

An. Code, sec. 96B. 1914, ch. 265, sec. 94B.

111. Three or more residents of this State may at any time before January 1, 1915, file a petition in writing, alleging that five or more adjacent acres of natural beds or bars situated in the Chesapeake Bay outside County waters, or one or more acres of natural beds or bars within the territorial limits of any County of this State, to be described in said petition have been excluded from the surveys or resurveys of natural beds or bars of this State, such petition to be attested by the several oaths of the petitioners, and to be filed in the Circuit Court for the County in which or nearest to which the area in question is located. Upon the filing of such petition, the Clerk of the Circuit Court shall docket a suit at law in which the petitioners are to be plaintiffs and the Shell Fish Commissioners and lessees, if any, of such area are to be the defendants. The Court, or any Judge thereof, shall thereupon pass an order directing summons to issue for the defendants, to be served in the same manner as summons in actions at law, and returned by some day to be named in said order. The defendants shall answer said petition within fifteen days after the return day to which they are summoned, unless the Court for good cause shown shall extend the time for answering. After filing of such answer or in default of answer within the time fixed, the Court shall proceed promptly to hear all evidence adduced by the parties, or either of them; and shall decide whether the area described in said petition is or is not a natural bed or bar as defined in Section 98, and judgment shall be entered accordingly. The hearing in said Circuit Court shall be before a jury, unless jury trial be waived by all parties, in which event the hearing shall be before any Judge or Judges of said Court. An appeal to the Court of Appeals of Maryland may be taken by either party to said case from the judgment of said Circuit Court within thirty days thereafter, and the Court of Appeals shall have power to review all questions of fact or law involved. If the final decision shall be that the area in question is a natural bed or bar, amended plats shall be made and copies filed as provided in Section 110. The parties filing the petition in the Circuit Court as herein provided shall first file a bond with sufficient surety in the sum of \$25, conditioned to pay Court costs incurred in the event said petition is dismissed and costs are imposed upon the petitioners; and the party or parties taking the appeal to the Court of Appeals shall file a similar bond in such sum as the lower Court may fix, conditioned to pay Court costs incurred in the event the appeal to the Court of Appeals is dismissed and costs are imposed upon the appellant.

The contention that provisions of act of 1914, ch. 265, for ascertainment of outlines of natural oyster bars by testimony in court, are so defective and contradictory as to make act incapable of enforcement, overruled. The act of 1914 does not violate the Fourteenth Amendment of Federal Constitution, or art. 23 of Declaration of Rights. The portion of this section providing that court of appeals may review all questions of *fact* or law, does not require that entire act be held invalid under art. 15, sec. 6, of Md. Constitution; term "fact" may be eliminated. Evidence. Shellfish Commrs. v. Mansfield, 125 Md. 631.

See notes to sec. 98.