

1933-018 Chancery Causes: Kenneth Waverly Smith vs Pelius M. Smith
Isle of Wight County

542

other surnames: Delk, Chapman
Gray, Whitehead, Cofee, Branch
[Cofee, Hardware Company], Whitley,
Parker, Crocker

No.

Know all Men by These Presents: That we **A. E. S. Stephens**

principal

and

Fidelity and Deposit Company of Maryland

sureties,

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of **Two Thousand Dollars** to the payment whereof well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

And as to this bond we hereby severally waive the benefit of our Homestead Exemption, and also any right, claim or privilege to discharge any liability arising hereunder to the said Commonwealth, or by virtue of the said office or trust for which this bond is given, with coupons detached from the bonds of this State.

IN TESTIMONY WHEREOF, the said **A. E. S. Stephens**

principal,

and the said

Fidelity and Deposit Company of Maryland

sureties,

by

R. A. Edwards

, its duly authorized

agent and attorney in fact, has caused its corporate name and seal to be hereunto affixed, the said seal to be attested

by the signature of the said

R. A. Edwards

, its said agent and attorney

in fact, this, the

26th

day of

December

A. D. 19**28**.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the above bound **A. E. S. Stephens**, who was by a decree entered in the Circuit Court of the County of Isle of Wight, on the 24th day of December, 1928, and now pending in said Court, wherein K.W. Smith is the complainant and R. M. Smith is the defendant, Docket #542; appointed a Special Commissioner;

shall faithfully discharge the duties of his office or trust as such **Special Commissioner**

, then the above obligation to be void, or else to remain in full force and virtue.

[SEAL]

Fidelity and Deposit Company of Maryland,

By **N. A. Egan D.**

Attorney-in-Fact

By

Its duly authorized agent and attorney in fact.

Attest:

N. A. Egan D.

Agent and attorney in fact.

Virginia: In the Clerk's Office of the Circuit Court of the County of Isle of Wight the **26th**

day of

December

1928

, this bond was duly executed and acknowledged by the obligors to the same and ordered to be recorded.

N. A. Egan D.

Clerk.

K. W. Smith

v. Chaucery #542

R. W. Smith

Copy of Special
Commissioners Bond

Filed

Dec. 26-1928.

R. A. Edwards
cl



Everett Wadley Co.
Stationers and Printers
Richmond, Va.

Form No. 310—Clerk's Certificate that Commissioner has given Bond. Code 1919, Sec. 6269.

Virginia: In the Clerk's Office of the Circuit Court of the County
of Isle of Wight.

W. H. Smith

Plaintiff ,

AGAINST

R. M. Smith

Defendant ,

I, N. A. Edwards —

Clerk of the said Court, do certify that
the bond required of the Special Commissioner by the decree rendered in said cause on the
24th day of December, 1928, has been duly given.

Given under my hand as Clerk of the said Court, this 26th day
of Dec, 1928.

N. A. Edwards clerk

15. Mr. Smith

23 28 9 542

R. M. Smith.

Cut of land
 having been given

Field 12/26/28

R. A. Edwards. ak

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

APRIL 26th 1933

Smith

VS: 542

Smith

It appearing that the decree herein of the 6th day of March, 1933, was improperly entered, it is ordered that the same be set aside.

Smith
vs #542

Smith

Chancery Order Book 9

Page 97

Entered 4/26/23
see Judge memo.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT:

K. W. Smith

v). Chancery. No. 542

R. M. Smith.

This cause came on this day to be again heard upon the papers formerly read and upon the report of A. E. S. Stephens, Special Commissioner, this day, by leave of the Court, filed, and to which there was no exception, and was argued by counsel:

It appearing to the Court, from said report, that after payment of the costs in this proceeding there remained in the hands of the Special Commissioner the sum of One thousand seventy five dollars and twenty cents (\$1,075.20) to be disbursed, one-half to K. W. Smith, and one-half on account of judgments against R. M. Smith; that the aforesaid sum has been disbursed by the Special Commissioner as follows, to-wit:

To paid K. W. Smith, in full for amount due him as one-half owner of proceeds,	\$ 537.60
" paid Geo. W. Delk, in full for judgment against R. M. Smith,	42.18
" " J. M. Chapman, in full for judgment against R. M. Smith,	113.50
" " W. H. Crocker, admr. of the estate of Merritt Gray, deceased, in full for judgment against R. M. Smith,	331.00
" paid W. H. Crocker, admr. of the estate of Merritt Gray, deceased, on account of a judgment against R. M. Smith,	<u>50.98</u>
" total disbursements,	\$ 1,075.20

that proper vouchers for all disbursements are attached to said report; that there are no other funds in the hands of the Special Commissioner; that there is nothing further to be done in this cause.

Upon consideration whereof it is adjudged, ordered and decreed that the said report be, and the same is, hereby, confirmed; and, it is further adjudged, ordered and decreed that the said Special Commissioner be relieved from all further liability and that this cause be dismissed from the docket.

11.
VIRGINIA:
IN THE CIRCUIT COURT OF THE
COUNTY OF ISLE OF WIGHT:

K. W. Smith

v.). Chancery. No. 542

R. M. Smith.

Note for Decree

Enter this:

R. M. Smith

March 28th., 1933

Book 9
P-89

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
MARCH 6th 1933.

Smith

vs: # 542

Smith

It appearing that by the decree entered herein on
the 10th day of April, 1929, that
A. E. S. Stephens, Special Commissioner
herein was directed to report his proceedings in this cause;
and it further appearing that no report has been filed as
directed,

IT IS THEREFORE ORDERED that the said
A. E. S. Stephens, Special Commissioner be summon-
ed to appear before this Court at half past ten o'clock A. M.
on Tuesday, April 25, 1933, to show cause, if any he can, why
he should not be proceeded against for his failure to report
his proceedings as required by said decree.

Smith
vs # 542

Smith.

c.o. B#9
Page 78

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VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT .

K. W. Smith,

v). Chancery. No. 542.

