

Bill No. 48 of 1951.

A BILL TO AMEND THE CONTRIBUTORY
NEGLIGENCE ACT.

NOTE.

This Bill amends *The Contributory Negligence Act*, being chapter 116 of the Revised Statutes of Alberta, 1942.

Section 3 is amended by renumbering the section as subsection (1) and amending it slightly to refer to the two new subsections that are added to the section.

Under section 104 of *The Vehicles and Highway Traffic Act* a gratuitous passenger cannot recover damages against the owner or driver of the motor vehicle unless the accident was caused by the gross negligence of the owner or driver. In such a case, however, the gratuitous passenger might recover one hundred per cent of his damages from the driver of the other car even though the driver of the car in which the passenger was riding was found to be eighty per cent responsible for the accident. The new subsection (2) added to section 3 provides that in such a case no damages, contribution or indemnity shall be recoverable from any other person for the portion of the loss or damage caused by the negligence of the owner or driver of the car in which the gratuitous passenger was riding.

The new subsection (3) added to section 3 deals with the case where the plaintiff who has been injured is a married person whose spouse was negligent and partially responsible for the injury. The new subsection provides that the married person suing cannot recover any damages, contribution or indemnity from any other person for the portion of the loss or damage caused by the negligence of the spouse of the married person.

Provisions similar to those contained in these two new subsections have already been enacted in *The Contributory Negligence Acts* of the provinces of British Columbia, Saskatchewan, Manitoba and Ontario. These amendments will bring Alberta into line with the legislation of the other provinces.

The Bill comes into force upon assent.

KENNETH A. MCKENZIE,
Legislative Counsel.

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

BILL

No. 48 of 1951.

An Act to amend The Contributory Negligence Act.

(Assented to _____, 1951.)

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

1. *The Contributory Negligence Act*, being chapter 116 of the Revised Statutes of Alberta, 1942, is hereby amended.

2. Section 3 is amended,—

Section 3
amended

- (a) by renumbering the section as subsection (1);
- (b) by adding immediately after the words "loss or damage," where they occur in subsection (1), the words "except as provided by subsections (2) and (3),";
- (c) by adding immediately after subsection (1) the following new subsections:

"(2) Where no cause of action exists against the owner or driver of a motor vehicle by reason of section 104 of *The Vehicles and Highway Traffic Act*, no damages, contribution or indemnity shall be recoverable from any person for the portion of the loss or damage caused by the negligence of such owner or driver, and the portion of the loss or damage so caused by the negligence of such owner or driver shall be determined although such owner or driver is not a party to the action.

"(3) In any action founded upon negligence and brought for loss or damage resulting from bodily injury to or the death of any married person, where one of the persons found to be negligent is the spouse of such married person, no damages, contribution or indemnity shall be recoverable for the portion of loss or damage caused by the negligence of the spouse, and the portion of the loss or damage so caused by the negligence of the spouse shall be determined although the spouse is not a party to the action."

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

Coming
into force

No. 48.

FOURTH SESSION
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

BILL

An Act to amend The Contributory
Negligence Act.

Received and read the

First time

Second time

Third time

HON. MR. MAYNARD.
