

## SMITH & KNIGHT, ISAAC NOYES SMITH AND THE CIVIL WAR

I have long wondered about the story of why B. H. Smith brought Mr. Knight down from New Hampshire. If Isaac Noyes Smith was in the Confederate army, how could he have practised law while the war was in progress in any event? And, assuming that he was prevented in 1863-64 from practicing law by reason of the anti-rebellion law or test oath enacted in West Virginia preventing those who had rebelled against the Union from voting or holding office, when was this law repealed?

The answer to the first question was found in *War Diaries: The 1861 Kanawha Valley Campaigns*, by David L. Phillips and Rebecca L. Hill (Gauley Mount Press, Leesburg, Virginia, 1990), which contains, among other things, excerpts from the diary kept by Isaac Noyes Smith during the 1861 campaign in West Virginia. The story is sufficiently interesting to warrant its retelling here.

## ISAAC NOYES SMITH AND THE CIVIL WAR

As stated earlier in his biography, Isaac Noyes Smith and the other young men of his age in Kanawha were, long before the Civil War began, members of a local militia group organized by George Patton. The idea of a local militia dated back to before the Revolution, when every county had its militia.

Early in 1861 a Convention was called in the Commonwealth of Virginia to consider the matter of secession.<sup>38</sup> The Convention originally rejected the possibility of secession, but, Fort Sumter was fired upon, and Lincoln issued a proclamation asking for 75,000 volunteers to force the seceding states back into the Union, many volunteer militia companies in the south felt compelled to take positions on the matter. The Kanawha Rifles issued the following statement:

We, the Kanawha Riflemen, hereby declare it to  
be our fixed purpose never to use arms against the State

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<sup>38</sup> See *Political History of West Virginia*, below.

of Virginia, or any other Southern State, in any attempt of the Administration in Washington to coerce or subjugate them. That we hereby tender our services to the authorities of the State, to be used in the emergency contemplated.

The Kanawha Riflemen were torn, as was Robert E. Lee, between loyalty to the nation as a whole and loyalty to the Commonwealth of Virginia. For them it was not initially a matter of fighting against the Federal government, it was rather a matter of refusing to take arms against their beloved Virginia. This remained a source of conflict throughout the war for Isaac Noyes Smith.

When the war began, the Kanawha Rifles became the 22nd Virginia Regiment, a regiment of the Army of Virginia, not of the Confederacy. Its commanding officer was Christopher Tompkins, a Virginia native who had graduated from West Point in 1836. His army career had suffered because he had not obtained an assignment to participate in the Mexican War, in which many of his contemporaries made their reputations. Instead, he was sent to fight the unjust Seminole War in Florida, under very difficult conditions, resulting in his feeling that he had been betrayed by Congress.<sup>39</sup> This was followed by another poor assignment, and Tompkins resigned from the Army in 1847. For a time he was in business in Richmond, then in 1855 moved with his family to a hilltop just east of Gauley Bridge, at the head of the Kanawha Valley, on the north side of the New River, built a large house, and farmed and engaged in the iron and coal business in the valley.<sup>40</sup>

*The Generals.* During the campaign of 1861, Smith, with the rank of Major, was the second in command of the Virginia 22nd. The two Confederate Generals in West Virginia were Floyd and Wise, both former governors of Virginia and "political" Generals, without any military experience. They had received their appointments primarily because of their expected ability to raise troops in Western Virginia. Floyd, the more inept of the two Generals, had senior rank. He had served as Secretary of War in President Buchanan's cabinet, and warrants had been issued for his arrest for various misappropriations carried out by him in that position,<sup>41</sup> with the result that he constantly retreated to avoid battle and possible capture.

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<sup>39</sup> The War and its conduct were the subject of continual attack and debate in Congress, with the result that the Army, although directed to engage in the conflict, received little or no support. The treatment of the Seminoles was shameful. As we have learned anew from the war in Vietnam, the careers of those who, obedient to orders, fought the conflict were generally ruined.

<sup>40</sup> West Point graduates were the only trained engineers in the country.

<sup>41</sup> He had illegally transferred military equipment, arms, munitions, etc., to southern locations, thus making it available to the seceding states, and had improperly sold other government property, with the implication that he had kept the money.

The chief Union General<sup>42</sup> in Western Virginia was Rosecrans, an 1842 graduate of West Point, who had also left the Army after graduation and engaged in the coal and iron business in the Kanawha Valley. Tompkins and Rosecrans knew each other, and may have been in business together. Cox, from Ohio, another "political" General, was subordinate to Rosecrans, and proved to be a competent military officer.