R. M. Smith.

This cause came on this day to be again heard upon the papers formerly read and upon the report of A. E. S. Stephens, Special Commissioner, this day, by leave of the court, filed, and to which there was no exception, and was argued by counsel:

And it appearing to the court, from the said report , that the said Special Commissioner has collected from Mills H. Tynes and Mary J. Tynes the sum of twelve hundred and fifty dollars, the amount of the purchase price of the real estate which is the subject matter of this cause, and has delivered to them a deed therefor executed with covenant of Special Warranty; that out of the funds coming into his hands as aforesaid he has paid the following costs and taxes, to-wit:

R. A. Edwards, Clerk, writ tax,	\$1.50
" " " Court costs & clerk fees ,	10.50
Johnson and Stephens, taxed attorney fee,	15.00
" " " sale notices,	5.50
" " " draft of deed to purchaser,	10.00
" " " Attorney fee allowed by court,	25.00
A. E. S. Stephens, Special Commissioner's fees,	62.50
R. A. Edwards, making Commissioner's report,	15.00
W. C. Whitehead, Crying property,	5.00
K. W. Smith, refund for taxes paid, 1928.	16.80
<i>R. A. Edwards, from a bond</i>	<i>70.00</i>
Total expenditures,	\$ 174.80

That after the payment of the costs and taxes aforesaid the special commissioner has in hand the sum of one thousand seventy five dollars and twenty cents to be divided as follows, to-wit: K. W. Smith, one half, five hundred thirty seven dollars and sixty cents; R. M. Smith, one half, five hundred thirty seven dollars and sixty cents; that the interest of R. M. Smith is subject to the following judgements, to-wit: a judgement in favor of George W. Delk, principal, interest and costs, forty two dollars and eighteen cents; a judgement in favor of J. M. Chapman, principal, interest and costs, one hundred thirteen dollars and fifty cents; a

judgement in favor of Merritt Gray, principal, interest and costs, three hundred and thirty one dollars; that after the payment of the judgements aforesaid there will remain the sum of fifty dollars and ninety eight cents to be credited on another certain judgement in favor of Merritt Gray which amounts, principal, interest and costs, to two hundred forty seven dollars and fifty cents; that there are other judgement against the interest of the said R. M. Smith which are later than those above set out and will not share in the in the funds in the hands of the said special commissioner:

Upon consideration whereof it is adjudged, ordered and decreed that the said report be, and the same is, hereby, confirmed; and, it is further adjudged, ordered and decreed that the said A. E. S. Stephens, Special Commissioner as aforesaid, pay to K. W. Smith the sum of five hundred thirty seven dollars and sixty cents; that out of the sum of five hundred and thirty seven dollars and sixty cents belonging to R. M. Smith he payd George W. Delk, the sum of forty two dollars and eighteen cents; to J. M. Chapman, the sum of one hundred thirteen dollars and fifty cents; to Merritt Gray, the sum of three hundred and thirty one dollars; and, to Merritt Gray, the balance of fifty dollars and ninety eight cents; for all of which the said special commissioner shall take receipts and report his acts hereunder to the court.

And this cause is continued.

9.

Virginia: Circuit Court of
the County of Isle of Wight.

K. W. Smith,

v). Chancery/ No. 542.

R. M. Smith.

Note for decree.

Enter this:

B. W.

Apr., 10th., 1929.

8-498

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. _____ " Decree."

R. M. Smith.

This cause came on this day to be again heard upon the papers formerly read, and upon the report of A. E. S. Stephens, Special Commissioner in this cause, this day, by leave of the court, filed, to which there was no exception, and was argued by counsel:

And it appearing ~~to the court,~~ from the said report, that the said A. E. S. Stephens, as such special commissioner, after having first executed the bond required of him, and after advertising the time, place and terms of sale, exposed the real estate in the bill and proceedings mentioned, to the highest bidder, at public auction, on the 7th., day of January, 1929, at which sale Mills Henry Tynes became the last and highest bidder, having bid the full sum of twelve hundred and fifty dollars; that the said Mills Henry Tynes, the purchaser, desires that a deed for the property be made to himself and Mary J. Tynes, his wife, jointly; that the said Mills Henry Tynes and Mary J. Tynes have paid the sum of one hundred dollars to the said special commissioner on account of the purchase price and are ready and willing to pay the remaining sum of eleven hundred and fifty dollars for the said real estate upon execution and delivery of a deed conveying the same to them: Upon consideration whereof it is adjudged, ordered and decreed that the said report be, and the same is, hereby, confirmed; and, it is further adjudged, ordered and decreed that the said A. E. S. Stephens, Special Commissioner as aforesaid, do execute and deliver to the said Mills Henry Tynes and Mary J. Tynes, upon the payment to him of the balance of eleven hundred and fifty dollars, a good and sufficient deed, conveying said

real estate to them, with Special Warranty of title; and, that the said A. E. S. Stephens, out of the funds so coming into his hands, pay the costs of this suit, up to, and including, a final decree; that he pay to Johnson and Stephens, attorneys conducting this suit, the sum of \$25.00 as attorney fee.

And the said special commissioner shall report his doings hereunder.

And this cause is continued.

7.
Virginia: In the Circuit
Court of the County of
Isle of Wight.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

Note for Decree.

Enter this:

Jan., 16th., 1929.

*Book 8
page 489.*

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. 542 " Note for Decree."

R. M. Smith.

This cause came on this day to be again heard upon the papers formerly read, and upon the report of R. A. Edwards, Commissioner in Chancery, responsive to a decree entered herein on the 4th day of Sept., 1928, and which was filed herein on the 10th day of December, 1928, to which there was no exception, and was argued by counsel:

And it appearing from said report that K. W. Smith and R. M. Smith are entitled, by virtue of the terms of the will of Peter Smith, deceased, to a certain lot of land situate in the Town of Smithfield, County of Isle of Wight, State of Virginia, on Church Street in the said Town, and which is known as the Peter Smithf home lot; that the annual value of the property is one hundred and twenty dollars a year, and the fee simple value between ~~twenty~~ ^{Twelve} hundred and fifty dollars and fifteen hundred dollars; that the real estate which is the subject matter of this cause cannot be conveniently divided among the parties entitled to share therein and it will be to their interest to have a sale of the whole and a division of the proceeds arising therefrom; that K. W. Smith and R. M. Smith are the proper parties to this cause and they are properly before the Court; that there are no liens against the interest of K. W. Smith; that the following are liens against the interest of R. M. Smith, to-wit: K. W. Smith, one half of Town and County taxes for the year 1928, eight dollars and forty cents;

A judgement in favor of Geo. W. Delk against R. M. Smith for twenty five dollars and five cents, with interest fro Apr., 10th., 1919, and two dollars and fifty cents costs;

