



The Bell Ringer

A Publication from the Education and Research Committee
of the Friends of Brentsville Courthouse Historic Center

2, Issue 2

www.brentsville.org

The Infamous Fewell Trial -- Part VI - Final

“the loose morality of the age in which we live”

January issue of the *Bell Ringer* continued newspaper transcripts from the *Alexandria Gazette* reporting on *Commonwealth v. Fewell*, a trial in which Lucien Fewell was accused of seducing James F. Clark as retribution for damaging the reputation of his sister, Fannie. An intriguing series of letters exchanged between ill-fated lovers, as well as Fannie’s testimony from November 9, 1872, were featured. The evidence and narrative of this witness detailed her journey with Clark through several aliases, and the final outcome of the pair. Names of several other individuals involved were also revealed.

Analysis of the information and discrepancies in Fannie’s testimony, a misinterpretation of the context of their affair, and Fannie’s testimony, Clark’s testimony, and he was to be proven that she knew Clark was with another woman, Mrs. Johnson was the wife of a general store in Brentsville. Clark’s repeated statements of any crime appear to be at the testimony Fannie supplied in court. The trial recommenced on November 10, 1872, and she was on the stand for questioning by

The Fewell Trial reported for the *Alexandria Gazette*. Brentsville, November 9, 1872 — Miss Fewell appeared this morning on the stand. She seemed to bear her examination with the same degree of fortitude and calmness which she exhibited on Thursday, answering every question put to her by Gov. Wise, with distinctness, clearness, and sometimes with much emphasis. The court on assembling asked the counsel if they were ready to proceed. Gov. Wise desired to enquire into the health of Miss Fewell; also whether she was able to come into court. Shortly afterwards she appeared, escorted by Mrs. Fewell, her step mother, and Mr. B. D. Merchant, her brother in law. Miss Fewell was introduced by the prosecution for the purpose of explaining six letters which she had written to Clark. Each letter was numbered in the form in which they were handed to her and read and explained by her.

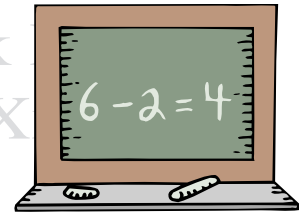
Gov. Wise opened the examination as follows:
Q.- Miss Fewell, please look at that letter and tell me if you wrote it?
Ans. I wrote it sir, In the sentence “It will be a day or two before I can decide at what time I can leave,” I meant leave for Washington to be married. But don’t think I have given it out for I would not for the world; means that I thought a great deal of Mr. Clark, and was anxious to marry him.
On being pressed by counsel as to whether she preferred Clark to the world, she finally answered yes.

Continued on page 5

In This Issue
Page 1 - The Infamous Fewell Trial

General W...
represent...
against Luc...
Alexandria Gazette 10 Nov 1872

Take Note!



The final installment of the *Commonwealth v. Fewell* trial appears in this issue. Accompanying it is a suggestion for staging a mock trial with the extant news reports which have herein been published for the past six months. This lesson idea may be useful for teachers of 12th grade government classes and of Hands On History: Prince William County's Past, an elective course offered in some of our high schools. Please let the Education and Research Committee know of any plans to implement the trial - we would love to provide support and participate in such an adventure! The lengthy news reports were transcribed by Ron Turner. Those interested in documenting Prince William County's past are blessed by the great effort Mr. Turner has made for many years in making his research available.

This year, 2006, is Prince William County's 275th anniversary. With each year, the county has seen a great deal of change, and change is good. With this in mind an additional publication of the Friends of Brentsville Courthouse Historic Centre, Inc. has been added. Periodically, members will receive a bulletin, *The Brentsville Friends*, comprised of updates regarding coming meetings and events. The bulletin will be sent via regular U.S. mail to all members in good standing.

With the County's 275th anniversary, an exciting event will take place on Saturday, October 14. We need members to serve on committees for planning. Please come to the Saturday, April 1, meeting at 10am in the One Room School to become involved. See the calendar on the last page of this issue for all the Friends upcoming meeting and events. We want to see you there!

