



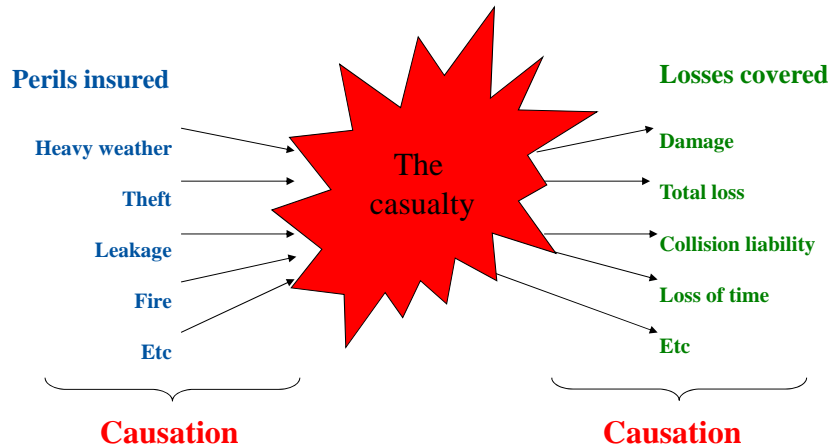
Marine insurance law

Trine-Lise Wilhelmsen
Scandinavian Institute of
Maritime Law

5. Scope of cover

- o Terminology
- o Perils insured against in marine insurance
- o The losses covered
- o Causation

Terminologi



Spring 07

Marine insurance

3

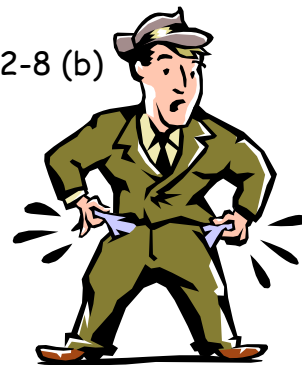
5.2. Perils insured against

- o Marine insurance
 - o All risks principle: NMIP § 2-8
 - o Exceptions:
 - o War perils, NMIP § 2-8 (a)
 - o Intervention by state power, § 2-8 (b)
 - o Insolvency, § 2-8 (c)
 - o RACE II, § 2-8 (d)



Spring 2010

Marine insurance



5.2. Perils insured against

- o War insurance, NMIP § 2-9
 - o Named perils principle:
 - o War or warlike conditions
 - o Capture/confiscation etc
 - o Riots, strikes, sabotage, terrorism etc
 - o Piracy and mutiny
 - o Common exceptions, see above
 - o The relationship between the two branches



Question

- o MS Unhappy Ship was attacked and captured by a group of men 100 nautical miles outside Somalia.
- o Is the capture covered by the marine risk insurer or the war risk insurer?
- o Will the result be different if the attack took place 10 nautical miles from the coastline?

Question

- o Whilst MS Happy Ship was lying in port in Malaysia, some men crept onboard and stole a lot of expensive electronic equipment.
- o Which insurance will cover this?
- o What if the Malaysian government confiscated the equipment under the pretext that it was used for illegal purposes?

Spring 2010

Marine insurance

7

5.3 Causation

- o The problem
- o General insurance law
- o NMIP: The main rule
- o Combination of war and marine perils
- o Combination of perils over different insurance periods

Spring 2010

Marine insurance

8

5.3.1 The problem

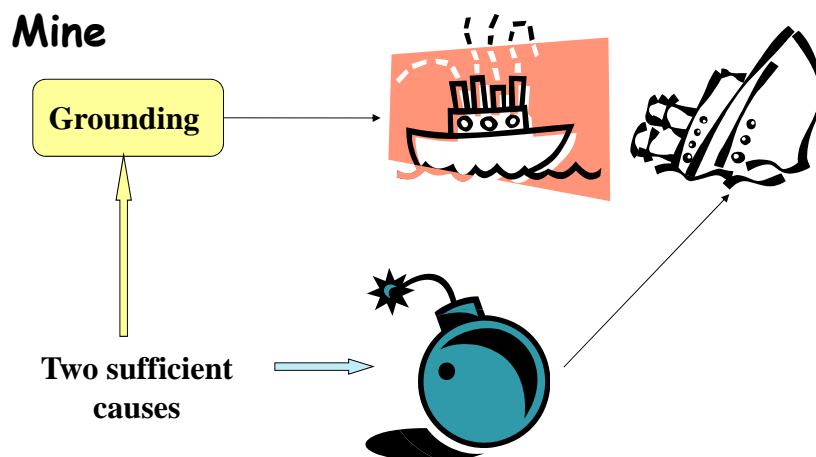
- o Presumption:
 - o Two causes are **necessary** to result in a loss,
 - o **none** of them are **sufficient**.
- o Combination of perils in different situations
 - o Covered and uncovered perils
 - o Perils covered under different branches
- o Perils occurring in different insurance period