A judgement in favor of J. M. Chapman v. R. M., Smith, for seventy three dollars and fifty cents, with interest thereon from Oct., 23rd., 1920, and three dollars and eighty cents costs;

A judgement in favor of Merritt Gray against R. M. Smith for two hundred dollars with interest thereon from May 18th., 1918, and three dollars costs;

A judgement in favor of Merritt Gray against R. M. Smith for one hundred and fifty dollars with interest thereon from July 17th., 1918, and three dollars costs;

A judgement in favor of Eddie Whitehead against R. M. Smith for twenty five dollars with interest thereon from Sept., 24th., 1919, and two dollars and fifty cents costs;

A judgment in favor of Cofer Hardware Co., v. R. M. Smith for twelve dollars and fifty cents with interest thereon from Dec., 10, 1923, and three dollars and thirty cents costs;

A judgement in favor of J. M. Branch against R. M. Smith for thirty two dollars and seventy cents with interest thereon from Feb., 1st., 1921, and three dollars and thirty cents costs;

A deed of trust made by R. M. Smith to C. F. Whitley, trustee, dated the 30th., day of June, 1927, and recorded in Deed Book Number 98, at page 486, on the interest of R. M. Smith ~~in the Peter Smith Homestead~~, given to secure Berta L. Parker the sum of eight hundred dollars with interest from date until paid;

Upon consideration whereof it is adjudged ordered and decreed that the said report be, and the same is, hereby confirmed. And it is further adjudged, ordered and decreed that A. E. S. Stephens, who is hereby appointed Special Commissioner for that purpose, do, after advertising by printed posters, posted in five or more public places in the vicinity of the real estate herein mentioned, make sale of the same, at public auction, to the highest bidder, ~~and~~ for cash.

But before the said Special Commissioner shall do any act hereunder, he shall ~~enter~~^{execute} into a bond, with ~~security~~^{surety} deemed sufficient by the Clerk of this Court, and before the said Clerk, in the penalty of \$2000.00, conditioned for the faithful discharge of his duties hereunder.

And the said special commissioner shall make report to the Court of his doings ~~hereunder~~. And this cause is continued.

5.

Virginia: In the Circuit
Court of the County of
Isle of Wight.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

Note for Decree.

Enter this:

1800.

Dec., 24, 1928.

8-481

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

This day came K. W. Smith, and, by leave of the court, filed his bill of complaint against R. M. Smith; and, thereupon, on motion of R. M. Smith, the defendant, by leave of the court, filed his answer to the said bill of complaint, to which the complainant replied generally; and, thereupon, by consent of the parties, this cause is set down for hearing and ordered to be docketed, ~~and is docketed~~; and, by like consent, this cause came on this day to be heard upon the bill of complaint and upon the answer filed thereto, and upon general replication to the answer, and was argued by counsel:

On consideration whereof the court doth adjudge, order and decree that this cause be referred to one of the Commissioners of this court, who will inquire into and report to the court:

1. Of what real estate the parties to this cause or entitled; how acquired; what are their respective interests therein; where situated; and, what are the annual and fee simple values thereof;

or the owners interest
2. What liens, if any, ~~are~~ against the said property, together with their priorities and dignities;

3. Whether or not the real estate to which they may be entitled, as mentioned in the bill, or any distinct or independent part thereof, can be conveniently partitioned among them, to advantage according to the statutes in such cases provided; and, if not, then will it be to the interest of all parties to have the said real estate sold and the proceeds of such sale distributed among them as provided by law.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

4. Who are the proper parties to this suit, their ages, and if they are properly before the court.

5. Any matter deemed pertinent by the Commissioner, or required by any party in interest to be inquired into and reported.

And the Commissioner shall reduce the evidence taken by him to writing and shall return the same with his report hereunder to the court.

And this cause is continued.

3.

Virginia: In the Circuit Court
of the County of Isle of Wight.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

"Note for Decree."

Enter this:

Sept., 4th., 1938.

*I have seen this
decre
O. Fairfield Whitley*

14

*Book 8
page 463*

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

No. _____

Smithfield, Va., Apr. 15, 1929.

\$100.⁰⁰/₁₀₀

BES

Pay to the
order of

Johnson & Stephens.

One hundred & ⁰⁰/₁₀₀

Dollars

For interest etc.

To the Bank of Smithfield,
Smithfield, Va.

5
68-233

BES Stephens. Spl. Comm. Smith v.
Smith.

John S. Stephens

COUNTER CHECK

Smithfield, Va., Apr. 24, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of W. H. Archer, Treasurer C. T. F., \$50.⁹⁸

Fifty & ⁹⁸/₁₀₀

Dollars

maist. judge. Merritt Gray
v. R. W. Smith

H. S. Stephens, Spl. Agent.
Smith v. Smith

M. H. L. L. L. L.
L. L. L. L. L. L. L.

COUNTER CHECK

Smithfield, Va., April 24, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of W. H. Archer, Adm'r., C. T. A. \$331.⁰⁰/₁₀₀

Three hundred thirty one ⁰⁰/₁₀₀ Dollars

In judgment Merritt Gray v. R. M. Smith. R. E. Stephens, Spl. Com'r.
Smith v. Smith.

M. H. Crocker
Rechn. C. T. R.

Smithfield, Va., Apr., 15th., 1929.

Received of A. E. S. Stephens, Special Commissioner in the
chancery cause entitled K. W. Smith v. R. M. Smith, pending
in the Circuit Court of the County of Isle of Wight, Virginia,
the sum of five hundred thirty seven dollars and sixty cents
(\$537.60) in full settlement of my interest in the proceeds
arising from the sale of the subject matter of the said chancery
cause.

Given under my hand this the 15th., day of April,
1929.

K. W. Smith

COUNTER CHECK

Smithfield, Va., Apr. 11, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of J. M. Chapman.

\$113.⁵⁰

One hundred thirteen & ⁵⁰/₁₀₀ Dollars

in full for R. M. Smith
judgment etc.

R. E. Stephens, Spl. Com'r.
Smith v. Smith.

FOR DEPOSIT
TO THE CREDIT OF
J. M. CHAPMAN

COUNTER CHECK

Smithfield, Va., Apr. 11, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of L. W. Deek, \$42.¹⁸

Forty two & ¹⁸/₁₀₀ Dollars

in full for R. M. Smith
judgment.

