

No. 18226

SUBJECT

CO 533/425

Insurance of Freight (K. W. Reig)

Complaint as to difficulty in
obtaining information regarding
fires in cotton.

Previous

Subsequent

3/19/33

Cop comp H.C. short app for exam

J.P. [unclear]
12/17/32

2 To Lloyd's - 1 am. - 18-7-32

~~3~~
C. [unclear]

Instr. - 106 - (w/ [unclear]) - con - 19 July 1932

4 Lloyd's - 19/7/32

Att. receipt of No 7.
? Put by [unclear] 29/7

S. G. [unclear]

20. 7. 32
at [unclear]

110

5. H. G. 134 - 21st Sept. 32

Summarises details of indemnity which Geo. Smith, of [unclear] were asked to sign, & states reports from departmental inquiries on accidents if provided would appear to be [unclear] States also that damage to cotton blanket is due in the majority of cases to spontaneous combustion.

Sworn if the refusal of [unclear] by the [unclear] in capt. under indemnity is legally correct then appears to be the general question as to whether this can be fully [unclear] in the case of a [unclear] [unclear]

*W.S. Price has
1/14/32
P. Priestman*

I presume that exception is taken only to the second condition, which I have marked (2) in the second enclosure to (1). I do not think Lloyds' agents can reasonably object to the other conditions.

They say that the attitude of the railway is difficult to understand, as it would seem that the railway would not commit themselves to any liability by supplying the information asked for, and that they do not think that wilful misconduct of the railway employees was in question. In other words, they suggest that there could be no liability in respect of which indemnity is necessary. To this one could, of course, reply that it is equally difficult to see why Lloyds' agents should be unwilling to give an indemnity in respect of a non-existent liability.

Nevertheless, the condition does appear to be unnecessarily wide. It seems unreasonable to require an indemnity from "any claim or loss in anyway arising out of or in connection with the traffic matter or thing in respect of which the information is required". These words are wide enough to cover a claim for losses in respect of which the persons applying for information are not concerned. Taken in conjunction with the first condition, I should have thought that it would suffice to require an indemnity

The form is stated to be a copy of an actual use 1/14/32

communicated. I can think of no more restricted form of words which would ensure that the information would not be passed on and used for the purposes of supporting a claim against the High Commissioner.

There is, however, a further consideration. If a Government authority carries on a business, it will, I think, be generally accepted that it should do so upon business lines, and if, as is stated in (5), the railway companies in this country require an indemnity in this form, ~~it should~~ ^{should not} blame the K.U.R. for following suit?

With regard to Mr. Priestman's minute above, so far as I am aware, the railway are under no legal obligation to give any information unless and until they are compelled to do so in the course of legal proceedings.

J. R. Priestman
27.10.32.

This is a case where one should be guided by general railway practice. If it is true that a similar indemnity is required by English railways it would surely be a sufficient answer to Lloyds' to tell them so. Perhaps on English railways it would be retained (as ~~was~~ ^{is} proposed) in the way suggested by Mr. Roberts-Wray. If so, you may not suggest to the K.U.R. that they should ^{get} ~~adopt~~ the law amended accordingly. There is a good case for it.
L. J. Priestman
28.10.32.

should be referred to
 saw a copy of the memo
 to the B of T for their advice,
 with copies of the draft rules
 referred to, & include the
 Robertson's comments at "A"
 in a quite tentative way.

J.V. Allen
 29/10/32

I agree, - except that it should be
 Ministry of Transport, not B. of T.
 But I am not sure that English law being
 practice is necessarily a sound precedent
 (I think they have been pulled up by the
 court for trying to make fundamental
 treaties, under a reservation of legal rights
 of parties.)

J.V. Korman

Nothing would I/T. But I think
 it may also be desirable to look to
 see what the Indian practice is.

Wed. 29/10/32

To my. of Transport (as usual) 9/11/32

say that a reply has been
 received for the B of T. and is now
 under review. But that as a
 number of legal questions are involved
 it may be some time before the
 S. of S. is in a position to
 communicate his views to the Committee

H.S. Pimishne
 1/12/32

The subject of consultation with other interested
 Dept. of H.T.S. Province - further reply when
 S. of S. is in a position to formulate his
 view on the legal question involved.

Copy copy - 11 Transport 25 ref. 6.

J.P. Pimishne
 2/11/32

To Lloyd's (7 and) 6/12/32

To my. of Transport (12/7+8) 8/11/32

J.P. Lloyd
 Pimishne

4th Dec 32

put by J.P. Pimishne

29/12/32

S.D. Pimishne

29/12/32

at mee

copy as usual no mention

This is with very helpful ~~and~~
~~sent~~ In view of Sir C. Bottomley's
minutes of 29/10/33 & send with it
I.O. sending them the correspondence etc
mentioned in 6 together with a copy of 11
and ask to be informed what
is the practice in respect of
India railways in which the
Govt of India has an interest.

H.S. Ponsme
2/1/33

H.S. Ponsme

I shall be surprised if Indian
Minister looks but no harm in
asking as we have got nothing
so far.

C.V. Vernon

to C.A.
4.1.33

once

To I.O. (General as def) Cons. 14/1/33
H.S. Ponsme

H.S.
Ponsme
to see
letter.

India Office

19 Jan. 33

Ref. No 12 states matter has been referred to India
no further letter will be sent

awaiting ^{the} reply

DESTROYED UNDER STATUTE

H. P. D. [unclear]

28/1/33
atmre

DOWNING STREET,

14 January, 1933.

Handwritten signature/initials

Sir,

I am, etc., to transmit to you to be laid before the Secretary of State for India the accompanying copies of correspondence regarding a question raised by the Committee of Lloyd's London concerning the difficulty experienced by them in obtaining on behalf of underwriters information regarding fires in cotton carried on the Kenya/Uganda Railway.

I am also to enclose copies of the Kenya and Uganda Railway Ordinance 1927 and of the Railway Rules for Reporting and Investigating Accidents on Railways in the Colony (the reference in the Rules to Section 82 of the East Africa Railway Ordinance now applies to Section 45 of the 1927 Ordinance). It

will

Handwritten notes: alle b/s

- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bellomley.
- Sir J. Shuckburgh.
- Perms. U.S. of S.
- Party U.S. of S.
- Secretary of State.

DRAFT *Amson*

THE UNDER SECRETARY OF STATE,
INDIA OFFICE

I with encoll

Kenya Ordinance No. 15, 1927

Rules

Transport enclosed with the
above correspondence that the
Minister of Transport has no
jurisdiction in respect of such
occurrences on the railways
in this country, but that in
practice information would not
be given by the railways to
any underwriters without res-
trictions and that applications
for information would be dealt
with on their merits.

3. I am to say that before
considering this matter further
~~coming to a decision on the point~~

Sir P. Cunliffe-Lister would be
glad to receive any information
which Secretary Sir Samuel Hoare
may be in a position to supply
regarding the practice followed in
this matter in respect of the
Indian Railways in which the

J. S. J.
Government

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Sanjiv
Government

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My dear Sir,
I have the honor to acknowledge the receipt of your letter of the 14th inst. in relation to the proposed amendments to the Constitution of the State of New York.

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