

Peter Lewis & Anna Jones  
to  
John C. B. Smith

F S G W.

March 11, 1895

March 11, 1895

X-555

Prop. E. W. & P.

Down prop. returned CA. Jones D.

350.00

Convey: To abstr

Subject to ab. of map correctly in  
western side 8' wide granted by Peter Lewis  
to northern buyers by deed of May 15, 1890,  
recorded in Book X p. 390, said lot being  
delimited as plot hereto attached.

Plot referred to recorded plot Book A p. 56

Peter Lewis,

to

J. C. B. Smith

F S G W.

July 16, 1895

July 16, 1895

Y-63

Prop. E. W. & P.

Down by Anna Jones

500.00

Convey. - Peter T. abstr.

4433  
157 1/2 - 4483

~~4433~~ 12,018 Est of Janie  
Steel Smith

Box 440

Box 12,018

Pat. of J. C. B. S. for letters dated April 17, 1935  
sets out that J. S. S. died intestate Aug. 5, 1934  
leaving as only heirs at law Daisy S. Smith  
daughter & John C. B. Smith, grandsons, etc.  
valued at 12,364.09 & real est (including  
in Colonial Heights) at 1,000.00  
letters issued May 16, 1935



affidavit  
affidavit in roll of David S. Smith that  
she is daughter of Mrs. J. C. B. & as such  
entitled to a one-half part in the net  
est. of said decedent. That the decedent  
listed on the attached affidavit from the  
auditors office for R. C. in the name of  
Mrs. Smith, but for property of his  
lifetime and at his death was half  
interest therein passed to this decedent  
under the terms of the will of J. C. B.  
Smith, decedent.

attached is cert. of auditors that Mrs.  
J. C. B. Smith retained for her lifetime the  
right to 5 shares ~~in~~, which said shares  
to be but ~~in~~ in capital.

Est. J. C. B. Smith { Box 157 1/2  
Page 4433

(after letter had been signed on my will July 19, 1908, a copy sent me when found  
of former provisions were) will placed in Court books & admitted to  
probate Aug. 3, 1908 & letter test. issued  
to Mrs. Jennie E. Smith same date  
with Pet showed J. C. B. Smith died July 13,  
1908.

will dated April 26, 1890, purporting to be  
I revised

"I will bequeath and devise all of my  
property both personal and real to my wife  
Jennie E. Smith during her widowhood and at  
her death to be equally divided between  
my two daughters Daisy C. Smith and  
Jennie Eliza Smith and in case one or both



of said daughters should marry and leave  
 child or children, then the child or children of  
 each to have the distributive portion coming  
 to said mother and in case one of my  
 daughters should die without living  
 issue, then my surviving daughter or her  
 living issue shall have and receive the  
 portion of the deceased, or both. In case  
 my wife should marry, then she to have  
 for her own use and support the one  
 third of the income of my entire estate  
 both personal and real, and the remaining  
 two thirds of my income to go to the  
 support of my daughter or daughters,  
 Henry C. and Fannie Eliza, now in  
 care of either or both of said daughters  
 should die without issue then I desire  
 that my wife shall receive the two  
 thirds of income allotted to them,  
 until her death, I further distinctly  
 state that no part of my estate  
 both personal and real or the interest  
 or rents accruing therefrom, shall be  
 in any way shape or form liable to  
 seizure or distress for debts contracted."

That the provision for distribution should  
 be death of wife if daughters and  
 predeceased her.

James E. Smith, T<sup>r</sup> who  
 rights to sell & exchange must of land given  
 rightfully or not when reached that should be  
 to all.

Item: - "I rest upon on the 23<sup>rd</sup> of June 1844 place containing one and one fourth acres"