A. E. Stephens, Spl. Asst. Cash.
Smith v. Smith.

FAY BANK OF SMITHFIELD

Smithfield, Va., or Order

G. W. DELK

Bd S

No. _____

Smithfield, Va., Apr. 15, 1929.

Pay to the order of K. W. Smith;

\$ 112. 60

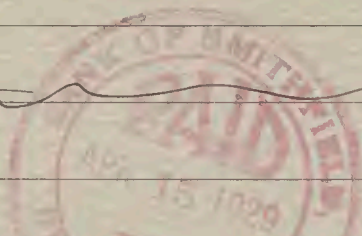
One hundred twelve & 60/₁₀₀ Dollars

For _____

To the Bank of Smithfield,
Smithfield, Va.

$\frac{5}{68-233}$

RES. Stephens, Spl. Asst. Smith v.
Smith.



R. W. Smith

COUNTER CHECK

Smithfield, Va., Apr. 13, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of K. W. Smith

\$25.⁰⁰

Twenty five & ⁰⁰/₁₀₀ Dollars
advance on acct.

B. E. Stephens, Spt. Cash.
Smith v. Smith, Comr.

K. W. Smith

COUNTER CHECK

Smithfield, Va., March 14, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of John H. Stephens, \$50⁰⁰

Fifty ^{no}/_{or} Dollars

In cash advanced
K. W. Smith.

A. E. Stephens, Spl. Com'r.
Smith v. Smith.

John and Stephen.

No. _____

Smithfield, Va., Feb. 26. 1929.

Ref S

Pay to the
order of

Johnson & Stephens

\$250.⁰⁰/₁₀₀

Two hundred fifty ^{no}/₁₀₀

Dollars

For advances to R. W. Smith.

To the Bank of Smithfield,
Smithfield, Va.

5
68-233

R. E. Stephens, Spl. Asst. Smith & Smith

John Stephens

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT:

K. W. Smith

v). Chancery. No. 542

R. M. Smith.

To the Honorable B. D. White,

Judge of the Circuit Court of the County of Isle of Wight, Virginia:

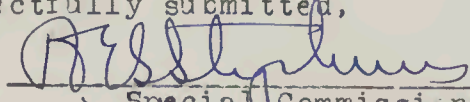
The undersigned Special Commissioner, heretofore appointed in this cause, begs leave to report that pursuant to a certain decree entered herein on the 10th. day of April, 1929, he disbursed the sum of One thousand seventy five dollars and twenty cents (\$1,075.20), which said sum represented the balance in hand derived from the sale of the real estate in this proceeding mentioned after payment of the costs of this suit, which said sum was payable one-half to K. W. Smith, and the other one-half on account of certain judgments against K. W. Smith, as follows, to-wit:

To paid K. W. Smith, in full for amount due him as one-half owner of proceeds,	\$ 537.60
" paid Geo. W. Delk, in full for judgment against R. M. Smith,	42.18
" paid J. M. Chapman, in full for judgment against R. M. Smith,	113.50
" paid W. H. Crocker, admr. of the estate of Merritt Gray, deceased, in full for judgment against R. M. Smith,	331.00
" paid W. H. Crocker, admr. of the estate of Merritt Gray, deceased, on account of a judgment against R. M. Smith,	<u>50.98</u>
* total disbursements,	\$ 1,075.20

That your Special Commissioner has disbursed all of the funds coming into his hands in accordance with certain decrees entered in this cause; that there are no further funds to be disbursed and there is nothing further to be done in this cause.

Proper vouchers for the above disbursements are attached hereto.

Respectfully submitted,


Special Commissioner.

VIRGINIA:
IN THE CIRCUIT COURT OF THE
COUNTY OF ISLE OF WIGHT:

K. W. Smith

v.) Chancery. No. 542

R. M. Smith.

Report of Special Commissioner

Filed March 28th., 1933.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

COUNTER CHECK

Smithfield, Va., Jan. 30. 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of R. A. Edwards, Cash. \$12⁰⁰

Twelve ⁰⁰/₁₀₀ Dollars

Chks for wit tax.

B. E. Stephens, Spl. Asst.
Smith & Smith

Pay to the Order of
BANK OF SMITHFIELD
SMITHFIELD, VA.

R. A. EDWARDS, Clerk of Court
ISLE OF WIGHT COUNTY

COUNTER CHECK

Smithfield, Va., Jan. 30, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of R. G. Edwards,

\$15.⁰⁰/₁₀₀

Fifteen ^{no}/_{one} Dollars

Commission free.

B. E. Stephens, Spl. Comm.
Smith V. Smith

Pay to the Order of
BANK OF SMITHFIELD
SMITHFIELD, VA.

R. A. EDWARDS, Clerk of Court
ISLE OF WIGHT COUNTY

Smithfield, Va., Jan. 31st., 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the
order of R. G. Edwards, Agt.

\$10⁰⁰

Ten ⁰⁰/₁₀₀

Dollars

Bank pass.

R. E. Stephens, Spl. Comm.
Smith & Smith.

Pay to the Order of
BANK OF SMITHFIELD
SMITHFIELD, VA.

R. A. EDWARDS, Clerk of Court
ISLE OF WIGHT COUNTY

COUNTER CHECK

Smithfield, Va., Jan. 30. 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of A. E. Stephens \$62.⁵⁰

Sixty two & 50/100 Dollars

Spl. Amr's Ins.

A. E. Stephens. Spl. Amr's.
Smith & Smith.

B.E. Stephens.

John Stephens.

COUNTER CHECK

Smithfield, Va., Jan. 30, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of John Stephens.

\$25.00

Twenty five & no per Dollars

Atty fee allowed by Court.

B. S. Stephens, Spl. Comm.
Smith V. Smith

Johnnie Stephens-

COUNTER CHECK

Smithfield, Va., Jan. 30, 1929. No. _____

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of Johnnie Stephens, \$10.⁰⁰

Ten 00/100 Dollars

Pft. incl to purchaser. R. E. Stephens, Spl. Com'r.,
Smith & Smith.

Johnnie Stephens

COUNTER CHECK

Smithfield, Va., Jan., 30, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of Johnson & Stephens. \$3.⁵⁰

Three & ⁵⁰/₁₀₀ Dollars

Sub notices.

B. E. Stephens, Secy. Treas.
Smith B. Smith.

Johnson Stephens.

COUNTER CHECK

Smithfield, Va., Jan., 30, 1929. No.

