

Bill No. 88 of 1948.

A BILL TO AMEND THE AUTOMOBILE ACCIDENT
INDEMNITY ACT.

NOTE.

This Bill amends *The Automobile Accident Indemnity Act*.

The amendment to section 1 of the Act made by section 1 of the Bill changes the short title of the Act to *The Motor Vehicle Accident Indemnity Act*, as the Act applies to all motor vehicles and not just to automobiles.

Section 2 of the Bill amends section (2) (d) of the Act enabling the Minister to issue a temporary permit for a vehicle without charging the additional dollar for the Unsatisfied Judgment Fund.

There are several amendments to section 4 made by section 3 of the Bill. Subsection (1) is made subject to a new subsection (1a) which is added immediately after it. This subsection is also amended to make it clear that the obligation is on the driver to return his license to the Minister upon receipt of a proper notice. The new subsection (1a) provides that if in the opinion of the Minister a driver whose license is subject to suspension was clearly not guilty of any negligence and not responsible in any way for the accident in which his motor vehicle was involved, the Minister may allow the driver to retain his license, or he may reinstate the license if it has already been suspended.

The amendments to subsections (2) and (3) of section 4 are merely for the purpose of clarifying the present meaning of the statute which is not in any way changed.

Subsections (4) and (5) are struck out and three new subsections substituted.

The new subsection (4) provides that a license shall remain suspended until the driver deposits security with the Superintendent or pays all claims against him. Upon depositing the security or paying the claims, the Superintendent will issue the driver a certificate that this has been done. The Minister, on receipt of the certificate, may then issue a new license to the driver. Proof of financial responsibility is required only in accordance with the provisions of *The Vehicles and Highway Traffic Act* and is no longer required pursuant to this Act.

Subsection (5) provides that in the case of a driver who has deposited security pursuant to subsection (4), if a year has elapsed and he has not been sued for damages and is not required to give proof of financial responsibility under *The*

Vehicles and Highway Traffic Act or if judgment in an action for damages has been given in his favour, the Superintendent shall return the security.

Subsection (6) enables the Superintendent to return the security to the driver if the driver has satisfied the claims against him or to realize on it and apply the proceeds in satisfaction of any judgment or settlement which may be made.

A new section 4a is added immediately after section 4. The section makes it clear that a driver involved in an accident may deposit his security and obtain his license back. He is only required to produce proof of financial responsibility in accordance with the provisions of *The Vehicles and Highway Traffic Act*.

Section 5 is struck out and a new section substituted which sets out the limits as to amount referred to in the Act.

Section 6 is struck out and four new sections are substituted dealing with impounding of motor vehicles. Section 6 provides that where a motor vehicle is involved in an accident, any peace officer if authorized so to do by the Minister, may impound such motor vehicle in accordance with instructions from time to time issued by the Minister. The Minister is empowered to authorize the impounding of any designated motor vehicle or generally of any class or classes of motor vehicles. Provision is also made for the repair and storage of impounded vehicles and for the recovery of costs of storage under *The Garagemen's Lien Act*. The details of notices required upon impounding and penalties for unlawful release of any vehicle from impoundment are provided.

Section 6a sets out the conditions upon which the Minister may release any impounded vehicle. He may do so if he is satisfied that the vehicle is stolen or that the owner and driver were not guilty of negligence or responsible for the accident, or that the only damage is to the person or property of the owner and driver, or that the owner has settled all claims for damages or the owner produces such proof of financial responsibility as the Minister may require within the meaning of section 129 of *The Vehicles and Highway Traffic Act*.

Section 6b provides for the cases where a motor vehicle was impounded and the Minister has not ordered its release under the preceding section. If no action is commenced against the owner within six months, or if actions for damages are decided in his favour, or if the owner pays all judgments recovered against him, or if the action is not brought to trial within twelve months, or if the motor vehicle has not been seized under execution within three months after a judgment, the Minister may order its release.

A new subsection (2a) is added to section 7 which provides that where the owner who has paid the one dollar fee

in respect of his vehicle transfers the vehicle and its license plate to a new owner, the new owner is not required to pay the said fee also.

