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OF THE UNITED STATES
DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN

STEREOSCOPE



Farewell Letter from the Editor

Dear Historical Society Members and Other Readers:

I write this short note to say thank you for all of the wonderful support you and your organizations have given the *Stereoscope* since its inaugural issue in 2003, shortly after the Society's founding. The *Stereoscope* has put away its "swaddling clothes" since those early days and has matured into an important publication for the Bench and Bar throughout West Michigan and even beyond. I hope that you enjoy Bill Jack's incisive account in this issue of the *Eastland* disaster and the criminal probe that followed, presided over by Bill's great-grandfather, the Honorable Clarence Sessions. Our pages have been graced with articles composed by our friends and fellow lawyers, such as David Gass, James Mitchell, Michael MacDonald and Michael Puerner. The preeminent American historian, Richard Norton Smith, authorized us to publish his keynote speech, entitled "The Law and Abraham Lincoln," that he delivered at the 150th Anniversary of our federal district court. Our published articles include lively descriptions of important federal litigation, such as the Berkey & Gay receivership litigation of the mid-1930s and the "Taxing Journey of the Daniel Ball," which case arose under the interstate commerce clause of the federal constitution and was decided by the United States Supreme Court in 1871.

Without the hard work and support of all of you, both the Historical Society and the *Stereoscope* would not enjoy the great prestige now bestowed upon them. I thank everyone for their grand efforts, which have enhanced our Bench, our Bar and our entire community. I leave you now by quoting the farewell speech of one of my favorite characters in fiction, Samuel Pickwick, Esquire, given to his disbanded club members upon his retirement:

"I shall never regret having devoted the greater part of two years to mixing with different varieties and shades of human character; frivolous as my pursuit of novelty may have appeared to many. Nearly the whole of my previous life having been devoted to business and the pursuit of wealth, numerous scenes of which I had no previous conception have dawned upon me - - I hoped to the enlargement of my mind, and the improvement of my understanding. If I have done but little good, I trust I have done less harm, and that none of my adventures will be other than a source of amusing and pleasant recollection to me in the decline of life. God bless you all!"

Sincerely yours, *Patrick E. Mears*

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The *Eastland* Tragedy and The Western District of Michigan

