

1981 BILL PR 11

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL PR 11

THE HONOURABLE PATRICK BURNS SETTLEMENTS
AMENDMENT ACT, 1981 (No. 2)

MR. ZAOZIRNY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill PR 11
Mr. Zaozirny

BILL PR 11

1981

THE HONOURABLE PATRICK BURNS SETTLEMENTS AMENDMENT ACT, 1981 (No. 2)

(Assented to , 1981)

WHEREAS by the Last Will and Testament of the late Honourable Patrick Burns bequests were made to

- (a) the Institution known as "The Children's Shelter" and carried on under the auspices of the City of Calgary,
- (b) any Fund established for the benefit of Widows and Orphans of Members of the Police Force of the City of Calgary, and
- (c) any Fund established for the benefit of Widows and Orphans of Members of the Fire Brigade of the City of Calgary;

and

WHEREAS an order of the Supreme Court of Alberta made on December 11, 1939 held those bequests to be good and valid and approved the creation of three schemes for the administration of funds for those bequests; and

WHEREAS pursuant to those schemes the income of the funds was to be applied by trustees "for the benefit of poor, indigent and neglected children", "for the benefit of Widows and Orphans of Members of the Police Force of the City of Calgary", and "for the benefit of Widows and Orphans of Members of the Fire Brigade of the City of Calgary", respectively; and

WHEREAS those schemes were amended by *The Burns Memorial Fund for Children Act* and by *The Honourable Patrick Burns Settlements Amendment Act*; and

WHEREAS the income of each of those funds exceeds the expenditures for the needs of the beneficiaries under those schemes and is accumulating in the hands of the respective Trustees of those funds; and

WHEREAS it is desirable that the objects of the three schemes be broadened so that the funds may be applied to assist, encourage and

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Preamble

promote the well-being of mankind, and primarily the inhabitants of the City of Calgary, regardless of race, colour or creed; and

WHEREAS it is considered appropriate that the funds, with such broadened objects, may best be administered by the members from time to time of the Board of Directors of the Calgary and District Foundation; and

WHEREAS the objects of the Calgary and District Foundation are to use the funds entrusted to it for such charitable purposes as will in the sole discretion of the Board of Directors most effectively assist, encourage and promote the well-being of mankind, and primarily the inhabitants of the district of Calgary, regardless of race, colour or creed; and

WHEREAS it is expedient to grant the prayer of the petition;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 In this Act,

(a) "Children's Trust Scheme" means the scheme entitled "Scheme for the Administration of a Fund to be Administered by the City of Calgary for the Benefit of Poor, Indigent and Neglected Children under the Last Will and Testament of The Honourable Patrick Burns, late of the City of Calgary, in the Province of Alberta, Rancher, Deceased" and contained in the Schedule to the 1939 Court Order;

(b) "Fire Brigade Trust Scheme" means the scheme entitled "Scheme for the Establishment and Administration of a Fund to be Administered for the Benefit of Widows and Orphans of Members of the Fire Brigade in the City of Calgary, in the Province of Alberta, under the Last Will and Testament of The Honourable Patrick Burns, late of the City of Calgary aforesaid, Rancher, Deceased" and contained in the Schedule to the 1939 Court Order, as amended by The Honourable Patrick Burns Settlements Amendment Act;

(c) "Police Force Trust Scheme" means the scheme entitled "Scheme for the Establishment and Administration of a Fund to be administered for the Benefit of Widows and Orphans of Members of the Police Force in the City of Calgary, in the Province of Alberta, under the Last Will and Testament of The Honourable Patrick Burns, late of the City of Calgary aforesaid, Rancher, Deceased" and contained in the Schedule to the 1939 Court Order, as amended by *The Honourable Patrick Burns Settlements Amendment Act*;

(d) "1939 Court Order" means the Order of the Honourable Mr. Justice Ewing of the Supreme Court of Alberta dated December 11, 1939 and entered in that Court as P 2431.

