

THIS IS THE LAST WILL AND TESTAMENT of me, FLORENCE WYLE, presently of the City of Toronto, in the County of York and Province of Ontario, Sculptor, and made as a mutual Will this date with a Will made by my friend, FRANCES LORING also of the said City of Toronto in the County of York and Province of Ontario, Sculptor, and constituting an irrevocable agreement between us to such effect; our Wills being, (save and except for certain specific bequests as hereinafter provided), made upon the mutual wish and desire to assist and encourage Canadian Sculpture and by means of gifts to public Art Galleries, public Museums and institutions of learning across Canada, to afford to the people of Canada particularly, the opportunity of seeing, appreciating and enjoying the work of Canadian Sculptors.

1. I HEREBY REVOKE all Wills and testamentary dispositions of every nature or kind whatsoever by me heretofore made.

2. I NOMINATE, CONSTITUTE and APPOINT CANADA PERMANENT TORONTO GENERAL TRUST COMPANY, CHARLES BAND, of the City of Toronto, Executive, DAVID JAMES ONGLEY, of the said City of Toronto, One of Her Majesty's Counsel and FRANCES GAGE, of the said City of Toronto, Sculptor, to be the Executors and Trustees of this my Will, and I hereinafter refer to them as "my Trustees". I will and direct that CANADA PERMANENT TORONTO GENERAL TRUST COMPANY shall have charge of all the accounts of my estate.

3. I GIVE, DEVISE and BEQUEATH all my property of every

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nature and kind and wheresoever situate, including any property over which I may have a general power of appointment, to my said Trustees upon the following trusts, namely:

- (A) Provided that my friend FRANCES LORING shall not have predeceased me, to hold my interest in the real property known as Municipal Number 110 Glenrose Avenue in the said City of Toronto as a home for my friend, FRANCES LORING until her death or as she, or in the event of her incapacity, as my Trustees, shall earlier determine. All taxes, insurance, repairs and charges or other amounts necessary for the general upkeep of the said real property, and whether applicable to my interest therein only or to the whole of the said real property, shall be paid by my Trustees out of the Sculpture Fund, (hereinafter referred to), in the event the same shall be deemed necessary or advisable and as my Trustees shall solely determine and in order that my friend FRANCES LORING shall in no way suffer any need or hardship while so occupying the said real property. My Trustees are hereby further authorized in their uncontrolled discretion to make any such payments, or any of them, out of the capital or income of the said Sculpture Fund, or in such proportions as they think fit, partly out of capital and partly out of income. In the event my friend shall have predeceased me, or having survived me, then upon her death or such earlier time as shall be determined, as hereinbefore in this Clause 3(A) provided, the said real property shall be dealt with by my Trustees as hereinafter in this my Will provided.
- (B) To deliver to the LONDON PUBLIC LIBRARY AND ART MUSEUM presently of 305 Queen's Avenue, London, Ontario, the sketch by LAUREN HARRIS, the four sketches by A. Y. JACKSON, the sketch by A. J. CASSON, the sea-scape by GEORGE RICHARDSON, the sketch by RODDY KENNY COURTICE and the sketch by YORK WILSON.
- (C) To deliver to the NATIONAL GALLERY OF CANADA the painting by EDWIN HOLGATE, and the plaster model Bust of FRANCES LORING by me.
- (D) Provided she shall not have predeceased me, to deliver

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to my friend, FRANCES LORING, all materials, tools, and equipment, owned by me and used in my profession as a Sculptor, all furniture, furnishings and books belonging to me, as well as all my articles of clothing and personal adornment, and all of which said bequest is hereinafter referred to as the "Loring Bequest".

(E) To pay out of,

(a) the cash on hand or in the bank,

(b) my stocks and bonds, and

(c) the Sculpture Fund

in that order,

all my just debts, funeral and testamentary expenses; and thereafter, in the event the cash on hand or in the bank be insufficient for the purpose, out of,

(d) my stocks and bonds,

(e) the Sculpture Fund, and

(f) the rest and residue of my general estate,

in that order,

all succession duties, inheritance, estate and death taxes, whether imposed by or pursuant to this or any province, state, country or jurisdiction whatsoever, that may be payable in connection with any gift or benefit given by me to my friend FRANCES LORING either in my lifetime or by survivorship, or by this my Will, or any Codicil hereto. I hereby authorize my Trustees to pay any duty or tax chargeable to any gift or benefit to my friend FRANCES LORING prior to the due date thereof or to commute the duty of tax upon any interest in expectancy.