By Bill Jack, Smith Haughey Rice & Roegge PC

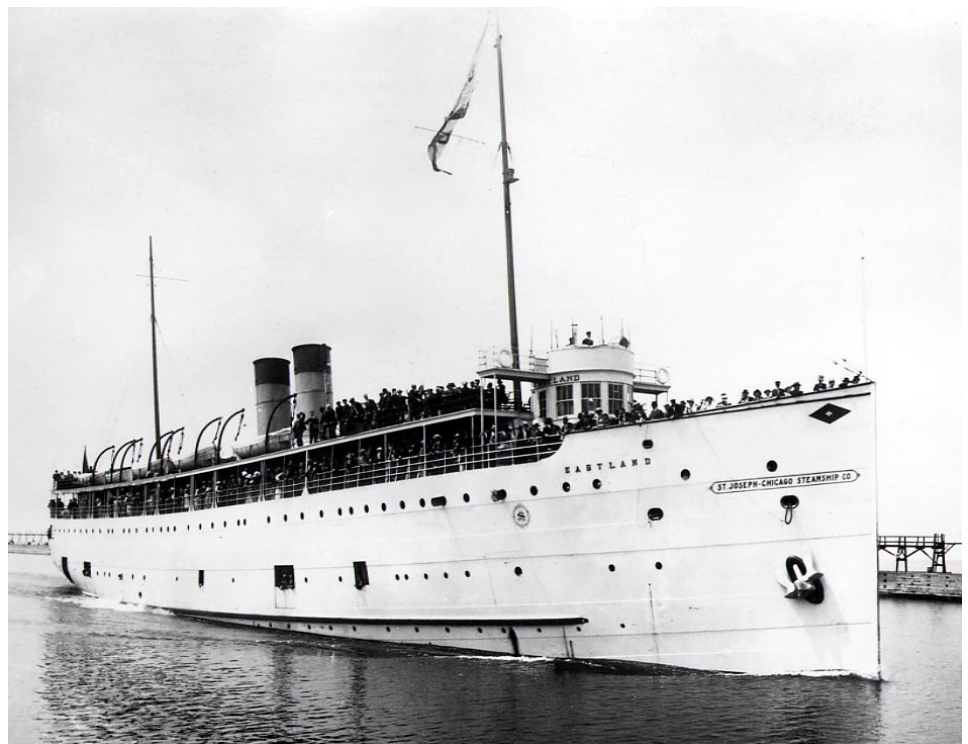
Introduction

On April 14, 1912, the *RMS Titanic* hit an iceberg in the North Atlantic Ocean and sank, killing more than 1500 people. Her story has been memorialized in song and plays and movies and stands as one of the deadliest peacetime maritime disasters in history.

On November 10, 1975, the *Edmund Fitzgerald* sank in a gale in Lake Superior killing 29 men and forever memorialized in the ballad by Gordon Lightfoot. That tragedy stands as one of the most serious disasters in Great Lakes history.

On Saturday, July 24, 1915, the Lake Michigan excursion ship, the *Eastland*, sank as she was preparing to leave her Clark Street dock in Chicago with 2,500 Western Electric employees and their families for a day long outing in Michigan City, Indiana. 844 men, women and children lost their lives. Taking place practically at our door step, it is a disaster that has been largely forgotten or barely remembered if ever known at all.

How many of us even know the story of the *Eastland* and how many of us know that the Honorable Clarence W. Sessions, United States District



The Eastland in Her Glory Days

Judge for the Western District of Michigan, played an integral role in the aftermath of the disaster?

Two significant books have been written about the *Eastland*: *The Sinking of the Eastland: America's Forgotten Tragedy* by Jay Bonansinga (Citadel Press 2004) and *Eastland: Legacy of the Titanic* by George W. Hilton (Stanford University Press 1995). Other than they both are written about the same morning in the Chicago River and the loss of 844 people, the two books could not be more different in style and approach.

Mr. Hilton builds an academic tomb: thorough and often times better understood by a naval engineer than by a lay person. It is exhaustively researched and sets the scene starting with the sinking of the *Titanic* that directly affected the design and construction of the *Eastland* and that played a significant role in its sinking. It also covers the aftermath that lasted years and included a criminal conspiracy case that was heard by Judge Sessions in Grand Rapids. No less a shining light than Clarence Darrow represented one of the key defendants.

Mr. Bonansinga's book is self-described as a "...work of narrative nonfiction." He also notes that, "Some dialogue is recreated for the purpose of narrative flow." So for example, if the reader likes phrasing like the following: "Something cold and oily snaked around Snow's ankle, and he looked down. The river was inside the engine room"; or dialogue like: "Suddenly I felt the weight relax and found myself holding only a handful of Ms. Korn's hair," then *The Sinking of the Eastland* is the better, faster read. Mr. Hilton's book is cited twenty times by Mr. Bonansinga as a part of the "narrative nonfiction."

Together the two books cover the waterfront on the run up to July 15, 1915, the terrible toll the disaster took in human lives, and the aftermath that lasted decades.

The Legacy of the Titanic

After the sinking of the *Titanic* in April of 1912, there was the inevitable international outcry over navigational safety and what could have been done to prevent the loss of life. One of the outcomes was

a "boats for all" demand that any ship have enough lifeboats for every person on a ship. Never mind that the *Titanic* exceeded all maritime laws for safety and for life boat capacity and never mind that her sinking was a combination of design flaws, split second decisions by her crew that later proved to be in error, and a massive unforeseen and nearly undetectable iceberg. "Boats for all" became the mantra for the international investigations that followed but, like most decisions based on a single event, it had its own major flaw. It would tend to make any existing ship more top heavy with the additional weight of the boats.

In March of 1915, President Woodrow Wilson signed into law the La Follette Seaman's Act which, in relevant part, mandated life boats for 75% of the passengers and crew and pontoons or collapsible or rigid sided rafts for the rest. The requirements were to be put into place for American operators in November of 1915.

The Life of the Eastland

The *Eastland* was built in 1903 in Port Huron, Michigan by the Jenks Ship Building Co. under contract with the Michigan Steamship Company. She was basically to be a competitor to other companies on the Chicago to South Haven run carrying produce and passengers between the two cities.

