy is by mandamus. History of this section. Miles *v.* Stevenson, 80 Md. 366. And see Hooper *v.* Craeger, 84 Md. 250.

This section does not defeat the right of a party to compel county commissioners, by mandamus, to levy a tax imposed by law for his benefit. Worcester County *v.* School Commrs., 113 Md. 313.

Cited but not construed in Smith *v.* Goldsborough, 80 Md. 62.

See notes to sec. 92.

As to appeals from assessments for taxation, see art. 81, secs. 192 & 196.

As to the "County Commissioners," see art. 25.

As to appeals in tax cases, see art. 81, sec. 190, *et seq.*

An. Code, 1924, sec. 91. 1912, sec. 85. 1904, sec. 85. 1888, sec. 82. 1853, ch. 220, sec. 13. 1876, ch. 193.

92. Upon such appeal either party shall have a right to a trial by jury, and the said circuit court shall be authorized to ratify, reject, alter or amend the proceedings before the county commissioners and in said court, so as to bring the merits of the case fairly to trial; and the said court is hereby further authorized to pass such judgment in the case as the county commissioners ought to have passed, including costs; and such judgment shall be final, and may be enforced by due process of law.

The right of amendment under the act of 1876, ch. 193, does not extend to allowing the original petition to be amended in those particulars upon which the original jurisdiction of the county commissioners depend. Shueey *v.* Stoner, 47 Md. 169.

There is no right of removal from the circuit court in the exercise of its appellate jurisdiction. Hoshall *v.* Hoffacker, 11 Md. 363.

There is no appeal from an order of the county commissioners appointing examiners. Gist *v.* Owings, 95 Md. 307.

See notes to sec. 91.

Appeals from Justices of the Peace.

An. Code, 1924, sec. 92. 1912, sec. 86. 1904, sec. 86. 1888, sec. 83. 1852, ch. 239, sec. 3. 1872, ch. 182.

93. Any party aggrieved thereby may appeal from any judgment of a justice of the peace to the circuit court for the county, or the Baltimore City court, as the case may be, at any time within sixty days from the rendition of such judgment; and the court to which such appeal is taken shall hear the case *de novo* and determine the same according to law, and the equity and right of the matter; and this section shall be construed to include all actions of debt for the collection of fines, penalties and forfeitures imposed by any law of the State, and which are made recoverable before a justice of the peace, in which a right of appeal may not be given by the law imposing the same.

Jurisdiction.

Unless the question of jurisdiction is raised, there is no appeal from the decision of the circuit court or the Baltimore City court on an appeal from a justice of the peace. Shipler *v.* Broom, 62 Md. 319; Zitzer *v.* Jones, 48 Md. 115; Cole *v.* Hynes, 46 Md. 181; Randle *v.* Sutton, 43 Md. 66.

No appeal to the court of appeals lies from the action of a justice who has jurisdiction. This section points the remedy in such cases. Weed *v.* Lewis, 80 Md. 128.

If a party desires to test the jurisdiction of the justice, he should apply for a writ of *certiorari*, and from the action of the circuit court or Baltimore City court on such writ, an appeal lies. Rayner *v.* State, 52 Md. 376; Swann *v.* Cumberland, 8 Gill, 154; Hall *v.* State, 12 G. & J. 329.

The court of common pleas having no power to review the judgment of a justice of the peace on *habeas corpus*, but having done so, the court of appeals has the right to review such action. State *v.* Mace, 5 Md. 337.