Paragraph (c) of subsection (2) of section 8 of the Act is amended by enabling a person injured who has recovered a judgment and who is unable to examine the judgment debtor to still proceed to recover his judgment from the Fund. Under the present section, if the judgment debtor deliberately avoided examination, the person injured might be deprived of his right to recover from the Fund.

Subsection (6) of section 8 is struck out and a new subsection substituted. This subsection provides that the Provincial Treasurer shall not be required to pay any moneys from the Fund if the judgment has been satisfied to the extent of at least five thousand dollars for injury to one person or ten thousand dollars for injury to two or more persons. It also provides that the maximum amount payable from the Fund is five thousand dollars for injury to one person and ten thousand dollars for injury to more than one person. The amount payable from the Fund within the specified limits is reduced by any sum or sums that the applicant has recovered or in the opinion of the judge is likely to recover from the judgment debtor, and the Provincial Treasurer shall only be required to pay the reduced amount.

Subsection (1) of section 9 of the Act is amended. Under the present section a person injured can only take action against the Superintendent as nominal defendant if he is injured by a motor vehicle and the name of neither the owner nor the driver is known, but there is no provision for such an action in a case where the owner is known but is not liable because his vehicle has been stolen by a thief or wrongdoer who is unknown. The amendment remedies this by enabling an action against the Superintendent when the driver is not known and the owner is not liable.

Section 13 of the Act is amended. The principal amendment is to make the Fund available for the payment of medical bills as well as hospital treatment arising out of an injury. A provision discriminating against the holders of insurance policies has also been removed. This section only applies to persons injured on or after the first day of April, 1947.

Four new sections are added immediately after section 13.

Section 13a provides that the Minister may expend moneys from the Unsatisfied Judgment Fund for any of certain listed purposes, including the cost of administration of the Act, the cost of testing and examining any motor vehicle and the cost of testing and examining any person who is the holder of a driver's license or an applicant for a driver's license.

Sections 13*b* to 13*d* authorize the Minister to enter into an agreement with The College of Physicians and Surgeons or other similar body referred to as the "contracting party" for the provision of medical and surgical care to persons suffering bodily injury occasioned by or arising out of the operation of a motor vehicle. Advances or payments which the Minister is required to make to the contracting party are to be paid from the Unsatisfied Judgment Fund. Where any person has received medical or surgical care and his physician or surgeon has been paid for such care by the contracting party in accordance with an agreement with the Minister, the contracting party is subrogated to the rights of the person who received the care. The contracting party is given a lien for the amount it has expended for medical or surgical care upon the amount of any claim accruing to the injured person or upon the amount of any damages which may be awarded to him. The lien ceases to exist within sixty days of the completion of the treatment unless the contracting party notifies the injured person in writing of its claim to the lien. No release of any claim accruing to an injured person is valid as against the lienholder unless the contracting party joins in or executes a release. The contracting party is empowered to enforce its lien by action and it has priority over any other lien other than a solicitor's lien or a hospital lien. Neither the contracting party nor the person injured who has received medical and surgical care under any such contract has any claim against the Unsatisfied Judgment Fund under sections 8, 9 or 13 of the Act with respect to the amount paid or charged for such care.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 88 of 1948.

An Act to amend The Automobile Accident Indemnity Act.

(Assented to _____, 1948.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Automobile Accident Indemnity Act*, being chapter 11 of the Statutes of Alberta, 1947, is hereby amended as to section 1 by striking out the word "Automobile", where the same occurs therein, and by substituting therefor the words "Motor Vehicle".

2. The said Act is further amended as to section 2 by striking out the words "or permit" where the same occur in paragraph (d) thereof.

3. The said Act is further amended as to section 4,—

- (a) by adding immediately after the words "Subject to subsections", where the same occur in subsection (1) thereof, the figure and letter "(1a)";
- (b) by adding immediately at the end of subsection (1) thereof the words "and the driver shall forthwith return his license to the Minister";
- (c) by adding immediately after subsection (1) thereof the following new subsection:

"(1a) If in the opinion of the Minister based upon such reports and investigations as he may deem necessary, a driver whose license is subject to suspension under this section was clearly not guilty of any negligence and not responsible in any way for the accident in which his motor vehicle was involved, the Minister in his discretion may allow the driver to retain his license, and if the suspension has become effective he may reinstate the license suspended.";