John Davis  
1869-1895

~~R-220~~  
~~X-283, 380, 585~~  
~~Y-63~~

V-219, 259

John C. B. Smith  
1895-1900

X-634  
~~Z-191, 379~~  
~~AA-4~~  
~~AD-242~~

Henry C. Smith  
1900-1939

AV-359

Jennie Eliza Smith  
~~(1891)~~

AG-11  
~~AN-912~~  
~~AO-166~~  
~~AA-52~~

1900-

AD-135

DZ-425

John C. B. Smith  
19--1939

~~CK-300~~  
~~DP-160~~

~~EM-85~~  
~~EF-262~~  
~~EG-195~~  
~~EK-334~~  
~~EL-3570~~  
~~ER-88~~

Jane Stoll

BE-544

BP-293

Samuel Smith  
1900-1934

DD-176

DM-253

1900-1934

DL-323

FG-72

DS-90

Eda Melling

AK-52

✓

✓

~~SD-425~~

✓

✓

✓

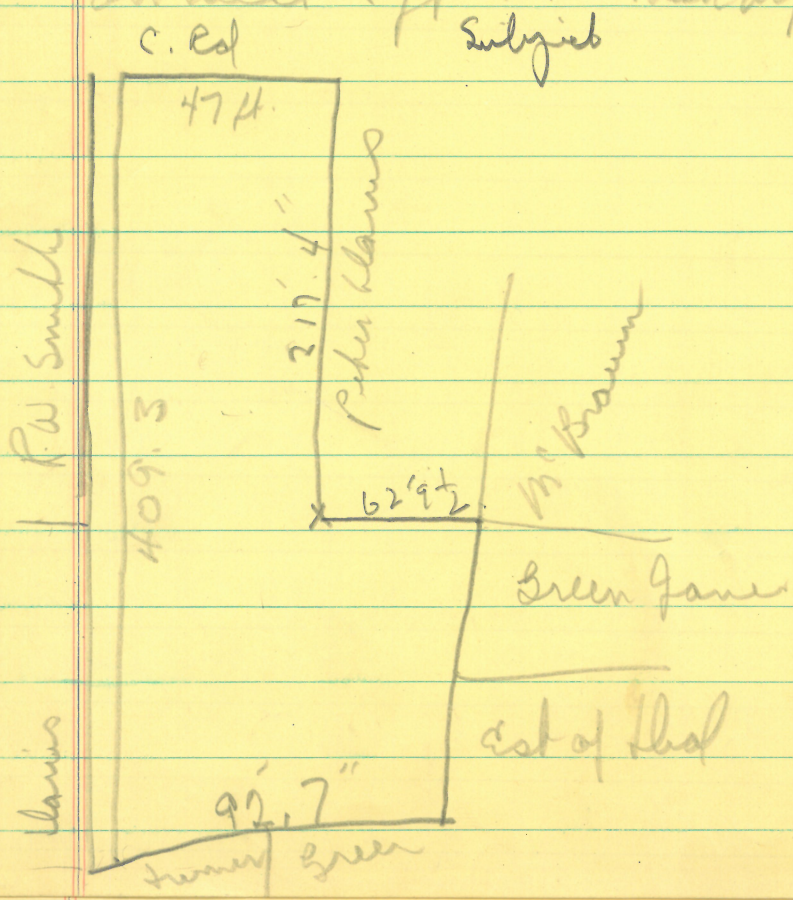
✓

✓



Peter Haines  
 to John C B Smith  
 48555-7895  
 Dated Mar 11 1895  
 Rec Mar 11 1895  
 Cans 350.00 paper & Prob  
 Haines Renounced

All that I pur of l in the south side of the  
 Camden Rd about  $\frac{1}{2}$  M East of Hardsk of the  
 C of C. Commencing at the Corner of a lot  
 of R. W. Smith and running southerly along  
 line of R. W. Smith and Peter Haines 409 ft 3 in  
 to lot of Turner thence easterly along line  
 of Turner & Green 92 ft 7 in. to East of Dial  
 thence along East of Dial and Green Jones to  
 point on lands of Green Jones <sup>(Mae)</sup> Mae Braun  
 & Peter Haines corner thence westwardly  
 62 ft 9  $\frac{1}{2}$  inches to a stake 47 ft from  
 line of R. W. Smith thence northerly on line  
 parallel with R. W. Smith 217 ft 4 inches to  
 Camden rd. thence westwardly along Camden  
 Rd 47 ft to the beginning (subjeat to st of way  
 on west 4 ft to Nathan Myers etc)





Peter Davis

to

John C B. Smith

463 F.S.W.

Dated July 16 1895

July 16 1895

Cons ~~500~~ 500.00 Mass. Ken.  
Prop Ex + Pro L.

