

Was it White or Red? *The Ward Inquest of 1892*

By Dave Mazurek

Train wrecks have always been a harsh reality of railroading, the specter of which was certainly no stranger to the O&W. When such catastrophes resulted in loss of life, a coroner's inquest would be held to determine the cause of death and whether there was any evidence of criminal negligence. During the wee hours of the morning on May 14, 1892, just such an accident occurred on the Southern Division. A southbound extra freight (drawn by Engine 161) had orders to proceed from Hancock Junction, and was to pass northbound Train 33 (led by Engine 126), which was to enter a siding and hold for the Extra at East Branch. With Engineer Charles Ward at the throttle, Train 33 errantly continued through instead, resulting in a head-on collision with the Extra some two or three miles beyond East Branch, tragically killing Ward. The rest of the crew for both trains emerged relatively unscathed.

This article will examine the drama of the ensuing inquest, as chronicled by the Middletown papers *The Argus*[†] and *The Daily Times*, news that captivated the interest of readers for several days. The inquest was held at W.C.F. Bastian's Hotel on East Main Street in Middletown. The individuals directly involved were as follows:

Inquest Officials: Coroner Decker and Judge John F. Bradner, Esq.

Jury: Dr. F.M. Barnes, foreman, A.E. Nickinson, L.S. Stivers, J.C. Degnan, D.W. Dusenberry, B. Hulse, T.E. Hayes, J. Gibbons, and Cooper De Graw

Train 33: Conductor John Raymond, Head Brakeman John Crowley, Brakeman Emmet Johnston, Fireman Charles Sawyer, and Flagman Milton Barkhart

The coroner's inquest into the death of Engineer Charles Ward was held at Bastian's Hotel. At right is the building as it appears today, located at 119 East Main Street in Middletown, across the tracks from the nearby old Middletown & Unionville station. Constructed in 1880, the former hotel originally had a third floor, but it was removed when damaged by fire in 1980. © Google 2024



The Extra: Engineer Henry Rolls and Fireman Simeon Swingle

Other O&W employees: Dispatcher Edward Russel, East Branch Operator Patrick Lawless, and Night Watchman James Welton

Public witnesses: Ex-Sheriff Clark of Delaware County, his daughter, Miss Eleanor M. Clark, John Rhodes, proprietor of the Eagle Hotel, and Dr. Burke Pillsbury

Coroner Decker opened the inquest by calling Russel, night dispatcher at the Wickham Avenue depot, as the first witness. He testified receiving notice at 1:30 a.m. that an extra coal train, pulled by Engine 161, was ready to leave Hancock Junction, and he called the operator at Cook's Falls to give orders for meeting Train 33 at that point. The operator replied that Train 33 had already passed five minutes earlier. He then called the operator at East Branch and sent the following orders: "Engine 161 will run Extra from Hancock Junction to Livingston Manor. It will meet No. 33 at East Branch." The operator repeated the message. The dispatcher then asked for "R.D." (or "red displayed," the signal to alert Train 33 to stop), and at 1:32 the operator confirmed the signal was posted. The Extra was then directed to proceed, leaving Hancock Junction at 1:35. Thirteen minutes later, the East Branch operator telegraphed that Train 33 had passed without stopping, despite the red lights being displayed, and that he unsuccessfully tried to get the attention of those in the caboose. The dispatcher directed the operator to go to the yard, thinking that perhaps the train might have run by in order to back into the siding instead. His instruments ceased to work about ten minutes later, indicating that an accident had likely occurred, taking down the wires in the process.

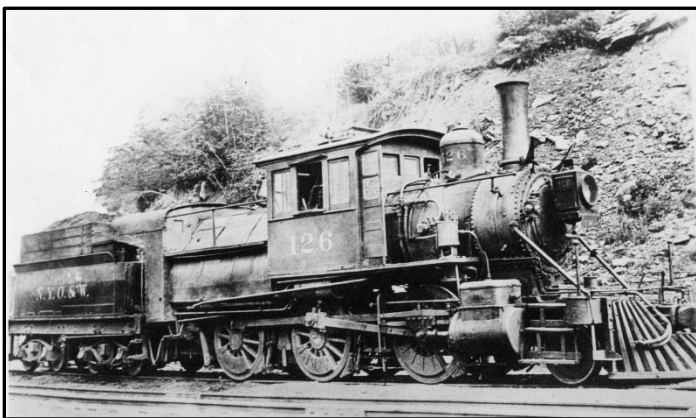
[†] The account of this incident as it was published in *The Argus* appears on Robert Mohowski's portion of the Society's webpage at http://nyow.org/members/APV/apv_wrecks.html