Professor Herbert Charles Sandler, Professor of Naval Architecture and Marine Engineering at the University of Michigan, would later testify before Judge Sessions in the criminal conspiracy case that the original design of the *Eastland* was more akin to an English Channel steamer than an excursion boat, meaning that she was built a little lower in the water with lower gangways to accommodate state rooms and cabins rather than higher decking for excursion trips. She was also designed with water ballast tanks, a design that became problematic on the morning of July 24, 1915.

One critical piece of that opinion is that the metacentric height of the boat was also lower than one might expect in an excursion boat which would ultimately make it less stable if it became top heavy. (Note: the undersigned doesn't pretend to understand

the physics of metacentric height, how it is computed, and what ratios are in play; but it is clearly a critical component of ship design and clearly not understood by the *Eastland's* owners as they made significant changes to the ship shortly before the disaster).

For the next several years, the *Eastland* plied the waters of Lake Michigan and Lake Erie. Early changes to her infrastructure adding weight above the water line decreased her metacentric height and therefore decreased her stability. Reports on her stability had to do mostly with loading and unloading passengers when she would list as passengers would crowd to one side or the other to get on or off the boat. Once loaded, she was fine and apparently the instability at the beginning and end of the voyage was not considered serious enough to warrant investigation. It should have been.

The first notable exception to the stability while underway occurred on July 17, 1904, on her way back to Chicago from South Haven heavily loaded with passengers. The *Eastland* began to list to port. Passengers were asked to go below decks, the ship was righted, and

she returned safely to Chicago. The second notable exception occurred on August 5, 1906, when a shift of passengers to the starboard side of the boat caused it to list in that direction. It righted itself. However, those events and rolling of the ship as she loaded and unloaded made her a less popular choice than her competitors on Lake Michigan.

From 1907 to 1913, she was on Lake Erie running day trips from Cleveland to Cedar Point. While little is known of her "seaworthiness" during that time, there was an incident on July 1, 1912 that was eerily similar to what had happened eight years earlier. The *Eastland*, shortly after leaving Cleveland, had listed to port approximately 25 degrees and then to starboard approximately 30 degrees before she had righted herself according to passengers. No investigation was done on the cause of the listing.

In late 1913, the *Eastland* was sold to a group who wanted her back in Lake Michigan and she returned in June of 2014. She was recertified by the federal inspectors and put back in service running from Chicago to



The Overturned Eastland in the Chicago Harbor

St. Joseph and also running day excursion trips to Michigan City, Indiana. Upon her return to Lake Michigan, she was solely used as an excursion boat.

Changes for the 1915 Season

In preparation for the 1915 season, the *Eastland* underwent several significant changes all of which led to a decrease in her metacentric height and therefore made her more top heavy and less stable. The changes were the last ingredients for the recipe for disaster that would occur on July 24, 1915. Concrete was added to two of the decks increasing the weight of the boat from between 14.25 and 19 tons. Second, concrete was added to the main deck. While Mr. Hilton notes that it is impossible to say with any certainty how much total weight was added, a rough approximation was somewhere between 30 and 57 tons.

In addition, because of the La Follette Seaman's Act which was to become effective in November of 1915 at the close of the 1915 season, the *Eastland's* owners were in a bind between trying to have capacity for as many passengers as possible and providing for enough life boats and rafts to comply with the Act. For the 1915 season in anticipation of the effective date of the Act, the *Eastland* carried 11 lifeboats and 37 life rafts in order to accommodate 2,500 passengers. She had originally been designed for six lifeboats. The weight (8 to 15 tons on the highest deck of the ship) of the additional lifeboats and rafts was significant, a legacy of the *Titanic* disaster that contributed to the death of 844 men, women and children.

A last change was the hiring of a new chief engineer, Joseph M. Erickson. Erickson had vast experience on the Great Lakes and with water ballast systems and was



The Rescue Mission Underway

clearly qualified for the job. Unfortunately, he became an unwarranted scapegoat for the disaster because he only partially filled the water ballast system which led to the instability of the ship as she began to list first to starboard and then to port. Unfortunate, because given all of the other contributing factors from time to design to the 1915 changes, a partial versus a full ballast system, while a contributor, was hardly the root cause of the *Eastland* capsizing.