Spring 2010

Marine insurance

9

Presumption: Two necessary causes

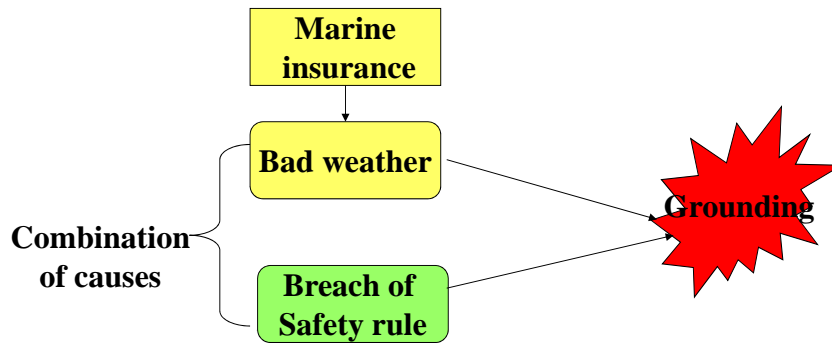


Spring 07

Marine insurance

10

Combination of covered and uncovered causes

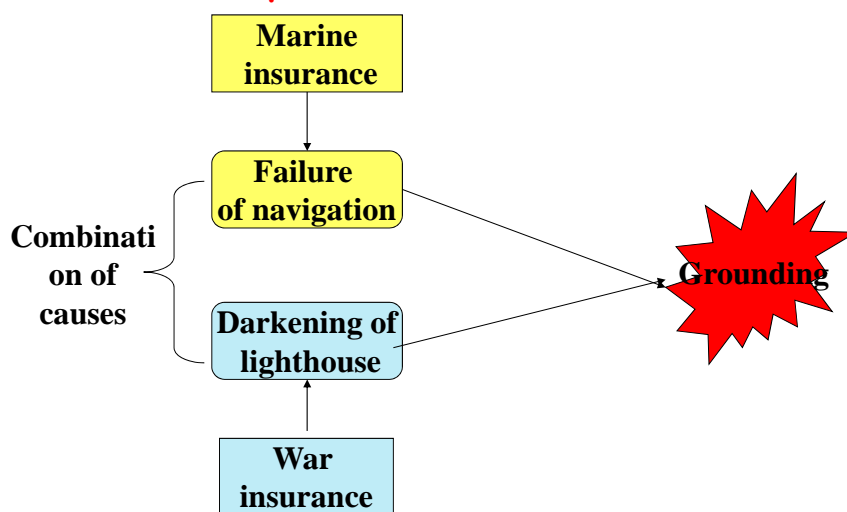


Spring 07

Marine insurance

11

Combination of causes covered under separate insurances

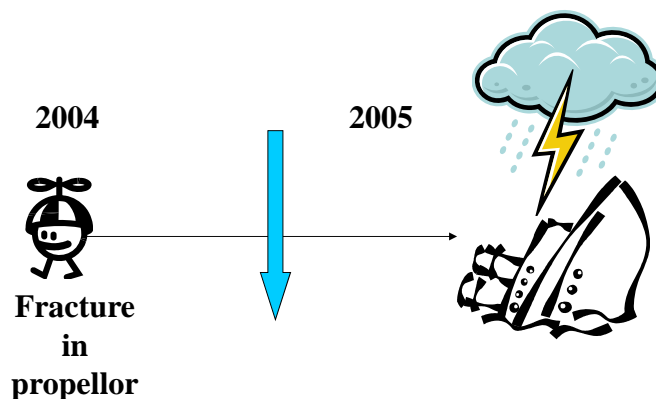


Spring 07

Marine insurance

12

Causes in different periods



Spring 07

Marine insurance

13

5.3.2 General insurance law

- o The main rule: The dominant cause rule
- o Legal basis: ND 1916.76, cfr, ND 1916.209 NSC SKOTFOS
- o Anglo-American solution: Causa proxima

