

PERRY COUNTY POLITICS AND RAILS

THE PERRY COUNTY RAILROAD EXTENSION VS. THE NEWPORT AND SHERMAN'S VALLEY RAILROAD AND THE COUNTY SEAT DEBATE

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ABSTRACT: The county seat debate in Perry County took more than seventy years to be finalized. Out of desire to use the railroads to secure the county seat, two railroad companies were formed in the late 1880s: one primarily supported by Newport businessmen and the other by those from New Bloomfield. In 1891 both companies were building in the same area, and before an agreement could be reached regarding right of way, the Perry County Railroad Extension, a narrow-gauge rail system, created a grade crossing over the Newport and Sherman's Valley Railroad, a standard-gauge rail system. The different gauges made transfer or sharing of rails challenging. The subsequent lawsuit between these two entities reached the Supreme Court of Pennsylvania. This is one of only a few cases in which a narrow-gauge railroad won right of way in a suit against a standard gauge.

KEYWORDS: Railroads in Pennsylvania, New Bloomfield, Perry County, Juniata Valley, Sherman's Valley

Today Perry County is known for little except its close proximity to Harrisburg, the Rockville Bridge between Marysville and Harrisburg, and a relatively low cost of living provided by its rural location. It is difficult to believe that for the first three-quarters of a century the county was frequently involved in disputes about the locale of the county seat or housed two competing railroads born of that dispute. The division between supporters of New Bloomfield and Newport for the center of government pitted financiers of the railroad industry against one another and divided the county in earlier years.

This is not the first work to focus on the railroads of Perry County. Roy Chandler, Richard H. Steinmetz and Frederick A. Kramer, in a combined effort, published books about the railroads in the 1970s, as did Dennis J. Hocker in 2011. This work differs by emphasizing the court case resulting from having two railroads with competing goals attempting to operate in the same area outside New Bloomfield as well as on the contribution of the county seat debate to this conflict.

When Perry County was formed out of Cumberland County in March 1820, a decades-long debate over the county seat began. Six Perry County communities vied for the title, with Landisburg named as the temporary center for county business. It was not uncommon in Pennsylvania for there to be extended debate over the location of a county seat; however, Perry County's debate lasted longer and required more investigations by commissions than any others in the Commonwealth. Three commissions were required in Mifflin and Adams counties, but Perry County required a fourth. The first and third commissions' recommendation was for Landisburg. The second selected Newport and the final selected the area of Bloomfield (also known as New Bloomfield due to the post office name). George Barnett announced that he would donate eight acres of land in Bloomfield to the county in March 1823 for the purpose of building the courthouse and county offices, which ultimately swayed the decision in favor of Bloomfield.

While located in Landisburg, county offices were placed in a number of businesses throughout the town until the governor-appointed commission could establish a permanent county seat and a courthouse could be erected. Once the decision was made to locate the county seat permanently in Bloomfield, George Barnett officially donated the land and the county was able to sell some parcels to raise funds for the construction of the courthouse. By 1827 it was completed and county offices moved there. Though some community members still did not agree with the location, the issue was temporarily laid to rest until 1849 when a motion was raised in the state legislature to move the county seat to Newport. This motion was reported on negatively and died.¹ Again the issue was laid to rest for a time. In the mid-1880s Newport businessmen again brought the county seat issue to the forefront. They called for a county-wide vote to move the county seat to Newport based on the reasoning that it was the largest town in terms of both industry and population. At this time, Pennsylvania as a whole was in a period of extensive railroad building. There were more railroads incorporated, at approximately 2,500, than any other state in the United States.²

It is important to note that a large number of these railroads only existed as a charter, but that many others ran without a charter, so other states could have had more active railroads than Pennsylvania.

The prospect of moving the county seat spurred leading residents of Bloomfield to push for the building of a railroad to connect Bloomfield to the Pennsylvania Railroad, which ran along the eastern border of Perry County. Citizens met on January 22, 1887, at the home of Judge Charles Smiley near Bloomfield to organize a railroad and begin preparations for obtaining a charter from the Commonwealth. While they were raising funds required for chartering, Newport businessmen were also attempting to gain support for their own railroad. The *Perry County Democrat* reported that former county sheriff David Rhinesmith had contributed liberally to a Newport-based railroad and also warned that six out of every ten voters in Spring Township were prepared to vote for the removal of the county seat to Newport unless the railroad could be built. The same edition of the *Democrat* tells that a "Removal Bill" was to be introduced to the state legislature later that week and included the following editorial statements: "Newport started out dead earnest to remove the county seat. Such is still her settled purpose. To defeat that end aim the railroad must be made." "All citizens of the valley, able to subscribe to the stock, should now show that they, too, are favorable to the construction of the road. It will largely advantage them, as well as the citizens of Bloomfield and vicinity."³

The necessary funds were raised and the Bloomfield-based standard gauge Perry County Railroad (PCRR) was chartered February 4, 1887. Ground was broken the following May 9, with a special ceremony at seven o'clock in the morning on the east side of Carlisle Street in New Bloomfield.⁴ The *Duncannon Record* advertised positions building the railroad for one dollar a day wages.⁵ In spite of optimistic predictions and reports of early progress in the newspapers, work on the PCRR was beset with problems and had to be suspended in February 1888, when it was realized that a bid by contractor Maginnis and White of \$32,199 was not sufficient to cover their costs, which had already reached \$24,000. By this point an estimated two-thirds of the grading was completed and six of thirteen bridges were built. Early reports of the suspension indicate that Maginnis and White were believed to be in breach of contract when they abandoned the construction.⁶ PCRR decided to hire another contractor rather than pay the increase, which led to a lawsuit. Construction did not begin again until September 1888. The road to Bloomfield was finally completed in the fall of 1889, and a formal

grand opening ceremony held November 2, 1889, complete with the playing of "The Perry County Railroad March," a special piece of music written by Charles Barnett Jr.⁷

