

ABSTRACT

This dissertation discusses two practical problem areas in bills of lading, namely, delivery of cargo without production of the original bill of lading (delivery against the presentation rule) and intentionally ante-dated bills of lading. The main objective of the dissertation is to find a uniform test and/or other practical solutions with regard to issues arising out of those two problems. Before reviewing the issues, it precisely discusses the historical development of the bill of lading and its three main functions. Thereafter the study will look into the two problem areas. With respect to the problem of delivery against the presentation rule, the dissertation discusses the rationale of the rule, reasons for delivering goods against this rule and the attitude of the courts in regard to the various defenses and means used by the carriers in order to protect themselves from repercussions of violating the basic rule. In regard to the problem of intentionally antedated bills of lading the dissertation identifies the importance of the date of the bill of lading and the effects of antedating. It will identify that the courts have found it difficult to balance the interests of affected parties due to lack of options since the law is not well versed and there are no uniform tests.

Eventually it identifies that solving the problem of late arrival of documents as the best solution for both issues. Author has identified that introduction of electronic bills of lading as the best option and therefore, it discusses the prospects of Electronic Bill of Lading as an alternative. It has observed that the electronic bills of lading are not in widespread use as it is expected. However, this research reveals that there are no significant legal or technical barriers for the unpopularity. Most of the main legal barriers, such as requirements of 'writing', 'signature', 'original' have been removed by national laws of many countries and international trade regulations. Moreover all international laws, trade regulations and national laws are being constantly modified in favour of recognition of electronic communication and electronic contracting. Further, the research will find the electronic bills of lading is capable of functioning as negotiable document of title, receipt for the goods shipped, and evidence of contract of carriage which are the main function of bill of lading. Outcome of the research will confirm the fact that laws regulations in regard to bills of lading are adequate for the use of electronic bills of lading. The problem is lack of other infrastructure facilities and a monitoring international institution for the widespread usage of electronic bill of lading, not the legal barriers.