Spring 2010

Marine insurance

14

Rt 1916.1117 Skotfos



War risk



Stranding



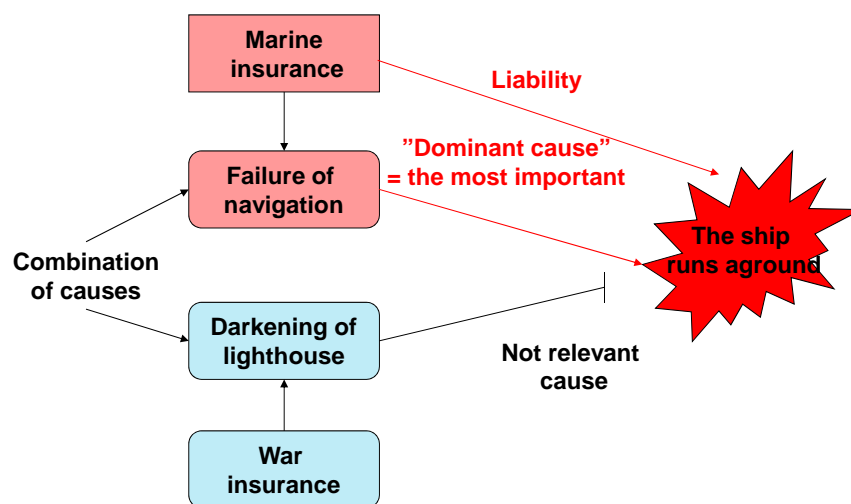
Marine risk



Marine insurance

15

Rt 1916.209 Skotfos



Spring 2010

Marine insurance

16

5.3.3 NMIP: The main rule

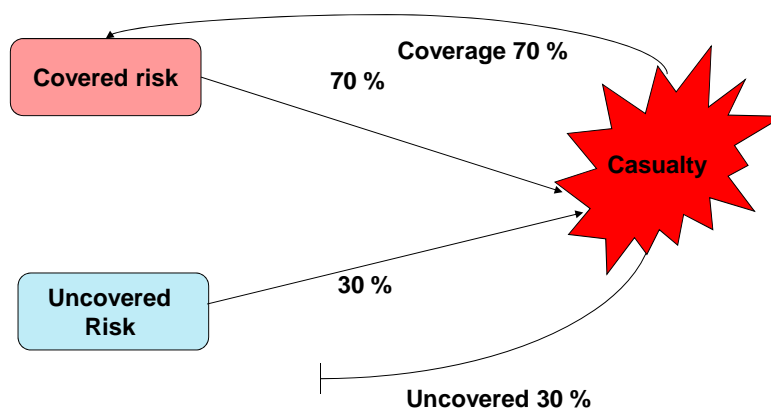
- o NMIP §2-13
- o Apportionment principle, not the dominant cause rule
- o Special Norwegian principle
- o Only applied in marine insurance
- o Combination of covered and uncovered perils

Spring 2010

Marine insurance

17

NMIP § 2-13



Spring 2010

Marine insurance

18

5.3.4 Combination of war and marine perils

- o NMIP § 2-14
- o Reinstates the dominant cause rule as a main rule
- o If neither cause is dominant, equal division

5.3.5 Combination of perils in different periods

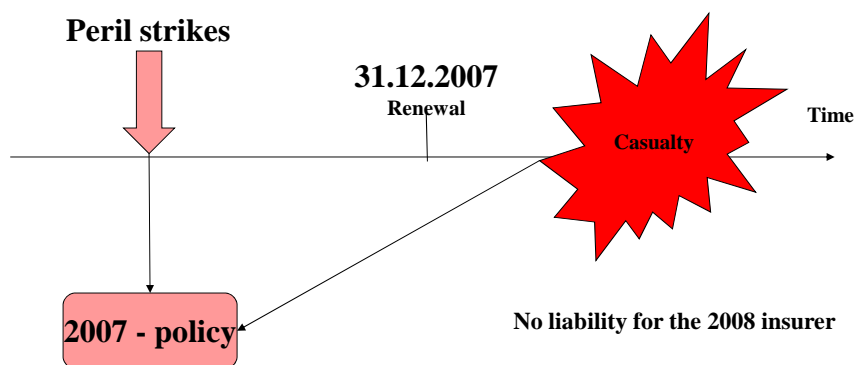
- o NMIP § 2-11
- o Starting point: When the peril strikes
- o Exception for unknown defect or damage

