

The Government Takes On the Montour Railroad

By Bob Ciminel - Montour Railroad Historical Society

In an earlier article, we described the Montour Railroad's efforts to build a new route northward across the Ohio River at Smiths Ferry to ship coal to the steel mills at Youngstown, Ohio. This resulted in a protracted battle with the Interstate Commerce Commission and a turf war with the Pennsylvania Railroad, the Pittsburgh & Lake Erie Railway and the B&O, who all claimed that their charters pre-dated the Montour's and gave them exclusive rights to build new routes in the state.

The ICC stepped into the fray on October 31, 1933 when it brought suit against the Montour Railroad, claiming it violated Section 15 of the Interstate Commerce Act because it was providing information to the Pittsburgh Coal Company about the coal shipments of its competitors.

After the Pittsburgh Coal Company bought the Imperial Coal Company, owner of the Montour Railroad, in the 1899-1901 timeframe, it not only took possession of the mines but also the railroad that serviced the mines. From then on, the Pittsburgh Coal Company and the Montour Railroad were figuratively joined at the hip.

The Sherman Anti-Trust Act of 1890, named after Ohio Senator John Sherman, not Union General William Tecumseh Sherman, was instrumental in allowing the government to break up the railroad/coal company combines, but it did not prevent a coal company from owning a railroad. Still, the Montour/Pittsburgh Coal Company arrangement was viewed as adversely affecting competition within the coal fields south and west of Pittsburgh.

The ICC had five issues with the Montour Railroad. First, the Montour Railroad and the Pittsburgh Coal Company had interlocking boards of directors. Six of the eight members on the Montour board were also officers of the Pittsburgh Coal Company. This situation had previously come under government questioning during Senate hearings on the ICC "Five Percent Case," when the ICC challenged railroad company attempts to raise their tariffs by 5% in 1914. The following exchange took place during questioning of H.P. McCue, who was the General Manager of Transportation for the Pittsburgh Coal Company:

Mr. Bond: "Mr. McCue, you were a director of the Montour Railroad Co. from July 1, 1912, to July 1, 1913, were you not?"

Mr. McCue: "Yes."

Mr. Bond: "Part of your duties as superintendent of transportation of the Pittsburgh Coal Co. is to look after the traffic interests of the Montour Railroad?"

Mr. McCue: "That is right. I misunderstood your question. You said part of my duty as manager of transportation of the Pittsburgh Coal Company was to look after the traffic and transportation of the Montour Railroad. That is not correct."

Mr. Bond: "I did not say anything about transportation."

Mr. McCue: "Traffic. That is not correct."

Mr. McCue: "I am general superintendent of the Montour Railroad. I receive a salary from the Montour Railroad for performing any service which I give them."

Mr. Bond: "That is what I want to get at."

