

On appeal from the High Court of Justice

Queen's Bench Division, Commercial Court

between:

Richard A. Tropp

Appellant/Defendant
Counterclaimant

- and -

The Society of Lloyd's

Respondent/Claimant
Defendant to Counterclaim

Witness Statement

This is a witness statement in support of certain points in Richard A. Tropp's Grounds for Appeal ("Grounds") in his Appellant's Notice of 18 May 2005. I write this from personal knowledge and experience as then Chairman of the House of Commons committee which, in 1981-82, considered the bill ultimately enacted as Lloyd's Act 1982.

1. I am a Member of Parliament since 1970. During 1981-82, I was Chairman of the Lloyds' Bill Committee to which the House of Commons assigned the Lloyd's bill for consideration. The Committee considered the bill over several months, required amendments to it, and reported it back to the House floor. I intensively directed the process within Committee, and then spoke to explain and support the bill on behalf of the Committee to the House.

2. In Mr. Tropp's Grounds, issues I and II address the scope of Parliament's intent in § 14(3) of the Act, the exemption from liability. Issue I addresses the courts' having construed and relied on § 14(3) to preclude remedies other than damages. Issue II addresses the courts' having construed and relied on § 14(3) to preclude claims arising from Lloyd's' acts, and counterclaims arising from Lloyd's' claims, not only in Lloyd's' self-regulatory public functions but also in Lloyd's' merely commercial private capacity.

Both of these issues were expressly and intensely considered in my Committee and on the House floor. I was an active participant in the discussion on these particular two issues.

3. The present language of the § 14(3) exemption from liability (the "immunity") was written at the behest of my Committee as an amendment to narrow the broader scope of the original bill. In relation to Mr. Tropp's issue II, it was the statutory intent of the Committee and of the full House that the § 14(3) exemption from liability in the Act apply to Lloyd's in, expressly and only, its capacity when acting as a regulator pursuant to the Act: in its "public functions".

It is contrary to the intent of the Committee, and would have been repugnant to the many Members who spoke to the scope of that immunity with apprehension on both Houses' floor, that the exemption apply to Lloyd's when acting in its merely commercial private capacity.

4. Mr. Tropp is consequently in my view correct in his reporting to this Court (in § 13 of his Grounds issue II) of my intent as Chairman, the Committee's intent, the Commons' intent, and Parliament's intent in enacting § 14(3). It follows that insofar as courts subsequently have construed and relied on § 14(3) to shield Lloyd's from liability in its merely private capacity rather than only in its regulatory public functions, such use of § 14(3) is in my view not consistent with Parliament's intent in the Act.

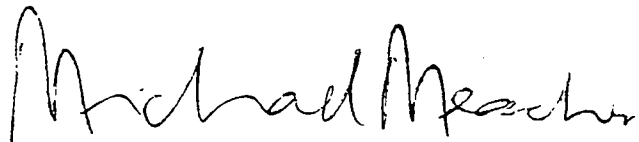
5. In §§ 16-17 under his Grounds issue II, Mr. Tropp reviews (a) Lloyd's' own pleadings to the courts that in Lloyd's' Reconstruction and Renewal ("R&R") claims as a class and in his case in particular, Lloyd's has acted in its private commercial capacity, not in its public functions and (b) the courts' holdings in multiple R&R cases, and this Court's holding affirming them, in which the courts have accepted Lloyd's' pleading and have established the position in UK law that Lloyd's' R&R claims are brought in its private capacity, not in its public functions.

Insofar as Mr. Tropp is correct in his §§ 16-17 in reporting Lloyd's' pleadings on which the Administrative and Commercial Courts and this Court have relied, and in reporting those courts' and this Court's holdings accepting those points, my understanding of Parliament's statutory intent in the Act is that his Grounds § 18 states the true position on § 14(3): it is not consistent with Parliament's intent that a counterclaim to Lloyd's' R&R claims be precluded by the courts from arguability by reason of the § 14(3) exemption from liability.

6. As to Mr. Tropp's issue I, it was the statutory intent of Parliament that § 14(3) exempt Lloyd's only from liability in, in particular, damages. It expressly was the intent of the Committee and I believe both Houses -- in each of which this particular issue was considered at length -- that the § 14(3) immunity not exempt Lloyd's from any other remedy under other statutes, in common law, or in equity. Mr. Tropp is consequently also correct in his construction of the true position of Parliament on his Grounds issue I.

7. My Committee and the Commons did not separately consider the prospect that § 14(3) might be construed by courts to preclude all rights and remedies in claims against Lloyd's relying on, in particular, (a) the English statutory and common law of insurance (Mr. Tropp's issue III), (b) of set-off (issue IV), or (c) of assignment (issue V). By inference from Parliament's position on his issues I and II, however, it might be reasonable to construe Parliament's intent on issues III, IV and V as well: it was not proposed to and consequently was not considered by Parliament, nor therefore in my view was it Parliament's intent, that Lloyd's be exempted by § 14 from being subject to, and that parties aggrieved at Lloyd's be precluding from relying on, all the rights and remedies which are available to everyone else under these three long-settled bodies of traditional English law.

Based on my contemporaneous experience and personal knowledge of the matters above, I believe that the facts stated in this witness statement are true.

A handwritten signature in black ink that reads "Michael Meacher". The signature is written in a cursive style with a large initial 'M'.

Rt Hon Michael Meacher MP
11 January 2006

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