East Branch Operator Lawless was called to the stand next. He exactly corroborated the dispatcher's testimony as to the receipt of the message and orders, and swore that his red signal light was displayed. By his clock, it was then 1:33. He subsequently observed Train 33 passing the depot without stopping sometime around 1:50. Running out to the depot platform and calling as loudly as he could, the operator said he made every effort to attract the attention of the caboose's occupants, but didn't see anybody, insisting that no one was looking out of the caboose. He then telegraphed the dispatcher that Train 33 had passed without orders and that the red light was posted. A few minutes later the instruments stopped working. Responding to questions from Dr. Barnes, the foreman of the jury, the operator stated that the signal showed red from both directions and that the lantern was burning as brightly as possible. The night was reported to be dark with a little mist, but not foggy.

Dr. Pillsbury was the next witness. He stated that he had been called to attend to the injured Engineer Ward upon the arrival of the train in Middletown. (Ward had been transported on Train 8, arriving in Middletown at 10:15 am.) Ward was unconscious and breathing slowly at that time, and he had a bruise on his right temple. Carried by stretcher, he passed away while being taken to Thrall Hospital. There being no apparent fracture of the skull, it had been the doctor's opinion that the engineer died from the effects of shock. [At the hospital, it was later determined that Ward's skull was indeed fractured.]

Conductor Raymond of Train 33 (Engineer Ward's train) then testified. He received his last order at Livingston Manor, directing Trains 33 and 34 to meet at Cook's Falls, which they did. When about half

a mile south of East Branch, he stated that the engineer blew for that station. Positioned on the depot side of the caboose and looking out the head window, the conductor saw a number of white lights at the station, but no red signal, and he saw no one on the platform. With a train of twenty-six empty coal gondolas, he said that he would have easily seen a signal if it had been displayed. His flagman and middle brakeman were seated in the cupola along with him, and did not report a red signal either. After a time, the flagman called his attention to an approaching headlight. They at once commenced setting the brakes when the engineer whistled for their application and reversed his engine. After the collision, Raymond went forward and found Ward down the bank, lying at the edge of the river, with nothing resting on him. It was the witness' opinion that the tank of the engine must have rolled over the engineer. Ward was conscious and asked how the accident happened. Raymond told him that he did not know, as he had not yet spoken with anyone from the other train. He then took Ward up to his caboose and then went to East Branch to seek a physician and report the accident. "When I returned," Raymond testified, "Ward asked me how it happened. He was perfectly conscious. I told him then that the opposite train had orders to meet us at East Branch and that we did not have such orders. Ward said the block was white when he passed East Branch and that he was standing on his feet [meaning that he was on his feet looking out for the signal]." Ward repeatedly insisted that the signal was not red, doing so in the presence of witnesses, including Dr. A.B. Johnston of East Branch and Baggage-master Thomas Reagan, who had accompanied him on the train the morning he was brought to Middletown.



Left: Engine 126, a Dickson Class R 2-6-0. On the day of the collision, this engine was leading northbound Train 33 with Engineer Ward at the throttle. **OWRHS Archives**

Right: Engine 161, a Dickson Class S 2-8-0, which led the southbound extra freight on that fateful night. **OWRHS Archives**



Flagman Barkhart of Train 33 testified next. After the train had continued two and a half miles beyond East Branch, he saw the headlight of an approaching train from his vantage point in the cupola of the caboose, having been seated on the side opposite the depot. He immediately jumped down, went out on the platform, and set three or four brakes before the collision occurred. While on the platform of the caboose, he heard the engineer blow for brakes. He swore he did not see a red signal when passing East Branch, and that he was looking from the train at the time for a red light should one be so displayed. He observed no one at the depot, and also noted that the night was not foggy.