Bank of Smithfield 68-233
SMITHFIELD, VA.

Pay to the order of John W. Stephens, \$15.⁰⁰
Fifteen ^{no}/₁₀₀ Dollars
Cash at hand.

R. E. Stephens, Spl. Commr.
Smith & Smith.

Johnson ostrylus.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

Smithfield, Va. May 16 1929

RECEIVED OF A. E. Stephens, Spl. Comr.
Sixteen & 80 DOLLARS

FOR up and down paint.

\$16.80

~~JOHNSON & STEPHENS~~

Per K. W. Smith

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

Smithfield, Va. Jan. 30, 1929

RECEIVED OF A. E. S. Stephens, Spl. Com'r.
Five 8.00 100 DOLLARS

FOR criying Smith property

\$ 5.00

JOHNSON & STEPHENS

Per W. C. Whitaker
P

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. 542.

R. M. Smithf

To the Honorable Benjamin Dey White, Judge of the Circuit
Court of the County of Isle of Wight, Virginia:

The undersigned, special commissioner, in this
cause, begs leave to report to your honor that pursuant to
a certain decree entered herein on the 16th., day of January,
1929, he has collected from Mills H. Tynes and Mary J. Tynes,
the sum of twelve hundred and fifty dollars, it being the
amount of the purchase price of the lot or parcel of land
which is the subject matter of this cause, and hs executed and
delivered to the said Mills H. Tynes and Mary J. Tynes a
deed therefor, with covenants of Special Warranty; that out
of the funds aforesaid coming into my hands I have paid
the following costs and taxes, to-wit:

To paid R.A. Edwards, Clerk, writ tax,	\$1.50 ✓
" " " " " " court costs,	10.50 ✓
" " Johnson & Stephens, taxed atty fee,	15.00 ✓
" " " " " " sale notices,	3.50 ✓
" " " " " " Dft., of deed to	
" " " " " " purchaser,	10.00 ✓
" " " " " " Atty fee allowed	
" " " " " " by the court,	25.00 ✓
" " A. E. S. Stephens, Special Comr's fees,	62.50 ✓
" " R.A. Edwards, making Comr's., report,	15.00 ✓
" " W. C. Whitehead, crying property,	5.00 ✓
" " K. W. Smith, refund taxes paid, 1928,	16.80 ✓

Total expeditures, \$174.80

That after payment of the costs and taxes aforesaid
your commissioner has a balance in hand of one thousand
seventy five dollars and twenty cents, which should be dis-
tributed as follows, to-wit: to K. W. Smith, one half,
five hundred thirty seven dollars and sixty cents; that
the interest of R. M. Smith, one half, or five hundred thirty
seven dollars and sixty cents is subject to the following
liens, to-wit: George W. Delk, principal, interest and

costs forty two dollars and eighteen cents; J. M. Chapman, judgement, principal, interest and costs, one hundred thirteen dollars and fifty cents; Merritt Gray, judgement, principal, interest and costs, three hundred and thirty one dollars; that the payment of the aforesaid judgement will require the total sum of four hundred eighty six dollars and sixty eight cents which, deducted from five hundred thirty seven dollars and sixty cents, will leave a balance of fifty dollars and ninety eight cents which should be applied on another judgement of Merritt Gray, which said judgement, principal, interests and costs, amounts to two hundred forty seven dollars and fifty cents; that there are other judgement against the said R. M. Smith but they come after those herein set out and will, therefore, not be entitled to anything out of the funds in the hands of your commissioner.

Cancelled vouchers and receipts for the aforesaid expenditures are attached hereto and made a part of this report.

Respectfully submitted,

R. E. Stephens.
Special Commissioner.

8.

Virginia: Circuit Court of
the County of Isle of Wight.

K. W. Smith,

v). Chancery. No. 542.

R. M. Smith.

Report of Special Commissioner.

Filed: Apr., 10th., 1929.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. _____

R. M. Smith.

To the Honorable Benjamin D. White, Judge of the Circuit Court of the County of Isle of Wight, State of Virginia:

The undersigned, special commissioner in this cause, respectfully reports to the court, that pursuant to a certain decree entered herein on the 24th., day of December, 1928, having first executed the bond required by the said decree, and after advertising the time, place and terms of the sale as by the said decree directed, he exposed the said real estate in the bill and proceedings mentioned, at public auction, to the highest bidder, for cash, in front of the United States Postoffice building in the Town of Smithfield, County of Isle of Wight, State of Virginia, on Monday, the 7th., day of January, 1929, beginning at three o'clock P. M., at which sale Mills Henry Tynes became the last and highest bidder, having bid the full sum of twelve hundred and fifty dollars; that since the sale as aforesaid the said Mills Henry Tynes has stated to your Commissioner that he was bidding for himself and Mary J. Tynes, his wife, and requests that deed for the aforesaid property be made to himself and his wife jointly; that the said Mills Henry Tynes and Mary J. Tynes have paid to your commissioner the sum of one hundred dollars and are ready and willing to pay the remainder of eleven hundred and fifty dollars upon delivery to them of a deed for the said property. Your commissioner further states that the sale was largely attended and the bidding was spirited, and he, therefore, recommends that the bid of twelve hundred and fifty dollars be accepted, the balance of the money collected, and that a deed conveying the

said property to Mills Henry Tynes and Mary J. Tynes, with covenants of special warranty, be executed and delivered to them, and the money so collected by your commissioner be expended as the court shall hereafter decree.

Respectfully submitted,

A.E. Stephens.

Special Commissioner.

6.

Virginia: In the Circuit
Court of the County of Ilse
of Light.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

Special Commissioner's Report.

Filed Jan., 16th., 1929.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE
COUNTY OF ISLE OF WIGHT? NOVEMBER 10, 1928:

E. W. Smith,
v). Chancery No.
R. M. Smith.

Take notice:

That the undersigned, one of the Commissioners in Chancery for the Circuit Court of the County of Isle of Wight, State of Virginia, to whom was referred the papers in the above entitled cause by a decree entered therein on the ____ day of _____, 1928, for the execution thereof has set upon the 23rd., day of November, 1928, at two o'clock P. M. at the office of Johnson and Stephens, attorneys at law, Smithfield, Virginia, to take, state and report on the following matters required by the said decree, to-wit:

1. Of what real estate the parties to this cause are entitled how acquired; what are their respective interest therein; where situated; and, what are the annual and fee simple values thereof;
2. What liens, if any, or against the said property, together with their priorities and dignities;
3. Whether or not the real estate to which they may be entitled as mentioned in the bill, or any distinct or independent part thereof, can be conveniently partitioned among them, to advantage according to the statutes in such cases made and provided; and, if not, then will it be to the interest of all parties to have the said real estate sold and the proceeds of such sale distributed among them according to law.
4. Who are the proper parties to this suit; their ages, and if they are properly before the court.
5. Any other matter deemed pertinent to the Commissioner or required by an party in interest to be inquired into and reported.

