

Bill No. 60 of 1936.

A BILL RELATING TO PROCEEDINGS AGAINST
AND CONTRIBUTION BETWEEN TORT-
FEASORS.

NOTE.

This Bill does away with the common law rule which prohibits contribution between joint tort-feasors and also the rule that an action taken against one of several joint tort-feasors releases the remainder from liability.

It provides that the amount contributable as between joint tort-feasors shall be in the discretion of the court.

It also provides that where more than one action is brought in respect of the same damage, the aggregate of the damages recoverable in all such actions shall not exceed the amount of the damages awarded in the first of such actions.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 60 of 1936.

An Act relating to Proceedings Against and Contribution
Between Tort-Feasors.

(Assented to _____, 1936.)

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

1. This Act may be cited as "*The Tort-Feasors Act.*"

2.—(1) Where damage is suffered by any person as a
result of a tort (whether a crime or not),—

- (a) judgment recovered against any tort-feasor liable
in respect of that damage shall not be a bar to an
action against any other person who would, if sued,
have been liable as a joint tort-feasor in respect of
the same damage;
- (b) if more than one action is brought in respect of that
damage by or on behalf of the person by whom it
was suffered, or for the benefit of the estate, or of
the wife, husband, parent or child of that person,
against tort-feasors liable in respect of the damage
(whether as joint tort-feasors or otherwise) the
sums recoverable under the judgments given in
those actions by way of damages shall not in the
aggregate exceed the amount of the damages
awarded by the judgment first given; and in any of
those actions, other than that in which judgment is
first given, the plaintiff shall not be entitled to costs
unless the court is of opinion that there was
reasonable ground for bringing the action;
- (c) any tort-feasor liable in respect of that damage may
recover contribution from any other tort-feasor
who is, or would if sued have been, liable in respect
of the same damage, whether as a joint tort-feasor
or otherwise, so, however, that no person shall be
entitled to recover contribution under this section
from any person entitled to be indemnified by him
in respect of the liability in respect of which the
contribution is sought.

(2) In any proceedings for contribution under this
section the amount of the contribution recoverable from any
person shall be such as may be found by the court to be just
and equitable having regard to the extent of that person's
responsibility for the damage; and the court shall have
power to exempt any person from liability to make contri-
bution, or to direct that the contribution to be recovered
from any person shall amount to a complete indemnity.

- (3) For the purposes of this section,—
- (a) the expressions “parent” and “child” have the same meanings as they have for the purposes of *The Fatal Accidents Act*; and
 - (b) the reference in this section to “the judgment first given” shall, in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed and, in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.
- (4) Nothing in this section shall,—
- (a) apply with respect to any tort committed before the commencement of this Act; or
 - (b) affect any proceedings against any person for a penalty or forfeiture under any Act of the Province in respect of any wrongful act; or
 - (c) render enforceable any agreement for indemnity which would not have been enforceable if this section had not been passed.

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

No. 60.

FIRST SESSION
EIGHTH LEGISLATURE
1 EDWARD VIII
1936

BILL

An Act relating to Proceedings
Against and Contribution Be-
tween Tort-Feasors.

Received and read the

First time

Second time

Third time

HON. MR. HUGILL.

EDMONTON:
A. Shnitka, King's Printer
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