All succession duties, inheritance, estate and death taxes, if any, charged or payable in connection with any other gift, devise or benefit given by me either in my lifetime or by survivorship or by this my Will,

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or any Codicil hereto, to any organization or person whatsoever other than my friend, FRANCES LORING, shall be paid by such any other beneficiary, and in the event any such other beneficiary shall not wish to accept any such gift, devise or benefit subject to such condition, then the same shall be sold and the proceeds thereof shall be sold and the proceeds thereof shall fall into and form part of the Sculpture Fund and to be dealt with as if the same had originally formed part of such Sculpture Fund.

(F) Provided that the same has not been used for the purpose of paying my just debts, funeral and testamentary expenses, as well as the succession duties, inheritance, estate and death taxes, as hereinbefore referred to, or in the further event the bequest and devise thereof shall not be refused by the beneficiaries thereof by reason of the conditions as to the payment of succession duties, inheritance, estate and death taxes, if any, attached thereto and as hereinbefore in Clause 3 (E) of this my Will referred to, then:

(a) In the event she shall not have predeceased me, to deliver all my stocks and bonds, cash on hand and cash in the bank to my friend, FRANCES LORING.

(b) Should my friend FRANCES LORING have predeceased me, to

(i) Deliver my stocks and bonds to my niece, HELEN WYLE, presently of the City of Chicago, in the State of Illinois, one of the United States of America. If my said niece shall then be dead, the said stocks and bonds shall be sold and the proceeds thereof fall in and form part of the Sculpture Fund.

(ii) In the event my friend FRANCES LORING shall have predeceased me, to deliver all of the Loring Bequest as hereinbefore provided, as well as all cash on hand and cash in the bank as near equally as may be between FRANCES GAGE of Toronto, Ontario, Sculptor, and REBECCA SISLER, presently of Terra Cotta, Ontario, Sculptor, or to the survivor of them, should either predecease me. Should any of the said Loring Bequest not be wanted

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by the said FRANCES GAGE and REBECCA SISLER, or should they both be then dead, the same shall be sold and the proceeds thereof fall in and form part of the Sculpture Fund.

- (G) Upon the death of my friend FRANCES LORING or upon such earlier determination as in Clause 3(A) of this my Will provided, or in the event she shall have predeceased me, my interest in the property known as Municipal Number 110 Glenrose Avenue, in the City of Toronto, Province of Ontario, shall, (subject, however, to the provisions hereinafter contained), be delivered and transferred to THE ROYAL CANADIAN ACADEMY OF ARTS by the Academy as a meeting place for its members and to be particularly used and occupied by the Academy in the development and encouragement of, and education in, Canadian Art in all its aspects and as the Academy shall from time to time determine, but with the wish and desire, (but not as a condition), for the particular development and encouragement of, and education in its widest sense, in Canadian Sculpture. I would further request the Academy to continue the policy carried on by my friend, FRANCES LORING and myself, to make welcome at all times, not only the adults but particularly the children in the neighbourhood. Provided, however, in the event the zoning restrictions shall be such as to prevent the use and occupation of the said property by the Academy for the said purposes so desired by my friend, FRANCES LORING and myself, then, my Trustees shall have an application made to the appropriate authority, (and as an administrative expense of my estate), for such amendments as may be required to any zoning by-law so as to enable the said property to be used and occupied by the Academy for the purposes so desired as aforesaid. In the event any such application for such amendment shall be refused, or regardless of zoning restrictions or otherwise, the Academy shall find it impossible to carry on and maintain the property for the purposes aforesaid, it would be my wish that if the Academy should sell the property the proceeds would be used to assist Canadian Sculptors and the art of Canadian Sculpture as the Academy in its discretion deemed most helpful and beneficial.

This said gift and devise to THE ROYAL CANADIAN ACADEMY

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OF ARTS is, as hereinbefore in Clause 3 (E) of this my Will provided, subject to the payment of succession duties, inheritance, estate and death taxes, if any, charged or payable in connection therewith, and in the event the said gift and devise is not accepted subject to such condition, the said real property shall be sold and the proceeds thereof shall fall into and form part of the Sculpture Fund and to be dealt with as if the same had originally formed part of such Sculpture Fund.

It is further my wish and desire that if the Academy shall accept the said gift and devise of the property that for a period of one year full physical possession of the property shall be arranged so that works of sculpture of myself and FRANCES LORING may be kept on the property to assist my Executors to dispose of the same during such year as in Clause 3 (H) hereinafter provided.