NMIP § 2-11

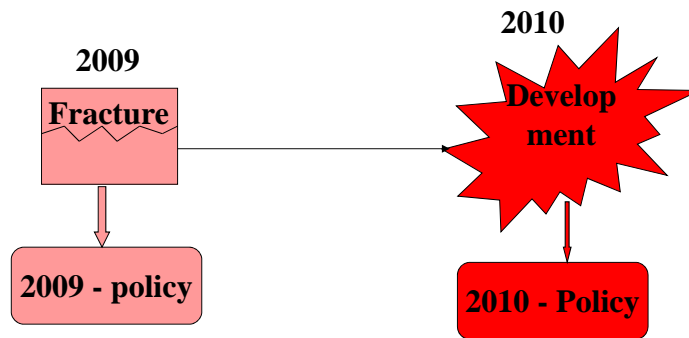
The insurer is liable for loss occurred when the interest insured is **struck by an insured peril** during the insurance period.

A defect or damage which is unknown at the inception or on expiry of an insurance, **shall be deemed to be a marine peril which strikes the ship at the time the casualty or damage to other parts occurs**, or at such earlier time as the defect or the first damage became known.

Incidence of loss, NMIP § 2-11, 1:



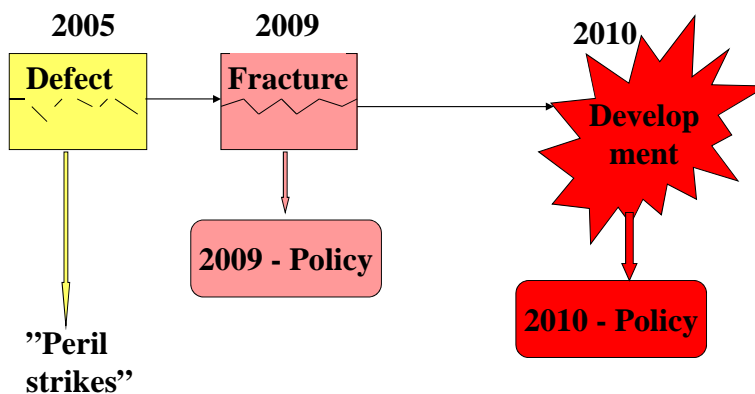
Incidence of loss, NMIP § 2-11, 2:



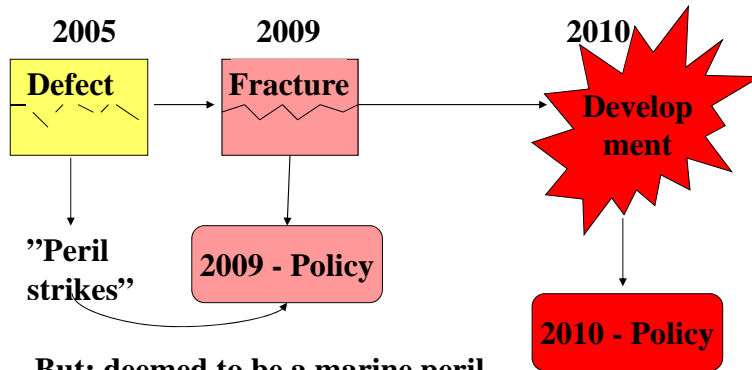
Viz:

- Primary damage attributed to the point in time when the peril struck
- Consequential damage covered when development occurs

Incidence of loss, NMIP § 2-11, 2:



Incidence of loss, NMIP § 2-11, 2:



**But: deemed to be a marine peril
which strikes at the time of the extension**

Spring 07

Marine insurance

25

Question

- o MS Happy Ship sustained a brake down of machinery in January 2011. The reason was a crack in the crank web that had started to develop in 2009. It was agreed that only one part was damaged.
- o Is the 2009 or the 2011 insurer liable?

Spring 2010

Marine insurance

26