1 Definitions

2 *The Childrens' Trust Scheme is amended*

(a) *by striking out Clause 4 and substituting the following:*

4 The Trustees shall consist of the persons from time to time holding office as members of the Board of Directors of the Calgary and District Foundation.

(b) *by striking out Clause 28 and substituting the following:*

28(1) All the proper costs, charges and expenses of and incidental to the administration and management of the Trust Fund shall be first defrayed by the Trustees out of the income of the Trust Fund.

(2) Subject to the payments aforesaid, the yearly income of the Trust Fund shall be applied by the Trustees in their sole discretion

(a) for the benefit of any persons under 18 years of age and resident in the City of Calgary whom the Trustees consider to be in need and worthy of assistance, including the application and expenditure of any portion or such portion of the Fund as the Trustees consider advisable to any Canadian charitable organization registered under the *Income Tax Act (Canada)*, as amended, from time to time, for the purpose of providing assistance to any persons,

(b) to provide services, facilities or other assistance for any scheme or program which the Trustees consider desirable for the benefit of any such persons, and

(c) to the extent that the yearly income has not been applied in the manner indicated in paragraphs (a) and (b), for such charitable purposes as will in the sole discretion of the Trustees most effectively assist, encourage and promote the well-being of mankind, and primarily the inhabitants of the City of Calgary, regardless of race, color or creed.

(3) All or substantially all of the yearly income of the Trust Fund shall be expended or committed to expenditure during the year in which the income is received.

3 *The Police Force Trust Scheme is amended*

(a) *by striking out Clause 5 and substituting the following:*

5 The Trustees shall consist of the persons from time to time holding office as members of the Board of Directors of

2 Clauses 4 and 28 of the Children's Trust Scheme, as they appear in the 1939 Court Order presently read:

4. The Trustees shall consist of the following persons, namely:

The Mayor for the time being of the City of Calgary;

The Comptroller for the time being of the City of Calgary;

The City Solicitor for the time being of the City of Calgary;

The Superintendent of Children's Aid for the time being of the said City.

28. All the proper costs, charges and expenses of and incidental to the administration and management of the Trust Fund shall be first defrayed by the Trustees out of the income of the Trust Fund.

Subject to the payments aforesaid all the yearly income of the Trust Fund shall be applied by the Trustees for the benefit of poor, indigent and neglected children.

3 Clause 5 of the Police Force Trust Scheme, as it appears in the 1939 Court Order, presently reads:

5. The Trustees shall consist of the following persons, namely:

The Mayor for the time being of the said City of Calgary;

the Calgary and District Foundation.

(b) by striking out Clause 28 and by substituting the following:

28(1) All the proper costs, charges and expenses of and incidental to the administration and management of the Trust Fund shall be first defrayed by the Trustees out of the income of the Trust Fund.

(2) Subject to the payments aforesaid, the yearly income of the Trust Fund shall be applied by the Trustees in their sole discretion for the following purposes but in accordance with the following priorities:

(a) firstly, for the benefit of the widows and orphans of the members of the Police Force,

(b) secondly, for the payment in whole or in part of the tuition fees and living and other related expenses incurred by a child or children of members past and present of the Police Force while such child is attending an institution of learning, and

(c) thirdly, to the extent that the yearly income cannot be applied in the manner indicated in paragraphs (a) and (b), for such charitable purposes as will in the sole discretion of the Trustees most effectively assist, encourage and promote the well-being of mankind, and primarily the inhabitants of the City of Calgary, regardless of race, color or creed.

(3) All or substantially all of the yearly income of the Trust Fund shall be expended or committed for expenditure during the year in which the income is received.

4 The Fire Brigade Trust Scheme is amended

(a) by striking out Clause 5 and substituting the following:

5 The Trustees shall consist of the persons from time to time holding office as members of the Board of Directors of the Calgary and District Foundation.

(b) by striking out Clause 28 and substituting the following:

28(1) All the proper costs, charges and expenses of and incidental to the administration and management of the Trust Fund shall be first defrayed by the Trustees out of the income of the Trust Fund.