- (d) by striking out the words "where a person", where the same occur in subsection (2) thereof, and by substituting therefor the words "where a driver";
- (e) by striking out the words "property of the driver", where the same occur in subsection (2) thereof, and by substituting therefor the words "property of that driver";

- (f) by striking out the words "Where a person", where the same occur in subsection (3) thereof, and by substituting therefor the words "Where a driver";
 - (g) by striking out subsections (4) and (5) thereof and by substituting therefor the following:
 - "(4) Subject to subsections (1a), (2) and (3), every license suspended pursuant to subsection (1) shall remain so suspended, nor shall any new license be issued to the driver whose license has been so suspended until that driver,—
 - "(a) complies with one of the following requirements to the satisfaction of the Superintendent,—
 - "(i) deposits security sufficient in the opinion of the Superintendent to satisfy any judgment that may thereafter be recovered against such person as a result of the accident subject to the limits as to amount stated in section 5; or
 - "(ii) deposits security with the Superintendent in such amount as may be agreed upon by the parties as liquidated damages resulting from the accident subject to the limits as to amount stated in section 5; or
 - "(iii) produces proof satisfactory to the Superintendent that he has satisfied all claims against him for damages for bodily injury to, or the death of, any person, or for damage to property in an amount exceeding twenty-five dollars, resulting from the accident subject to the limits as to amount stated in section 5; or
 - "(iv) proves to the satisfaction of the Superintendent that one year has elapsed since the date of the accident and the said driver has not been named as defendant in an action for damages as a result of the accident; or
 - "(v) proves to the satisfaction of the Superintendent that judgment in any action for damages resulting from the accident brought against the driver has been given in his favour; and
 - "(b) produces to the Minister a certificate issued by the Superintendent stating that the person named therein has complied with the requirements of paragraph (a) to the satisfaction of the Superintendent; and
 - "(c) produces to the Minister such proof of financial responsibility, if any, as may be required pursuant to the provisions of *The Vehicles and Highway Traffic Act*.
- in which case the minister may reinstate the license or issue a new license to the driver.

"(5) The Superintendent shall return the security, if any, deposited pursuant to clause (i) or clause (ii) of paragraph (a) of subsection (4) to any driver who, after depositing the said security, has complied with the provisions of clause (iii), clause (iv) or clause (v) of paragraph (a) of subsection (4).

"(6) Where security has been deposited pursuant to paragraph (a) of subsection (4) by any driver,—

"(a) if the driver issues an order in writing directing the realization of the security and the payment of the proceeds or any portion thereof to any other person involved in the accident who has a claim against the driver, the Superintendent may comply with the order;

"(b) if a judgment is obtained against the driver the Superintendent may realize upon the security and pay the proceeds or any portion thereof in satisfaction of the judgment and refund the balance, if any, to the driver."

4. The said Act is further amended by adding immediately after section 4 thereof the following new section:

"4a. The Minister upon receipt of the Superintendent's certificate and upon production of such proof of financial responsibility, if any, as may be required pursuant to the provisions of *The Vehicles and Highway Traffic Act*, shall reinstate the suspended license."

5. The said Act is further amended as to section 5 thereof by striking out the same and substituting therefor the following:

"5. The limits as to amount referred to in this Act are,—

"(a) five thousand dollars in the case of bodily injury to or the death of one person in one accident;

"(b) ten thousand dollars in the case of bodily injury to or the death of more than one person in one accident, subject to the limit in paragraph (a) for each person so injured or killed;

"(c) one thousand dollars in respect of damage to property in any one accident."

6. The said Act is further amended as to section 6 by striking out the same and by substituting therefor the following new heading and sections:

"IMPOUNDING.

"6.—(1) Where bodily injury to or the death of any person or damage in an amount apparently exceeding twenty-five dollars to property results from an accident in which a motor vehicle is in any manner directly or indirectly involved, any peace officer, if authorized so to do by the Minister, may impound any such motor vehicle in accordance with such instructions as may from time to time be issued by the Minister.

“(2) The Minister in his discretion may authorize the impounding of any such motor vehicle designated by him or may authorize the impounding generally of any class or classes of such motor vehicles.