Brakeman Johnston of Train 33 was then called to testify. It was his first trip over that portion of the railroad, and was working as an extra brakeman. Seated on the station side of the cupola of the caboose, opposite Flagman Barkhart, he had his head out the window and saw a number of white lights, but no red signal. He did observe a man standing on the platform of the station, but did not know if it was the operator. As they passed the station, he did not see or hear anyone trying to attract attention. Following the collision, he heard Engineer Ward say that the block had been clear, consistent with the earlier testimony given by Conductor Raymond. He also stated that Ward wanted them to tie up his leg, thinking it would have to be amputated.

The next witness was Crowley, head brakeman of Train 33. When passing East Branch, he had been sitting on the depot side of the engine cab with the fireman. He described the engine as being a "Mother Hubbard" and that his head was out of the window at the time. He was positive about seeing a white light where a red signal should have been displayed, and that the curtains in the depot's office were down on the front side of the bay window. About two miles beyond East Branch, he heard the engineer tell the fireman, "That looks like a headlight coming!" The witness said he saw the engineer set his sand running, blow for brakes, and reverse his engine. Along with the fireman, the witness went out on the running board and toward the front of the engine to investigate the oncoming light. He then jumped from the engine just prior to the collision. Afterward, he testified hearing Engineer Ward tell the fireman that he had received a clear block at East Branch.

Fireman Sawyer of Train 33 testified next. He stated that he was looking for signals, as it was his duty to do so. And when passing East Branch, he did see a white light, but was certain that no red signal had been displayed. If posted, he stated that the engineer could have seen such a signal as well, since he was standing

up at the time. He also believed that the curtains had been lowered at the depot. After seeing the approaching train, Engineer Ward called to the witness, saying "there is going to be a big wreck and to get ready to get off." At that instant, they were running about 15 miles an hour. The witness then proceeded to jump off the running board. Following the wreck, Engineer Ward told him that after doing all he could do to stop the train, he went back to check where the witness was, and in so doing was caught up in the wreck. Learning that his fireman was all right, he said, "I am so glad of that," and then asked how the wreck happened. The engineer also stated that the train was almost stopped when the collision occurred.

Engineer Rolls of the Extra was the next witness. He testified receiving orders to run from Hancock Junction to Livingston Manor, meeting Train 33 at East Branch. When about one mile south of Fish's Eddy, while running not to exceed 12 miles an hour, he saw a light which at first was thought to be the light in the watchman's shanty, near where the collision occurred. When he was certain it was a headlight, he blew for brakes, reversed the engine, started sand, and then went to the cab door with the intention of jumping. In the process, he caught his foot in running board and fell to ground. The collision occurred about three car lengths from where he lay. Afterwards, the first person he saw was Fireman Sawyer from the other train. When Rolls asked, "How did you get up here??" the fireman replied, "We were running on our rights." Fireman Swingle of the Extra was then sworn in, and he corroborated the testimony of his engineer.

So, in stark contrast to the testimony given earlier by Operator Lawless, the crew of Train 33 were adamant that the operator had not displayed a red signal, and that he made no attempt to alert the passing train of the imminent danger. There was also the implication that instead of being properly attentive to his duties, the operator had been behind drawn curtains as Train 33 went by, or perhaps was actually away from his post all together. Now facing the increasing prospect of being charged with criminal negligence, the operator was recalled for further questioning. However, upon his request for the opportunity to seek additional witnesses who might testify on his behalf, the coroner consented and adjourned the inquest to the following day. In addition to securing these witnesses by the time the inquest reconvened, Lawless also retained the services of Judge Bradner as legal counsel.

Brakeman Johnston of Train 33, who had testified the previous day, was recalled to the stand. Of all the crewmen involved, we can only speculate as to why he was singled out. Since the brakeman was extra