With the construction of the railroad to serve Bloomfield, Newport advocates seem to have been aware that unless they were also able to connect to the farmland to the southwest portion of the county by railroad, the county seat would remain in Bloomfield. Local businessman David Gring had lost a contract for lumbering in Huntingdon County and was tearing down his narrow-gauge Diamond Valley Railroad, which had run unchartered from Barree to Neff's Mills, a distance slightly over eleven miles. He negotiated with Newport businessmen to use the Diamond Valley equipment to form the Newport and Sherman's Valley Railroad (N&SVRR). Gring was named the president of the new company, a role he would fill for the majority of the company's life. He had come to the area as supervisor of his father's lumber company, Gring Lumber.⁸ He bought large tracts of land in Perry, Juniata, Huntingdon, Mifflin and Blair counties, and beyond.⁹ His involvement in the railroad was extremely influential and he also became involved in other facets of Newport, later serving as the chair of the Newport Water Company.¹⁰

Given that the Diamond Valley Railroad had been in operation for less than five years and was used almost exclusively for transporting lumber out for the Gring Lumber Company, it was reasonable to expect that the N&SVRR would also serve the lumber industry and would also be removed with the depletion of timber resources of Perry County. Narrow-gauge equipment was well suited for the purpose of easily moving up and down the narrow valleys of the ridge-and-valley region of central Pennsylvania, in addition to being less expensive to build than standard gauge. However, there were many differences in practices between Diamond Valley and the N&SVRR from the beginning. The N&SVRR was built to standard gauge specifications.

Construction of the N&SVRR was completed with relative ease. The formal charter was issued on July 30, 1890, and construction underway by September. On November 7, 1890, an N&SVRR engine made a ceremonial first run on Peach Street in Newport after arriving via the Pennsylvania Railroad. The first regular run to Loysville was made on February 16, 1891, and by December rails had reached Blain. As the first company to serve Sherman's Valley, N&SVRR was able to secure prime land for their route as well as a lucrative contract with Adams Express Company for package delivery. The

company also benefited from the Oak Extract Company's Newport facility, which extracted chemicals from bark for use in tanning leather.¹¹

Almost immediately after completion of their initial routes, both the PCRR and the N&SVRR began to consider expansion further into southwestern Perry County and beyond. The PCRR Extension Company was formally organized May 23, 1891. On May 28 the application for a charter was made in Harrisburg and the route and location selected June 17, 1891.¹² Discussions of a possible grading and railroad crossing with N&SVRR began even before the charter was formally approved, and by August 8, 1891, the PCRR Extension was said to have made great progress.¹³

Progress continued on the extension until it reached the point of crossing with the N&SVRR. Beginning by September 7, 1891, meetings regarding the proposed crossing were taking place. William N. Seibert, a Bloomfield attorney and treasurer of the PCRR Company, went with Charles Smiley, president of the PCRR, and also representatives of the new N&SVRR, to meet with William H. Sponsler, the attorney representing N&SVRR, to arrange for a crossing view. Seibert kept a diary and referenced the visit he and his son had accompanying a corps of surveyors on September 10 to learn what he could about civil engineering, presumably in regard to the crossing. On the twenty-second, Seibert and his son met with Smiley, Sam Bernheisel, and representatives from N&SVRR on the Neilson farm near Ellittsburg, to inspect cattle ways. Seibert said that N&SVRR "refused to sit to hear testimony to rumors" and they postponed further discussion until October 14; unfortunately Seibert's diary contains no entries from October 12 to November 4, so there is no account of that meeting. They met again on November 11 in the afternoon, this time with B. F. Junkin, C. H. Smiley, and J. C. McAlister representing the Perry County Railroad Company. One of these meetings regarding the crossing is discussed in depth in court documents, though a date is never given.¹⁴

On December 12, 1891, Seibert recorded the following in his diary, "About 7pm John and I drove up to David Tressler's and went to Junction of PCRR and N&SVRR where former was forcibly putting in a crossing frog mechanism to allow the train to travel over the different rail lines. Remained there until 9pm then drove home." This crossing frog led N&SVRR to file for an injunction, which Judge J. W. Simonton, who had been brought in from Dauphin County to preside after Judge Barnett had recused himself (due to a conflict of interest as he was a stockholder for the PCRR Extension Company), ordered on December 19. Judge Simonton had heard at least

three railroad cases in 1889, which may have, when combined with the proximity, encouraged his appointment. Upon learning of the injunction, Seibert wrote, "At noon I learned that Judge Simonton held that the crossing was illegally placed (certainly it was) and ordered a preliminary injunction to restrain us from crossing and meantime N&SVRR not to molest the crossing."¹⁵

Orders to begin the court proceedings were filed on December 26 on behalf of County Sheriff George M. Ritter, by J.G. Preisler, deputy sheriff. The Honorable D. Watson Rowe was appointed the examiner and master, but was replaced by Alexander F. Thompson on January 2, 1892, after Rowe declined. The PCRR Extension Company was represented by Judge Junkin, Judge Barnett, and James Shull, all of whom were also board members of the company. N&SVRR was represented by William H. Sponsler.