### *The West Virginia Campaign of 1861.*

**Battle of Scary Creek.** The West Virginia campaign of 1861 began with the Battle of Scary Creek, on July 17, 1861. Cox, the Union general, crossed the Ohio River with the Kentucky 2nd Regiment and moved up the Kanawha in boats, with scouts on both sides of the river. Wise prepared to meet him with 900 men at Coal River and 1,600 at Two Mile Creek; he had an additional 1,000 men scattered at various points eastward.

The Confederate troops from Coal River marched to Barboursville on July 12 and attacked the Union militia, who broke and left the field. The Confederate troops, instead of following up their victory, returned to their encampment at Coal River.

Cox continued up the Kanawha, and on the 17th sent troops to make a landing at the mouth of Scary Creek. The Confederate commander sent for reinforcements. The Union troops attacked and turned the right flank of the Confederates. The Kanawha Riflemen charged, and Capt. Patton was badly wounded. Then fresh Confederate troops arrived from Coal River, and turned the Union left flank. The Union troops broke and retreated. The battle was claimed as the first Confederate victory in an open fight. However, typically, Wise did not follow up his victory, as he was convinced that McClellan, who was operating in northern Virginia, would march south to Gauley Bridge and cut him off, so he retreated.

Cox, after waiting for the arrival of supplies and wagons, advanced toward Wise's encampment on Tyler Mountain. Wise retreated further up the Kanawha River, burning the bridges behind him, and did not stop until he reached White Sulphur Springs. In the course of Wise's retreat, many of the men from the Kanawha Valley deserted and went home, feeling that Wise could have defeated the Union troops at any time. They were interested primarily in defending their homes, now abandoned to the Union forces by Wise.

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<sup>42</sup> McClellan held this position at the beginning of the 1861 West Virginia campaign, but was transferred to Washington, and Rosecrans assumed command.

Cox was thus given possession of Gauley Bridge, located where the New and Gauley Rivers meet to form the Kanawha. This location was the key to the James River and Kanawha Turnpike, the major east-west route, and thus to the defense of the Kanawha Valley. Cox established his troops at Gauley Bridge and sent advance contingents to Lookout and Sewell Mountain, expecting to meet resistance.

*The Battle of Carnifax Ferry.* The Union now occupied Tompkins' home, just up the New River from Gauley Bridge, and Tompkins wrote Cox, asking him to take care of his family; Cox promised to look after them. Cox was instructed to fortify Gauley Bridge. He had some 4,000-5,000 men, but a large part were engaged in skirmishing toward Sewell Mountain, and in covering his communications and supply route, which ran all the way to the mouth of the Kanawha River.

In August, General Wise, with 1,000 men, arrived in Greenbrier County. Lee, who was at the time in command only of the Army of Virginia, joined him there. Lee's prestige was already great. Cox feared Lee's generalship, and thought that Lee had from 10,000 to 12,000 men<sup>43</sup> However, Cox's tactic of sending out skirmishing parties kept the Confederates off balance and convinced them that Cox's strength was much greater than it really was.

After the Union defeat at Bull Run, McClellan was ordered to Washington, and Rosecrans took his place as General in charge of all the Union forces in western Virginia. Rosecrans moved some men south to Cross Lanes, near Summersville, where the north-south route<sup>44</sup> intersected with a road crossing the Gauley at Carnifax Ferry, about 20 miles up the Gauley from Gauley Bridge, and following Meadow River southward and joining with the east-west turnpike. His purpose was to prevent Lee from getting troops around Gauley Bridge and cutting off Cox's supply route.

The Confederate regiments under Wise and Floyd had refitted in Greenbrier, but, because of a feud between Floyd and Wise, could not coordinate their operations. Wise moved his troops toward Gauley Bridge along the turnpike, while Floyd marched up the Meadow River road, to prevent Rosecrans from reinforcing Cox. There were additional Confederate militia south of the New River under Chapman and Beckley. The plan was to besiege Cox at Gauley Bridge from all

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<sup>43</sup> Later determined to be about 8,000, still much greater than the number under Cox.

<sup>44</sup> The main road ran through Fairmont, Clarksburg, Weston, Sutton and Summersville, roughly followed today by U. S. Route 19; the road crossing the Gauley probably followed present State Route 41, which leaves the Meadow River south of Nallen for a more direct and shorter route to the Turnpike (U. S. Route 60).

sides and enable the main body of the Confederate army to retake the Kanawha Valley.