Saturday, July 24, 1915

The morning of July 24 was cool and cloudy but, by all accounts, had not dampened the spirits of the 2,500 passengers who began boarding the *Eastland*. This trip had become an annual excursion for the employees of Western Electric and each year, the number of people who attended had risen considerably. Five thousand people all told had bought tickets and the *Eastland* was the first of two boats to be loaded. There had been no distinction between the boats as to which person was to be on which boat. It was first come first serve. Beginning at 6:30 AM, the passengers began to load in preparation for a 7:30 departure.

By 6:41 AM, the boat began to list to starboard because of the number of passengers boarding from the starboard side. Chief Engineer Erickson ordered that the port ballast tanks be opened to admit water to correct the starboard list. Unfortunately, given the added weight of the concrete and the life boats and the passengers and given the inherent instability of the boat when it was designed and built, the *Eastland* now began to list to port. Still the passengers continued to load. By 7:10, an approximate 2,500 passengers were on board. Erickson tried to load the starboard ballast tanks but, because of the severity of the portside list, was unable to do so. The ship was now at a negative metacentric height.

By 7:28 AM, the port list was now 45 degrees and in two minutes, she completely capsized still tied to the wharf.

Rescue attempts, given the immense extent of the disaster, were remarkably quick to mobilize. Those passengers still on the decks had the most likelihood of survival and those below deck, especially on the port side, did not. As in any maritime disaster, there were stories of heroism and cowardice but, in the end, what



Coffins of the Victims

mattered most was that 844 lives were lost that morning, a tragedy that could and should have been avoided. Indeed, it was a perfect storm of design flaws; lack of recognition of instability issues throughout the *Eastland's* history; the legacy of the Titanic and the “boats for all” mentality; weight changes in 1915 without regard for the increase in instability and the decrease in metacentric height; decisions made the morning of July 24 using a partial port side water ballast system that created a bath tub effect when the ship began to go from a starboard list to a port list; and the desire of wanting to get the most passengers on board to maximize profits.

The Western District of Michigan

As in most disasters of any proportion, there was plenty of blame to pass around and plenty of people/officials/politicians to do so. There was a flurry of coroner, state and federal investigations begun in Illinois and on September 9, 1915, Judge Kenesaw Mountain Landis issued bench warrants for George T. Arnold, President of the St. Joseph – Chicago Steamship Company who owned the *Eastland*; William Hull, Vice President and General Manager of the St. Joseph – Chicago Steamship Company; Robert Reid, steamboat inspector out of Grand Haven who was in charge of licensure for the *Eastland* for 1914 – 1915; Charles Eckliff, inspector of boilers and hulls out of Grand Haven; Captain Harry Pederson, Captain of the *Eastland*; and Joseph Erickson, Chief Engineer of the *Eastland*.

The charge was conspiracy to operate an unsafe ship. The conspiracy was alleged to have occurred in Michigan and because a number of the defendants were citizens of Michigan, the matter was assigned to Judge Clarence W. Sessions of the Western District of Michigan sitting in Grand Rapids. Because the charge arose out of admiralty, Judge Sessions sat as the sole trier of fact as the Commissioner. The hearing was held in the federal courthouse built in 1909 and currently housing the recently renovated Kendall College of Art and Design of Ferris State University.

A word about Judge Sessions. Born to a farming family in Ionia in 1859, he attended the University of Michigan and ultimately settled in Muskegon, practicing law first with a law firm, then as the City Attorney for the City, and then as a Circuit Judge in Muskegon



Hon. Clarence Sessions



Clarence Darrow

County beginning in 1906. On February 11, 1911, President William Howard Taft appointed him to the bench of the Western District of Michigan and he received his commission on March 2, 1911.

A little known story about Judge Sessions is that while he was a lawyer in Muskegon in the early 1900s,

his family owned one of only three Model T automobiles in the entire City of Muskegon, if not the entire county. Unfortunately, then lawyer Sessions managed to get into an accident with one of the other two Model Ts and presumably held the dubious honor for the rest of his life of being involved in the first car accident in the history of Muskegon. That circumstance fortunately did nothing to keep him from a distinguished career on the federal bench.