Testimony began on February 2, 1892 with Samuel Hepburn, the civil engineer for the PCRR, as the first witness for the plaintiff, the PCRR Company. Hepburn explained the grades along the railroad line and the costs of the different options that had been examined. Costs for underground and two heights of overhead crossings were calculated in spite of the fact that Hepburn did not believe it would be possible to build an underground crossing "due to swampy clay and slaty rock."¹⁶ Between the sixteen- and eighteen-foot overhead options, calculations differed by less than \$1,500, with both exceeding \$39,000. This led Hepburn to state he did not consider those options because they would cost more than the entire line, contracted for a cost of \$13,500 (7). Two ground-level routes were also calculated and Hepburn stated he selected the site for what he considered the best route from Bloomfield to Landisburg in view of the company's money. Either of these options would cross the N&SVRR, and by Hepburn's calculations avoidance would require the route to cross the summit between Elliottsburg and New Bloomfield at an increased height of twenty feet. In cross-examination, Sponsler asked about the possibility of lower-cost options. Hepburn acknowledged that there may be cheaper ways, but that he did not calculate costs for those because "it wouldn't be as good" (28). Sponsler was able, in re-cross-examination, to force an admission by Hepburn that there were areas near the crossing where visibility was problematic.

The next witness, James Elliott, had also been employed by PCRR as a civil engineer, but had left civil engineering and was engaged in the "grain and forwarding business" at the time of the trial. Shull made it a point that Elliott was educated at Lafayette College in a four-year civil engineering program and had worked on a number of railroads throughout the country. The

primary emphasis of Elliott's testimony was to establish the time frame of the two companies, though the point was made under objections. He testified that he had been part of surveying the line in August 1890, "about a day or two before the N&SVRR came up" (50–51) in order to determine distance and feasibility of the extension project (42–52).

The third witness, Dr. A. R. Johnson, was a druggist and practicing physician who had no real experience as a civil engineer. Again the visibility issue was a key topic and Dr. Johnson based his opinion that it would not be an issue largely upon the amount of smoke that the trains make. However, he seemed to stumble when asked how certain he was that a person could see from a specific distance. His reluctance was supported by the next witness, F. K. Holtzinger, the superintendent of the PCRR Extension, who said that from portions of the engine the smokestack of an approaching engine was visible at a distance of 300 feet west of the bridge, but not the entire engine, and at night even that was not visible (54–63).

James Shull was called by PCRR Extension Company and questioned by Judge Junkin to prove that the two parties had agreed upon the crossing before N&SVRR raised their line five feet and that the crossing had been agreed to before any money was spent. He described a meeting on the grounds of the crossing with the now state senator Charles Smiley, in his capacity as president of the PCRR Extension Company, Sheriff Shearer, E. D. Stambaugh, Dr. Johnson, David Gring, and some young men who were there to carry the chains. They discussed the possibility of N&SVRR raising the tracks to allow the PCRR's extension to cross underneath. According to Shull, "That was the question discussed in the first place, and it was found not to be possible. That was what Mr. Gring said to me" (84).

When they were called to the stand for the plaintiffs shortly after Shull, Edward Stambaugh and H. C. Shearer also recounted the conversation between Gring and Shull. Both recounted Gring suggesting a crossing point that was on a straight line and would be agreeable. Stambaugh also recalled Gring referencing a cost reduction for the supposed agreeable crossing point.

Shull had also provided testimony relating to an early December meeting in Sponsler's office in which he claimed Sponsler telephoned Gring about the track being raised or lowered at the point of crossing. According to Sponsler, after the phone conversation he said,

Mr. Shull I can say to you this as the result of this conference—that the N&SVRR will not raise their tracks over six inches, and will

probably, if any change is made, depress the track eighteen inches, but that Gring will not agree that you shall cross over the tracks; that he will give me no answer upon that point? (90)

However, Shull said that there was no mention about the crossing in that conversation.

James Elliott was recalled and asked about the line Hepburn had proposed near the Valley Road Station near Elliottsburg. In the course of this testimony, Elliott stated his belief that the route going through David Tressler's farm, which was the existing route, was the road that would cause the least damage to the operations of the N&SVRR road. His only objection to the line Hepburn proposed would be the grading of it, but the visibility would be improved on that route (97–99).

Hepburn was called to describe his proposal for an alternate line after Elliott was asked to provide his evaluation of the route. Hepburn's route would cross the summit at a height nineteen feet higher than the current route but then follow a ravine down the summit and was not near a water course. This route would come within fifteen feet of the N&SVRR depot at Elliottsburg, but would not require a crossing. Elliott had concerns about the grade that would be required to reach the summit as well as the cost of the fill, which he said would be more difficult to get for this route. In cross-examination, Sponsler extracted admissions that there would be no technical difficulty on the east side of the summit, but Elliott remained concerned about the grading for the west side (113–17).

Elliott was recalled again and questioned about the grading on the west side of Hepburn's route. In spite of the fact that he earlier claimed he had no knowledge of this route he explained that it "would be almost prohibitory to the PCRR or any broad gauged [standard-gauged] railroad" (130), referencing the fact that one of the strengths of a narrow-gauge rail system is the ability to traverse steep grades and would give the lower road the advantage. Elliott also described the N&SVRR route as being constructed in an unnatural line, while he considered the current route of the PCRR to be natural (by which he later explained meant easier to traverse). To illustrate the difficulty the PCRR would encounter on this route, Elliott explained that on sleety mornings they would struggle to haul anything more than two heavy loads of grain, a conclusion he based at least partially on observation of the Cumberland Valley Railroad, for which he had also worked (130, 142).

W. A. Houston, another civil engineer with fifteen to twenty years of experience, was called to provide information on alternate crossings. He was

asked to compare alternate routes both to the north and south of the current position. He explained that his objections to the southern route were related to the curvature and the grade, which would be affected by the fact that there are more hills than on the northern route, and would make the route more expensive, although he was unable to give a definitive answer regarding the cost difference (145).