The Education and Research Committee

Friends of Brentsville Courthouse Historic Centre, Inc.

A nonprofit, 501(c)3 volunteer organization
Established in 1996 to support the
restoration and preservation of the
Brentsville Historic Centre.

Annual Membership Fees:

Individual: \$20

High School Student: Free

Corporate: \$125

2006 Executive Officers

Laura Wyatt -- Chairman
Wilkie Leith-- Vice Chairman
Fran Hibbs -- Treasurer
Robin Meyering -- Secretary
Betty Machen -- Membership Chair

2006 Board of Directors

Pat Knock Ron Turner
Keith Machen Pamela Sackett
Vacancy Vacancy

Studying Commonwealth v. Fewell in a Mock Trial Format

Commonwealth v. Fewell was an exciting court case that really occurred here in Prince William County in the 1870s. Its soap opera like details drew national attention as readers awaited the news reports' description of each day's proceedings. The Alexandria Gazette transcripts for the Commonwealth v. Fewell trial have appeared in the past six issues of the Bell Ringer. This information can easily be printed out since they are .pdf files. Students organized for a mock trial can study the transcript to prepare for the activity. Below, an excellent manual is recommended for organizing a mock trial in your classroom.

A mock trial is a valuable learning experience for many reasons. It may be used to help students learn about specific areas of law, courtroom procedure, roles of courtroom personnel and the manner in which the court system resolves conflicts peacefully. Student participation in mock trials enhances development of perspective taking, an important skill requiring higher level thinking. Other key skills that can be practiced during a mock trial include critical analysis of problems, strategic thinking, questioning and listening skills, oral presentation, extemporaneous argument, and skills in preparing and organizing material. Additionally, a mock trial activity organizing students into teams or groups requires a high level of cooperation.



Robert Marzano, et al found that cooperative learning may result in a 27 percentile gain in student achievement (What Works in Classroom Instruction, a book by Robert Marzano, Barbara Gaddy, and Ceri Dean available at <http://www.mcrel.org>). Cooperative group activities encourage significant cognitive achievement among students from a variety of backgrounds and also improve student attitudes toward school and each other. They challenge students, encourage guest speakers, field trips, and use of resources (visits to court houses, archives, and visits by judges and attorneys are a natural accompaniment to mock trials). Two or more teachers can even combine their classes for such activities, further expanding student collaboration and making use of outside resources to impact a greater number of students.

A mock trial project should involve every student in the class for the entire unit. Students who are not assigned specific, active roles quickly lose interest. Each student should attempt to create a profile and gather information about the person he or she is assigned. Gathering such information could include a trip to the archives, using local historians as guest speakers, or performing on-line research at such web sites like: www.rootsweb.com (genealogy research site), www.pwcgov.org/library (Go to RELIC for resources at the Bull Run Regional Library and also for on-line resources), www.cyndislist.com (another genealogy web site), www.fairfaxcounty.gov/library/newsindex (Historical newspaper index), and www.historiccourtrecords.org (Historic records of the Fredericksburg Circuit Court).

The trial has room for many roles in addition to attorneys and witnesses. They include:

- Lucien Fewell
- Fannie Fewell
- Wm. Wright, conductor of the freight train on which Miss F. left Manassas
- Major Thornton (first to respond to the shooting)
- Mr. Lipscomb (Deputy Clerk and one of the first to respond to the shooting)