“(3) Any peace officer who impounds any motor vehicle shall require it to be taken,—

“(a) if repairs are necessary and immediately desired by the owner or driver, to such repair shop or garage within the Province as the owner may select, for the purpose of having it repaired; or

“(b) if repairs are not necessary or are not immediately desired by the owner or driver, to such garage or storage place within the Province as the owner or driver may select, unless otherwise required by the peace officer, in which case he may direct it to be taken to a garage or storage place maintained by any police force or other public authority, if such is available, and otherwise to a privately maintained garage or storage place designated by the peace officer, there to be kept at the expense of the owner of the motor vehicle.

“(4) Where, pursuant to subsection (3), a motor vehicle has been taken to a repair shop, garage, or storage place, selected by the owner or driver, the chief constable of the municipality in which the repair shop, garage, or storage place, is situated, or the officer in command in Alberta of the Royal Canadian Mounted Police Force, on receipt of a written application by the owner, may, at the cost of the applicant, have the motor vehicle transferred to such other repair shop, garage, or storage place, as the applicant may select, and may give all necessary directions to that end; and shall, in that case, give to the owner, operator, manager, or other person in charge of the repair shop, garage, or other storage place, to which the motor vehicle is transferred a notice as prescribed in subsection (8).

“(5) In subsections (3) and (4) and in sections 6a and 6b, the word “owner” includes any person, firm, or corporation, who or which has sold the motor vehicle under the terms of a conditional sale agreement or lien note upon which all or part of the purchase price remains unpaid, or to whom or to which a bill of sale by way of chattel mortgage thereon has been given in respect of which all or part of the moneys secured thereby remain unpaid; and also includes an assignee of such vendor or mortgagee.

“(6) All costs and charges for the care or storage of a motor vehicle impounded under this section shall be a lien thereon in favour of the keeper of the repair shop, garage, or storage place, and the same may be enforced by him in the manner provided by *The Garagemen's Lien Act*.

“(7) Where a motor vehicle is impounded under this section the peace officer who impounds it shall, directly or

through his superior officer, if any, notify the Minister of such impoundment in writing on a form prescribed by the Minister.

“(8) Where a motor vehicle impounded under this section is placed in a repair shop, garage, or storage place, the peace officer impounding the same shall notify in writing on a form prescribed by the Minister, the owner, operator, manager, or other person in charge of the repair shop, garage, or storage place that the motor vehicle is impounded and must not be removed or permitted to be removed except for transfer upon the order of a police officer to whom reference is made in subsection (4), and must not be released or permitted to be released from impoundment except upon the order of the Minister.

“(9) Subject to subsection (4), no person shall remove, or permit to be removed, from the place of impoundment or release from impoundment any motor vehicle impounded under this section except upon the written order of the Minister, and any person who violates the provisions of this subsection shall be guilty of an offence and liable on summary conviction to a penalty of not less than fifty dollars nor more than five hundred dollars, and to imprisonment for a term not exceeding thirty days.

“(10) This section shall not apply to authorize or permit the impounding of a motor vehicle that is the property of the Crown.

“6a. Where a motor vehicle has been impounded, and,—

“(a) the Minister is satisfied that at the time of the accident the motor vehicle was a stolen motor vehicle; or

“(b) the Minister is satisfied that the owner and the driver were clearly not guilty of any negligence and not responsible in any way for the accident; or

“(c) the Minister is satisfied that the only damage resulting from the accident is to the person or property of the owner and of the driver; or

“(d) the Minister is satisfied that the owner has settled, paid or otherwise satisfied all claims for damages; or

“(e) the owner produces to the Minister such proof of financial responsibility in effect at the time of the accident as the Minister in his discretion may require within the meaning of section 129 of *The Vehicles and Highway Traffic Act*;

the Minister may order the release of the motor vehicle from impoundment.

“6b. Where a motor vehicle has been impounded and the Minister has not ordered the release of such vehicle from impoundment pursuant to section 6a, if evidence is produced to the satisfaction of the Minister that,—

“(a) one year has elapsed since the date of the accident and no action has been commenced against the owner of the motor vehicle; or

- “(b) all actions for damages against the owner of the motor vehicle have been decided in his favour and that no appeal against any judgment has been filed within the time limited for the filing of such appeal; or
- “(c) the owner has settled, paid or otherwise satisfied all judgments recovered against him; or
- “(d) the action has not been brought to trial within twelve months after it was begun; or
- “(e) the motor vehicle has not been seized under an execution issued pursuant to a judgment against the owner within three months of the date of the judgment, or in the event that the judgment has been appealed, within three months of the date of the dismissal of the appeal;

the Minister may order the release of the vehicle from impoundment.

