

THE C&O WAS TO BE a lateral canal, i.e., an artificial waterway built beside an unnavigable river from which it received its water. Countless times in the years to come there would be loud lamentations brought on by the closeness of the canal to the river. In accord with the plan for all sections, the Seneca-to-Georgetown section was put into use as soon as it was completed. Water was supplied first to the Seneca-to-Little Falls section by the feeder at Seneca. When the Little Falls-to-Georgetown segment was finished, it was watered by Dam No. 1 at Little Falls. Sections in the canal above the Seneca feeder could not be used until the next feeder was reached at Harpers Ferry, 12 miles above Point of Rocks.

But at Point of Rocks, 48 miles from Georgetown, work on the canal was brought to a halt, not to be resumed for almost four years. The Baltimore and Ohio Railroad, claiming right-of-way along the narrows, had got an injunction prohibiting canal construction in that area. So fully had the C&O believed this to be its rightful sphere, by inheritance from the old Potomac Company and by its own charter, that it had not seen any necessity to reinforce its claim but had simply gone about its business of building. The railroad, however, perhaps because it was consciously and deliberately in the wrong, had been extremely self-assertive. It had aggressively gathered land waivers in the narrowed valley where it knew very well that usurpation would provoke a head-on collision with the canal company. Its grab did indeed precipitate showdown time, and the canal and the railroad fought it out in the courts for four years.

The Potomac Valley narrows so much in this part of the disputed area that, as the canal and the railroad were following

the same path, they slammed into each other at Point of Rocks.* Here the river and the bulging lower slope of Catoctin Mountain were separated by only a narrow strip of land. This strip was not wide enough to allow presence of both canal and railroad. While each company clamorously claimed precedence, the railroad, having positioned itself at the disputed spot, demanded something like squatters' rights.

Construction

The canal company was chartered earlier than the railroad company, and it contended that its prior right was assured by the location of the canal by the U.S. Board of Internal Improvements in 1826 and again by another survey and location in 1827. The canal company felt morally certain that it had abundant valid grounds for protest and accusation of wrongful encroachment; but the legal question was whether the canal company's rights, received from the Potomac Company, were still sound or whether the B&O had acquired rights when it was chartered by the State of Maryland.

The chancery court decided for the B&O, but in January, 1832, the court of appeals in Annapolis ruled for the canal company. The railroad was ordered not to take possession of or make use of the land on the Maryland side of the river between Point of Rocks and Harpers Ferry until the canal had been built along this stretch. The loss of time, however, had been almost enough to wreck the canal company. It did survive this wounding encounter and move ahead, thanks to courts of law; but in the final outcome, as George Washington Ward wrote, "that higher court of great natural and economic forces which must ever determine the direction of material progress [had] answered in favor of the railroad."

That answer was for eventually. Although the canal won a technical victory, a tangled skein of circumstances had the train and the boats running along cheek by jowl. The railroad was not a neighborly neighbor. The engineers vented on the non-

*The entire disputed area was the 12 miles between Point of Rocks and Harpers Ferry. In this space there were two other sites like that of Point of Rocks: Miller's Narrows, between Weverton and Sandy Hook, and Maryland Heights, across from Harpers Ferry.