and not a member of the regular crew, perhaps it was felt that any additional testimony he could provide might be less prone to bias. Or perhaps it was the one aspect of his earlier testimony that was inconsistent with that of the regular Train 33 crew – that he did see someone standing on the platform of the depot. In any case, upon reexamination, he first strongly reaffirmed that he was looking out the caboose window and did not see a red light displayed. He then stated that he had not been over the road before and could not tell whether it was East Branch or not when he went through there that night, but knew it now, and while he could not tell exactly where he was in the caboose when passing Liberty or Livingston Manor, he was sure he was in the cupola when passing through East Branch. However, while he saw white lights all the way up, he could not swear positively whether there was a white light or not at East Branch. After the accident, he had gone forward to assist the conductor in getting Ward back to the caboose. All he heard Ward say was that the blocks were all right and that those assisting him were hurting his leg. The witness had heard the brakeman and flagman talk about the wreck, but did not hear them discuss any potential liability of losing their positions over the incident. [This suggests that there might have been questions regarding possible collusion by the crew to give false testimony.] He also said that he did not go to sleep nor leave the train prior to the accident. Finally, he reaffirmed that he did indeed see a man standing on the station platform.

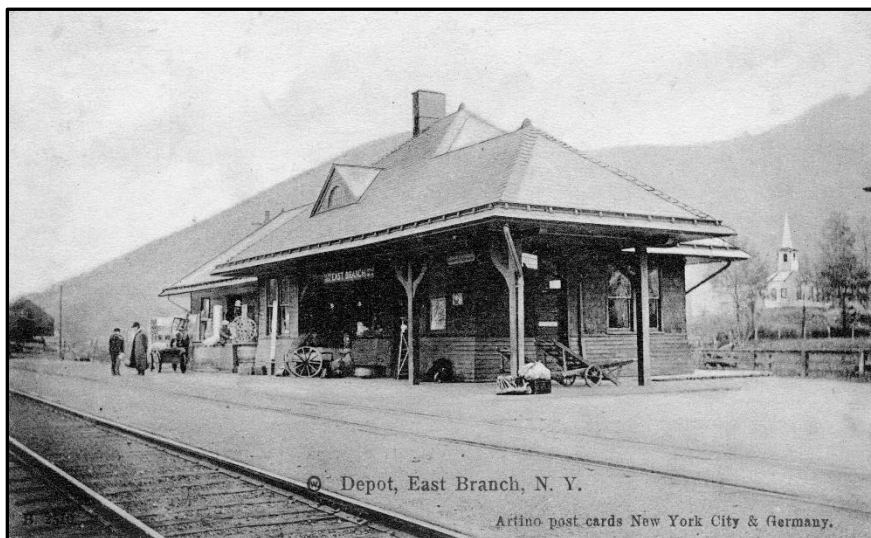
Dispatcher Russel was then recalled. A rigid cross-examination by Judge Bradner and several of the jurymen failed to shake his testimony from the day before, and the circumstances of the telegraphic messages which passed between him and the operator at East Branch were related in detail.

Operator Lawless was recalled next, and he produced the orders which had been received that

night. He was closely cross-examined as well, but repeated his story from the previous day:

Just before Train 33 arrived at East Branch, was called by dispatcher at Middletown and asked, “where is 33?” Answered, “coming.” Could not see train as yet, but knew it was Train 33 because there was no other train due from the south; was standing at window when engine passed the depot; it was running about 18 miles per hour; when I saw that no effort was made to stop it, I rushed out on platform and endeavored to attract the attention of the occupants of the caboose, and yelled twice, loudly, but received no response. Then returned to instruments and telegraphed the dispatcher that Train 33 had passed without orders. He asked if red light was displayed. I replied yes. Dispatcher then told me to go up into the yard and see if I could catch them, which I did, but they went on. Then went to Eagle Hotel and called ex-Sheriff Clark and John Rhodes, the proprietor of the hotel, and told them that 33 had gone by without recognizing the block and that an accident was sure to happen. Called agent who telegraphed in response to Dispatcher Russel’s inquiry, that red lights were displayed.

Judge Bradner called the witness’s attention to the testimony of several crewmen of Train 33, who said that the curtains on the bay window of his office were down and that, as they passed the station, they could not see in the office on account of that fact. The operator stated that he had been employed at that station since November 10th, and that at no time had there been any curtains or shades on the windows. Among the Train 33 crew, he knew only Engineer Ward and Conductor Raymond, and revealed that at one time he had had some words with Raymond.



© Depot, East Branch, N. Y.

Artino post cards New York City & Germany.