- (H) In the mutual hope and desire of my friend FRANCES LORING and myself that the respective works of sculpture produced by each of us and not sold at the time of our respective deaths, shall, by the sale thereof, be used to encourage the development of Canadian Sculpture and, by distribution across Canada of works of sculpture produced by Canadian artists, to promote the knowledge, appreciation and understanding of Canadians in the work of Canadian sculptors in particular, I hereby direct:
- (a) That while the decisions of my Trustees must be final and binding, nevertheless in order that there will be available to them at all times the advice, help and assistance of those actively engaged in the field of Art, I hereby direct my Trustees to appoint a Committee to be known as the "Sculpture Advisory Committee" and to be composed of the from time to time respective Presidents of THE ONTARIO SOCIETY OF ARTISTS, THE SCULPTORS SOCIETY OF CANADA and THE ROYAL CANADIAN ACADEMY OF ARTS, together with the from time to time respective Directors of THE NATIONAL GALLERY OF CANADA and the TORONTO ART GALLERY.
- (b) My Trustees and the Sculpture Advisory Committee shall act in full co-operation for the purpose of disposing of any of my unsold works of sculpture,

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or any reproduction thereof, (hereinafter referred to as my "works of sculpture"), for the best possible prices obtainable. In the sale of my works of sculpture and in full recognition of the difficulties involved if the best possible prices are to be obtained, I in no way set any time limit within which the same shall be sold, and my Trustees shall have and are hereby given the sole and uncontrolled discretion to determine the period required for such purpose. While for the purposes desired by my friend FRANCES LORING and myself it is our hope and wish that all such works of sculpture be sold, nevertheless I recognize it may be impossible to dispose of by sale one or more of the pieces of such works of sculpture. In the event my Trustees shall, in their sole discretion, decide that any one or more of such pieces of works of sculpture are not saleable, then, upon consultation with the Sculpture Advisory Committee, I authorize my Trustees to dispose of any such unsold work or works of sculpture as my Trustees shall solely determine. In the reproduction of any works of sculpture not in permanent form, I would wish my Trustees to be guided, even though not bound, by the advice of the Sculpture Advisory Committee in respect thereto; save and except, however, it would be my wish and desire, (even though not a specific direction), that the right of reproduction in any event should be limited to not more than ten (10) editions and always subject, of course, to any prior agreement of sale affecting any particular piece of sculpture.

(c) The proceeds of sale of my works of sculpture, (and for the purpose hereof "proceeds of sale" shall include any balance of unpaid sale and purchase price of any works sold by me during my lifetime), shall fall into and form part of a fund to be known as "The Sculpture Fund". Such Sculpture Fund shall be held by my Trustees and shall be used:

(i) During the lifetime of my friend FRANCES LORING and both as to capital and as to

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income thereon, and whether in whole or in part, and in such amounts and as my Trustees in their sole discretion shall determine, to provide for the care of my friend FRANCES LORING during her lifetime in the event of her illness, need, adversity, or for any other benefit for her whatsoever.

(ii) Subject to safeguarding my friend FRANCES LORING as provided in the aforesaid Clause 3 (H)(c)(i) to purchase works of sculpture, and whether in completed form or by commission, produced by Canadian sculptors ordinarily resident in Canada. My Trustees shall have and are hereby given the sole and uncontrolled discretion to fix and determine the meaning of the phrase, "ordinarily resident in Canada".

(d) I hereby direct that the various works of sculpture so purchased shall be given as an outright gift to such public Art Galleries, public Museums and institutions of learning throughout Canada as my Trustees shall determine so as to provide the widest possible distribution of the works of sculpture so purchased. In such purchase and in their distribution I request my Trustees and the Sculpture Advisory Committee to co-operate and consult together at all times, with, however, both my Trustees and the Sculpture Advisory Committee proceeding upon the basic principle that the foregoing provisions are made and desired for the purpose of giving encouragement to Canadian sculptors and the widest possible distribution of works purchased from them.

In making such provisions and in utilizing our unsold works of sculpture in this manner, it is the hope of my friend FRANCES LORING and myself that it will not only give encouragement to Canadian sculptors but will further encourage the interest of Canadians in the work produced by Canadian sculptors and thus further contribute to the learning and to the artistic and cultural life of Canada.

(e) I hereby specifically direct that in the sale of any

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works of sculpture produced by me, or in the purchase of any works of sculpture of any Canadian sculptor, no Trustee or any member of, or member organization represented on, the Sculpture Advisory Committee, shall be precluded by reason of such office, from either the purchase of any of my works of sculpture, or by the sale to my Trustees for the purpose as aforesaid of any works of sculpture which may have been individually produced by them.

