

File No. 19815

Baltimore, March 10, 1916.

Hon. S. S. Field,
City Solicitor.

Dear Sir:

13004

In the matter of Reed Bird Island, the question is, whether or not it would be expedient to immediately institute proceedings looking to the establishment of the right of Baltimore City to said Island, or to delay the matter until some future time, or until Mr. J. P. Bruns takes the initiative. A Bill in Equity has been prepared preparatory to immediate action.

The patent is predicated upon the fact that there is new land formed by alluvion or accretion in the Patapaco River within the boundaries prescribed in the patent, and that no individual or corporation has any title thereto by either a patent, mesne conveyance, or as a riparian owner.

The title of the parties who claim this land, viz., Bruns, who claims by patent, and the City of Baltimore, who claims as a riparian owner, can be determined at law by ejectment proceedings, but the question of whether or not the patent was obtained by misrepresentation or fraud, upon the state, can be determined only in a Court of Equity.

The case of Linthicum vs. Coan, 64 Md. 439, was an action in ejectment. It involved the title of the same character of new land, and was located in the same general section as the land now in question.

In Cook vs. Carroll, 6 Md., 104, 112, 113, an action at law, the Court held it error to permit,

"testimony to be adduced for the purpose of showing fraud in the obtention of the patent. If there was any fraud or misrepresentation in causing its issue, it could only be inquired into by the tribunal that issued it, or by a Court of Equity".

There is some question in my mind as to whether or not an equitable action can be maintained, because the matter in dispute,