Studying Commonwealth v. Fewell in a Mock Trial Format continued

- Unnamed witness on the porch of Kincheloe’s store
- Drs. Barbour and Leary (tended Clark after the shooting, performed the post mortem)
- B. D. Merchant and Benjamin Merchant (Fannie’s sister and brother in law)
- C. Wistar Wallace was the Commonwealth’s Attorney at Fredericksburg
- Allen Howison, Esq., (Grand Jury foreman)
- Dr. E.H. Marsteller of Manassas (Fannie’s physician)
- Mrs. Georgiana Weedon Hynson (long time friend of both Clark and Fannie)
- Judge Charles E. Sinclair (appointed Commonwealth’s Attorney when Clark resigned)
- Henry A. Wise (represented the Commonwealth, former Virginia Governor)
- J.Y. Menefee (represented the Commonwealth)
- General Eppa Hunton (represented Lucien Fewell)
- General William H. Payne (represented Lucien Fewell)
- Henry W. Thomas (represented Lucien Fewell, former Virginia Lt. Governor)
- Judge Aylett Nicol
- Jurors to include: the foreman, John S. Ewell and W. H. Poland, G. S. Pickett, D. A. Pickett, W. F. Skillman, J. P. Smith, J. N. Otterback, C. E. Tyler, R. A. Foley, M. W. Nalls, J. M. Shirley and E. J. T. Clarke.
- Bailiff
- Court artist
- The “ghost” of James F. Clark

Once students have an assigned role and perform research, students should be organized into groups including the prosecution, defense, jury, witnesses, etc. From this point, group discussions of the researched information and manner of proceeding can begin. Once student groups are prepared, the teacher can direct “The Trial.” An excellent link to a manual with procedures and tips for holding a classroom mock trial is: <http://www.ccle.fourh.umn.edu/mock3.pdf> (from Minnesota Center for Community Legal Education, University of Minnesota).

Teachers choosing to use the Commonwealth v. Fewell trial who would like assistance in their classrooms may contact the Friends of Brentsville Courthouse Historic Centre, Inc. at TheFriends@brentsville.org to arrange for researchers and assistance. We would love to hear from you if you choose to use the case!



An example of a courtroom that includes a chief magistrate’s bench similar to one that would have been found in the Brentsville Courthouse.

The Infamous Fewell Trial -- Part VI continued

"I will write you a long letter by Tuesday's mail"; could not tell what date Tuesday was; I left these notes at the house of Mrs. Hynson; she sent the first five; she dictated them all, and examined them after I wrote them; she did not dictate the sentence in which the words "respectful or disrespectful" are mentioned; think I wrote this letter about the 4th of July; I don't know when Mrs. C. left Manassas; I know she was gone before I wrote any letter; I saw her when she left; don't know when Mr. C. removed there when Mrs. C. left. I had then known Mr. C. a short time; I asked Mr. C. to remain till Sunday because I wanted to go to church, and Mrs. Hynson told me to put it in; I want you to go down to church, Lizzie and I are going; Lizzie is intended for Mrs. Hynson; Mr. C. and I called her Lizzie; he addressed his letters to mean care of Lizzie Twyman, a name he gave Mrs. Hynson; she sent for me to her house to write my letters to Mr. C., she was my aide, abettor, and counselor...

One wonders why Mrs. Hynson was involved in the affair. According to Fannie, she was responsible for much of the content of the letters. It almost appears as if she was mentoring young Fannie since Fannie's mother was deceased. At the same time, the question must be asked as to what extent Fannie's sister had not fulfilled this role. The oddness of Clark's assignment of an "alias" for Mrs. Hynson is also telling. The actual involvement of Mrs. Hynson will likely never be known. Meanwhile, Mrs. Clark was leaving Manassas to stay with her family in Fredericksburg since Clark was planning on being away from the area on business.

Alexandria Gazette 10 Nov 1872 - **continued**
The Fewell Trial reported for the *Alexandria Gazette*. ...Here a point was raised by Judge Thomas that this was not rebutting testimony. The court did not sustain the objection.

SECOND LETTER [excerpt about which Fannie was questioned]

"I am not mad with you and I have never heard that you said anything respectful or disrespectful about me, except what Walter M. told me."

Ans. - The person I alluded to was Walter Merchant. He was a friend of mine and my family; I had learned that Mr. Clark had made some remarks about me in his store; I asked him (W. M. what Mr. C. had said; he replied that Mr. C. had not said anything particularly about me; he did not tell me what Mr. C. had said. "I

do not hesitate to trust you." I had trusted Mr. C. when I engaged myself to him; I thought he would take care of me for my future life. "In regards to fishing, I can go at any time convenient to you, I will be ready and your company on the creek will be perfectly agreeable." I here alluded to fishing party, but did not go on that occasion; I had gone fishing before that; Mr. C. met me on the creek; I did not seek his company. "I have never heard that any one ever suspected us but for fear this might get lost, I had rather you would destroy it immediately." My reason for saying that was because Mr. C. had asked if any of my family suspected us; they did not like Mr. C.; I asked him to destroy my letters because he had requested me on the other hand to destroy his lest they should fall into the hands of my family; I never heard that any person suspected me of any thing else; if they did, they certainly had no right to do so; I never took but one buggy ride with Mr. C., and then we went to church.