To further illustrate the difficulties of the southern route, William Kistler, who lived in Centre Township near the line, was called upon to testify. He explained that he had seen trains of the N&SVRR having trouble with the ascent on their route, demonstrating that it would not work well for a standard gauge. When asked how many cars the N&SVRR was hauling when they had trouble, he responded that they were unable to cross if they had four heavy engines with the engine they called "Donkey," but that with the passenger engine they were more likely to have trouble (158–59).

The following witness, David Tressler, on whose land the disputed crossing was located, also referenced difficulty crossing the summit time and again and noted that it had become common since the crossing frog was installed. When asked if the difficulty crossing the summit had improved he explained that they stopped carrying as heavy of a load. Dr. Johnson likewise had seen the N&SVRR struggle with the summit, though he said it was only once, and before the crossing frog was installed (159–62). Dr. Johnson was recalled again and asked about the timing of the raising of the tracks. He said that the PCRR's extension was graded and track laying had begun before the N&SVRR raised their tracks by four to five feet. After this testimony the plaintiff rested.

Sponsler began the defense by offering into evidence the charter, certificate, and letters of patent for the N&SVRR, and then proceeded to call C. M. Dechant, a civil engineer in private practice who had also worked for a number of railroads in his twelve years of experience. Dechant had worked with a colleague, E. H. Beard, also a civil engineer, to survey a line to the south of the N&SVRR route three weeks prior to the trial. Dechant requested Beard be brought to the stand for technical assistance. This route was chosen to allow the PCRR Extension Company access to the towns but to avoid a crossing entirely. The proposal would make the line shorter by approximately 300 feet, reduce the number of bridges required from eleven to two, and would require approximately thirty cubic yards of fill material, which Dechant estimated at a cost of twenty-five cents per cubic yard. During cross-examination, Shull questioned a possible discrepancy in the

calculations of fill required based on the scale of the profile presented into evidence, but Dechant explained that his cost calculations had been based upon actual measurements. Dechant did concede that this route would be more expensive than the graded route, but he did not estimate that it would be a significant increase. Shull disagreed, estimating that it would increase the cost by three times (166–91, 243).

The proposed route would also increase the height the PCRR had to climb by nearly twenty feet, prompting Shull to ask “whether any engineer who has any regard for his reputation at all would increase the summit when he could go through a hollow that was that much lower?” (185). Dechant answered that if there were nothing in the way he would not mount the hill, but in this case the crossing of another railroad was in the way.

Shull asked, “Now I ask you the plain question whether the Perry County line as now graded isn’t greatly superior to the line you have run?” (186). Dechant disagreed, leading to extensive debate which the master of the court had to interject to end it, saying “A good deal of this is arguing I’m afraid . . . I have no objection to your getting out; but you seem to be arguing with the witness” (190). Shull’s final objection to the route proposed by Dechant was that it would take the line through what was presently a garden and very close to a barn at a point where it was also very close to the N&SVRR line and would be a considerable disturbance for those living nearby. Dechant’s solution for this problem was to make a union, or shared, station, which would eliminate some of the added land requirements even if it did not impact sound disruptions (191).

Through the course of the defense, Sponsler called a number of civil engineers to provide support for the route Dechant and Beard had proposed. Each of these engineers was asked if the road was feasible and practicable, to which each responded in the affirmative. Many of the engineers supported the reasoning given by William H. Woodgrove, the superintendent of the Harrisburg and Pittsburgh Division of the Philadelphia and Reading Railroad, who observed that the graded line followed very close to the creek and was, as a result, washed out in some places while the proposed line on the hillside would require fewer bridges and would be easier to maintain (196–97).

Each of the civil engineers was also asked to what extent the crossing would interfere with the operation of the N&SVRR. Again there was agreement among all of the engineers that the crossing was a danger not only to the N&SVRR but also to the PCRR. There were several reasons given in

reference to this danger, including it would take longer to cross than if there were no crossing present especially at the angle which this crossing is located; there is significant risk of collision between the two trains; and the rails would creep or shift because of the impact placed upon them by the crossing frog mechanisms. Several mentioned the need for a reduction of speed over the crossing, Beard being the most specific with an estimate, based on his experience with the Lake Shore and Western Railroad, of ten miles an hour being the safest speed for crossing (271).

Of the witnesses asked about the potential for collisions at the crossing, all said that the risk was high and that they knew of collisions but had not experienced any themselves. Dechant stated, "Accidents at crossings are less frequent than all other accidents combined but more frequent than if there were no crossings" (276). In the defense testimony, R. S. Mercer, a civil engineer with ten years of experience on the Pennsylvania Railroad and several years on others, explained that, at the PRR in Philadelphia, they were taking the expense of building an overhead crossing at Thirty-Sixth Street, not because there had been collisions, but solely because of the risk for collisions (345).

Several of the witnesses explained "creeping" issues, meaning that pressure on the rails would be different because of the differing weight of the rails. The grade of the line would also contribute to creeping. Creeping can create issues with traction and also cause shearing of the rails (254). Beard explained that while both lines' rails would creep east, they would creep at different angles (310). Samuel Stair, the engineer for N&SVRR, described his experience with the light rails used on the Diamond Valley Railroad, saying that "with those on a six foot and a half grade on the Diamond Valley Road we had a heap of trouble about the rails travelling" (310). Mr. Gable, another civil engineer, also said that the problem of creeping would be worse on the narrow gauge than on the standard gauge because it would be pushed by the heavier rails (315-19).

