

For Want Of A Shoe: Lessons in the Art of Questioning from the Titanic Disaster Hearings

by
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"Knowing that it was a calm night, I immediately put my overcoat on and went up on deck. As I started to go through the grand stairway I met a friend who said, "Why, we have struck an iceberg..."

First class passenger Maj. Arther Peuchen

While it is no exaggeration to say that most of the world is probably familiar with the story of the Titanic, no movie or literary account of the tragedy recalls that two days after the sinking, an American Senator, William Alden Smith, called for a special committee to investigate "the causes leading to the wreck of the White Star liner Titanic, with its attendant loss of life so shocking to the civilized world." For 17 days in April and May of 1912, Smith, a Republican lawyer from Michigan, extensively questioned surviving passengers and crew in New York's Waldorf-Astoria hotel and, a week later, in Washington D.C., about what had happened before, during and after the disaster.

Smith, while not a maritime attorney or expert in maritime matters, nevertheless dominated the questioning during this 17-day period. As one author¹ wrote, his "clipped method of questioning," which "skipped randomly from topic to topic," may have reflected the Senator's "initial grappling with the unfamiliar issues at hand." But it eventually resulted in some dramatic testimony, including that the crew had lost binoculars that would have allowed the ship to see the iceberg in time to avoid it.

The transcripts of these hearings are interesting reading not only for those generally interested in the Titanic, or the Cameron film, but lawyers today who are tasked with questioning witnesses in depositions or at trial. Smith's persistence and method of re-visiting topics, whether intentional or not, caught certain witnesses off guard, and made his questioning unpredictable and effective. At other times, he



appears too have been lenient in accepting evasive answers, though that was perhaps understandable given that the proceeding was not a trial. In any case, the transcripts of the surviving witnesses' testimony, given so soon after the actual event, provide a clear window into what happened that night over a hundred years ago, and are instructive for anyone interested in the art of effective questioning.

I. Handling the Bluntly Honest Witness: The Questioning of Lookout Frederick Fleet

Anyone who has seen James Cameron's *Titanic* will no doubt recall that among the most dramatic scenes is when the lookouts come to the horrifying realization that a massive iceberg, barely perceptible against the horizon, is coming straight at the liner's bow. One phones the bridge and exclaims, "Iceberg, right ahead."

The fourth day of the hearings included the testimony of that very lookout, Able Seaman Frederick Fleet, who was 24 years old at the time.

Under Smith's thorough and patient questioning, Fleet came across as either completely incompetent at judging and estimating distances, or still in shock from the event itself. Making no effort to make himself look or sound better in the wake of the disaster, he repeatedly testified that he had "no idea" about basic distances in question that night. For example, he testified that he had "no idea" how high he was stationed above the deck, the bridge, or how high the ship's masthead was above his own station high up in the crow's nest. Most astonishingly, he was unable to make any estimate as to how far away the iceberg was when he first sighted it:

Mr. Fleet: I was on the lookout.

Sen. Smith: On the lookout?

Fleet: At the time of the collision.

Sen. Smith: In the crow's nest?

Fleet: Yes.

Sen. Smith: Can you tell how high above the boat deck that is?

Fleet: *I have no idea.*

Sen. Smith: Can you tell how high above the crow's nest the masthead is?

Fleet: No, sir.

Sen. Smith: Do you know how far you were above the bridge?

Fleet: *I am no hand at guessing.*

Sen. Smith: (bearing in) I do not want you to guess; but, if you know, I would like to have you tell.

Fleet: *I have no idea.*

Sen. Fletcher: You hardly mean that; you have some idea?

Fleet: *No, I do not.*

Sen. Fletcher: (reducing to absurdity) You know whether it was a thousand feet or two hundred?

Fleet: [silence]

Sen. Smith: How far away was this black [iceberg] mass when you first saw it?



Senator William Alden Smith



Frederick Fleet

Fleet: *I have no idea, sir.*

Sen. Smith: How large an object was this when you first saw it?

Fleet: It was not very large when I first saw it.

Sen. Smith: How large was it?

Fleet: ***I have no idea of distances or spaces.***

Fleet's answers, while clearly disqualifying him from any future lookout position, became even more disturbing under Smith's continued questioning. The lookout who admitted he had "no idea of distances and spaces" went on to testify that he had no binoculars ("glasses" as they were described at the time) in the crow's nest as he was standing watch over thousands relaxing or sleeping in their beds that cold night. His testimony reveals that they appeared to have been lost at some point after the Titanic docked in Southampton. To apparent "murmurs of astonishment" from those watching at the Waldorf, Fleet stated that had he had the binoculars, he would have seen the iceberg soon enough for the ship to "get out of the way" thus averting the entire tragedy:

Sen. Smith: Did you make any request for glasses on the Titanic?

Fleet: We asked for them in Southampton, and they said there was none for us.

Sen. Smith: Whom did you ask?

Fleet: We asked Mr. Lightoller, the second officer.

Sen. Smith: You expected glasses?

Fleet: We had a pair from Belfast to Southampton.

Sen. Smith: You had a pair of glasses from Belfast to Southampton?