R. G. Edwards
Commissioner in Chancery.

Smith,
v. Chauncy,
Smith

Notice taking
depositions.

I hereby accept
service of the within
notice.

Nov., 14, 1928

R. M. Smith
by C. F. Whitley
his attorney.

M. Louisa Smith

No. 885

TOWN OF SMITHFIELD

Virginia, Dr.

To W. E. Laine, Treasurer of Isle of Wight County, Virginia

Local Levies

County Levy.....\$.80
County School Levy.....1.00
School Sinking Fund......25
\$ 2.05

Personal Property...Page.....Line.....
Income.....Page.....Line.....
Land.....Page.....Line.....

STATE TAXES AND LOCAL LEVIES--1928

SUBJECTS OF TAXATION		Value	State Rate on \$100	State Taxes	Local Rate on \$100	Local Levies	Total State Taxes and Local Levies
STATE TAXATION ONLY	State Capitation Tax.....			\$ 1 50	NONE	NONE	\$
	Bonds, Notes and Other Evidences of Debt.....		\$.50		NONE	NONE	
	Money.....		.20		NONE	NONE	
	Shares of Stock.....		.50		NONE	NONE	
	Bonds of Counties, Cities, Towns and Districts.....		.35		NONE	NONE	
	Moneyed Capital in Competition with National Banks.....		1.10		NONE	NONE	
	Capital Not Otherwise Taxed.....		.85		NONE	NONE	
LOCAL TAXATION ONLY	Income: 1 1/2% on first \$3,000; 2 1/2% on next \$2,000; 3% on excess over \$5,000.....				NONE	NONE	
	Tangible Personal Property.....		NONE	NONE	2.05	\$	
	Machinery and Tools.....		NONE	NONE	.55		
	Merchants' Capital.....		NONE	NONE	NONE		
	Real Estate..... Acres 4.20		NONE	NONE	2.05	861	
	Real Estate..... Acres		NONE	NONE	2.05		
	Real Estate..... Acres		NONE	NONE	2.05		
CREDITS							
Date	Account	Amount	TOTAL STATE TAXES.....		\$	Total Local Levies \$ 861	\$ 861
PAID DEC 1 1928 W. E. LAINE, TREAS			5% Penalty December 6, 1928.....				
			Total Taxes, Levies and Penalty.....				\$
			5% Penalty June 16, 1929.....				
			Total Taxes, Levies and Penalties to June 16, 1929.....				\$
			6% Interest from June 16, 1929, to date of payment.....				
			Total Taxes, Levies, Penalties and Interest.....				\$

Date.....

....., Treasurer.

1928

No 698

M. *Louisa Smith 'Estate'*

To CORPORATION OF SMITHFIELD, VIRGINIA, Dr.

Subjects of Taxation		Real & Personal	TOTAL TAX
		School - \$0.50 General - \$1.45 \$1.95 on \$100	
Lot No. <i>St Shipyard</i>	\$ <i>420</i>	<i>8.19</i>	
Lot No.			
Lot No.			
Lot No.			
Lot No.			
Lot No.			
Personal Property	-		
Capitation Tax	-		
Total	-		
5% added after Dec. 15, 1928	-		
Total Tax	-		

Received payment this day of *M. CHAPMAN* 192.....

Per Treasurer

George W. Delk, being first sworn, deposes and says:

Q. Please state your name and residence.

A. George W. Delk. Smithfield, Virginia.

Q. Are you familiar with the house and lot situate on Church Street, Smithfield, Virginia, which was owned by Peter Smith at the time of his death?

A. I have known it for quite sometime.

Q. Please state what you consider to be its rental value, and its fair market value?

A. The lot is a small one with a small two story house on it which is in a dilapidated condition, therefore, I can't see how it could rent for more than ten or twelve dollars per month. I don't think that it would bring over fifteen hundred dollars at this time. I would say that it is worth from twelve hundred and fifty to fifteen hundred dollars.

Q. Do you think that this property, or any independent part thereof, could be conveniently partitioned among the parties entitled to receive it, or would it be to the advantage of all parties to sell it and divide the proceeds among them.

A. It would be decidedly to the advantage of all parties to sell the property and divide the proceeds.

And further this deponent saith not.

Geo. W. Delk.

John I. Cofer, being first sworn, deposes and says:

Q. Please state your name, residence and occupation.

A. John I. Cofer, Smithfield, Va., Cashier Bank of Smithfield.

Q. Are you familiar with the house and lot situate on Church Street in Smithfield which was owned and occupied by Peter Smith at the time of his death.

A. Yes, I have known it for a number of years.

Q. Please state what, in your opinion, what is its annual value and its fee simple value.

A. The lot is a small one with a two story house on it which is in a delipadated condition, therefore, I don't see how it could rent for more than ten or twelve dollars per month. I would say that its fee simple value would be bwteen twelve hundred and fifty and fifteen hundred dollars. This is colored property and for that reason it location does not have any especial value.

Q. Do you think that this property, or any independent part thereof, could be conveniently partitioned among the parties entitled to share therein, or would it be to the interest of all parties concerned to sell the property and divide the proceeds.

A. The only logical thing to do would be to sell the property and divide theproceeds among the parties in interest.

And further this deponent saith not.

John I. Cofer

K. W. Smith, being first sworn, deposes and says:

Q. Please state your name, age and residence.

A. K. W. Smith, age 39, Smithfield, Virginia.

Q. Are you the son of Peter Smith?

A. Yes.

Q. How many children did Peter Smith have?

A. Six; Minnie Smith, Relius Smith, Berta Smith, now Parker, K. M. Smith, Van K. Smith and Tillie Louise Smith?

Q. How many children are living at present?

A. Three: Relius? Berta Smith, now Parker, and myself.

Q. Is your mother living?

A. No, sir; she died in 1927.

Q. Is your father, Peter Smith, now living?

A. No, sir; he died in 1907?

Q. Did Peter Smith die testate or intestate?

A. He died testate.

Q. I note from the will that your father left the house and lot upon which he resided to his wife for and during her life, and then at her death to William Van Smith, and at his death to his lawfully begotten children. And the will further provided that in event William Van Smith should die without lawfully begotten children then the property to go to K. M., Relius, Smith, K. W. Smith and Tillie Louise Smith.