Against the advice of Wise, Floyd crossed the Gauley at Carnifax Ferry, with some trouble, and surprised a contingent of Cox's men, who fled across the mountain, but Floyd again failed to follow up. Instead of crossing the mountain and attacking Cox from the west, he occupied the mountain on the west side of the Gauley River at Carnifax Ferry and fortified it. He then called on Wise to reinforce him, but Wise advised that he was sticking with the plan, in which his part was to attack Cox from the east. Both appealed to Lee, who decided that Floyd, as senior, was entitled to command the combined force, but he did not go so far as to order Wise to obey Floyd.

Cox's skirmishers routed small contingents of Confederate troops, caused them to abandon equipment, and demoralized them, but were unable to follow up because of lack of cavalry. However, this relieved the pressure on the Kanawha River supply route. Then Rosecrans withdrew all but about 1,800 men from Cox, and although he let Cox keep the artillery, he left him no one who was experienced in operating the guns. Wise mounted an attack along the turnpike on the south side of the river, but Cox strengthened his outposts and Wise withdrew to the east. The sum of it was that Cox, with 1,800 men, had outbluffed Wise, who had some 10,300 men.

Meanwhile, Rosecrans was moving very slowly and cautiously south toward Summersville. When Floyd realized this, he withdrew the troops he had in Summersville and stationed all his men behind the defenses on his mountain at Carnifax Ferry. The Virginia 22nd had been under Wise's command, but Floyd demanded reinforcements, and the 22nd was sent to him. It is here that Smith's diary begins.

The side of Floyd's mountain facing the Gauley River was very steep, consisting mainly of cliffs. There was only a single narrow, muddy road up and down the steep hillside. As Smith and his men went up the narrow mountain path from the river, he noted great numbers of sick, wounded, wagons, cavalry, etc., coming down. Wise was correct, as Tompkins and Smith recognized, in saying that the best defensible position was on the *east* side of Gauley River. The mountain may have been a good defense position, but it would be difficult to escape quickly down the east side to the river crossing if events should make retreat necessary.

The Battle of Carnifax Ferry began on the afternoon of September 10, when Rosecrans' advance guard engaged Confederate skirmishers. The Union troops advanced up the mountain from the northwest. Fighting continued until dark, when it became difficult to see because of the thick underbrush and the Confederate

defenses. Men on both sides reported the heaviest fire that they had yet experienced, but the casualties were not great.

Floyd finally realized the difficulty of his position, and, thinking as usual that Rosecrans had more men than he in fact had, ordered a retreat under cover of darkness. Floyd, as always, was the first to get away and across the river. The 22nd was ordered to act as rear guard, meaning that they would be the last across, and the most vulnerable if the Union troops realized what was going on and attacked. The retreat down the mountain was most disorderly; many had received no orders, and Smith's initiative was largely responsible for getting some of the troops and equipment down the mountain and across the river. The bridge, which had just been completed, was destroyed after the last of the Confederate army crossed. Smith described the trip down the mountain:

The road down to the ferry is steep and worse than any road you have ever travelled on Poca, and just wide enough to admit a single waggon. It is precipitous above and below, and down in between the two high mountains in the dense shade, the darkness was most intense, it was impossible to see anything. From our start after the artillery, until we reached the river, is about one mile perhaps not more than 3/4 mile -- we were at least two hours on the march. You can imagine the suspense during its slow progress. In order to find a place to sit, we passed the waggons and guns, and reached the banks of the river. The 36th Regt passed on over the bridge. Gauley River is just like New River in its character at this place; Meadow River empties into it, and there is smooth but swift water for about two hundred yards. Above and below there are rapids and falls -- the falls below are about 1/2 mile long, full of tremendous rocks. There is no escape for the unfortunate man who should be drawn into them. The frail and narrow bridge was about 50 or 75 yards above, the water running swiftly under it. A few dim lights were burning along the bridge -- There was no railing. Some four or five poor fellows fell over -- I heard some were drowned but believe they were rescued.<sup>45</sup>

The Confederates marched to Sewell Mountain, beyond the point where the Meadow River Road met the turnpike, so as not to be outflanked, and waited for Rosecrans, who was believed to be in pursuit.

