

# **Casebook on Insurance Law**

**Fourth Edition**

**E. R. HARDY IVAMY**

**BUTTERWORTHS**

# Casebook on Insurance Law

Fourth edition

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# Preface

The aim of this new edition is the same as in previous ones, ie to collect together and in a convenient form and size the leading and important cases on the principal types of insurance. At the head of each case there is a short statement of the principle involved. This is followed by a summary of the facts, the decision given, and extracts from one or more of the judgments delivered.

A number of developments have taken place in non-marine insurance. *General Reinsurance Corporation v Forsakringsaktiebolaget Fennia Patria* [1983] 2 Lloyd's Rep 287, CA, establishes that the initialling of a 'slip' by a reinsurer constitutes an acceptance unless, in the circumstances of the case, there is a custom to the contrary. *Spinneys (1948) Ltd v Royal Insurance Co Ltd* [1980] 1 Lloyd's Rep 406 defines a 'civil war'. *Geismar v Sun Alliance and London Insurance Ltd and Alliance Assurance Co Ltd* [1977] 3 All ER 570 shows that the Court will not enforce a contract of insurance in respect of goods which are knowingly imported by the insured into this country in breach of the customs regulations. According to *Nittan (UK) Ltd v Solent Steel Fabrication Ltd (trading as Sargrove Automation) and Cornhill Insurance Co Ltd* [1981] 1 Lloyd's Rep 633, the Court is at liberty to correct a mere clerical error in a policy, eg a misnomer, without using the equitable remedy of rectification. *Oei v Foster (formerly Crawford) and Eagle Star Insurance Co Ltd* [1981] 2 Lloyd's Rep 170 is an example of the way in which the 'proximate cause' rule may be excluded. *Porter v Motor Insurers' Bureau* [1978] 2 Lloyd's Rep 463 and *Cooper v Motor Insurers' Bureau* [1983] 1 All ER 353 indicate the extent of a third party's rights against the Bureau. *Rigby v Sun Alliance and London Insurance Ltd* [1980] 1 Lloyd's Rep 359, which concerns a householders' comprehensive insurance policy, explains the meaning of 'liability at law attaching solely as owner, not occupier, of the house'.

In marine insurance, *Container Transport International Inc v Oceanus Mutual Underwriting Association (Bermuda) Ltd* [1982] 2 Lloyd's Rep 178 states that with regard to the alleged non-disclosure of a material circumstance within the meaning of the Marine Insurance Act 1906, s 18, it is not enough that the insurer's judgment in fixing the premium or determining whether he will take the risk might have been affected. In *M Almojil Establishment v Malayan Motor and General Underwriters (Private) Ltd, The 'Al-Jubail IV'* [1982] 2 Lloyd's Rep 637, the Court had to decide

whether the policy was a 'mixed policy' ie one which was a contract for both voyage and time. *Athens Maritime Enterprises Corp v Hellenic Mutual War Risks Association (Bermuda) Ltd, The 'Andreas Lemos'* [1983] 1 All ER 590 decides that 'piracy' means 'theft at sea involving force or threat of force', and that it may be committed inside territorial waters. In *Prudent Tankers Ltd SA v Dominion Insurance Co Ltd, The 'Caribbean Sea'* [1980] 1 Lloyd's Rep 338, the scope of the 'Inchmaree' clause was investigated. *Piermay Shipping Co SA and Brandt's Ltd v Chester, The 'Michael'* [1979] 2 Lloyd's Rep 1 explains that the burden of proving privity on the part of the assured, who claims a loss of barratry, lies on the insurers.

I am grateful to the publishers of *Lloyd's Law Reports* and to Butterworth & Co (Publishers) Ltd (the publishers of the *All England Law Reports*) for the kind permission which they have given me to reproduce extracts from the reports concerned.

I should also like to thank Butterworth & Co (Publishers) Ltd for preparing the Tables of Cases and Statutes and the Index, and for their help in seeing the book through the press.

University College London  
January 1984

E R HARDY IVAMY

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