THIRD LETTER - The third letter was written in pencil, on a small piece of paper, the lines are transverse and impression is very faint.

Gov. Wise, reading from Sunday's report -

Q. "I can't leave Monday, as I expected, but will go after the 4th of July?"

Ans. Don't know what Monday is referred to.

Q. How do you know this letter was not written before Mrs. Clark left?

Ans. (Petulantly) Because he did not address me until after she had left.

[Court interposed, prohibiting counsel from putting the same question so often]

Q. Mrs. H. tells me you expect to leave for B. tomorrow?

Ans. B. stands for Baltimore; I don't know why I called her Mrs. H. in this letter; did not intend to marry at Baltimore, but in Washington.

Q. "But darling try to put your trip off till next week?"

Ans. Don't know how near first of next week was to the 4th of July; by first of next week, suppose it would be after 4th of July.

By Gov. Wise - Q. Then the time this letter was written would be in the week containing the 4th of July?

Ans. I suppose so.

Q. "We think of having a dance tomorrow night, I expect you by all means to be there?"

Ans. The dance was to be at Mrs. Hynson's.

Q. "Don't think my seeming negligence is an indication that my feelings toward you have changed, but you become dearer to me every day, and I agree with you in the arrangements you have made for me

The Infamous Fewell Trial -- Part VI continued

to leave with you, and hope it will not be long before we can be together, to be separated no more?"

Ans. Meant by that that I expected to be married to him; Mrs. Hynson dictated that letter.

Q. Why was it written on such a small piece of paper?

Ans. Written at Mrs. Hynson's, it was written on so small a piece of paper because it was all that was convenient.

FOURTH LETTER

Q. I long for the sound of the freight whistle and still I dread for fear my darling will not come, but will hope for the best?

Ans. Mr. C. had gone to Alexandria and was expected to return on the freight train; don't know when this was written. [She replied with emphasis that it was no use asking her that question] means Richmond; don't know whether it was Winter, Summer or Spring.

Q. We are all going after raspberries tomorrow about two miles down the railroad, and I want you to go and may be we will have a chance to have a little talk?

Ans. This must have been written in Summer; I did not go raspberrying.

FIFTH LETTER

Q. "At home, July 2d, 1872. According to promise I seat myself this morning, not at home, but you can guess?"

Ans. I wrote this at Mrs. H's, she dictated every word, I said "guess" because he knew where I went when I wrote it; did not tell Mr. C. myself where I went to write, but he had been told; I accepted an appointment to meet Mr. C. at Mrs. Hynson's. When I accepted I suppose it was of my own free will; Mr. Clark and myself were never alone at Mrs. Hynson's; she or her husband were always present.

Q. "I find that I can leave either on the passenger or the freight without anybody finding me out; but tell me which you think best?"

Ans. Mr. C. told me to leave on the freight.

SIXTH LETTER

Dated August 22d, Washington.

Ans. I wrote this myself, no one dictated this to me. Gov. Wise then read from the letter that she found out that there was a great long piece in the Baltimore Paper about them. Mr. Gale told her so.

Ans. Mr. Gale was clerk at Boyle's Hotel; don't know his other name; never knew him before; I left home on Saturday July 21; the name of the man who went with me from Manassas was Carpenter; said he lived in Washington.

Miss Fewell by consent of counsel, was then relieved of all further attendance at Court.

G.M. Weedon, brother in law of Clark, was sworn and testified. Do not know positively when Mr. Clark left Manassas for King George County; staid at my house on his way; had with him his wife and two children; cannot give the exact date when they passed my house on their way to his father in law; was very near the last of June; believe it was latter than the 16th.