During Woodgrove's testimony, Sponsler also asked what impact placing signal men at the crossing would have on safety. Woodgrove saw that there were two major flaws with this plan: signal men are not always available to do their duty, and that once a train started up the grade it would need to stop in the event that the other line did not properly respond to the signal man on either line, resulting in delays due to loss of power and the need to reverse and start again (200). During cross-examination by Judge Barnett, Woodgrove conceded that if there were to be a plan in which N&SVRR had

the right of way every time they approached the crossing, and the PCRR Extension was required to stop every time they approached, and both crossed the crossing frog at a reduced speed, the crossing would be safe. It would not be safe at full speed, however, even under those conditions. F. S. Stephens, a civil engineer for the Philadelphia and Reading main line with twenty years' experience, also addressed the danger of the crossing when asked if the crossing would be less dangerous if the trains were able to see each other the entire time. Stephens felt that increased visibility would be a detriment, as the trains would be likely to race to reach the crossing first (223).

In redirect questioning, Sponsler asked the following:

Suppose you were laying out, as a railroad man, a line of road, and you found you had to cross the tracks of another railroad twice and you could build a line south of the N&SVRR that avoided both these grade crossings and had no greater grade than 1 5/10 would you consider it business like . . . to construct a road that crossed the other road twice at grade? (206)

Woodgrove replied he "would cross the road under no circumstances if it could be avoided, any more than I would put a wagon across the railroad twice in that distance" (206). He further stated he would pay more money if necessary rather than risk the danger of the crossing. A variation of this question was likewise asked of every railroad expert the defense called, and each agreed that he would take the higher route. F. S. Stephens elaborated on the reasoning for avoiding the crossing, saying that it was bad for business for the economics and the danger would increase twentyfold because it would take twenty times as long to cross the area, although he did concede that he was basing his estimation of danger on lines with heavier traffic than either the N&SVRR or PCRR was likely to experience (222).

Each engineer was also asked to state whether the estimate given by Dechant of twenty-five cents per cubic yard for fill was fair and they all agreed that if there was no solid rock it was a fair price. P. W. Johnson, who laid out the N&SVRR line from Newport to Blain Borough, said there would be one or two places where they would strike solid rock on the proposed route and explained where those would be located. His estimate for fill was eighteen cents in areas where it was only earth, but seventy-five in areas where solid rock needed to be taken out, so he said that twenty-five cents was fair except where solid rock had to be removed (231). This line of questioning

led to PCRR calling in local landowners to testify as to the quality of the soil during rebuttal.

William R. Dumm lived near the line, and had walked over the proposed route for a distance of one to one and a half miles. He explained that he would expect to see limestone and red rock along the route from a depth of eleven to sixteen feet or less, and explained that red shale is more gravel-like than red rock. Red rock was more like limestone, heavier and harder to work. His house was only 150 feet from the proposed line and he had struck hard pan at a foot depth. In reference to the cost of handling the rock in the cut on the route, Dumm said that if it was as bad as some he had seen he would not be willing to do it for a dollar let alone twenty-five cents, but that other areas are not so bad. In cross-examination Sponsler asked if this was based upon experience with contracting work removing rock with explosives. As a farmer, Dumm admitted he did not have any such experience. When asked how the line impacted elsewhere on his family's property, Dumm explained that he felt they were routed in one area in a way that would prevent anyone else from having room to use the field without cutting down the bank, and also that the route seemed to be through his fish pond, according to the stakes (407-14).

William Kistler was again called upon, this time to provide information about the soil quality, but proved to be an immaterial witness as he said he knew there was some red rock but had never been over any of the ground except his own. Judge Junkin asked specifically about the soil on William Dumm's property. Kistler stated he had never been on it in his life (414).

E. D. Stambaugh, who lived between the station and Elliottsburg, was likewise asked about soil quality and said that there was a field he knew of that could not be plowed deeper than three to four inches without hitting rock. "Where that rock is in the field there that Dumm has spoken about; I know it runs very high there" (415-16), he explained. Like Dumm, Stambaugh also believed from the placement of the survey stakes that he would lose space because there was not sufficient room between his barn and the route for his hog pen (415-18).

Near the end of the defense opening arguments, Sponsler called himself to the stand to address the undated meeting that had taken place at the crossing. He explained that it was called at the suggestion of Judge Barnett after he had received a request for an injunction preventing N&SVRR from raising its tracks and that the primary objective of the meeting was to determine if it would be practical to raise the track sufficiently for the PCRR to cross under

it. Everyone on both sides agreed that it was not a practical change, according to his testimony. He said that he had no knowledge of the conversation Shull allegedly had with Gring and then proceeded to describe his view of the meeting with Shull in his office, during which he had held a phone conversation with Gring.¹⁷ According to his testimony he asked Gring if the crossing would be allowed at the point they had described and relayed to Shull that Gring was unwilling to make such an arrangement (283–87).

Sponsler also described approaching Shull after he had been ordered to prepare an order requesting an injunction preventing the PCRR Extension from crossing the N&SVRR line. He explained that he had not filed for it because he did not feel that they would cross, but rather that he approached Shull who urged him to try to consult with his client to reach an amicable agreement including terms of a crossing. Sponsler said that he told him he did not know what terms would be required but would consult with those who could make the decision and left. He did not recall in this conversation that Shull had told him that the PCRR Extension intended to install the crossing mechanisms that Sunday night or he would have taken out the injunction. His first knowledge of the intended crossing was on Saturday evening on the day the tracks were torn out and the crossing frog put in place when he was in business in Newport and learned via the telephone, he explained (283–87).

In cross-examination, Shull asked about their speaking of drawing up terms for the crossing, referencing Judge Rockefeller's decision in the Sunbury case; Sponsler said he did recall. Shull then asked about a conversation where they agreed for limits relative to the crossing, which Sponsler said never occurred. Both men recalled a conversation near Green Park in which Sponsler told Shull, "Now, don't interfere there; because it will rise against you in the future; and will start a war between the Newport and Sherman's Valley Railroad and the PCRR" (289–90). Shull then asked who from the N&SVRR had said that the overhead crossing was impracticable besides Gring. The PCRR council had alleged that no person did so except Gring, and that Sponsler had made a proposal at the November court session that if the PCRR Extension would contribute to the expense they may be able to make an overhead crossing and avoid litigation if it were practicable to do so (294).