So ended the Battle of Carnifax Ferry. Floyd had missed his opportunity to outflank Cox and drive him out of the valley. Rosecrans in turn had missed his chance to damage Floyd. He could not decide whether to pursue Floyd or to concentrate on defending Gauley Bridge. Cox, with a large part of his troops, was 20 miles beyond Gauley Bridge, and observed Floyd's rapid retreat, but he had not yet

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<sup>45</sup> *War Diaries*, pages 213-214, quoting Childers, *Virginian's Dilemma*, p. 181.

received word of what had happened at Carnifax Ferry. When word came from Rosecrans, Cox immediately advanced on Wise's position at Hawk's Nest, and Wise retreated all the way to Lewisburg. Rosecrans then moved forward to Spy Rock, 35 miles from Gauley Bridge.

*Final Stages of 1861 Campaign.* On September 24, it began to rain. Cox and Rosecrans were now in a position somewhat similar to that in which Floyd and Wise had been -- their supplies had to come all the way up the Kanawha River, then over 20 to 35 miles of muddy mountain road from Gauley Bridge, and this made them vulnerable. On October 5, Rosecrans withdrew to a camp about 3 or 4 miles above Gauley Bridge.

The members of the 22nd Regiment were demoralized by their treatment, in being sent by Wise to Floyd, being made the rear guard in the retreat and put in serious jeopardy, by Floyd's clear lack of military ability and judgment, and by Floyd's disdain of the regiment. While the Regiment was at Sewell Mountain, Smith received various items of news which led him to believe that his own men, as well as others, so hated his father and the other men who were making plans to form a new state, that, as he said in his diary:

I am much depressed today from various causes. This unhappy war is growing more and more fierce every day, and there is less prospect for peace than ever. Vile passions are aroused and terrible scenes yet to be enacted. West Virginia is to be red with blood before the end is yet my source of constant trouble is that my father will be in danger. Wicked and unscrupulous men with whom he has lived in friendship for years absolutely thirst for his blood, as I truly believe. He and Summers, as one of their friends remarked to me today, are especial objects of hatred and aversion to men here. I am actually leading a set of men one of whose avowed objects is the arrest and judicial and legal murder of my father. The situation is a terrible one and I cannot continue in it. Much as I regret the differences of views which we may hold, yet it is not proper for me to be so situated. My father has been neutral and committed no act which would subject him to imputation, but in this war, prejudice and passion decide everything on both sides; reason and facts none.<sup>46</sup>

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<sup>46</sup> *War Diaries*, pages 225-226, again quoting Childers, *Virginian's Dilemma*. Most of the men fighting on both sides, as well as the populace generally, confidently expected the war to be over in a few months.

Smith's cousin, Joab Smith, wrote in his own diary of having seen his uncle, Isaac's father, as they had marched through Charleston:

I saw that notorious traitor and cold-blooded villain who seemed delighted at our misfortune. In fact, the hoary-headed scoundrel could not conceal his delight. Great God! to think that I should be related to this infernal demon in human form.<sup>47</sup>

While waiting at Sewell Mountain for the Federal attack, which never came, Smith received further news that was to affect his future actions:

We have been told here that Mr. Quarrier has been arrested and sent to Columbus. I have never believed it; have heard of Major Parks' and Goshorn's arrest, and today that Goshorn had been returned. Did not believe this, until informed they had been sent to Wheeling not Columbus. The Major had Cox's safe-conduct and guarantee but the most outrageous business would permit to be violated [*sic.*].<sup>48</sup>

According to *War Diaries*, this sequence was begun earlier, while the Confederate troops were in possession of Charleston, by General Wise's order for the arrest of a prominent Union supporter, Col. Thomas A. Roberts, who had been commissioned in the Ohio militia and was a delegate to the Second Wheeling Convention, when the "loyal government of Virginia" was organized. He had returned from the Convention and was recruiting soldiers for the Union Army when he was arrested. Wise's order was, with typical rhetoric:

Arrest, forthwith, all or every person who took part or supported that Wheeling Committee; take them dead or alive and send them to Richmond, where we will bury the dead and hang the living.<sup>49</sup>

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<sup>47</sup> *War Diaries*, page 227, citing Clark, *Impressions of a Soldier of 1861*, from *The West Virginia Review*, November, 1930.

<sup>48</sup> *War Diaries*, page 244, citing Childers. Alexander Quarrier was the father of William G. Quarrier and of Isaac Smith's wife, Caroline. Goshorn is probably the Editor's great-grandfather, Jacob, who was the Mayor of Charleston at this time. I have read that when the Union Army occupied Charleston, he fled, giving up his office.