Cross examination - Believe they left for King George after the middle of June; had with them as baggage only three carpet; two sacks were of leather; I think the other was not; had no furniture with them unless contained in carpet bags; knew of no sale of furniture by them at Manassas. Here, at 3 p.m., the prosecution closed their case, though it is believed that they will make an attempt to introduce Mrs. Hynson on Monday, if she arrives by that time.

The testimony states that G.M. Weedon was the brother in law of Clark. What then, was the relationship between Clark and Georgiana Weedon Hynson, the woman who supposedly aided Fannie and Clark in the scheme? Also of note is the fact that when Mrs. Clark left Manassas there was no evidence of furniture. This raises the additional question of her plans for the future with her husband away and possibly involved in a scandal. Tensions mounted as the key players and general public awaited Georgiana Hynson's time on the stand as witness. Why would she have gone to such lengths to nurture the budding romance?

Judge Nicol made it clear that if Lucien Fewell was thought to have been suffering from any temporary insanity he was due an acquittal. Would this have swayed the jury at all? It is doubtful based on the difficulty in seating an impartial jury for the trial.

Why did Mrs. Hynson not testify despite receiving a court summons? What then, would have prompted her to supply her own affidavit to George C. Round

Continued on page 7

The Infamous Fewell Trial -- Part VI continued

outside of the court's proceedings? Her explanation is in utter contradiction to Fannie's testimony.

Alexandria Gazette 13 Nov 1872

The Fewell Trial

Brentsville, November 12. - This morning Judge Nicol read to the jury the instructions prepared mostly by the counsel, with such corrections as he deemed necessary. [The instructions are very long, and the crowded state of our columns, to-day, compel us to omit them. The following are some of the instructions granted, prepared for the defense:

First, If at the time the prisoner committed the act charged upon him from an association of the deceased with his real or fancied troubles, arising from the abduction, debauching, or abandonment of his sister after she had been debauched, his mind became so deranged that he was deprived of his memory and understanding so as to be unaware of the nature, character and consequences of the act he committed, or to be unable to discriminate between right and wrong in reference to that particular act, at the very time of its commission, he is entitled to acquittal.

Second, If at the time the prisoner committed the act charged upon him he was by reason of the causes aforesaid thrown into a state of excitement and frenzy, in which he was divested of his reason and judgment, and was from mental disease incapable of governing himself in reference to his deed, he is not responsible for the act.

Third, If by reason of the causes as aforesaid the prisoner's mind was so controlled and operated upon that he could not resist, or that he could not control the impulse which prompted the act complained of, he is not responsible, provided such impulse was not of anger or revenge, or other kindred evil passions.

Fourth, If the prisoner was deprived of his reason before and at the time the act was committed, and on account of the conduct of the deceased in the abduction or seduction of his sister, the jury have the right from their own knowledge of human nature and the tendencies of the human mind, to judge whether the act complained of was not the result of an ungovernable frenzy, sufficient to unsettle his faculties, and by an insane impulse deprived the mind of its controlling and directing power, thereby rendering him legally irresponsible for what he did.

Fifth, If the jury believed that by reason of the abduction or seduction of his sister, the letter which deceased wrote to her, the card of the prisoner issued by him whilst in custody, and all the circumstances attending upon the abduction or seduction as came to his knowledge, and the declaration of the deceased that there was no law to punish him, the prisoner committed the act, then the jury have the right to judge whether the moral or mental faculties of the prisoner were not so diseased by reason thereof, as to deprive his mind of its controlling powers, and to render him irresponsible therefore.

Mr. Menifee then commenced the argument before the jury for the prosecution.

MRS. HYNSON'S AFFIDAVIT

As Mrs. Hynson was not allowed to testify yesterday, she was desirous that a history of her connection with the transaction should be made public and with this view appeared before Geo. C. Round, a notary public at Manassas, and made an affidavit, from which is extracted a synopsis that will doubtless prove of interest in throwing some light upon the particulars of this painful affair.

