

Insurance Day

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Brewer's World



CAPTAIN TED, as he was known, was a clever man who was employed as a bunker trader; that is, he dealt in marine fuel for his company. His name was a sobriquet bestowed by his colleagues, for his talents included the ability to talk at such a great rate his convoluted line of argument generally got his way for him. Called upon at a trial to give evidence supporting his company's attempt to recover unpaid money from a shipping client, he did so with such verve that, to some surprise, a High Court judge found him a clear, concise and compelling witness. The judge found the defaulting buyer was liable, in that it had acted as a principal rather than managing agent of the ship concerned.

Fortunately for the winning side, the result was not appealed, for it feared it would have been difficult for anyone to prove – without the benefit of the assertive Captain Ted – the defendant was not merely a managing agent unaccountable for a principal's debt.

This hitherto unreported and quirky tale is revealed by barrister Trevor Harrison in his new book, *Legal Issues in Bunkering*. Harrison, a one-time protection and indemnity man, former legal adviser to a leading fuel supplier, current maritime arbitrator and marine claims course director for Lloyd's Maritime Academy, has a burning mission to share his expertise in the multi-layered world of bunkering practice. He will further that ambition in his new role of acting chief executive of the International Bunker Industry Association.

Bunkering, for the benefit of anyone outside the marine market, derives its name from the place where steam-powered ships stored coal, resulting in the coal itself – and subsequently ship's fuel in general – being referred to as bunkers. The process today is the epitome of international trade, when a complex transaction might involve the laws and jurisdictions of half-a-dozen countries.

Like oil cargoes, bunkers can be a source of pollution and the shipping industry and its insurers must familiarise themselves with key laws and conventions. Both the so-called Fund Convention and the Bunkers Convention require ships above a certain size to have pollution insurance to the limit of their liability, while claimants have the right to take direct action against insurers of a polluting vessel.

Marine fuel is literally the bottom of the refining barrel – what is left when all else of value has been extracted. As the cost of crude has increased, the quality of this residue has deteriorated and is likely to get worse. Logistical issues of procurement and delivery of high-value bunkers heighten the risk, which includes mismatch between a time charterer's obligations to an owner and the detailed specification and terms under which the charterer contracts to purchase fuel. The only answer is for charterers to understand fully their obligations under a charterparty before ordering bunkers.

Growing demand for low-sulphur fuels has been accompanied by an increase in the contamination of fuel oil by catalytic fines, the abrasive particles of aluminium and silicon used in refining, which cause rapid wear to marine engines. This may prove a temporary phenomenon, but supports the widely held view bunker quality has been steadily deteriorating, according to Harrison.

He cites another unreported case, an arbitration in which the time charterers of a ship claimed against a supplier for delivering off-specification bunkers. The reason for discrepancies between the samples taken by the ship's crew and the barge crew "will remain forever a mystery", he chides.