<sup>49</sup> *War Diaries*, page 245, citing Stutler, *Annals of the Mountain State*, *The West Virginia Review*, January, 1934.

In retaliation, when the Union forces occupied Charleston, they arrested Major Andrew Parks, a former State Senator, as a hostage for the safety of Col. Roberts, and sent him to Wheeling. On October 9, Pierpoint, the "legal" Virginia governor elected at Wheeling, wrote to John Letcher, the Confederate governor of Virginia, advising him that Parks had been arrested, and that, upon the release of Roberts, Parks would be freed; otherwise, Parks would receive the same treatment received by Roberts.

It is important to an understanding of Smith's actions to know that he, as well as others in his position, believed that if he resigned from the army and went home, he would be arrested and sent to prison.

In September, Lee attempted to reconcile Floyd and Wise, and sent for reinforcements from Cheat Mountain. The combined forces of Lee and Rosecrans were about equal, but each had exaggerated reports of the other's strength. Both had supply problems. As the Confederate troops once more advanced on Sewell Mountain from the east, the Union troops, as Floyd had done at Carnifax Ferry, abandoned their position at night and retreated to the Gauley Bridge area. The supply situation had become extremely serious, as a result of the continual rains. Not only did the supply wagons have to travel some 60 miles of muddy mountain road, but the ferry across the Gauley had been destroyed by high water. As a result, it was not possible to get supplies east of Gauley Bridge. Furthermore the high water had cut off the retreat route of the Federal troops, and they were in a very dangerous position.

At this point, Wise was recalled to Richmond, leaving Floyd in undisputed command. By October 13, the Federal troops had reached Tompkins' farm, and were ordered to proceed to Gauley Bridge. Rosecrans failed to send troops to the southern side of the river, an oversight which enabled Floyd to occupy Cotton Hill, across the river from Tompkins' farm, and also overlooking the mouth of Gauley River and the town of Gauley Bridge. From this point, Floyd could shell the ferry, prevent supplies from reaching the Union troops east of the river, and could bombard the Union camp in the town.

Lee planned to send General Loring westward on the turnpike to attack Gauley Bridge from the west, but Loring and his troops were called to the Shenandoah Valley.

To protect the Union supplies and men, Cox moved the ferry up the Gauley River out of sight of Cotton Hill, and the ammunition dump was moved to a protected ravine. Rosecrans planned to trap Floyd by sending men down the Kanawha, to cross to the southern side and attack Floyd from the west, while others would cross the New above Floyd and attack him from the east. The plan failed because of high water and because the attacks were not properly coordinated. When the Federal troops reached the top of Cotton Hill, they found that Floyd had once more retreated, this time southward to Raleigh County. This effectively ended the

1861 campaign. The Union forces were left in command of the entire Kanawha Valley and Fayette Court House, while Floyd was bottled up in southwest Virginia.

*Resignation of Smith and Tompkins.* During October and November, while the opposing forces maneuvered, advanced and retreated, from Sewell Mountain to Gauley Bridge, the Virginia 22nd was continually ordered about, usually without time to prepare food. The men were hungry, cold and wet, without sleep and without equipment. Tompkins obtained leave to meet his wife in Lewisburg and accompany her to Richmond, to obtain family supplies for the winter, leaving Smith in command of the Regiment. However, without consulting Smith, Floyd sent McCausland<sup>50</sup> to take over the 22nd, which he did without speaking to Smith.

The 22nd was routinely ordered to advance to positions far beyond the rest of the army. When Floyd occupied Cotton Hill, the 22nd was sent to an indefensible position on the front of a hill overlooking Montgomery's ferry, some seven miles beyond any reinforcements. Here they were attacked without warning by a small Union force, and panicked, but Smith rallied his men and drove the Federal troops off. McCausland then agreed that they should retire to a more defensible position on top of the hill, but they were without fire or tents, and it was cold.

Upon Tompkins' return, he agreed that Smith had no recourse except to resign. At about this time, Smith learned that his father was a declared candidate for governor of the Federally recognized state of Virginia. He handed in his resignation, and was engaged in trying to sell his horse and equipment, when, according to his diary, two friends arrived,

...and I heard the startling intelligence that Pa was actually and fully identified with the Pierpont government. Those with whom I was connected call and curse him as a traitor, and he knew it would surely be so. Why my dear father had chosen to place me in this terrible situation is beyond my comprehension. I have been shocked beyond description in contemplating the awful consequences to the peace safety and happiness of both of us. I cannot write all that crowds upon my mind in this connection. It is all terrible.<sup>51</sup>

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<sup>50</sup> McCausland, who had been a drill instructor at VMI, was a favorite of Floyd; later in the war, during Lee's incursion into Pennsylvania, he burned Chambersburg, Pa., it is said, after taking a payment of \$200,000 (or \$100,000, depending on the story) from the town to leave it unharmed.