Fleet: Yes, sir; but none from Southampton to New York.

Sen. Smith: Where did those go that you had from Belfast to Southampton?

Fleet: We do not know that. We only know we never got a pair.

Sen. Smith: Suppose you had had glasses such as you had on the Oceanic, or such as you had between Belfast and Southampton, could you have seen this black object a greater distance?

Fleet: We could have seen it a bit sooner.

Sen. Smith: (pinning down) How much sooner?

Fleet: ***Well, enough to get out the way...***

In other words, a state-of-the-art ship almost 900 feet long, whose first class tickets were as much as \$75,000 in today's dollars, had lookouts that night with nothing more than their bare eyes to see what was coming ahead of them in the North Atlantic Ocean. Fleet's testimony, easily elicited by Smith, clearly gave an entirely new and disturbing meaning to the old saying: "for want of a shoe, a horse was lost."

II. Handling the Evasive Witness: The Testimony of J. Bruce Ismay

Ismay, head of the White Star line and 49 years old at the time, was obviously a far more sophisticated witness to question than Fleet. He was the first witness Smith called at the hearings that took place on April 19, 1912 at the Waldorf, only four days after the sinking. The American press had by this time thoroughly villainized him for not staying with the ship given that so many women and children had died. Bodyguards were actually seated next to him during his testimony.



J. Bruce Ismay

It is fair to say that a review of Ismay's answers to Smith's questioning that day justified his future portrayal as a man who was, understandably but unfortunately, overwhelmed by fear that night. It showed that, due to his privileged position, he was the first passenger to hear Captain Smith state - - on the bridge - - that the ship was seriously damaged. He was also the first to hear the Captain order that the lifeboats be lowered. Reading his testimony in full, it is not difficult to infer that he took advantage of this privileged information to get off the ship at all costs, knowing she would sink, while most of the rest of the passengers had no idea of how badly the ship was damaged.

Sen. Smith: Will you describe what you did after the impact or collision?

Ismay: I presume the impact awakened me . . . I went up on the bridge, where I found Captain Smith. I asked him what had happened, and he said "We have struck ice. I said, "Do you think the ship is seriously damaged?" He said, "I am afraid she is."

Sen. Smith: His first statement to you was that he felt she was seriously damaged?

Ismay: Yes, sir.

Sen. Smith: And the next statement of the chief engineer was what?

Ismay: To the same effect.

Sen. Smith: To the same effect?

Ismay: Yes.

Senator Smith then pivoted away from this sensitive subject to the issue of the ship's speed and course. Though the rumor was that Ismay's presence on the ship had influenced Captain Smith to go faster than he should have, this line of the questioning, which involved questions about the propellers' revolution rate, the location of the ship in the North Atlantic, and whether ice had been spotted, were easily deflected by Ismay. He simply declared "I am not a sailor . . . I am not a navigator. I was simply a passenger on the ship."

After having explored these technical questions, however, Senator Smith then came back to the sensitive topics of Ismay's movements that night, the issue of women and children, and his departure from the ship.

Reading the transcript, one can almost see Ismay begin to lose his confidence, become uncomfortable, defensive and, ultimately, give testimony that was simply not believable. Perhaps having felt that Smith had been done with these topics after having answered some earlier brief questions about them, Ismay might have been lulled into a false sense of comfort that the worst was behind him. For this reason, keeping a witness "off balance," by leaving sensitive topics such as these alone, and returning to them at a later point, can be a very effective questioning technique, as Smith demonstrated:

Sen. Smith: What were the circumstances of your departure, Mr. Ismay, from the ship?

Ismay: (defensive) In what way?

Sen. Smith: Did the last boat that you went on leave the ship from some point where you were?

Ismay: I was immediately opposite the lifeboat when she left.

Sen. Smith: Immediately opposite?

Ismay: Yes.

Sen. Smith: (repeating the unanswered question) What were the circumstances of your departure from the ship? I ask merely that - -

Ismay: (interrupting) The boat was there. There was a certain number of men in the boat, and the officer called out asking if there were any more women, and there was no response, and there were not passengers left on deck.

Sen. Smith: (incredulously) There were no passengers on the deck?

Ismay: No, sir; and as the boat was in the act of being lowered away, I got into it.

Senator Smith obviously found Ismay's testimony that there were no other passengers on his side of the deck, which was starboard, not credible. Continuing on the topic, he asked:

Sen. Smith: When you entered the lifeboat yourself, you say there were not passengers on that part of the ship?

Ismay: None.

Sen. Smith: Was there any attempt, as this boat was being lowered past the other decks, to have you take on more passengers?

Ismay: None, sir. There were not passengers to take on.

Sen. Smith: Before you boarded the lifeboat, did you see any of the passengers jump into the sea?

Ismay: I did not.

Sen. Smith: After you had taken the lifeboat did you see any of the passengers or crew with life-saving apparatus on in the sea?

Ismay: No, sir.

