

Bill No. 11 of 1948.

A BILL RESPECTING SURVIVORSHIP IN
COMMON DISASTERS

NOTE.

This Bill was adopted by the Conference of Commissioners on Uniformity of Legislation and has been enacted by all the other provinces except Quebec. It provides presumptions and rules for determining survivorship in common disasters. These rules help to decide the disposition of and the succession to property where both testator and beneficiary die in circumstances rendering it uncertain which survived the other.

By section 2 (1) when two persons die in such circumstances the general rule is that the older is presumed to have died first.

Section 2 (2) makes an exception to this general rule in the case of insurance, as section 248 of *The Alberta Insurance Act* provides that where a person whose life is insured dies in the same disaster as one or more of the beneficiaries of the policy, the beneficiaries are presumed to have died first. This means the insurance money becomes part of the insured's estate.

Section 2 (3) makes another exception. If both testator and beneficiary die in the same disaster, the beneficiary is presumed to die first where the testator in his will made provision for an alternative disposition if the beneficiary named did not survive him. This provision gives effect to the testator's intention as expressed in his alternative disposition in the will.

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. 11 of 1948.

An Act respecting Survivorship in Common Disasters.

(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. This Act may be cited as "*The Commorientes Act*."

2.—(1) Where two or more persons die in circumstances rendering it uncertain which of them survived the other or others, such deaths shall, subject to subsections (2) and (3), for all purposes affecting the title to property, be presumed to have occurred in the order of seniority, and accordingly the younger shall be deemed to have survived the older.

(2) The provisions of this section shall be read and construed subject to the provisions of section 248 of *The Alberta Insurance Act*.

(3) Where a testator and a person who, if he had survived the testator, would have been a beneficiary of property under the will, die in circumstances rendering it uncertain which of them survived the other, and the will contains further provisions for the disposition of the property in case that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, then for the purpose of that disposition the will shall take effect as if that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other as the case may be.

3. 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.

4. 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 respecting Survivorship
in Common Disasters.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1948