

ships. Consequently where, after the outbreak of war, a ship is captured and taken to a hostile port, the ordinary form of charter party answers the question, "Who bears the loss?" simply and clearly.

But "restraint of princes" may mean something more than capture or detention by enemy forces.

So where an English ship or cargo is insured against "taking at sea, arrests, restraints and detainments of all Kings, princes and people of what nation, condition or quality soever" the insured is protected against loss caused by a compliance with the law of his country or the commands of his Government, although he cannot and does not insure himself against a loss caused by a defiance of such laws or demands (*Sunday & Co. v. British & Foreign Marine Insurance Co.* (1915) 2 K.B. 781, 31 T.L.R. 194, 374). It should be mentioned, as a matter of interest, that it was argued in the above case that in a British policy restraint by the British Government must always be taken to be excepted. Bailhache, J., who gave judgment in the sense above outlined, said that the point was of importance and was not covered by any decided case which could be said to be conclusive. The insured had diverted certain cargoes of linseed which were on their way to Hamburg, and had sent them to English ports at the request of the Government. In giving judgment on appeal, the Lord Chief Justice said (at p. 375, in the T.L.R.): "The words 'arrests, restraints, etc.,' to my mind imply some intervention of a fortuitous character, some interference out of the ordinary course of events by the governing authorities who have the force of the State behind them to compel submission to their authoritative decrees."

In *Holland Gulf Stoomvaart Maatschappij v. Watson* ((1915) 31 T.L.R. 169) the question arose whether the duty to effect war risk insurance was on owners or charterers. A vessel had been chartered by the defendants from the plaintiffs (the owners) on a time charter, which contained the words, "War risk, if any required, for charterers' account." By another clause the