Shull's questions then turned to the early December telephone conversation, determining that a Mr. Markle and a Samuel Clouser may have been listening in the next room and claimed that while on the phone Sponsler

referenced that the PCRR Extension would put the crossing frog in place on Saturday or Sunday evening so as not to interfere with the trains. Sponsler denied such a comment. Then in redirect, Sponsler said:

I desire to say further with respect to the conversation which took place between Mr. Shull and me as to what had taken place in my office that night, that a number of days after the frog had been put in Mr. Shull came to my office for the purpose of borrowing something. . . . Whatever he wanted I refused to give it to him. I was provoked at the time, because I had been informed that Mr. Shull had said, and that the conversation could be backed or proved by a woman who lives in the same building in which my office is located (at this point there was an objection by the master and discussion). I said to Mr. Shull, relating to him what I had been informed, that he had said that I had agreed on that night that a crossing might be put in on that point and that Mrs. Cram could prove it . . . and I said to him that no such conversation as that took place; and Mr. Shull said, "No sir, no such conversation as that took place and Mrs. Cram never heard such a conversation." He said that a conversation in which it was agreed that they might cross, took place up at the crossing, at the mill with Mr. Gring. . . . I then said to Mr. Shull, "James, it would be better if you and I would not talk on this subject at all." (294-95)

In re-cross-examination Shull and Sponsler agreed that in the office that night they did discuss the raising or lowering of the grade, and, according to Sponsler, this led to one of his questions to Gring on the phone so that there could be no misunderstanding (296).

David Gring was also called for the defense and asked about the schedule of the trains. He explained that there were sometimes special freight trains not on the schedule and also that within thirty days they were expecting to add two more trains going roundtrip. Sponsler then asked him about the conversation Shull alleged he had with Gring at the crossing and he said that he made no suggestions of a place that the PCRR Extension should cross, nor agreed to any crossing suggested by the PCRR Extension representatives. In Shull's cross-examination Gring said, "Well I said nothing at all in regard to a crossing. I said to cross it was impossible" (330). Likewise, Sponsler asked about the phone conversation he'd had with Gring, with Shull present, and Mr. Gring said that he had told Sponsler that he "had no right to allow a

crossing there and could not grant it" (329). After several more civil engineers provided testimony, the defense rested.

The PCRR Extension began its rebuttal by calling John A. Magee, a reporter for the *Perry County Democrat*, who was asked to recount a conversation he had had with Sponsler. After an objection was raised he was withdrawn from the stand, and Sponsler recalled to it. Sponsler likewise was asked if he recalled a conversation with Magee. In his questioning, Shull asked if Sponsler had said it was "virtually settled, that if they would come east to the other point designated, that there would be no difficulty and they would be allowed to cross at that point" (383–85). Again Sponsler denied having said that. Likewise, Shull asked about the phone conversation in Sponsler's office with Gring; Sponsler reiterated that he had never given indication that Gring had agreed to the crossing.

Magee was then again questioned about his conversation with Sponsler outside Sponsler's office. According to Magee, Sponsler had said that if the PCRR Extension could move 300 feet, N&SVRR would not raise or lower the tracks and they could cross as a result. Magee had written an article appearing in the *Perry County Democrat* on December 2, 1891, stating that the difficulty regarding the crossing had been amicably settled and an arrangement was met that would avoid further delay. Shull then asked a series of questions to determine the date of this conversation in relation to the placement of the crossing frog. This established that the conversation was before the crossing frog was placed (386–87).

Samuel Clouser was then called to be questioned regarding the telephone call made to Gring from Sponsler's office, which Clouser established took place mid-week the same week that the crossing frog was put in place. He explained that he was in the outer office discussing ice with some other men when the conversation occurred. When the railroad matter came up in Sponsler's office they stopped talking to listen. He claimed to have heard Sponsler tell Gring that they should give them a crossing. In cross-examination it was pointed out that Clouser was a stockholder in the PCRR Company (388).

Martin Hench, one of those in the outer office discussing ice, was also called to describe the telephone conversation he had overheard. He said that Sponsler stated that he'd had a conversation with Shull and that "there seems to be no question as to their right to cross our road," and also that he referenced that the crossing frog was going to be put in on a weekend so as not to interfere with operations. In cross-examination he explained that he had been

in the office to see Clouser about hauling ice and had heard the conversation through a closed door (419–20). Before closing their rebuttal, the plaintiff recalled Dr. A. R. Johnson, James Elliott, and Samuel Hepburn on the stand regarding questions about the safety of the crossing frog, the proposed route in general, as well as recalling the three landowners previously referenced who testified as to the soil quality.

The defense called only one witness in rebuttal, E. H. Beard, a civil engineer, who was asked about the blueprint and stakes in relationship to a dam and fish pond on William Dumm's property. Beard explained that while it may have appeared that the line was going to interfere with the dam, or vice versa, this was not the case and that "there is nothing that is impossible placed upon the profile." With that, all testimony was closed (421–23).