<sup>51</sup> *War Diaries*, pages 263-264, citing Childers.

Benjamin Harrison Smith had formally and publicly declared himself part of a group which was attempting to form a new state in western Virginia, to separate it from old Virginia, a terrible thing to those whose undying loyalty was to the old Commonwealth.

Smith's resignation, and the leave which was understood to be in effect pending acceptance in Richmond, were abruptly canceled by Floyd. Smith went to Floyd and demanded an explanation. Floyd accused him of resigning in the presence of the enemy, when an engagement was expected.

I insisted on more explicitness, then began a conversation in which was evinced the coarsest brutality, the most outrageous tyranny, injustice and meanness. He grew excited and angry, used his position and rank to treat me with the coarsest severity, knowing that I could not resist. He declared that my father was engaged in an effort to defeat the great cause in which his army (and I was a member of it) was struggling and had made himself a traitor, and that he intended I should remain in the Confederate army as long as he could possibly keep me there, that I should stand in the front of battle, and meet my father face to face -- that he would immediately write to the department not to accept my resignation, and keep me here.<sup>52</sup>

Tompkins was more than usually disgusted with Floyd because Floyd had ordered his artillery to fire upon Tompkins' home across the river from Cotton Hill, where Tompkins' family were living. He asked for leave to make arrangements for his family in Richmond, which Floyd refused, and Tompkins immediately resigned and left the army.

Smith's brother-in-law, William A. Quarrier, is credited with leaving the regiment and traveling to Richmond, where he submitted Smith's resignation and obtained its acceptance.<sup>53</sup> Smith received the news of acceptance of his resignation on November 10. However, he stayed with his regiment, which was ordered forward to meet the expected Federal advance, until he learned that Floyd had retreated south to Raleigh County.

Smith then left the regiment, and, apparently feeling that he could not go home, seems to have wandered about. On November 20, he wrote home from

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<sup>52</sup> *War Diaries*, page 265, citing Childers.

<sup>53</sup> See *War Diaries*, page 271. According to Lowry, *22nd Virginia Infantry*, Quarrier was a Lieutenant in Capt. John P. Hale's "Kanawha Artillery."

Monroe County, on the 24th wrote from Lewisburg, and then on November 29 wrote from Matthew Arbuckle's farm near Lewisburg.

*Smith's Activities During the Remainder of the War.* Smith's activities during the remaining four years of the war are obscure. It was clear to him, at least initially, that he could not go home. At the same time, if he remained in territory controlled by the Confederate army, he could be drafted into the army as a private. There is some evidence that he and Tompkins both moved about continually, and were involved with Dr. J. P. Hale<sup>54</sup> of Charleston in an espionage network for the Confederate cause. One letter from Tompkins expresses disapproval of Smith's using the name "Jason N. Snead," because the initials were the same as INS (J and I being similar), and thus might have aroused suspicion about his true identity. It is not possible to verify Smith's involvement in espionage, as the Confederate espionage records were destroyed.<sup>55</sup>

Atkinson<sup>56</sup> says that, "When the war was ended, he was honorably discharged, returned to Charleston, and vigorously resumed the practice of law ...." That is clearly not accurate. Laidley<sup>57</sup> notes that Smith resigned, but says only, "When his military service was over, he returned to his law practice..." Family members say that at some point he came home and engaged in the salt business, or in the real estate business, but they are uncertain. The only thing of which we can be certain is that he did not engage in the practice of law until 1870, and that is the subject of the next section of this history.

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<sup>54</sup> Dr. Hale, the author of *Transalleggheny Pioneers*, a book about the early history of western Virginia and Kanawha, engaged in the salt business, owned a brick plant, built the first hotel in Charleston (as an inducement for the Legislature to move the state capitol to Charleston), was a bankrupt four times, and in all had a most interesting career.

<sup>55</sup> *War Diaries*, page 282.

<sup>56</sup> Geo. W. Atkinson, *Bench and Bar of West Virginia*, page 47.

<sup>57</sup> W. S. Laidley, *History of Charleston and Kanawha County*, page 937.