The instrument, after giving her reasons for not appearing in court in obedience to its summons, recites that it contains, without abridgment or extenuation, what would have been her evidence had she been suffered to testify, and relates that she has known both of the parties to the elopement all of her life, and that while she does not know when they became acquainted is inclined to believe that the introduction did not take place at her house; she remembers however having seen them both at her house at a dancing party given in the latter part of the winter of 1871-2

The Fewell family, it sets forth, had always been very intimate with her, and Fannie had always been a constant visitor at her house and she had always looked upon her in the light of a very near relation, but she does not think the number or frequency of her (F's) visits increased after Mr. Clark came to the village and often became a guest at her husband's house; recollects that Mr. Clark and Miss Fewell were members of a fishing party, of which she was one, that had gone to Millford Mills during the month of May, and that they conversed on that occasion. It states that she had never encouraged any intimacy between them, and that she never told Miss Fannie that she knew Clark to be separated from his wife, and had papers in her possession to confirm that

The Infamous Fewell Trial -- Part VI continued

assertion; that no money had ever passed through her hands, either directly or indirectly, from Clark to Miss Fewell, and that she did not know of Miss F.'s having a sum of any amount in her possession until she was informed of that fact by another, to whom it was entrusted one day when Miss Fannie took a drive with a young man; that she had never corresponded with Mr. Clark under her own name or a fictitious one, and was not known to him by the nom de plume of Lizzie Twyneman; that she had never inquired at the post office for letters for Lizzie Twyneman, and had never seen any so addressed on but one occasion, and under these circumstances: "Miss Fewell was at our house one morning, and asked me to let my servant girl, Bertie Robinson, go to the post office for her; Fannie told her to ask for her mail and for Lizzie Twyneman's on her return she brought one letter for Lizzie Twyneman and one for Fannie; I saw the former letter, and noticed it was postmarked Alexandria; I asked her who Lizzie Twyneman was; she replied, the girl at Noonnie's (Noonnie was a pet name she had given Mrs. Merchant:) I did not know the name of the servant at Mrs. Merchant's at that time, nor do I know it now; she then put the two letters in her pocket and walked out of the house." The affidavit continues: "I had never heard Fannie speak in affectionate terms of Mr. Clark; on the contrary she told me several times, both before and after she became acquainted with Mr. Clark, that she intended to elope with a young man who was then living in Fredericksburg. I not only never dictated any of these letters, but to my knowledge none of them were written at my house. Mr. Clark did not leave his clothes with me; he took his meals at my house after his wife left, and remained during the night once or twice; was invited to stay much of tenure, but generally declined, and would leave about 9 or 10 p.m., on the plea of having some visiting to do, and go to his own home; often visited Mrs. Clark and thought her husband was devoted to her; never knew of any arrangement between Mr. Clark and Fannie to meet at my house; have always had a great deal of company, and they sometimes met there though without any knowledge on my part of concert between them, have once or twice heard Mr. Clark speak in light terms of Miss Fewell, and she always acted when with me, as if his presence was not particularly agreeable to her.

How is it that Mrs. Hynson's affidavit is in absolute contrast to the testimony and letters of Fannie Fewell? Perhaps if she had been subject to cross examination additional detail would have come out.

Alexandria Gazette 14 Nov 1872

The Bell Ringer - Jan. 2006

The End Of The Fewell Trial - Acquittal Of The Prisoner

The trial of Lucien N. Fewell for the murder of James F. Clark, was concluded yesterday, and the prisoner acquitted. Upon the opening of court, Judge Nicol presented the following instruction to supplement those offered by the defense yesterday, touching the plea of insanity: "The insanity contemplated by the series of instructions granted the defense in this case, may proceed from one of the two distinct species of disease of the mind, either of which, if a person was laboring under at the time of committing the act might render him irresponsible therefore, however criminal such an act might be in a person free from disease. The first is when the disease so affects the mental or reasoning faculties of the brain that the person subject to it is unable to determine the nature and quality of the act he is doing, or if he does know it he does not know that it is wrong. The other is when the disease so affects the moral faculties that the person subject to it is liable at any time to break out into such paroxysms of violence that it is impossible for him not to give way to them, and this though the person at the time is fully conscious of the nature and quality of the act he is doing, and that is wrong. The difficulty in such cases is to determine whether the act proceeded from passion or malice on the one side, or from a diseased mind upon the other. It is for the jury to say, if they believe the prisoner committed the homicide with which he is charged, from all the facts in evidence before them, whether he was at the time of committing such act, laboring under either of the aforesaid diseases of the mind, and so affected thereby as to render him irresponsible for such act."