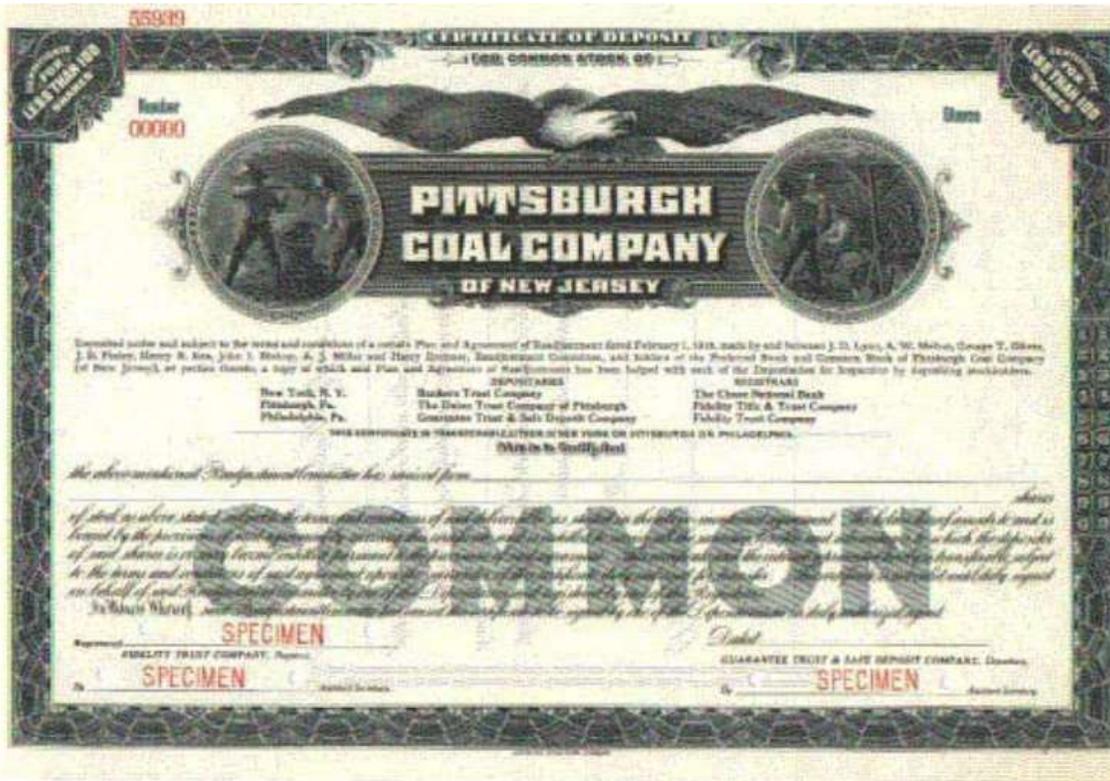
Mr. McCue: "But not as the Pittsburgh Coal Co."

Mr. Bond: "Just how do you tell when you are acting for the Pittsburgh Coal Co. and when you are acting for the Montour Railroad? Do you change your cravat or put on a badge of some kind?"

Second, the Coal Company and the Railroad filed a consolidated tax return. Profits from the Railroad were used to offset the losses of the Coal Company, thus depriving the U.S. Government of the taxes it deserved from the Railroad's profits. The underlying data for this contention was that, over the previous three years, the Railroad transported 4 million tons of coal for the Coal Company, or roughly 80,000 car loads, that only moved from Coal Company's mines and its Champion No. 1 coal washer, not to the Railroad's customers.

The ICC's third contention was that the Railroad bought its locomotive coal exclusively from the Coal Company at a higher price than it could purchase the same quality coal from the Coal Company's competitors located near the railroad. In 1933, some of the competing mines that existed along the Montour were:

| <i>Mine</i> | <i>Operator</i> | <i>Location</i> |
|----------------------|------------------------------|------------------|
| Scott Mine | Montour Collieries | Scott Siding |
| Solar Mine | Solar Coal Company | Boggs Yard |
| Boggs Mine | Unknown | Boggs Yard |
| Morris Mine | Gilmore Coal Company | Gilmore Junction |
| National No. 3 Mine | National Mining Company | Muse Spur |
| National No. 2 Mine | National Mining Company | National Tunnel |
| Henderson No. 1 Mine | Henderson Coal Company | Hendersonville |
| Coverdale Mine | Pittsburgh Terminal Coal Co. | Coverdale |
| Bertha Mine | Domestic Coal Company | Library Branch |



Pittsburgh Coal Company stock certificate

The fourth and most damning contention was the Railroad's daily interchange report. This report contained the name of the competitor, the number of car loads shipped, and the destination of each car. The report was sent to the Coal Company's Executive Vice President each day.

We have not found any information revealing the outcome of this lawsuit; however, the Montour Railroad remained a wholly-owned subsidiary of the Pittsburgh Coal Company for the next 13 years.

This column appeared in the March-April, 2011 Montour Trail Newsletter. For more information on the Montour Trail – go to www.montourtrail.org