The East Branch Depot burned to the ground on November 22, 1894, a year and a half after the Ward tragedy. At left is its replacement, shown prior to the installation of semaphores, where the station operator still had to manually display the signals. This is the view looking east – Train 33 passed in the opposite direction (i.e., towards the reader) on the day of the collision.

OWRHS Archives

Ex-Sheriff Clark was the next witness called. A guest at the Eagle Hotel at East Branch on the night in question, he was suffering from neuralgia and was awake when Train 33 passed. He stated, "I had heard loud shouting and arose and looked out of the window. Saw the caboose pass by, and saw Lawless standing on the platform of the depot, in the bright light ... from the office window. Saw the red signal displayed. Am positive of that. My room is a corner and faces the depot. My attention was attracted by the loud shouting, and I looked out supposing someone was hurt. After the caboose had passed, saw Lawless return to the office and sit at instrument."

Rhodes, proprietor of the Eagle Hotel, testified as follows: "Have been suffering with rheumatism and on the night of the accident was up and awake, in my room. Took medicine which the doctor had prescribed. Heard train pass station and heard two loud calls. Looked out of window to see what they meant. Saw red light displayed, and saw Lawless appear in the light of the window and sit at instrument. Returned to bed, and shortly afterward heard Lawless enter the house and heard him tell Mr. Clark that Train 33 had gone by without recognizing the signal and that an accident was sure to happen. Am sure that the signals were displayed. Looked at them before Lawless called my attention to them."

Miss Clark, daughter of Sheriff Clark, was the next witness. She had been in an adjoining room of the hotel where the inquest was held and had not heard any of the previous testimony of the witnesses.

When Judge Bradner questioned her, she spoke in a very clear, distinct voice, and told a straightforward story as follows: "I live at Hobart, N.Y., am stopping here for a time at the Eagle Hotel, at East Branch; recollect the night of the accident. Was suffering with a severe headache and was unable to sleep; had been standing at the window looking out before Train 33 arrived. Heard it coming and retired. Attention was attracted by two loud calls as train passed. Raised up in bed but heard no more. My room is directly opposite the station. I had seen the red light before the train approached. Am positive of this. [When challenged by a jurymen, the witness described a signal light and the manner in which the blocks worked.] After a very short time heard Lawless enter house and heard the conversation with her father. Lawless was greatly excited. Saw Lawless at the instrument before the train came; as it was approaching. Heard no whistle." Upon recall, both the hotel proprietor and Sheriff Rhodes also stated that they heard no whistle.

Night Watchman Welton was sworn in next. He was on duty about 1-1/4 miles south of East Branch, listening for and watching all trains as they pass. He recalled Train 33 on the night in question, and did not hear the engine whistle for East Branch. He was close to the track but did not see anyone in the engine or caboose, and did not know if the engineer was asleep. When asked, "Did you ever see an engineer asleep on his engine?" he responded: "I can't say that I ever saw them asleep, but I have seen them when I thought they were asleep."



The Eagle Hotel in East Branch, from where several witnesses observed the happenings at the depot prior to the collision.
OWRHS Archives

The testimony closed at this juncture and the case was handed to the jury. After deliberating for about an hour, the following verdict was returned: "That the deceased, Charles E. Ward, came to his death while employed as engineer upon Engine No. 126, Train 33, on the NYO&W R.R., while in collision with Engine 161, of the said road, at a point about 2-1/2 miles north of East Branch, at about 2 o'clock a.m., May 14, 1892. That said death was not due to any fault of the railroad company, the evidence showing that the block signals were properly displayed."