Mr. Menefee, for the prosecution, then commenced and concluded his argument in the case, which was an able one, and in which the law and the testimony was discussed at length.

The counsel for the defense then submitted a proposition to give the case to the jury without further argument. The Court referred the motion to the counsel for the prosecution, who declined to accept it, Governor Wise remarking to Judge Thomas that he could not be caught, as he knew him (Judge T.) "intus it in cute" - from centre to circumference.

The concluding argument was very brief, ex Governor Wise making only a short speech. The case was given to the jury at night, and after they had been out but a very few minutes rendered a verdict of "not guilty." The prisoner was then discharged from

The Infamous Fewell Trial -- Part VI continued

custody, and thus ends the story of this famous tragedy.

If you, the reader, had been a juror in the case, could you have found Lucien Fewell not guilty? Could a man so diseased of the mind as to be incapable of control have been so cunning as to plan his trip from Lynchburg to Bristow Station and the subsequent trek through the dark to the Brentsville jail? Certainly, Judge Thomas' allusions to the power of public opinion were valid in the Fewell trial.

Alexandria Gazette 15 Nov 1872

The Argument in the Fewell Case

The Correspondent of the *Baltimore Sun* gives the following account of the arguments of counsel in the Fewell Case. After Mr. Menifee had concluded, Judge Thomas commenced with an eloquent allusion to the importance of the issues at stake in this trial, involving not merely the life or death of the prisoner, but the happiness or misery of two families, and the well-being of society itself. He reminded the jury that they were expected to verify that pet maxim of the law, that every man's house is his castle, and show to the world that when one undertakes to enter that stronghold, and defy the protection it should afford its inmates, he must be prepared to take the consequences of his act.

Judge Thomas based the grounds of the defense, as General Payne had done before him, on the two pleas of justification and insanity. To substantiate his first position he commented with minuteness upon the evidence adduced in the case, all of which had been published in the reports, and cited the cases of Ayre, Grant, and Pollard, Bowyer, Richardson and McFarland and others of similar import, to show that the higher law, as he termed it, public opinion, had always extenuated such deeds as Fewell committed. In defence of his second position he called attention to the instructions submitted by the defense relevant to insanity, and read from "Ray on Diseases of the Mind" to show that there can be a moral derangement, unaccompanied by any symptoms of physical disease.

Judge Thomas was followed by General Eppa Hunton, who began with a reference to the proposition made by the defense to present the case to the jury without arguments, and said the refusal of

the prosecution to accept it indicated in them a want of confidence in the strength of their cause. He avowed that he came into the case expecting to meet charges brought by the Commonwealth, but he had seen the Commonwealth retire, and only the private counsel pressing, and this anomaly is not only enough to vindicate the jury in giving a verdict of acquittal, but demands that they should do so.

He alluded to the testimony of Davis, who stated that the prisoner had given as a reason for killing Clark the seduction of his sister, and drew a vivid picture of the scenes that were enacted at Manassas, while the seducer was expending every wile and artifice in the endeavor to beguile and infatuate his victim. He referred to the futile efforts that had been made by the prosecution to asperse the previous unsullied reputation for chastity that Miss Fewell had hitherto borne, and asserted that this, if proved, would not affect his plea of justification, unless the counsel also showed that the accused knew of his sister's former bad character at the time he committed the homicide. Referring to the interview held by Clark with the reporter of the *Alexandria Gazette*, he said it was evident that Clark only considered the jail a haven of refuge, and that Fewell was advised of this fact on the 30th of August, which was the provocation to commit this homicide.