“6c. Any order issued by the Minister pursuant to section 6a or section 6b shall not effect the release of any motor vehicle seized or impounded by judicial authority.”.

7. The said Act is further amended as to section 7 by adding immediately after subsection (2) thereof the following new subsection:

“(2a) Where the owner of a motor vehicle who has paid a fee in respect of the vehicle as required by subsection (1) transfers the vehicle and its number plate to a new owner, the new owner upon the registration of the transfer shall not be required to pay the additional fee required by subsection (1).”.

8. The said Act is further amended as to section 8,—

- (a) by adding immediately at the end of paragraph (c) of subsection (2) thereof the words “or that he is unable to examine the judgment debtor, giving the reasons therefor”;
- (b) by striking out subsection (6) thereof and by substituting therefor the following:

“(6) The Provincial Treasurer shall not be required,—

“(a) to pay any moneys from the Fund if the judgment has been satisfied,—

“(i) to the extent of at least five thousand dollars exclusive of costs for bodily injury to or the death of one person; and

“(ii) to the extent of at least ten thousand dollars exclusive of costs for bodily injury to or the death of two or more persons in any one accident subject to the limit in clause (i) for each person so injured or killed;

“(b) to pay from the Fund under an order,—

“(i) more than five thousand dollars exclusive of costs in the case of a judgment resulting from bodily injury to or the death of one person in one accident;

“(ii) more than ten thousand dollars exclusive of costs in the case of a judgment resulting from bodily injury to or the death of more than one person in one accident subject to the limit in clause (i) for each person so injured or killed;

and the amount of five thousand dollars or ten thousand dollars, as the case may be, or any lesser amount for which judgment may have been given shall be reduced by such sum or sums as the applicant has recovered, or in the opinion of the judge, is likely to recover from the judgment debtor, and the Provincial Treasurer shall only be required to pay the amount as so reduced.”.

9. The said Act is further amended as to section 9 by striking out subsection (1) thereof and by substituting therefor the following:

“**9.**—(1) Where bodily injury to or the death of any person is occasioned by or arises out of the operation or use of a motor vehicle, and the name of neither the owner nor the driver of the motor vehicle is known or ascertainable, or the name of the driver is not known or ascertainable and the owner is not liable to an action for damages for the injury or death, the person injured, or in the case of death, the personal representative of the deceased, may commence an action against the Superintendent as a nominal defendant for the damages sustained.”.

10. The said Act is further amended as to section 13 by striking out the same and by substituting therefor the following:

“**13.**—(1) In addition to the remedies hereinbefore provided, any person who has been injured on or after the first day of April, 1947, through the operation of a motor vehicle driven by another person to such an extent as to require hospital or medical treatment, or both, may apply to the Superintendent for reimbursement out of the Fund for the hospital and medical expenses incurred, and the Superintendent if satisfied as to the facts with respect to the claim may issue a certificate to that effect to the Provincial Treasurer stating the amount to which the applicant is entitled, and upon receipt of such certificate the Provincial Treasurer shall pay to the applicant out of the Fund the sum so certified, or, if the applicant has signed an order directing payment to the hospital or the doctor, as the case may be, the Provincial Treasurer shall pay the hospital or the doctor as directed in the order signed by the applicant.

"(2) The hospital and medical fees payable out of the Fund pursuant to subsection (1) shall be at such rate and for such period and for such type of accident as may from time to time be determined by the Lieutenant Governor in Council.

"(3) Where hospital or medical expenses have been paid to or to the order of any person pursuant to subsection (1) and subsequently that person recovers a judgment which is unsatisfied and under which he is entitled to receive payment from the Fund, and the amount of the hospital and medical expenses is included in the said judgment, that amount shall be deducted from the amount payable pursuant to subsection (4) of section 8 or to section 9.

"(4) For any amount paid under the provisions of subsection (1), the Superintendent shall be subrogated to any rights which the person injured has against any person whose negligence has caused or contributed to the injuries in respect of which the hospital or medical expenses were incurred."