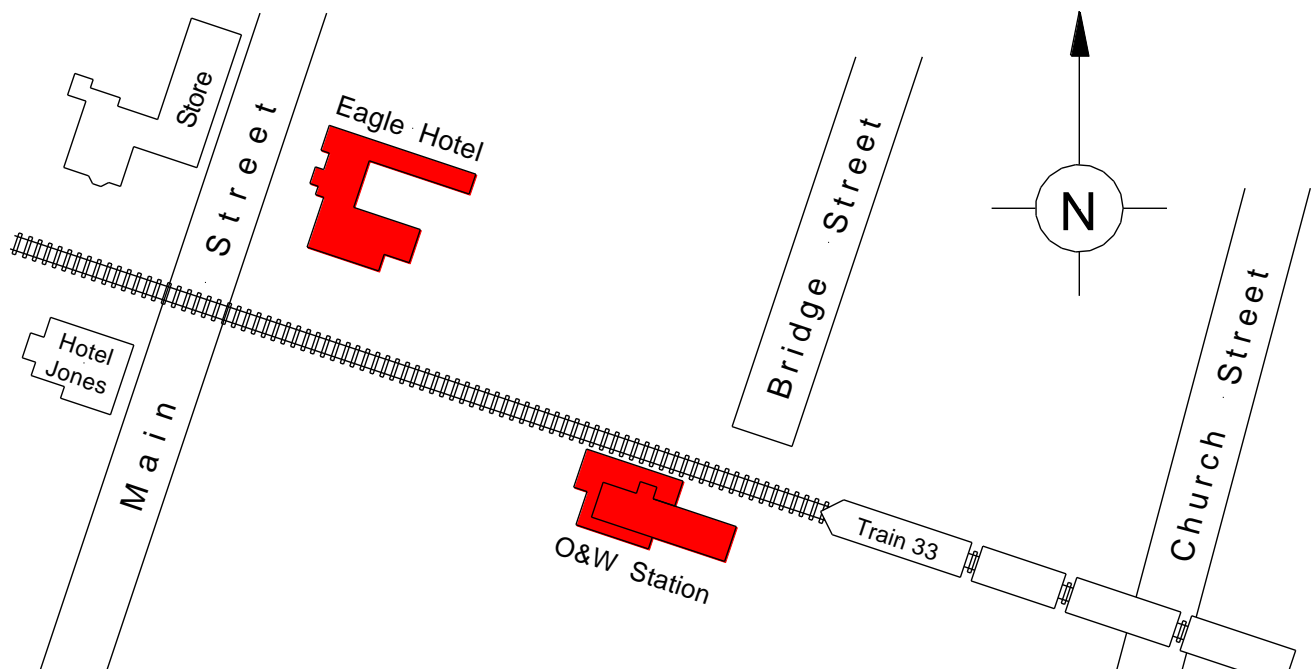
Operator Lawless was most fortunate for the compelling testimony of Miss Clark, as this went far in convincing the jury of his innocence. Initially, she was very much surprised in being sought as a witness in the case. She had casually mentioned to certain persons about looking out the window that night, but had not even told her father that she was positive she had seen the signals displayed before the train approached. The Clarks had recently returned from DeLand, Florida, where they had been spending the winter. An accomplished person, Miss Clark was preparing to go to Elmira to assume a position as junior matron in the Elmira Hospital, from where she would continue her studies in medicine.

While on an inspection trip the following week, President Fowler, Chief Engineer Canfield, Superintendent Lampher, General Manager Childs, and Assistant Superintendent Hopkins stopped at East Branch with the intention of satisfying themselves as to

the credibility of the testimony given at the inquest. They went to the Eagle Hotel and looked at the signal from that vantage point, finding to their gratification that from where Miss Clark stood, she could plainly see whether the block was red or white.

Exonerated, Operator Lawless would remain in the O&W's employ, transferring to Liberty to continue working as a night operator, and then assuming the duties of day operator at Fallsburgh early the following year. The fate of the Train 33 crewmen might have been a different story. With the jury concluding that the block signals were indeed properly displayed before the train arrived, they evidently accepted the accounts of the public witnesses as being accurate and true. Since these accounts refuted several adamant claims of the Train 33 crew, the evidence suggests that the crew might have colluded to provide false testimony. Nonetheless, it is not known whether any actions were taken against them.

The funeral for Engineer Ward was held in his hometown of Sloatsburg, NY. Some twenty O&W men from Middletown were in attendance, including ten engineers, six of whom served as pallbearers. Superintendent of Motive Power George West and Phillip Minshull, shop foreman, accompanied the delegation. Ward was a 27-year-old bachelor who had been in the employ of the O&W about six years prior to the accident, the last three as an engineer. His run of late had been between Middletown and Carbondale.



This figure shows the relative positions of the O&W depot, the Eagle Hotel, and passing Train 33. Witnesses at the Eagle Hotel provided evidence that was crucial to the outcome of the inquest.