Gen. Hunton also based the request for a verdict of acquittal upon the two pleas of justification and insanity. To sustain the first he recited, succinctly the circumstances attending Miss Fewell's abduction, and took the ground that when a man's wife or daughter has been seduced the laws of Virginia confer upon the injured party the privilege of taking the life of the seducer. To maintain his second plea he read from Dr. Hammond's opinion in the McFarland trial, with reference to temporary insanity. Gen. Hunton spoke about one and three-quarter hours.

Gov. Henry A. Wise closed the argument for the prosecution. He ascribed much of the mischief that had resulted from the liaison to the loose morality of the age in which we live, and descanted at length upon free love and the other isms of the day, not sparing Greeleyism, which he characterized as immeasurably the worst of all. He reviewed the evidence with great minuteness, and attempted to implicate in the assassination and elopement several others besides those whose names have already been made public. He combated the pleas of the defense by showing that no cause of resentment can

Continued on page 10

The Infamous Fewell Trial -- Part VI continued

extenuate murder, and no evidence had been adduced to show a diseased condition of the prisoner's mind at the time the homicide occurred. Gen Wise's speech, contrary to the expectations of his auditors, was short. At the close of the argument, at about 1:30 p.m., the jury retired to consider upon a verdict. At the expiration of five minutes they returned, and through their foreman John S. Ewell, presented the following verdict in writing: We of the jury, find the prisoner not guilty as charged in the indictment.

The verdict was greeted with vociferous and long continued applause by the large number of spectators, who had assembled in the court room to await the closing scenes of this famous trial. After his acquittal the accused came out of the prisoner's box and received the congratulations of many friends, who immediately hastened towards him. These formed an escort of honor and conducted him to Reid's Hotel, where he supped, and was afterwards driven to Manassas.

The ordeal of such a public trial may have induced some men to lead a quiet life. Rhoda Fewell, however, continued as a frequent visitor to the jail and courthouse at Brentsville. Numerous cases involving Fewell can be found in the papers of the Prince William County Circuit Court Archives.

Of note is the fact that the much of the *Commonwealth v. Fewell* case is extant due to its publication in the newspapers. Many of the actual court papers can not be found at the Archives. Those that survived were published verbatim in the newspapers. This hints at an extraordinary working relationship between the courts and the media. If not for the high profile nature of this trial, which supplied the press with a story to sell, the incredible detail shared in the *Bell Ringer* would not have been possible.

Where was Reid's Hotel?

Lucien Fewell reportedly celebrated his acquittal in the shooting death of James F. Clark at Reid's Hotel in Brentsville. So, where was Reid's Hotel?

It appears, based on a document from the Clerk of the Court's Loose Papers (1870), that Reid's was across the street from the court house. This document dealt with a fence and stated, "...Public Square fence to be the same height and like the fence between Joseph Reid's bar room and Kincheloe's Store..." Since Kincheloe's was across the street from the court house, so too must have been Reids. Additionally, the *Manassas Democrat*, dated August 10, 1906, included a picture of the Summit House with the caption "Property of Dr. R.E. Wine, Formerly owned by the late Jos. B. Reid."

During the 19th century, hotels were also referred to as ordinaries, taverns or the so-called "House" of a certain proprietor. There were several other hotels during this time period in Brentsville. In fact, Dr. William B. Leary, one of the physicians who performed the post-mortem on James F. Clark after his murder at the hands of Lucien Fewell, paid taxes to operate an ordinary in 1869 (Clerk's Loose Papers, April 1869). Leary advertised his "Washington Hotel" in Brentsville, fancying it as a summer resort in the local newspapers (*Manassas Weekly Gazette*, January 5, 1869). During the period of the Civil War, and immediately thereafter, many deeds went unrecorded. While a deed for a lease or purchase of land in Brentsville has not been found for Leary's establishment, it is known that Leary underwent periods of insolvency in 1869 and again in 1872 (Deed Book 26, p. 770/Deed Book 28, p. 495).

A much more extensive article on businesses in Brentsville from the 19th and early 20th centuries is the subject of the next *Bell Ringer* featured story. See page 11 for more information on this upcoming article or to make a contribution to the newsletter.