The following March 30, 1892, A. F. Thompson, Master of the Court of Perry County Common Pleas, issued his Master's Report, recommending that the PCRR Extension be allowed to cross the N&SVRR at the two points they had requested, but that they must be responsible for any damages caused. The PCRR Extension was also to be responsible for the expense of the crossings being installed under the supervision of an engineer, in addition to keeping the line in good repair and completing any repairs requested by N&SVRR within five days. If there was damage causing immediate danger or if less immediate repairs were not addressed within five days N&SVRR was authorized to make the repairs and bill the PCRR Extension. N&SVRR was to have automatic right of way. The PCRR Extension was required to stop 200–400 feet from the crossing and wait for a signal from the watchman, whom they were to have present during all scheduled hours of operation and pay from their treasury. N&SVRR was prevented from interfering in any other manner with the construction of the PCRR Extension. PCRR Extension was liable for all court costs.¹⁸

On April 18, 1892, the opinion of the court was filed. Judge Simonton agreed with most of the Master's Report; however, he amended the watchman requirement to state that PCRR Extension must heed the signal of a watchman or *flagman* due to low-risk terrain and traffic. He explained this change was in accordance with Public Law 62, Section 10, and Article XVII, Section 1, Clause II, of the 1874 Pennsylvania Constitution. The PCRR Extension objected to paying for a portion of the court costs citing irrelevant testimony, but Judge Simonton did not reduce their liability. He also ruled that PCRR Extension had not caused any damage to N&SVRR thus far.¹⁹

On April 28, 1892, a writ of certiorari was filed from the Pennsylvania Supreme Court, ordering that all case documents be forwarded to them for review.²⁰ An appeal to the Supreme Court was filed on the following May 2 by N&SVRR. In the Supreme Court argument on May 24, William H. Sponsler and George F. Baer argued for the N&SVRR, and B. F. Junkin, Charles Barnett, and James W. Shull argued for the PCRR Extension before Chief Justice Edward M. Paxton.

Chief Justice Paxton issued the opinion July 13. It began by outlining the facts: this was a case regarding a grade crossing; that the N&SVRR was already in operation to Loysville by the time the PCRR Extension was chartered; that all PCRR Extension stations lie to the south of the N&SVRR's road; and that the graded route for the Extension formed a loop by crossing twice in four miles. Justice Paxton explained that the Act of Regulating Railroads of 1849 applied to crossings that were absolutely necessary and it was a misinterpretation to suppose that it gave automatic authority for a railroad to cross an existing railroad. He also stated that Public Law 1360 of June 19, 1871, gave courts the authority to determine if a crossing were necessary and said grade crossings should be prevented where they can be reasonably avoided. While the Extension cited low capital and business and travel through a sparsely populated area as reasons why they should be allowed to cross, the future should be considered, for if the railroad later became a major route the crossing should be avoided now. Capital alone could not be the determining factor and evidence clearly showed that a practicable route was available for a relatively inexpensive cost of \$20,000. Justice Paxton concluded that "I doubt if in the history of railroad engineering in this state, an instance can be found of one road crossing another at grade and by a loop re-crossing it within four miles when another reasonably practicable route was open for its location, which would have avoided crossings altogether. Such railroad as this is not to be encouraged."²¹

The ruling prevented the PCRR Extension from crossing the tracks of the N&SVRR Company at grade and ordered the Extension to pay the court costs.²² This is one of only a limited number of cases in which the narrow-gauge railroad was able to prevent a standard gauge from crossing it and allowing the narrow-gauge to maintain their right of way.²³

On August 3, 1892, the *Perry County Democrat* printed a scathing article criticizing the Supreme Court ruling and negotiations with the N&SVRR in order to make arrangements to continue west. According to the article

the board of the PCRR had determined the previous Friday to continue the route to Landisburg and Loysville and to raise the money made necessary by the ruling. The author remarked, "Is it any wonder that respect for Supreme Court decisions in Pennsylvania is not what it was in the days of Chief Justice John Bannister Gibson?"²⁴ and "Why is it that the powerful railroad corporations have been permitted to cross each the other's tracks at *grade* at their own sweet will and pleasure and the smaller railroads are restrained from crossing each other in the same way?"²⁵ Referencing Judge Paxon specifically the writer asked, "Did he even take the trouble to look at the profiles of the two roads, laid before the court by the N&SVRR?"

By August 31, 1892, newspaper reports indicated that negotiations between the two companies had failed and that the PCRR Extension would begin building an overhead crossing. Several proposals that had been made were outlined, but each had been rejected. Again the two companies became involved in a suit of equity where the Extension was granted the approval for the overhead crossing on October 20, 1892.²⁶

The PCRR Extension completed its expansion to Elliottsburg by November 1892, then to Landisburg in January 1893, and Loysville by February 1893. The Extension announced further expansion plans, but these were never completed due to costs accrued fighting the N&SVRR for crossing rights. There were payments missed over the years, a few other cases filed against the company, and very little profit. In July 1903 the mortgage for the railroad was foreclosed. That September it was sold at public auction for \$10,000 cash and a \$65,000 mortgage to H.S.P. Nichols, David Gring, E. R. Sponsler and W. H. Sponsler. It was reorganized as the Susquehanna River and Western Railroad with David Gring as president. The railroad west of Bloomfield Junction was removed with the materials sold to raise the money needed for operations. Thus, the route so hotly contested in 1892 lasted for only slightly more than ten years.²⁷

The N&SVRR also turned its attention to expansion after the settlement of the crossing dispute with plans to expand to Fannettsburg in Franklin County and south into Maryland. Along the way the railroad would have the opportunity to connect to the Tuscarora Valley Railroad, serving Juniata and Huntingdon counties, and the East Broad Top Railroad in Huntingdon County. However, by the time the expansion plans were incorporated in October 1893, the national railroad climate had changed, as several prominent companies had gone bankrupt and the country was in the midst of financial panic. The expansion was therefore incorporated as a separate

venture, the Path Valley Railroad. This was done in order to protect the N&SVRR and it was a very wise move. The route at Blain required the train to bypass the Conococheague Mountain. In order to cross the mountain very steep grades would be required so it was instead decided to tunnel through it. Grading on both sides of the mountain was completed, again to standard-gauge specifications, fueling again rumors that the N&SVRR would convert to standard gauge, but by December 1894 the tunnel was remained uncompleted. In the previous September, the contractor responsible for the tunnel construction had failed, and work was halted at a length of 2,600 feet, never to be resumed. The tunnel opening remains along a trail in the Big Springs State Forest Picnic Area near New Germantown. In August 1899 the Path Valley Railroad was declared a failure.²⁸

