

FALL OF THE PENNSYLVANIA RAILROAD PLATFORM.

The first great disaster in Johnstown occurred in the fall of the portion of the platform over the Cambria Steel Company's railroad at the station of the Pennsylvania railroad, on Friday, September 14, 1866.

The case of David Gillis vs. The Pennsylvania Railroad Company, for damages growing out of the great disaster, is one of the famous law actions of the county. The plaintiff came from Gallitzin to see the presidential party, and was seriously injured. There were about two hundred cases pending, when it was agreed among the complainants that the Gillis case, being the best cause of action, should be taken, and the others would abide by the result.

The plaintiff was represented by Robert L. Johnston, Abraham Kopelin and Daniel McLaughlin, and the defendant by Cyrus L. Pershing and John Scott. The plaintiff contended: First, that the Company was liable for not having a safe platform at its station, and had advertised the expected arrival of the train. Second, that it carried the presidential party for hire, and that the platform was a part of the Company's right of way. Third, that the plaintiff was a passenger, and had got off the train on the platform which broke. Fourth, that plaintiff went to the station at the instance of defendant; that the train had not stopped at its usual place, but about two hundred feet beyond, without notifying the multitude, which compelled the movement of the people to get a better view.

The defense denied the averments; contending that it was a special train furnished without compensation; that the schedule was made and five minute stops arranged on the special request of President Johnson; that the newspapers had publishing the schedule without authority of the Company; that the defendant gave no notice of the arrival of the special and that the train had stopped at the usual place, but President Johnson being on the rear platform, in order to accommodate more people it was moved eastward a short distance.

The cause was tried before Judge Taylor, at December term, 1867. At the conclusion of the plaintiff's case the defendant submitted two points to sustain a compulsory nonsuit, and the plaintiff presented twenty-seven points in opposing it.

After a very exhaustive argument, Judge Taylor sustained the motion for a nonsuit. He said: "We were present and witnessed this sad disaster, and we trust in God we may never witness another scene like it. We are free to say that for the sufferers, we have the most profound sympathy. At the same time, the question is here, as a legal question, whether the defendant is responsible for it."

The plaintiff entered an appeal to the supreme court, and on July 2, 1868, 59 Pa., 129, Mr. Justice Sharswood delivered the opinion which sustained Judge Taylor. In substance it, was: 1. A platform at a railroad station is in no sense a public highway. 2. It is for the accommodation of passengers, and other persons have no legal right of walking over it. 3. The owner of a house is bound to have the approach to it sufficient for all visitors on business or otherwise, but if a crowd gathers on it to witness a passing parade, etc., and it breaks down, though not sufficient even for ordinary use, he is not liable to one of the crowd who might be injured.