

Bill No. 25 of 1937.

A BILL TO MAKE UNIFORM THE LAW RESPECTING  
LIABILITY IN ACTIONS FOR DAMAGES FOR  
NEGLIGENCE WHERE MORE THAN ONE  
PARTY IS AT FAULT.

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NOTE.

This Bill is approved by the Commissioners of Uniformity of Legislation in Canada.

The effect of the Bill is to make applicable to all actions for damages for negligence the rules applicable to collisions at sea which were enacted by *The Maritime Conventions Act, 1911 (Imp.)*.

Section 2 provides that where damage or loss is caused by two or more persons to one or more of them, the damage or loss is to be apportioned between them according to the degree in which each person is in fault, and if in the circumstances it is not possible to establish different degrees of fault, the liability is to be apportioned equally.

Section 5 of the Bill is designed to prevent the submission to the jury of the question as to whether or not a party claiming damages was guilty of contributory negligence and therefore disentitled to damages unless there is evidence that the act or omission alleged to be contributory negligence was clearly subsequent to and severable from the act or omission of the party from whom damages are claimed.

Section 6 provides that in the case of a trial by a Judge without a jury, the Judge shall not take into consideration the question as to whether or not a party claiming damages was guilty of contributory negligence and therefore disentitled to damages, unless he is satisfied that the act or omission alleged to be contributory negligence was clearly subsequent to and severable from the act or omission of the party from whom damages are claimed.

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. 25 of 1937.

An Act to make Uniform the Law respecting Liability in  
Actions for Damages for Negligence where More  
than One Party is at Fault.

(Assented to \_\_\_\_\_, 1937.)

**H**IS 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 Contributory Negligence Act.*"

**2.** Where by the fault of two or more persons damage or loss is caused to one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each person was at fault:

Provided that,—

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and

(b) nothing in this section shall operate so as to render any person liable for any loss or damage to which his fault has not contributed.

**3.** Where damages have been caused by the default of two or more persons, the court shall determine the degree in which each was at fault, and where two or more persons are found liable they shall be jointly and severally liable for the fault to the person suffering loss or damage, but as between themselves, in the absence of any contract express or implied, they shall be liable to make contribution to and indemnify each other in the degree in which they are respectively found to have been at fault.

**4.** In any action the amount of damage or loss, the fault, if any, and the degrees of fault shall be questions of fact.

**5.** Where the trial is before a Judge with a jury the Judge shall not submit to the jury any question as to whether, notwithstanding the fault of one party, the other could have avoided the consequences thereof unless in his opinion there is evidence upon which the jury could reasonably find that the act or omission of the latter was clearly subsequent to and severable from the act or omission of the former so as not to be substantially contemporaneous with it.

**6.** Where the trial is before a Judge without a jury the Judge shall not take into consideration any question as to whether notwithstanding the fault of one party, the other could have avoided the consequences thereof unless he is satisfied by the evidence that the act or omission of the latter was clearly subsequent to and severable from the act or omission of the former so as not to be substantially contemporaneous therewith.

**7.** When it appears that a person not a party to an action is or may be wholly or partly responsible for the damages claimed, he may be added as a party defendant upon such terms as are deemed just.

**8.** This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces which enact it.

**9.** This Act shall come into force on the first day of July, 1937.

No. 25.

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THIRD SESSION  
**EIGHTH LEGISLATURE**  
1 GEORGE VI  
1937

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**BILL**

An Act to make Uniform the Law  
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More than One Party is at Fault.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. HUGILL.

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A. Shnitka, King's Printer  
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