4. IN THE EVENT my friend FRANCES LORING shall have predeceased me, my Trustees, shall, in their sole discretion, have the right, if they so desire, to join the proceeds of the Sculpture Fund with that of the Sculpture Fund of my friend so that the two Sculpture Funds may be administered and used as one single Sculpture Fund for the purposes mutually desired by my friend FRANCES LORING and myself and as provided for in Clause 3(H) of my friend's Will. AND I HEREBY DECLARE that in the event it should be deemed necessary or advisable by my Trustees to hold the Sculpture Fund or any from time to time part thereof, for any period of time whatsoever, then, and in such event, my Trustees shall be and are hereby authorized to invest the same or any part thereof and in making such investments, my Trustees shall not be limited to investments authorized by law for trustees but may make any investments which in their uncontrolled discretion they consider advisable and my said Trustees shall not be liable for any loss that may happen to my estate in connection with such investments made by them in good faith. Provided that I would request the persons named as individual Trustees to be guided by the

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recommendations of my Corporate Trustee in the making of such investments.

5. UPON MY DEATH, I direct that my body be delivered to the Department of Anatomy of the University of Toronto, according to the provisions of the Anatomy Act (Ontario), and without in any way limiting the provisions of the foregoing, with my eyes being bequeathed to the Eye Bank of Canada under the auspices of the Canadian National Institute for the Blind.

IN WITNESS WHEREOF I have to this my Last Will and Testament written upon this and nine preceding pages of paper, subscribed my name this 20th day of June, 1963.

SIGNED, PUBLISHED AND DECLARED)
by the above named Testatrix,)
FLORENCE WYLE, as and for her)
Last Will and Testament in the)
presence of us, both present at)
the same time, who at her request,)
in her presence and in the presence)
of each other, have hereunto)
subscribed our names as witnesses.)

Florence Wyle

WITNESS

Name [Signature]

Address 320 Bay St Toronto

Name [Signature]

Address 2 McKenzie Ave

Toronto

THIS IS A CODICIL to the Last Will and Testament of me, FLORENCE WYLE, presently of the City of Toronto, in the County of York and Province of Ontario, Sculptor, which Last Will and Testament bears date the 20th day of June, A.D. 1963.

1. I HEREBY DELETE Paragraph 3(H)(a) and substitute therefor the following new Paragraph 3(H)(a):

" (a) That while the decisions of my Trustees must be final and binding, nevertheless in order that there will be available to them at all times the advice, help and assistance of those actively engaged in the field of Art, I hereby direct my Trustees to appoint a Committee to be known as the 'Sculptor Advisory Committee' and to be composed of a Sculptor Member as from time to time appointed ^{from each of} THE ONTARIO SOCIETY OF ARTISTS and THE ROYAL CANADIAN ACADEMY OF ARTS, together with the from time to time President of THE SCULPTORS SOCIETY OF CANADA and the from time to time respective Directors of THE NATIONAL GALLERY OF CANADA and THE TORONTO ART GALLERY, with right to my Trustees to add such other persons to the Sculptor Advisory Committee as they in their sole discretion may consider of help and assistance to my said Trustees and to the said Sculptor Advisory Committee."

2. IN ALL OTHER respect I confirm my said Will.

3. IN WITNESS WHEREOF I have to this my Codicil to my


Francis H. Gage


O. Ward


A. A. Munn

This is Exhibit "A"
to the affidavit of David James Buckley
sworn before me at Toronto,
this 29th day of November 1968
D. Argy Blair
A Commissioner, &c.

This is Exhibit "A"
to the affidavit of Francis Gage, Charles Shaw Bank, and
William Alexander Nelson
sworn before me at Toronto,
this 3rd day of December 1968
D. Argy Blair
A Commissioner, &c.

F.W.

Last Will and Testament written upon this and one preceding ^{page} page of paper, subscribed my name this 17th day of ^{July} ~~June~~, 1963.

SIGNED, PUBLISHED AND DECLARED)
by the above named Testatrix,)
FLORENCE WYLE, as and for her)
Last Will and Testament in the)
presence of us, both present)
at the same time, who at her)
request, in her presence and)
in the presence of each other,)
have hereunto subscribed our)
names as witnesses.)

Florence Wyle

WITNESS:

Name [Signature]

Address 320 Bay St. Toronto

Name J. G. [Signature]

Address 4 Old Orchard St - Toronto


Frances M. Gage





This is Exhibit 'C'
to the affidavit of
David James Dugley
sworn before me at Toronto,
this 29th day of November 1968
D. Gray Blair
A Commissioner, &c.

This is Exhibit 'C'
to the affidavit of Frances Gage, Charles Stewart, and William
Alexander Nelson
sworn before me at Toronto,
this 3rd day of December 1968
D. Gray Blair
A Commissioner, &c.

No. 6801/68

In re

FLORENCE WYLE

Deceased

PROBATE

Filed *Dec 23/68*

No Bidout

Registrar