Q. When did William Van Smith die?

A. Yes, sir; he died in May, 1925.

Q. Did he have any lawfully begotten children at the time of his death?

A. No, sir; he did not.

Q. When did Tillie Louise Smith die?

A. She died when she was about six months old, and about a year before the death of her father, Peter Smith.

Q. You stated that Relius Smith is still living, do you know his age?

A. He is about forty four years old.

Q. What would you say is a fair rental value and a fair annual value for the lot upon which Peter Smith resided at the time of his death?

A. I think that it should rent for at least ten dollars per month. And it should bring between thirteen and fifteen hundred dollars at sale. The property is really worth more than this but real estate is so dull in this town at this time I hardly think it would bring more.

Q. Do you think that the said lot, or any independent part thereof, could be conveniently partitioned among the parties entitled to share therein, or would it be to the advantage of all parties concerned to sell the property and divide the proceeds?

A. I think it would be decidedly better to sell the property and divide the proceeds. I don't see how it could possibly be divided.

And further this deponent saith not.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith

v. Chancery #542

R. M. Smith

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT
OF THE COUNTY OF ISLE OF WIGHT.

The undersigned, one of the Commissioners of Your Honors Court, to whom was referred the papers for the execution of a decree entered in the above entitled cause, on the 4th day of September, 1928, respectfully reports that on the 23rd day of November, 1928, in the office of Johnson and Stephens, Smithfield, Virginia, took and reduced to writing the evidence of Geo. W. Delk, Jno. I. Cofer and K. W. Smith, the same being returned herewith and made a part of this report, and from such evidence so taken and from information obtained from the records in the Clerk's Office of this County, is informed and reports as follows:

Q. 1. Of what real estate the parties to this cause are entitled; how acquired; what are their respective interests therein; where situated and what are the annual and fee-simple values thereof:

A. 1. Your Commissioner is informed and herewith reports that the parties to this cause, K. W. Smith and R. M. Smith brothers, are entitled to a certain house and lot, lying, being and situate on the North side of Church Street at or near the lower end, known as the "Peter Smith Homeplace", which said property was devised by the said Peter Smith deceased, by his last Will and Testament which is of record in the Clerk's Office of Isle of Wight County in Will Book 34, page 133, by which Will the above described house and lot was devised to Millian Van Smith, for and during his life and at his death to his lawfully begotten children; and it is further provided in

said Will that should the said Killian Van Smith die without children, then in that event the said house and lot was to pass to R. M. Smith, K. W. Smith and Tillie Louise Smith, and from the evidence submitted before your Commissioner it appears that Killian Van Smith died in May, 1925, and without children; and further that Tillie Louise Smith died when only about six months old and according to the terms of the Will the house and lot known as the residence of Peter Smith, deceased, is now the property of K. W. Smith and R. M. Smith, share and share alike, Louisa Smith, the wife of Peter Smith to whom the property above described was left for life having departed this life some time during the year of 1927.

Your Commissioner wishes further to report that the fee-simple value of the house and lot in question appears to be around \$1250.00 to \$1500.00 and that the annual value appears to be from \$100.00 to \$125.00.

Q. 2. What liens, if any, are against the said property, and the owners thereof together with their priorities and dignities:

A. 2. Your Commissioner is informed and herewith reports the following liens of record against the interest of R. M. Smith, one of the parties to this suit, which from an examination of the records in the Clerk's Office of Isle of Wight County appears to be all of the liens against said property, to-wit:

A judgment in favor of Geo. W. Delk, against R.M. Smith for \$25.05, with interest from April 10" 1919 and \$2.50 cost, which said judgment is dated June 20, 1919, docketed April 13, 1921 in judgment lien docket No. 4, at page 64:

A judgment in favor of J. M. Chapman vs R. M. Smith, dated Oct. 12, 1921, docketed Oct. 18, 1921, for \$73.50, with interest from Oct. 23, 1920 and \$3.80 cost; judgment docket #4, at oage 76:

A judgment in favor of Merritt Gray against R. M. Smith, dated Apr. 17, 1920, docketed Dec. 29, 1921 for \$200.00 with interest from May 18, 1918 and \$3.00 cost; judgment docket #4, at page 86:

A judgment in favor of Merritt Gray vs R. M. Smith, dated Apr. 17, 1920, docketed Dec. 29, 1921, for \$150.00 with interest from July, 17, 1918 and \$3.00 cost: judgment docket #4, at page 86:

A judgment in favor of Eddie Whitehead vs R. M. Smith dated Feb. 28, 1920, docketed December 29, 1921 for \$25.00 with interest from Sept. 24, 1919 and \$2.50 cost; judgment docket #4, at page 86:

A judgment in favor of Cofer Hardware Co., vs R. M. Smith, dated Nov. 20, 1926, docketed March, 30, 1927 for \$12.50 with interest from Dec. 10, 1923 and \$3.30 cost; judgment docket #5, at page 99:

A judgment in favor of J. M. Branch vs R. M. Smith dated March 27, 1926, docketed May 9, 1927 for \$32.70 with interest from Feb. 1, 1921 and \$3.30 cost; judgment docket #5, at page 104:

A deed of trust made by R. M. Smith to C. F. Whitley Trs., dated June 30, 1927, recorded July 9, 1927, recorded in Deed Book 98, at page 486, on the interest of the said R. M. Smith in the Peter Smith Homeplace on Church Street, Smithfield, Virginia, given to secure Berta L. Parker, \$800.00, evidenced by bond of even date for said amount payable five years from date.

Your Commissioner wishes further to report that the taxes upon this property for the year 1928 were paid by K. W. Smith, which to the Town of Smithfield and County of Isle of Wight jointly amounts to \$16.80; therefore, the said K. W. Smith should be reimbursed from the proceeds of the sale of this property on behalf of said taxes before any of the above mentioned liens are taken into consideration.

