

July 1990

**TO ALL MEMBERS OF CLASS 3 -  
PROTECTION AND INDEMNITY**

The Britannia Steam Ship  
Insurance Association Limited

**Bills of Lading: Delivery of Cargo against One Original Bill of Lading carried on Board**

Members will recollect that previous Group Circulars, in April 1979 and March 1984, pointed out that liability arising from delivery of cargo without production of the bill of lading is not recoverable under the Rules of the Group Associations unless a Board or Committee of an Association in a particular case should decide otherwise. The circular of March 1984 specifically warned Members of the dangers inherent in the practice of retaining one original bill of lading on board the ship during the voyage and giving delivery of the cargo at the discharge port against that document.

Since that time, a number of efforts have been made by interested parties to improve the unsatisfactory legal and commercial aspects of continuing to trade cargoes by reference to three original paper bills of lading. The increasing use of Seaway Bills and the potential of electronic data interchange are contributing to possible solutions to these problems. However, no universally acceptable system has yet been devised and in the meantime, Members will be aware that the practice of the Master carrying on board one of a set of three original bills of lading, so that the cargo may be delivered against the same bill of lading, remains commonplace. Whilst this practice avoids delivery of cargo without production of an original bill of lading, it will not necessarily protect the shipowner from a claim for misdelivery of the cargo.

Where a set of original bills of lading is issued, endorsement and transfer of any one of the set may be sufficient to transfer the ownership of the cargo. When an incomplete set of bills of lading (two of three originals) has been in circulation during a voyage, there remains the risk that the party demanding delivery against the single original bill of lading retained on board will not acquire title to the cargo by reference to the other two original bills of lading which have been negotiated. Delivery in exchange for the bill of lading carried on board might result therefore in a misdelivery of the cargo. In some jurisdictions a shipowner could be liable for a claim based on such misdelivery. If a claim is brought for misdelivery, it is likely to be for the full value of the cargo.

The undersigned Associations repeat their earlier recommendations to their Members to resist requests to carry one of a set of original bills of lading on board. If Members feel compelled, for commercial reasons, to agree to the practice the undersigned Associations recommend that the following wording be prominently endorsed on all of the original bills of lading:

“One original bill of lading retained on board against which bill delivery of cargo may properly be made on instructions received from shippers/charterers.”

The endorsement will give notice to any party purchasing the cargo against an incomplete set of bills of lading, that delivery may be made in exchange for one original bill of lading retained on board, and should therefore reduce the risks of the practice.

p.t.o.

When an original bill of lading is carried on board, whether it is the only original or one of a set of originals, the utmost care must be taken by the Master to correctly identify the party to whom the bill of lading should be handed over at destination. Failure to hand the bill of lading to the right party could also result in a claim for misdelivery of the cargo.