The N&SVRR remained in business with moderate success until the nationalization of railroads during World War I and the closing of the Oak Extract Company, one of its primary customers. This led to foreclosure in 1920. The N&SVRR, like the PCRR, was bought by the Susquehanna River and Western Railroad. David Gring had recently died and his son Rodney Gring was in charge of the company. The tracks from Newport to New Bloomfield were dismantled and the Susquehanna River and Western served from Duncannon to New Bloomfield as a standard gauge, then connected to the narrow-gauge tracks to New Germantown at Bloomfield Junction. In 1930 and 1935 the service type was reduced, so that by 1935 the train was only hauling freight from Duncannon to New Bloomfield. Competition from automobiles and deteriorating tracks led to the abandonment of the Susquehanna River and Western in 1939.²⁹

The conflict between the two railroads of Perry County extended service to residents and businesses of only eight miles between Newport and New Bloomfield and proved to be costlier than either company anticipated. With the advent of the automobile not only did the local railroad companies die but the county seat debate was finally settled as roads were able to make the trip to New Bloomfield more manageable from all areas of the county, as it is nearly the geographic center. Many of the Newport businesses that had helped fuel the argument that the county seat should be moved to the more industrially prominent town also had failed, some of them leading to the decline of the railroad. Today the only remnants of the railroad are a few sections of grading, the failed Path Valley Railroad tunnel, N&SVRR restored rails and cars at Blain and in Little Buffalo State Park near Newport, an engine located in Iowa, the restored Blain Station (now used by the borough)

and the Newport Station—now a house and no longer on the original land, it retains little of the railroad station character.

Throughout the golden era of railroad building, competition between two or more railroads in the same limited geographic area was not uncommon. Nationwide, competing railroads struggled chiefly to negotiate railroad rights of way and crossings. While the majority of conflicts between competing railroads that reached the courts were decided in favor of the standard-gauge railroad, there are other examples of rulings favoring a narrow-gauge company. Among these is the 1911 case of *Pittsburg & N.R. Co vs. Keating*, in which the precedent set in *N&SVRR vs PCRR Ext.* was utilized. In that case there had been an arrangement establishing a crossing between two companies; there had been no provisions for expansion beyond the crossing. The advantages of railroad service to any given community were numerous, including, as in this Perry County example, political power, and the chance to gain significant revenue and property.

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NOTES

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1. H. H. Hain, *History of Perry County, Pennsylvania, including Descriptions of Indians and Pioneer Life from the Time of Earliest Settlement, Sketches of Its Noted Men and Women and Many Professional Men* (Harrisburg, PA: Hain-Moore, 1922).
2. Thomas T. Taber III, *Railroads of Pennsylvania Encyclopedia* (Muncy, PA: Self-published, 1987).
3. *Perry County Democrat*, January 26 and February 23, 1887.
4. *Ibid.*, May 11 1887.
5. *Duncannon Record*, May 11, 1887.
6. *Perry County Democrat*, April 27, 1887, and February 29, 1888.

7. Dennis J. Hocker, *The Rails of Perry County* (Las Vegas, NV: Genesis Capital Group, 2011), 59.
8. Roy Chandler states in *A History of Perry County Railroads* (New Bloomfield, PA: published by the author, 1970) that David Gring moved to the area after being contracted for building the railroad.
9. "David Gring Biographical Sketch," Perry Historians, accessed April 14, 2015, www.theperryhistorians.org.
10. "Emma Caldwell Gring obituary," unnamed newspaper, September 1945, Subject Files: Gring, Perry Historians Lenig Library.
11. Hocker, *Rails of Perry County*, 157–58, 166.
12. William N. Seibert, unpublished diary (hereafter referred to as Seibert Diary), Historical Collections and Labor Archives, University Libraries, Pennsylvania State University, University Park (#1999-0336H), May 23 and 28, 1891. *The Newport Sherman's Valley Railroad Co. vs. The Perry County Railroad Extension Co.*, January Term 1892, Perry County Court of Common Pleas, Court Transcripts, Perry Historians, Hoverter Archives, Stipulation of Facts (hereafter referred to as Court Transcripts).
13. Seibert Diary, August 8, 1891.
14. Ibid., September 7 and 22, and November 11, 1891.
15. Ibid., December 19, 1891.
16. Court Transcripts, 6. Subsequent page numbers appear in the text.
17. This is the phone conversation Shull testified about earlier.
18. Perry County Court of Common Pleas, Master's Report.
19. Perry County Court of Common Pleas, Opinion of the Court.
20. In 1892 the State Supreme Court was referred to as the Superior Court, the term "Supreme" is used to delineate from the Superior Court of today, not formed until 1895.
21. James Monaghan, ed., *Pennsylvania State Reports Containing Cases Adjudged in the Supreme Court of Pennsylvania*, vol. 150 (New York: Banks and Brothers, Law Publishers, 1892), 193–202.
22. Ibid., 201–202.
23. Another example is the Pittsburg, S & N R Co vs Keating and S R Co, et al., 1911.
24. *Perry County Democrat* August 3, 1892.
25. Ibid., August 3, 1892.
26. Ibid., August 31 and October 26, 1892.
27. Hocker, *Rails of Perry County*, 60–61, 168.
28. Ibid., 160–63.
29. Ibid., 163–67, 168–75.