(2) Subject to the payments aforesaid, the yearly income of the Trust Fund shall be applied by the Trustees in their sole

The Comptroller for the time being of the said City;

The Chief Constable for the time being of the said City;

The City Solicitor for the time being of the said City.

Provided that the Trustees shall have power from time to time to appoint active members of the Police as Trustees for such periods as they shall determine but so that the total number of Trustees shall at no time exceed five in number

Clause 28 of the Police Force Trust Scheme, as replaced by section 2 of *The Honourable Patrick Burns Settlements Amendment Act*, chapter 91, Statutes of Alberta, 1975(2), presently reads:

28. All the proper costs, charges and expenses of and incidental to the administration and management of the Trust Fund shall be first defrayed by the Trustees out of the income of the Trust Fund.

Subject to the payments aforesaid the yearly income of the Trust Fund shall be applied by the Trustees in their sole discretion in payment in whole or in part of the tuition fees and living and other related expenses incurred by a child or children of members past and present of the Police Force while such child is attending an institution of learning and for the benefit of the widows and orphans of the members of the Police Force provided that should there be a surplus of income the Trustees shall accumulate the unapplied income or any surplus and invest the same as part of the capital of the Trust Fund.

4 Clause 5 of the Fire Brigade Trust Scheme, as it appears in the 1939 Court Order, presently reads:

5. The Trustees shall consist of the following persons, namely:

The Mayor for the time being of the said City of Calgary;

The Comptroller for the time being of the said City;

The Chief of the Fire Brigade for the time being of the said City;

The City Solicitor for the time being of the said City.

Provided that the Trustees shall have power from time to time to appoint active members of the Fire Brigade as Trustees for such periods as they shall determine but so that the total number of Trustees shall at no time exceed five in number.

discretion for the following purposes but in accordance with the following priorities:

(a) firstly, for the benefit of the widows and orphans of the members of the Fire Brigade,

(b) secondly, for the payment in whole or in part of the tuition fees and living and other related expenses incurred by a child or children of members past and present of the Fire Brigade while such child is attending an institution of learning, and

(c) thirdly, to the extent that the yearly income cannot be applied in the manner indicated in paragraphs (a) and (b), for such charitable purposes as will in the sole discretion of the trustees most effectively assist, encourage and promote the well-being of mankind, and primarily the inhabitants of the City of Calgary, regardless of race, color or creed.

(3) All or substantially all of the yearly income of the Trust Fund shall be expended or committed for expenditure during the year in which the income is received.

5 The Trustees shall, with respect to the Children's Trust Scheme, the Police Force Trust Scheme and the Fire Brigade Trust Scheme, after the end of each year,

(a) prepare a report respecting the operation of each of the funds during the preceding year and containing audited financial statements for each of those funds as at the end of that preceding year, and

(b) arrange for the printing of copies of each of the reports and make the printed copies available to the public upon request and without charge.

6 *The following are repealed:*

(a) *The Burns Memorial Fund for Children Act;*

(b) *The Honourable Patrick Burns Settlements Amendment Act.*

7 *This Act comes into force on January 1, 1982.*

Clause 28 of the Fire Brigade Trust Scheme, as replaced by section 2 of *The Honourable Patrick Burns Settlements Amendment Act*, chapter 91, Statutes of Alberta, 1975(2) reads:

28. All the proper costs, charges and expenses of and incidental to the administration and management of the Trust Fund shall be first defrayed by the Trustees out of the income of the Trust Fund.

Subject to the payments aforesaid the yearly income of the Trust Fund shall be applied by the Trustees in their sole discretion in payment in whole or in part of the tuition fees and living and other related expenses incurred by a child or children of members past and present of the Fire Brigade while such child is attending an institution of learning and for the benefit of the widows and orphans of the members of the Fire Brigade provided that should there be a surplus of income the Trustees shall accumulate the unapplied income or any surplus and invest the same as part of the capital of the Trust Fund.

5 Preparation and printing of annual reports for the three funds.

6 Repeals chapter 118, Statutes of Alberta, 1975(2) and chapter 91, Statutes of Alberta, 1975(2).

7 Coming into force.