

the judges of the several circuit courts, each in his respective circuit, and by the superior court of Baltimore city, in the city of Baltimore.

The power of the courts under this section includes authority to decide all matters involved in the contest; to declare who was elected; that the office was vacant, and that notice be given the Governor. *Handy v. Hopkins*, 59 Md. 168.

This section was passed in pursuance of the constitutional direction that the legislature make provision for contested elections not provided for by the Constitution. This section is still in force under Constitution of 1867. The court will either decide which contestant was elected, or notify the Governor of a vacancy. *Anderson v. Lively*, 58 Md. 201. See also *Warfield v. Latrobe*, 46 Md. 123.

For the effect of petitioner having a remedy under this section, and proceedings already instituted thereunder, upon application for mandamus to direct the Governor to issue a commission, see *Brown v. Bragunier*, 79 Md. 242.

See notes to sec. 140.

An. Code, sec. 131. 1904, sec. 129. 1888, sec. 95. 1892, ch. 12. 1896, ch. 202, sec. 121.

**142.** Each judge of the circuit court and of the superior court of Baltimore city may adopt such modes of proceeding and adjudging costs in cases of contested elections as to him shall seem most satisfactory, but the rules of taking testimony in such cases shall be the same as those which regulate the taking of testimony in contested election cases cognizable by the house of delegates.

When the boxes have been kept as required by sec. 86, the ballots may be examined by the court. *Leonard v. Woolford*, 91 Md. 627.

This section was passed in pursuance of the constitutional direction that the legislature make provision for contested elections not provided for by the Constitution. This section does not delegate legislative power to judges. It is still in force under the Constitution of 1867. *Anderson v. Lively*, 58 Md. 201. See also *Warfield v. Latrobe*, 46 Md. 123.

See notes to sec. 140.

An. Code, sec. 132. 1904, sec. 130. 1892, ch. 12, sec. 95A. 1896, ch. 202, sec. 122.

**143.** If either party shall deem himself aggrieved by the decision of any of the circuit courts or the superior court of Baltimore city in cases of contested elections he shall have a right of appeal to the court of appeals, as in other cases; said appeal to be taken within five days from the date of the decision complained of; and shall be heard and decided by the court of appeals as soon after transmission of the record as may be practicable, and the testimony taken in such cases shall be sent up to the court of appeals as part of the record.

The court of appeals will not consider an agreement of counsel made up after the trial containing a condensation of testimony, nor will it examine original ballots as provided in such agreement. Copies of disputed ballots should be incorporated in record with rulings of court thereon. *Leonard v. Woolford*, 91 Md. 627.

An. Code, sec. 133. 1904, sec. 131. 1888, sec. 96. 1896, ch. 202, sec. 123.

**144.** The party intending to contest an election for the senate or house of delegates shall give notice of such intention to the person elected, or, in case of a tie vote, to the person against whom the contest is to be instituted, within thirty days after the judges of election shall have made known publicly the state of the polls, unless at a special election to fill a vacancy, when such notice shall be given within ten days after the state of the polls is announced by the judges of election.

See notes to sec. 140.