Had this been a jury trial, it is not difficult to visualize how absurd Ismay's answers at this point could have been made to sound. As Ismay would have had Smith believe, not just his deck, but lower starboard decks as well, were empty of passengers while 99% of everyone on board was on the other side of the ship. As it was, Senator Smith moved on to a few final topics with Ismay. One had him

testifying that, while he was allegedly rowing the lifeboat he was in, his back was simultaneously toward the sinking ship. Asked how this was possible, he testified that on his particular lifeboat, some people rowed with their backs to the Titanic, while others with their backs to the ocean, an answer which, again, strained credibility.

Smith's questioning, in sum, shows that touching on a sensitive topic, moving on to others, and then coming back to it can indeed be an effective questioning method.

III. How Not to Question the Possibly Dishonest Witness: The Testimony of Stanley Lord, Captain of the Californian

While Ismay has been pilloried throughout history as a coward for getting into one of the lifeboats, relatively less attention has been paid to actions of the captain of the Californian, a ship near the Titanic that night, by the name of Stanley Lord.

The Californian had arrived in Boston unnoticed the day the hearings began. After he arrived, Lord gave conflicting answers to local newspaper reporters about his ship's distance to the Titanic that night, saying to one "30 miles," and to another "20 miles." When he was asked to give his exact position that night, he refused, stating it was a "state secret." Two of his own crew members, James McGregor (ship's carpenter) and Ernest Gill (assistant engineer), however, informed the reporters that the Titanic was in sight of the Californian that night. Gill provided an affidavit stating the Californian was at most 10 miles away (16 miles was the apparent limit of visibility for ships of that size) from the Titanic and he could "see her broadside lights." He also testified that he then saw white rockets go up from the ship, signifying "a vessel in distress."

Gill went on to testify that one of his crewmates informed Lord of the lights and the rockets. Lord ordered Morse code signals be sent, but did not order that the ship's wireless transmitter be turned on so direct communication could be established. Gill stated: "I personally urged several to join me in protesting against the conduct of the captain, but they refused, because they feared to lose their jobs."

Senator Smith had Gill's affidavit in hand when he proceeded to question Lord during the hearings on April 26th. However, because Gill had been paid for his affidavit, Smith was skeptical and did not confront Lord with it. Nor did he confront him with his earlier reported statements about his position that night. He simply let Lord answer his question with no follow up or cross-examination of any kind:



Captain Stanley Lord

Sen. Smith: Was the Titanic beyond your range of vision?

Lord: (no doubt aware of the 16 mile limit) I should think so; 19½ to 20 miles away.

Sen. Smith: You were about 20 miles away?

Lord: Nineteen and one-half to twenty miles from the position given me by the Titanic.

Sen. Smith: At the hour the Titanic sunk?

Lord: We were 19 ½ to 20 miles away.

This was the full extent of Smith's questioning. As author Thomas Kuntz wrote, the lack of more aggressive questioning of Lord seems "bizarre" in hindsight, and it does. Indeed, three weeks later, a United States Navy hydrographer, John J. Knapp, testified that the Titanic and Californian were in sight of each other, and that the Californian could have reached the Titanic in time to save everyone, perhaps within one hour after she struck the iceberg. For reasons that are unclear, Smith never recalled Lord to question him further about all the evidence showing that he had ignored a ship in distress. When the Titanic was found in 1985, it was determined from its position on the ocean floor that the Californian probably was 19 miles

away; however the historical consensus is that Lord nevertheless failed to make any attempt to rescue the survivors from the sinking ship and that the distress rockets were seen.

On May 28, 1912, the Senate subcommittee headed by Smith issued its final report on the Titanic Disaster. In part, it cited Lord for “reprehensible” indifference to the Titanic, which in hindsight one could call an understatement of the century. In the end, despite’s Smith’s herculean interrogation efforts during the 17 days of hearings, “the Senators could recommend no prosecutorial action because shipping and shipping-safety laws were so lax that no one could be found culpable (and, in any case, the operators of the British-registered Titanic had to answer primarily to British authorities, whose regulations were also lax).”²

Smith, addressing the Senate before presenting the final report, stated:

At the very moment of their greatest joy the ship suddenly reels, mutilated and groaning. The ship wearily gives up the unequal battle. Only a vestige remains of the men and women that but a moment before quickened her spacious

apartments with human hopes and passions, sorrows, and joys. Upon that broken hull new vows were taken, new fealty expressed, old love renewed, and those who had been devoted in friendship and companions in life went proudly and defiantly on the last life pilgrimage together.

Less than a month after the American inquiry, England conducted its own. It was twice as long spanning some 36 days. After thousands of questions of hundreds of witnesses, the answer to the question why the Titanic sank was at once simple, and hard to believe: the massive liner was simply moving far too fast in an area in which ice had been spotted and, as Fleet’s testimony starkly revealed, with only the weakest of human radar:

REPORT OF THE COURT

The Court, having carefully inquired into the circumstances of the above mentioned shipping casualty, finds, for the reasons appearing in the annex hereto, that the loss of the said ship was due to collision with an iceberg, brought about by the excessive speed at which the ship was being navigated.



¹ Tom Kuntz, Word for Word Editor, *The New York Times* Week in Review.

² The Titanic Disaster Hearings: *The Official Transcripts of the 1912 Senate Investigation*, Kuntz, Thomas, Editor (1998).