11. The said Act is further amended by adding immediately after section 13 thereof the following new sections:

"13a. The Minister may expend moneys from the Unsatisfied Judgment Fund for all or any of the following,—

- "(a) The cost of the administration of this Act;
- "(b) The cost of testing and examining any motor vehicle;
- "(c) The cost of testing and examining any person who is the holder of a driver's license or an applicant for a driver's license;
- "(d) For any other purpose which the Lieutenant Governor in Council in his discretion may from time to time determine.

"13b.—(1) The Minister with the approval of the Lieutenant Governor in Council is hereby authorized to enter into an agreement or agreements from time to time on such terms and conditions as may be agreed upon with The College of Physicians and Surgeons of the Province of Alberta or with any other person, firm or corporation hereinafter referred to as the "contracting party" for the provision of medical and surgical care to any or all persons suffering bodily injury occasioned by or arising out of the operation of a motor vehicle.

"(2) Any advances or payments which the Minister is required to make to the contracting party pursuant to any agreement entered into under subsection (1) shall be paid by the Provincial Treasurer from the Unsatisfied Judgment Fund.

"(3) Where any person has received medical or surgical care under this section, and subsequently recovers a judgment which is unsatisfied and under which he is entitled to receive payment from the Fund, and the amount paid by the

contracting party for medical and surgical care for such person is included in the said judgment, that amount shall be deducted from the amount payable pursuant to subsection (4) of section 8 or to section 9.

“(4) Where any person has received medical or surgical care and his physician or surgeon has been paid for such care by the contracting party pursuant to an agreement with the Minister under subsection (1), the contracting party shall to the extent of the amount so paid be subrogated to any rights which the person who received the care has against any person whose negligence has caused or contributed to the injuries in respect of which the care was given.

“**13c.**—(1) In any case where any person injured as aforesaid may have a right of action for damages against some other person on account of such injury, the person injured may claim in such action for the amount paid by the contracting party for the medical or surgical care rendered to the person injured.

“(2) The contracting party shall have a lien or charge for the amount it has paid for such medical or surgical care upon,—

“(a) the amount of any claim accruing to the injured person on account of the injuries; and

“(b) the amount of any damages which may be awarded to the person injured; or

“(c) the amount of any damages which may be agreed upon as being payable to the person injured by the person liable or admitted to be liable for them.

“(3) The lien shall cease to exist unless within sixty days of the completion of the medical or surgical care the contracting party notifies the injured person in writing by prepaid registered mail or by personal service, of its claim to the lien and the amount thereof.

“(4) In the case of the death of the injured person while receiving medical or surgical care, or within sixty days of the completion of such medical or surgical care, and prior to the service of the notice pursuant to subsection (3), the lien shall cease to exist unless within sixty days of the appointment of an executor or administrator, the contracting party notifies the said executor or administrator in writing by prepaid registered mail or by personal service, of its claim to the lien and the amount thereof.

“**13d.**—(1) No release of any claim accruing to the injured person on account of such injuries or of any cause of action or judgment thereon shall be valid or effectual as against the lienholder unless the contracting party joins therein or executes a release of the lien.

“(2) The contracting party may enforce the lien by an action for the amount of its claim against the person liable for any claim accruing to the person injured or the person liable in damages to the person injured, but the amount so

recoverable shall not exceed the amount of the claim accruing to or the damages payable to the person injured.

“(3) The lien or charge of the contracting party shall have priority over any other lien, charge or assignment affecting the claim accruing or the damages or any judgment with respect to the same except a solicitor’s lien, if any, for costs arising out of the claim or action and except a lien, if any, provided for by *The Hospital Lien Act*.

“(4) Neither the contracting party nor the person injured who has received medical and surgical care under any such contract shall have any claim against the Unsatisfied Judgment Fund pursuant to section 8, section 9 or section 13 with respect to the amount paid or charged for such care.”.

12. This Act shall come into force on the day upon which it is assented to.

FIFTH SESSION
TENTH LEGISLATURE
12 GEORGE VI
1948

BILL

An Act to amend The Automobile
Accident Indemnity Act.

Received and read the

First time

Second time

Third time

HON. MR. HOOKE.
