

The following is a transcription of a letter found behind a wall in the "Old House" at Hycotee, Semora, NC, and given to me by Yancey Moorefield Smith. While the circumstances of the suit mentioned are still unknown to me, the letter gives a flavor of the legal practices of the time. Any knowledge of the suit or the witnesses involved would be thankfully received.

Transcribed by John Douglas Storey, great-great-grandson of Richard Ivy Smith June 6, 2010

Spartanburgh (sic) C H  
11 March 1843

Mr. Richard I. Smith<sup>1</sup>

Sir I have sent you by the mail that will bring you this the Commissions which you desired together with the interrogations which are to be put to each witness. I delayed sending them owing to the fact that I did not for some time get the Bill of sale which ~~Richard~~ Alexander Smith<sup>2</sup> was to send me. I however got it by mail and have seen S. G. Hamilton. He acknowledged that he witnessed the Bill of sale and transacted business with your brother John<sup>3</sup> on the day he executed the bill of sale to you. But he was not as free to admit that your Brother was of sound mind on that day as I desired he should have been. I have a Commission issued for taking his and Paul Young's testimony & intend to go up to Rutherford with the commissions & see to the examination & will then question Young before he is examined. I am in hopes to get sufficient from him to establish the fact that John was capable to have his own business & therefore capable to have made the Bill of Sale. Our courts have been newly arranged & our court will come on the 3<sup>rd</sup> Monday after the 4<sup>th</sup> Monday in March (*illegible word*) that will be on the 17<sup>th</sup> April next at which time I hope you will attend. I wish the Commissioners to be very particular to follow the directions given them in the Commissions when they go to execute them. For the purpose of assisting them I have folded a paper & backed it so as to show them how they ought to back the paper which encloses the Commissions & interrogations. They are required to endorse on the back of each Commission that the execution of the Commission appears in the schedule thereunto annexed & they should then sign their names to it. I have ~~written~~ (*illegible word struck through*) marked one of the Commissions (*illegible*) at the place where they should be endorsed under which they will sign their names. In taking the examinations of the witnesses it will not be necessary for the witnesses to whom you have paid monies to (*sic*) for John to file the original papers it will only be necessary that they swear that you paid them such amounts to them (*sic*) for John, stating the claims upon which you paid them, Except that John had better file the receipt you gave him for the debt you held on him with the statement of the debts. & he should swear that this was the consideration paid him by you for the negroes, & that the paper filed was the one you gave him on the day you traded. It will be the safest for you to get some disinterested individual to receive the Commissions from one of the Commissioners and to bring them on to the Clerk of our Court - if you do so that individual must keep the Commissions in his possession until he delivers them to the Clerk of our Court - and the Commissioner will certify that as Commissioner he handed the Commissions to (*blank space*) immediately upon its being executed and signed thus as Commissioner. I have got the Jailor to give me up the negroes to keep for him until the suit is tried. He had put them in jail and refused to liberate them

unless I could take them & give him a Bond to deliver them to him when called for which I did. The negroes are all well except Billy who has been quite unwell for about 2 weeks with pains in his hip. - You will see that there is no cross interrogation The reason is that the opposite Lawyer neglected to make his appearance & I got the advantage of him which I was determined to make use of - as I feel it is not only my privilege but my duty to take all advantage of him in so unrighteous a Cause as he has.

Yours H H (?) Thomson<sup>4</sup>

#### NOTES

<sup>1</sup> Richard Ivy Smith (February 16, 1800 - July 28, 1871), planter and businessman, he lived at "Hycotee," near Semora, Caswell County, NC. Son of Samuel and Elizabeth Harrison Smith

<sup>2</sup> Alexander Smith (September 25, 1804 - November 19, 1857), younger brother of Richard Ivy Smith

<sup>3</sup> John Smith (May 1, 1797 - ???), older brother of Richard Ivy Smith. John Lived in Rutherford County, NC, for a while.

<sup>4</sup> Probably Henry H. Thomson, well-known lawyer of the time in Spartanburg, SC.



*S. H.*

*Mr. Richard J. Smith  
Milton  
Caswell Co  
North Carolina*

Spartanburg Co. S.C.  
11 March 1843

Mr Richard S Imette.

Sir I have sent you by the  
mail that will bring you the Commissions  
which you desired together with the interrogatories  
which are to be put to each witness. I delayed  
sending them owing to the fact that I did not  
for some time get the Bill of sale which <sup>Paul</sup> ~~Richard~~  
<sup>Alexander Young</sup> was to send me. I however got it by mail  
and have seen J. G. Hamilton the acknowledge  
that he witnessed the Bill of sale & transacted  
business with your brother John on the day  
he executed the bill of sale to you. But  
you was not as free to admit that your  
brother was of sound mind on that day as I  
desired he should have been. I have a  
Commission issued for taking just Paul  
Young's testimony & intend to go up to  
Cuthbertson with the Commission & see to  
the examination & will then question Young  
before he is examined. I am in hopes  
to get sufficient from them to establish the  
fact that John was capable of transacting  
his own business & therefore capable to have  
made the Bill of sale. Our Court have  
been newly arranged & our Court will come on  
on the 3<sup>rd</sup> Monday after the 4<sup>th</sup> Monday in March for

that will be on the 17 April next at which  
time I hope you will attend. I wish  
the Commissioners to be very particular to  
follow the directions given them in the  
Commission when they go to execute them.  
For the purpose of assisting them I have  
folded a paper & backed it so as to show  
them how they ought to back the papers  
which enclose the Commissions & interrogato-  
ries. They are required to endorse on the back  
of each Commission that "the execution of this  
Commission appears in the Schedule hereunto  
annexed" & they should themselves sign their names  
to it. I have written ~~the name~~ <sup>of</sup> one of  
one of the Commissioners ~~B~~ at the place where  
they should be endorsed under which they will  
sign their names. In taking the examinations  
of the witnesses it will not be necessary for  
the witnesses to whom you have paid money  
to for John to file the original papers it  
will only be necessary that they swear that  
you paid them such amounts to them for  
John, stating the claims upon which you paid  
them, except that John had better file  
the receipt you gave him for the debt you  
gave on him with the statement of the debt.  
& he should swear that this was the consideration  
paid him by you for the negroes, & that

The paper filed was the one you gave me  
On the day you traded. It will be the  
safest for you to get some disinterested  
individual to receive the Commissions  
from one of the Commissioners & to bring  
them on to the Clerk of our Court  
- if you do so that individual must keep  
the Commissions in his possession until  
he delivers them to the Clerk of our  
Court. and the Commissioner will  
certify that as Commissioner he handed  
the Commission to \_\_\_\_\_ immediately  
upon its being executed & signed by as  
Commissioner. I have got the Sailor to  
give me up the negroes to keep for him  
until the suit is tried he had put them  
on sail & refused to liberate them unless I  
would take them & give him a Bond  
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except Billy who has been quite unwell  
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- you will see that there is no Craft among  
actors the reason is that the opposite Lawyer  
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advantage of him which I was determined  
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but my duty to take the advantage of him  
in so unrighteous a Cause as he has  
yours  
J. B. Thomas