All that part of 15 lots in the Co of R & St.  
apresand one half mile east of the Co of C  
on the S S of Camden Rd fronting thereon  
eighty three ft containing  $\frac{1}{2}$  acre more  
and bounded as follows: on the N by  
Camden Rd. on the east by lands of  
M<sup>r</sup> Brown formerly thier and on the south  
& west by lands of J. C B Smith said  
tract of land being a part of tract  
conveyed to Peter Davis by Wm Wall  
Truster Dec 1869.

Smith Mrs J. C B. Camden rd

1 lot 50.

5 lots 500



STATE OF SOUTH CAROLINA.

COUNTY OF RICHLAND.

Before me personally comes Daisy C. Smith, who being duly sworn says that she is the daughter of Mrs. J. C. B. Smith, Deceased, and as such is entitled to a one-half interest in the net estate of said decedent. That the lands listed on the attached certificated from the Auditor's Office for Richland County in the name of Mrs. Smith were her property only for her lifetime and at her death one-half interest therein passed to this deponent under the terms of the Will of John C. B. Smith, Deceased.

Daisy S. Smith

Sworn to before me this  
15th day of May 1935.

W. C. Boyd, Jr.  
• Notary Public for S. C.



Deed Book D.Z. Page 426, October 31, 1935

D.C.S. and J.C.B.S. Bachelor, to Bagnal

Said tract being a portion of the lands formerly belonging to John C. B. Smith who died Estate in 1900 and the grantors herein being the sole remaindermen entitled to the lands of said John C. B. Smith deceased upon the death of his widow Jennie E. Smith on August 5, 1934.

Deed Book E.A. Page 85, January 17, 1936

Whereas John C. B. Smith late of the County of Richland, State aforesaid, died Testate on the 13th day of July 1900, leaving of force his last will and testament whereby he devised his property, including lot hereinafter described to his widow Janie S. Smith, for life, with remainder over to his children and grandchildren; and whereas Janie S. Smith, widow and life tenant, died August 5, 1934 leaving her daughter Daisy C. Smith and her grandchild John C. B. Smith, as the sole survivors remaindermen under the will of John C. B. Smith deceased.

Daisy C. Smith and John C. B. Smith, Bachelor, to Board of School Commissioners.



Testator left all of property to wife for life. At her death to be divided among five children "share and share alike, should any of the above named children die without heirs or children of their own body, the property shall recur to my children mentioned in article second ...".

Court held that this use of "children" must be construed "heirs of the body". And later said "In a will 'heirs of the body' and 'issue' are almost invariably held to be synonymous".

Basing my construction in great part upon the principles announced by Judge O'Neal in the case of Bedon v. Bedon, I am constrained to hold that the plaintiff takes under said will a fee-simple estate, defeasible upon her death without heirs of her body living at the time of her death. If she dies leaving heirs of her body living at that time, then her estate becomes absolute. If she leaves no such heirs alive at her death, then under the executory devise the estate goes over to the other children or their families. Citing Thompson v. Peake, 38 S.E. 440, 17 S.E. 45, 725; Gordon v. Gordon 32 ~~SE~~ 563, 11 SE 334; Shaw v. Irwin, 41 SC 209, 19 SE 499; Durant v. Nash 30 SC 184, 9 SE 19.

See *Spencer v. Gibson*

116 S.E. 432



Drummond v. Drummond, 146 S.C. 194, 143 S.E. 818:

Pertinent portion of will under construction here "I will and bequeath to my son, P.H.D., 105 No. 2 .....Should P.H.D. die without issue, the lands ..... to revert back to the heirs of my body."

Court held that P.H.D. took a fee simple defeasible, saying:

This annexed conditional limitation to the fee-simple estate previously given to the plaintiff rendered said estate liable to be defeated upon the happening of the contingency named, to wit, dying without issue.

Schnell v. Sottile, et al, 115 S.C. 275 105 S.E. 415:

Under will testator left all property to son. Then by a second codicil he provided that should his son die and leave no children the property should go to three other people. Lower court held that son got a fee simple since he was alive at the death of the testator. Supreme Court reversed, saying:

A proper construction of the will and codicil makes clear the intent of the testator that the disposition of his property is to take place after testator's death. If the son had predeceased him, he could not take possession of the property. By his codicil he expressly provides after his death.

The son took a fee defeasible, on his dying without leaving children. This he may do, and, if he does, his fee will be defeated and the limitation over will take effect. Hence he cannot convey an indefeasible title.