

# Lord Mayor, the and the miffed

## Philanthropist's multiple wills fire up a legal stoush

FIONA HUDSON

**I**N LIFE, wealthy businessman Eldon Foote was one of the most generous men Melbourne had known. The secretive Canadian philanthropist offered little explanation for his gifts to our city — now held in a trust worth \$25 million — and sought little acknowledgment for them.

"You get more joy out of giving when you're alive than when you're dead, because you can see the result," he once commented as he handed over another \$5 million donation.

In death, Mr Foote continued giving to the people of Melbourne.

When he succumbed to lung cancer in 2004, aged 79, he bequeathed about \$8 million to the Lord Mayor's Charitable Fund, headed by John So.

The results of that final act of kindness would have brought little joy to Mr Foote.

An international legal tussle looms because his widow, Anne, and five of his six children — including a Sydney-based daughter — have taken early steps in a Canadian court to take back the huge donation.

The court action has allowed carefully guarded details of the self-made millionaire's private life to seep into the public domain.

Mr Foote left three separate wills — one in Canada, one in Norfolk Island and one in the British Virgin Islands.

**E**ACH was signed on the same day.

A QC with a brilliant legal mind, Mr Foote inserted a "poison pill" clause in each will.

Each document clearly states that anyone who challenges or objects to them will lose their promised inheritance and get \$10 instead.

"I have given consideration to gifts given during my lifetime and to benefits bestowed by me and I believe that I have provided for all members of my family equitably," he wrote.

Mrs Foote and five of his children have asked a Canadian court to examine whether those "poison pills" are valid.

Their lawyers believe the clauses could be overturned, and that they may have a right to a greater share of the estate.

Father-of-six Mr Foote spelled out in minute detail how he wanted his considerable assets and personal effects distributed.

To his son Robert, for example, he left some duck



**'To his son Robert he left some duck hunting gear, a crystal shaving brush, a gold Rolex and an ice-hockey stick signed by Wayne Gretzky'**

Left: Eldon Foote with his third wife, Anne.

hunting gear, a crystal shaving brush, a gold Rolex and an ice-hockey stick autographed by Wayne Gretzky.

His daughter Laurie got his 1980 Fiat Spider and a collection of Norfolk Island stamps.

The inheritance of his widow, Anne, his third wife, included all their joint investments, a \$US8500 monthly stipend and a luxury apartment in Canada.

Each child was given \$US100,000, while grandchildren received \$US50,000 each and nieces and nephews \$US20,000.

Each grandchild is also entitled to \$US50,000

**Mr Foote left three separate wills — one in Canada, one in Norfolk Island and one in the British Virgin Islands**

towards tertiary education. But the bulk of the \$16 million estate was to be equally divided between the Lord Mayor's Charitable Fund and a similar Canadian charity.

The Melbourne fund, headed by Mr So, is an umbrella group supporting more than 180 charities, including the Howard Florey Institute, the Victorian College of the Arts and the Guide Dog Association.

Mrs Foote was on the board of the fund until May, but has since resigned. Thousands of Victorians benefit each year from its grants and awards.

The root of Mr Foote's connection to the fund, and to Melbourne, isn't really known.

The son of a grain buyer and a school teacher, he was an international man of mystery who flitted between Canada, Australia, New

Zealand, France, Switzerland, Norfolk Island, Japan, Hong Kong and Korea.

Once a successful lawyer, he turned his back on the bar in 1967 and moved his family to Australia, where he made a fortune selling home-cleaning, soap and hair-care products.

After a stint in Japan, he moved to Norfolk Island about 1971. Mr Foote considered the island a personal and corporate tax haven.

He built a sprawling lodge with a polar bear rug and moose heads mounted on the wall. He named the ranch-style residence "Foot

Nort" — Norfolk for "why not?"

He married Anne in Hong Kong in 1984. They split their lives between the former island penal colony, Canada, and various other residences.

Whether or not Mr Foote planned to live out his days on Norfolk Island or in Canada is a central issue in the looming legal battle.

Mrs Foote and the children — Sydneysider Debbie Entwistle, Trudy David, Douglas Foote, Laurie Evans and Dean Foote — have asked the court to rule exactly where Mr Foote lived at the time of death.

Each of the jurisdictions in which he left a will — the Virgin Islands, Canada and Norfolk Island — has different laws regarding dependants' rights to apply for maintenance and support from the estate.

Lawyers for Mrs Foote argue that though the couple were based at the Norfolk Island ranch, they had firm plans to move back to Canada and that Canadian law should cover the distribution of the estate.

But lawyers for the Lord

**A QC with a brilliant legal mind, Mr Foote inserted a "poison pill" clause in each will**

Mayor's Charitable Fund told the judge at a preliminary hearing in Canada last year that would give an "inappropriate advantage" to the Foote family members.