But back to the hearing on the criminal conspiracy charge. Initially, Clarence Darrow, who represented Engineer Erickson, took the position that the *Eastland* had been resting on an obstacle in the Chicago River and went so far as to send a diver into the river to look for it. No obstacle was ever found. A second explanation that a tug attached to the boat had pulled it over was likewise refuted. A third explanation that the passengers moving on the boat had caused the capsizing was also discarded.

Of primary importance to the criminal hearing was the testimony of Professor Herbert Charles Sandler, the Professor of Naval Architecture and Marine Engineering at the University of Michigan, noted above. Professor Sandler had examined the wreck of the *Eastland* a week after the disaster and again two weeks afterward and had studied the designs and changes and modifications of the ship in detail prior to this testimony. The transcript of his testimony before Judge Sessions has been preserved and is an appendix to Mr. Hilton's book along with comments on his opinions from several current marine engineers or captains. In summary fashion, the capsizing of the *Eastland* was a factor of her design not suitable for an excursion vessel; a decrease in her metacentric height making her even more unstable; a poorly designed ballast system; operating the ship with ballast tanks neither completely full nor completely empty; and gangway openings that were designed too close to the water line resulting in water coming through the doors during boarding.

On February 18, 1916, Judge Sessions ruled there was no probable cause to find a conspiracy took place and, at the same time, denied the government's request to have the defendants extradited to Illinois to stand trial on indictments of the Cook County Grand Jury.

George Hilton, while overall complimentary of Judge Sessions' ruling, had two criticisms: one, that Judge Sessions should have explicitly ruled that there had been no obstacle in the water that the *Eastland* was resting on; and two, that by ruling only on the conspiracy question, Judge Sessions ducked the issue of whether the *Eastland* was seaworthy at the time of the disaster. The obvious answer to both criticisms is that Judge Sessions only had before him the issue of criminal conspiracy leaving the other two issues to the civil litigation back in Illinois.

Aftermath

The Civil Actions:

The civil wrongful death cases lingered for years and were severely hampered by the limitation of liability for a shipping company pursuant to statute. The value of the wreck of the *Eastland* was set at \$46,000 which would have been all there was to satisfy 844 cases but again, because of the law, creditors came first including, among many others, \$34,500 to the Towing Company for its salvage efforts. Many other creditors exhausted the rest of the money. Civil actions attempted to establish that the *Eastland* was unseaworthy which would get the civil actions past the limitations but, on November 20, 1933, Lewis F. Mason, appointed by Judge Landis as the Commissioner for the civil actions found that the *Eastland* was seaworthy "in all respects", a rather stunning ruling given the opinion of Professor Sandler in the criminal case. The Commissioner's ruling was affirmed.

From the *Eastland* to the *Wilmette*:

Over the next several years, attempts were made first, to salvage the vessel, and second, to turn it into a Navy training vessel to help in the World War I war efforts. Unfortunately, the war was over by the time enough money had been raised to complete the transformation (which consisted of removing all of the offending changes that had capsized her). She was placed on active service in 1919 and, on June 29, 1920, she was commissioned as the USS *Wilmette*.

Her one main claim to fame came on June 7, 1921 when she steamed north out of Chicago and sank a German U-Boat that had been impounded after the war.

For the next 20 years, she helped train sailors on the Great Lakes and on August 1, 1943 carried President Franklin Roosevelt on a cruise across Whitefish Bay. She was ultimately decommissioned and sold as scrap in 1946.

Conclusion

Both *Eastland: Legacy of the Titanic* by George Hilton and *The Sinking of the Eastland: America's Forgotten Tragedy* by Jay Bonansinga are important reads in understanding this tragedy that took so many lives so close to us. Why it has earned only a foot note in the list of maritime disasters on the Great Lakes is a mystery. What is remarkable to the foot note of the *Eastland* disaster is the very large role Judge Sessions of the Western District of Michigan played in its aftermath.

150th Anniversary DVDs and Challenge Coins Still Available

The professionally produced DVD, *Thank God for Michigan*, specially prepared for the 150th Anniversary of the United States District Court for the Western District of Michigan is still available for purchase at \$30 apiece. Please contact David Gass at gassd@millerjohnson.com to order.

The Challenge Coins commemorating the Anniversary celebration are also available at the cost of \$15 apiece. To order coins, please contact Don Davis at dadavislaw@gmail.com.



The Historical Society for the United States District Court for the Western District of Michigan Membership Application

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