



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 290
(Private)

**An Act respecting certain trusts
established by Colin Wesley
Webster**

Introduction

Introduced by
Madam Nicole Loiselle
Member for Saint-Henri



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(Private)

An Act respecting certain trusts established by Colin Wesley Webster

WHEREAS, by deeds of donation made before a notary on 20 February 1942, 26 February 1943 and 29 May 1944 and registered at the registry office of the registration division of Montréal under numbers 518 736, 545 285 and 582 212, Colin Wesley Webster established trusts for the benefit of his daughter, Beverley Frosst Webster, born on 31 January 1935, and her children and grandchildren;

Whereas Beverley Frosst Webster died on 16 October 1973, leaving five children, their dates of birth ranging from 3 October 1958 to 16 March 1965;

Whereas, at present, three daughters of Beverley Frosst Webster have one or more children of their own, whereas four grandchildren of Beverley Frosst Webster have been born, their dates of birth ranging from 30 June 1986 to 4 June 1990, and whereas it is possible that more grandchildren will be born in the years to come;

Whereas two of the children of Beverley Frosst Webster reside in Ontario, two reside in the United States, each in a different state, and one resides in France, whereas, considering the consequences of the diversity in the laws, and in particular in the fiscal laws, applicable to the beneficiaries, it may be advantageous to administer the share of each child separately;

Whereas the three deeds of trust are similar in many ways and whereas, for the purpose of administering the share of each child separately, the trustees wish to be authorized to disregard the differences between the three deeds and act solely in accordance with the provisions of the third deed;

Whereas one of the children of Beverley Frosst Webster and the spouse thereof plan to adopt a child in the near future and whereas none of the three deeds provides for such an eventuality;

Whereas the second and third deeds provide that the revenues which have not been paid out at the death of Beverley Frosst Webster shall thereupon be added to the capital and whereas it is expedient that the power to capitalize revenues apply to revenues which have not been paid out at the end of a fiscal year;

Whereas, in the third deed and in the other two deeds, Colin Wesley Webster accords the trustees such powers of administration as are granted to insurance companies under the laws of the Parliament of Canada, with the restriction that not more than \$20 000 be invested by the trustees in any one security, except in bonds issued by the Government of Canada, such restriction being set forth in particular in the second paragraph of paragraph *b* of article III of the deed registered under number 582 212;

Whereas, owing to the increase in the cost of living since 1944, \$20 000 is of much less value today than it was at the time the trust was established, whereas the provision setting a limit of \$20 000 for investment in any one security complicates the administration of the trusts and whereas the children of Beverley Frosst Webster and the trustees consider the fixing of a higher limit to be unnecessary;

Whereas the deeds of trust registered under numbers 545 285 and 582 212 provide that, after the death of settlor's spouse and his daughter, trustees who are natural persons shall no longer be replaced, and that the trust will be administered solely by a trust company, whereas the deed of trust registered under number 518 736 does not place such a restriction on the replacement of trustees who are natural persons but does provide for a case in which the such trustees would not be replaced;

Whereas all three deeds of trust provide a single date for partition, namely upon the death of the last surviving child of Beverley Frosst Webster and whereas, in the eventuality of the establishment of a separate trust for each child, it would be preferable that the dates for partition be different;

Whereas the children of Beverley Frosst Webster wish to participate in the administration of the trusts established for their benefit and the benefit of their descendants;

Whereas the trustees of the first and second trusts are Frank M. Rolph, the surviving spouse of Beverley Frosst Webster and the

father of her children, and the Royal Trust Company, and whereas the sole trustee of the third trust is the said company;

Whereas the person requesting the passing of this Act is the Royal Trust Company;

Whereas the children of Beverley Frosst Webster and Frank M. Rolph have given their consent in writing to the passing of this Act and whereas the provisions of this Act will not adversely affect minor or unborn grandchildren;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Frank M. Rolph and the Royal Trust Company, or their successors in the office of trustees of the trusts established by Colin Wesley Webster by the deeds registered at the registry office of the registration division of Montréal under numbers 518 736 and 545 285, and the Royal Trust Company or its successors in the office of trustee of the trust established by Colin Wesley Webster by the deed registered at the said registry office under number 582 212 shall administer the three trusts as if all three were governed by the provisions of the deed registered at the said registry office under number 582 212.

2. However, for the purposes of such administration, the deed of trust registered at the registry office of the registration division of Montréal under number 582 212 is amended as follows:

(1) the last sentence of paragraph 2 of article II is replaced by the following sentence: "Any accumulated net revenues remaining in the hands of the Trustees upon the death of the Donee or at the end of a fiscal year shall thereupon be added to and form part of the capital of the Trust Property.";

(2) the first sentence of paragraph 5 of article II is replaced by the following sentence: "5. Upon the death of a child in the first degree of Beverley Frosst Webster, the Trustees shall apportion the property held in trust for the benefit of such child amongst such child's issue by roots.";

(3) article II is amended by inserting, after paragraph 5, the following paragraph:

"5.1 Upon the death of a child of Beverley Frosst Webster leaving no issue, the Trustees shall divide the child's share of the trust

established in the child's benefit in such manner that there shall be one share for each of the child's brothers and sisters then living and one share for the issue of each deceased brother and sister. A share established for the benefit of the issue of a deceased brother or sister shall be subdivided amongst such issue by roots. All such shares shall be governed by the other provisions of this Deed.”;

(4) the following paragraph is added at the end of article II:

“11. A child adopted by a descendant of Beverley Frosst Webster has the same rights as if he were related to her by natural and legitimate filiation, provided that the adoption is recognized under the laws of Québec.

The same applies to the descendants of such a child whether by natural and legitimate filiation or by filiation through adoption.”;

(5) the second paragraph of paragraph *b* of article III is struck out;

(6) paragraph *f* of article IV is replaced by paragraph *f* of article IV of the deed of trust registered at the registry office of the registration division of Montréal under number 518 736, amended, however,

i. by replacing the word “may” in the third line of the first paragraph by the word “must”;

ii. by replacing the last paragraph by the following paragraph:

“There must be three Trustees in office at all times.”

3. The Trustees are hereby authorized to establish five trusts of equal capital value, one for each child of Beverley Frosst Webster, from the three trusts referred to in this Act.

The newly established trusts shall be administered in accordance with sections 1 and 2 of this Act, and there may be different trustees for each trust.

The trustees of each trust established under this section may exercise their powers, including the power to replace trustees who cease to hold office as such, independently of the trustees of the other four trusts.

4. The trustees of the trust established by the deed registered at the registry office of the registration division of Montréal under

number 518 736 become, from (*insert here the date of coming into force of this Act*), the trustees of the trust established by the deed registered at the registry office of the registration division of Montréal under number 582 212.

5. This Act comes into force on (*insert here the date of assent to this Act*).