Q. 3. Whether or not the real estate to which they may be entitled, as mentioned in the bill, or any distinct or independent part thereof, can be conveniently partitioned among them, to advantage according to the statutes in such cases provided; and, if not, then will it be to the interest of all parties to have the said real estate sold and the proceeds of such sale distributed among them as provided by law.

A. 3. Your Commissioner begs leave to report that from the evidence submitted before him the real estate mentioned in the bill nor any independent party thereof cannot be conveniently partitioned among the parties entitled to share therein, but on the other hand it would be to the interest of the parties to make sale of the same and a division of the proceeds therefrom.

Q. 4. Who are the proper parties to this suit, their ages, and if they are properly before the court.

A. 4. The parties to this suit are as hereinbefore stated, K. W. and R. M. Smith, and they are properly before the Court.

Q. 5. Any matter deemed pertinent by the Commissioner, or required by any party in interest to be inquired into and reported.

A. 5 Your Commissioner begs leave to report that no party in interest has offered anything for further report than as stated hereinbefore nor has your Commissioner anything of value to further report.

Respectfully submitted,

R. A. Edwards.
Commissioner in Chancery.

4.

K. H. Smith

vs. Cy # 542

R. M. Smith

Report of Commissioner
Filed.

Dec. 10th - 1928.

R. A. Edwards.
clerk.

R. A. EDWARDS
COMMISSIONER IN CHANCERY
CIRCUIT COURT
ISLE OF WIGHT COUNTY
ISLE OF WIGHT, VIRGINIA

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

The answer of R. M. Smith to a bill in equity exhibited against him in the Circuit Court of the County of Isle of Wight, State of Virginia, by K. W. Smith.

This defendant, for answer to the said bill, or to so much thereof as he is advised it is material and proper that he should answer, answers and says that the allegations in the said bill are true and correct, and that he concurs in the prayer of the bill, and recommends that the court make sale of the lot or parcel of land mentioned in the said bill of complaint in accordance with the prayer thereof.

And now having fully answered this defendant prays to be hence dismissed with his costs in this behalf expended etc.

R. M. Smith,

By, C. Fairfield Whitley
Counsel.

C. Fairfield Whitley, f. d.

2
Virginia: In the Circuit Court of
Isle of Wight County.

K. W. Smith,

v). Chancery. No. 542

R. M. Smith.

Answer of R. M. Smith.

1638
Sept 4
Filed

C. Fairfield Whitley,

Attorney at Law,

Windsor, Va.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

K. W. Smith,

v). Chancery. No. 542 " Bill of Complaint."

R. M. Smith.

To the Honorable Benjamin Day White, Judge of the Circuit Court of the County of Isle of Wight, State of Virginia:

Your complainant, K. W. Smith, sometimes known as Kenneth Waverly Smith, humbly complaining, sheweth unto your honor as follows, to-wit:

1. That the third clause of the last will and testament of Peter Smith, deceased, father of your complainant, dated the 21st., day of February, 1905, probated on the 6th., day of June, 1907, and entered of record in the Clerk's Office of the Circuit Court of the County of Isle of Wight, State of Virginia, in Will Book Number 34, at page 133, is as follows, to-wit:

" I give and bequeath to my wife, Louisa, for and during her life, all of my real estate, consisting of my house and lot upon which I now reside, situate on the north side of East Church Street in the Town of Smithfield, Virginia, also the two lots known as the " Shipyard " lots situated on the same side of the said street and between the lots owned by Merritt Gray and C. F. Day, she to have the absolute control of them, the right to receive all rents and profits from the same during her life, and at her death I give and bequeath the lot where I now reside to my son, Killian Van Smith, for and during his life and at his death to his lawfully begotten children. In the event of his dying without lawfully begotten children then I give said lot to my two sons, R. M. Smith and K. W. Smith, and my youngest daughter, Tillie Louise Smith. I further

direct that in event of my wife dying before my youngest daughter, Tillie Louise Smith, attains the age of twenty one years that she is to have a home in the said house until she does arrive at the age of twenty one years, and then my three sons, R. M. Smith, K. W. Smith and Killian Van Smith, shall each pay to her the sum of one hundred dollars each, and for the payment of same I hereby charge their entire interest in my said estate."

2. That Louisa Smith, wife of Peter Smith, deceased, and mother of your complainant, departed this life sometime during the year 1927, the exact date of which your complainant does not at this time recall, and that Killian Van Smith predeceased the said Louisa Smith, he having departed this life sometime during the year 19____, the exact date of which your complainant is not informed, and that at the time of the death of the said Killian Van Smith he was without lawfully begotten children, and that Tillie Louise Smith, youngest daughter of Peter Smith, deceased, departed this life before the death of the said Peter Smith, and before the terms of the will aforesaid became operative;

3. That the lot of land described as the " Home Lot " situate on the North side of East Church Street in the Town of Smithfield, Virginia, is now owned by your complainant, K. W. Smith, and the respondent, R. M. Smith, in fee simple;

4. Your complainant believes, and so states it to be, that the said lot of land is susceptible of partition as a whole among those entitled to share therein; but, should it not be susceptible of partition, conveniently and to advantage, then your complainant believes, and here states, that the interest of those entitled to share therein will be promoted by a sale of the entire subject matter, and a division of the proceeds among them.

Upon consideration whereof, and forasmuch as your complainant is without remedy save in a court of equity where matters of this kind are alone and properly cognizable, he prays

that the said R. M. Smith be made defendant to this bill and required to answer the same, the not under oath, answer under oath being hereby expressly waived; that proper process issue; that the said real estate be divided among the parties entitled to share therein, or if it cannot be divided, conveniently and advantageously, that it may be sold and the proceeds arising therefrom be divided among those entitled to share therein; that all proper orders and decrees may be made, accounts taken and inquiries directed; and, that your complainant may have such, other, further and general relief as the nature of his case may require or to equity shall seem meet.

Notice is hereby given that the court will be asked to make such allowance to the attorneys for the complainant as it shall deem proper and adequate.

And as in duty bound your complainant will ever pray etc.

R. W. Smith,

By,

Johnson and Stephens.
Counsel.

Johnson and Stephens, f. c.

Virginia: In the Circuit Court
of the County of Isle of Wight.

L. W. Smith,

v). Chancery. No. 542

R. M. Smith.

" Bill of Complaint."

1925
Sept 4
J. H. B. C.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut