

8. A Study on the Liner Bill of Lading in English Law and Case

해사법학과 김진권
지도교수 박용섭

As a matter of fact, the document which developed to resolve the obvious conflicts between the interests of buyer and seller was the bill of lading. The bill of lading provides the seller with some security against default by the buyer, and provides the buyer with some assurance of performance of the seller before the buyer is required to make payment. So to speak, the B/L provides some extent protection for both seller and buyer.

In the view of the law, a bill of lading has various aspects: First, it is very good evidence of



the contract of carriage of goods, though not the contract itself, for the contract is usually concluded before the bill of lading is signed. Second, it is a receipt for the goods shipped and contains certain admissions as to their quantity and condition when put on board. Third, it is a document of title. Therefore we cannot normally be obtained the goods without the delivery of the document.

However, there are various types of bill of lading. Specially, this is a study on the construction of Liner Bill of Lading(Code name : CONLINEBILL) adapted by BIMCO(The Baltic and International Maritime Conference) and used a basic bill of lading in the liner ship's operating. By that reasons, applying to English Law, Case and 6 rules of construction in the interpretation of clauses, I make a wider and deeper study of claims and obligations of Contract Parties under Carriage of Goods by Sea Act 1971(COGSA 1971).

In concrete terms about this study, Chapter 1 outlines the purpose of this study as well as the scope. Chapter 2 deals with the general study about the bill of lading. This chapter outlines definition, function, kind and nature of the bill of lading and considers the standard rules of the construction to the bill of lading for the clarification of CONLINEBILL.

Proceeding to the main issue, Chapter 3, 4, 5 and 6 deal with the construction of CONLINEBILL. These divided chapters make a term of significance for the each clause by means of the classification of CONLINEBILL's legal construction. Chapter 3 has 3 categories of legal construction. Section 1 in Chapter 3 includes the conclusion of contract such as General Paramount Clause and Jurisdiction Clause. Section 2 accounts for the real structure in CONLINEBILL; Substitution of Vessel, Transshipment and Forwarding Clause. The last section 3 explains the personal structure in Definition Clause. Then I try to grasp the meaning of each clause through the original text, the translated text into Korean and the explanation of the clauses gradually.

It deals with the rights and obligations of shipowner in Chapter 4 and those of Merchant in Chapter 5. Chapter 6 considers danger management of CONLINEBILL such as General Average and Salvage Clause and Both-to-Blame Collision Clause.

The last Chapter 7 conclude the characteristic of CONLINEBILL as well as summary of the previous chapters and deals with the comparative study between COGSA 1971 and CONLINEBILL.

As follows the characteristics of CONLINEBILL are concluded from the current study. First, this bill of lading exclude General immunity clause, Seaworthiness clause, The limitation of liability though including important these clauses in the Hague-Visby Rules. Second, this bill of lading specially provides Identity of Carrier clause clarified the subject of responsibility in carriage of goods by sea, Exemptions and Immunities of all servants and agents of the Carrier, Carrier's option by means of containers or similar articles of transport used to consolidate goods and unitization of receptacles such as container, trailer and transportable tank. Third, Lighterage clause, Loading, Discharging and Delivery clause and Freight and Charge clause are to rationalize through the settlement of the company's account. Fourth, as CONLINEBILL is adapted by BIMCO which has the international reputation and approved by shipping industries, the bill of lading aims to develop the shipping communities and tries to make a standard bill of lading



based upon the International Convention for the Unification of Certain Rules relating to Bills of Lading.