

of equity, that leave be and the same is hereby granted to the parties to the said cause to take testimony as prayed before any one of the standing examiners of this Court.

Glenn H. Worthington.

TESTIMONY.

To the Honorable the Judges of said Court--

The above cause being at issue and notice having been given by the Solicitor for the Plaintiffs of a desire to take testimony I Guy K. Motter, one of the regular Examiners of Your Honorable Court duly appointed, qualified and sworn having assigned the 19th day of May 1914 at the Banking House of the Emmitsburg Savings Bank in Emmitsburg, Frederick County, Maryland, as the time and place for taking testimony in this cause, did at the appointed time and place proceed to take the following testimony, to-wit--

Present--Eugene L. Rowe Esq., Sol. for Pliffs.

R. Rowe Ohler and W. A. Devilbiss, witnesses.

The Plaintiffs filed with the examiner as evidence Exhibits Nos. 1 and 2 which are herewith returned to Your Honorable Court by said examiner.

J. Rowe Ohler, a witness of lawful age produced on the part of the Plaintiff having been first duly sworn and Examined deposes and says--

1. State your name, age and residence?

Ans. J. Rowe Ohler, 51 years, near Emmitsburg, Frederick County Maryland.

2. Are you acquainted with the parties to this suit?

Ans. Yes, I knew them all. I have lived quite near them for a number of years.

3. State whether or not you were acquainted with a certain Edward M. Fuss? if yes, state whether he is living or dead and if dead when and where did he die?

Ans. Yes, I knew Edward M. Fuss nearly all his life. He is dead. he died in Emmitsburg, Maryland, from the result of an accident on the 7th day of June 1913.

4. What family did he leave surviving him?

Ans--He left surviving him a widow Mary C. Fuss, an adult who resides near Emmitsburg, Md., and the following <sup>six</sup> children who are the plaintiffs in this case:

Carrie M. Fuss, Charles R. Fuss, who are both over 21 years of age and reside with their mother the said Mary C. Fuss, near Emmitsburg, Md., and Elmer L., John M., Clarence M., Robert W. Fuss all of whom are minors under twenty-one years of age, and reside with their mother the said Mary C. Fuss, near Emmitsburg, md.

5. Did the said Edward M. Fuss die testate or intestate?

Ans..He died without leaving any will.

6--Of what real estate did he die seized and possessed?

Ans--He died seized and possessed of two farms and a mountain lot. One of the farms consists of about 166 acres lying in an easterly direction from Emmitsburg along the road leading from middle Creek adjoining the lands of Peter C. Eyler and Mahlon Stonesifer et. al. The other farm is located in a Southeasterly direction from the first mentioned farm and adjoins lands formerly owned by the said Mahlon Stonesifer, and Mrs. James W. Troxell, et. al., containing about 126 acres. The said Mountain lot being situated in the 5th Election District of Frederick County, about 3 miles west of Emmitsburg in Hampton Valley adjoining my land and others and contains about 62 acres of land.

7. Look at the paper now shown you marked Exhibit No. 1 herewith filed with the Examiner as evidence and state what the same is ?