The estate's executor would prefer no legal action went ahead, but if it must, that it be held in Norfolk Island.

"Eldon Foote describes himself in each of his three wills as being 'of Norfolk Island'," court documents filed by the estate's lawyers say.

"Eldon Foote's three-fold declaration of connection with Norfolk Island cannot be ignored, since it is his wishes which are in issue."

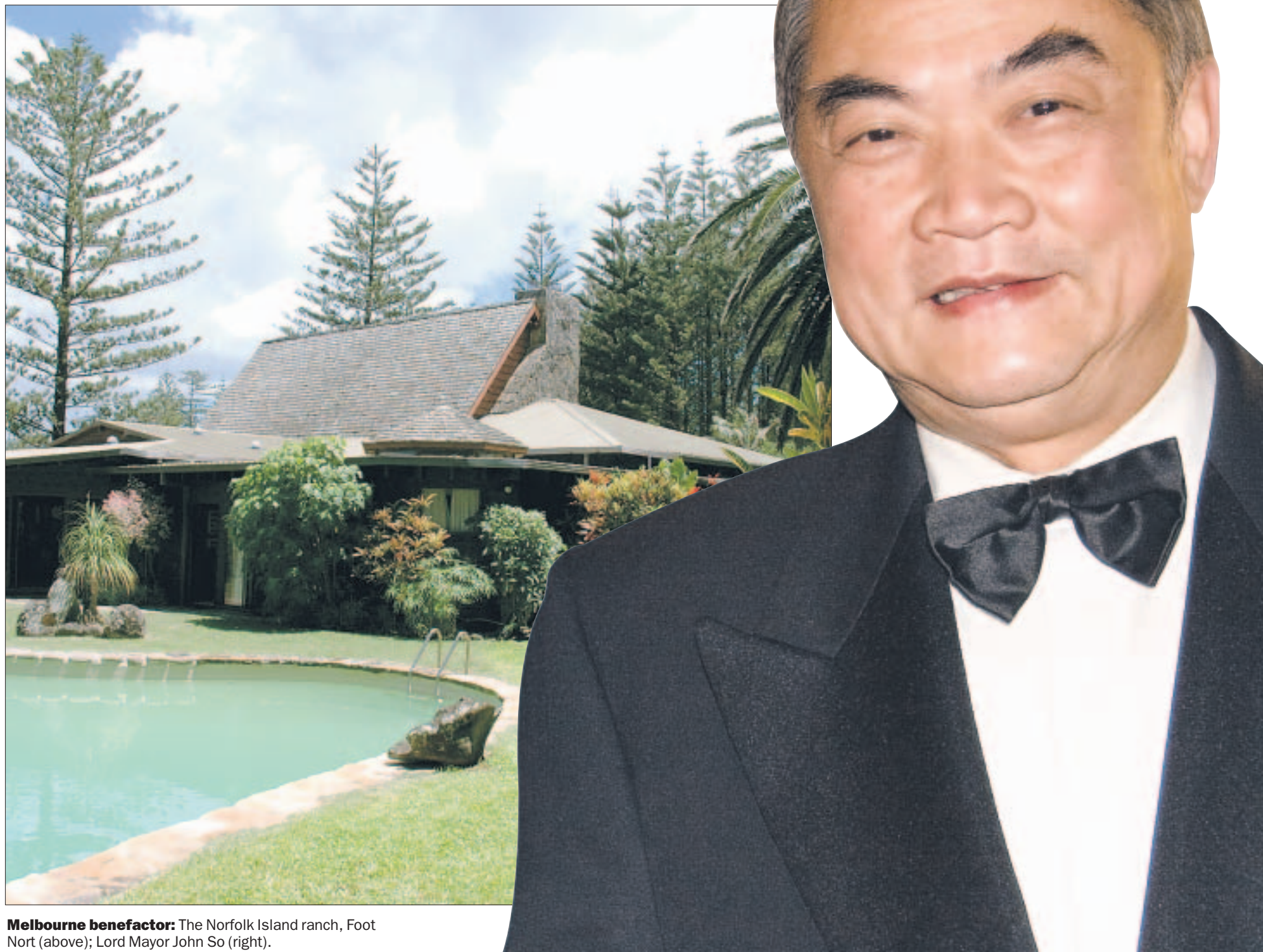
Justice Robert Graesser, of Alberta's Court of Queens Bench, ruled the case should proceed in Canada this year.

Lord Mayor's Charitable Fund chief executive Andrew Chappell said yesterday he expected the case to be "complex, fascinating and difficult".

"Eldon Foote had an incredible impact on Melbourne and continues to," he said.

"We hope his final wishes are fulfilled. Many Melburnians' lives have been enriched by his generosity, and many more will be."

# dead millionaire widow ...



**Melbourne benefactor:** The Norfolk Island ranch, Foot Nort (above); Lord Mayor John So (right).

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