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Chartered Insurance Institute

# The Insurance Institute of London

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**Causation = Common sense**

**Really?**





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Can X be a cause of Y, if Y would in any event have occurred irrespective of, i.e.  
but for, X?





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**Threshold test. Inadequacies. Over-inclusive and over-exclusive. Adam & Eve.**

**Two fires. Two hunters. Twenty people pushing a bus. Twenty companies  
pollute a waterway.**





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**Proximate Cause = efficient cause**





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Cargo ship is insured against perils of the sea with an exception for losses

caused by hostilities. The ship is torpedoed and seriously holed by a U-boat.

The cargo ship effects temporary repairs and makes it safely to her port of destination. While anchored off the port, the operation of the wind and waves opens up the hole and the ship sinks. What is the proximate cause of the loss?

Is the loss covered?





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Cargo ship is insured against hostilities with an exception for losses caused by perils of the sea. The ship is torpedoed and seriously holed by a U-boat. The cargo ship effects temporary repairs and makes it safely to her port of destination. While anchored off the port, the ordinary operation of the wind and waves opens up the hole and the ship sinks. What is the proximate cause of the loss? Is the loss covered?





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Cargo ship is insured against perils of the sea (i) with no relevant exception or (ii) with an exception for losses caused by hostilities. Torpedoed and seriously holed by a U-boat. A gale strikes the ship. Ship sinks.

Assume that the ship would not have sunk in the absence of either the torpedo or the gale: she sank because of the combination of both. Equal efficiency. What is the proximate cause of the loss? Is the loss covered?





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Assume that each of the hole and the gale independently of each other would have sunk the ship: i.e. (i) even if the gale had not occurred, the ship would still have sunk, and (ii) even if the torpedo had not holed the ship, the gale was of such severity that the ship would still have sunk. What is the proximate cause of the loss? Is the loss covered?

But for test?





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Is necessity of cause necessary, or is sufficiency of cause sufficient, or is it enough that the insured peril is one of a combination of a multiple of causes none of which is either necessary or sufficient?





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**FCA case, Disease Clause exemplar:**

“We shall indemnify you in respect of interruption or interference with the Business during the Indemnity Period following ... any occurrence of a Notifiable Disease [COVID-19] within a radius of 25 miles of the Premises”.





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**Governmental lock down in March 2020. In response to all cases of COVID-19 everywhere in England, including one or more cases within a radius of 25 miles of an Insured's Premises (say, a restaurant). The Government would have imposed exactly the same lock down even if there had been no cases of COVID-19 within a 25-mile radius of the Insured's Premises. Is the Insured covered?**





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**Separate and equally effective cause.**

**Really?**

**Cf meaning of proximate cause**

**Construction of policy(ies)**

**Countervailing cause**

**Originating / underlying cause**





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