



Speech by

Hon. ANNA BLIGH

MEMBER FOR SOUTH BRISBANE

Hansard 15 November 2000

LEGACY TRUST FUND BILL

Hon. A. M. BLIGH (South Brisbane—ALP) (Minister for Families, Youth and Community Care and Minister for Disability Services) (4.33 p.m.): I move—

"That the Bill be now read a second time."

I am pleased to introduce the Legacy Trust Fund Bill 2000. The Bill will enable Disability Services Queensland to use funds that have accumulated over a period of more than 100 years in an account styled the Legacy Trust Fund by disbursing these funds to organisations catering to the needs of the vision impaired. The department currently holds approximately \$370,000 in the account.

The way in which the Government came to be administering these funds is a curious mixture of historical accident and happenstance. Unfortunately, because of a legal anomaly, it became necessary to freeze the fund. This Bill will remedy that defect.

I seek leave to incorporate the rest of my second-reading speech in Hansard.

Leave granted.—

I will briefly outline the history of the fund and anomalies that have been resolved through the introduction of this legislation.

The Legacy Trust Fund has been managed by various Government departments through the auspices of a series of institutions including the Queensland Industrial Institute for the Blind and the Queensland Blind Industrial Centre.

The sources of funds deposited into the account have been mixed; although it is accepted that a major proportion of individual deposits have come from legacies. In those cases, the testators would have expressed the wish that all or part of their estates be used for the benefit of the vision impaired—or at least those persons for whom the institutions were set up and run.

Despite the way in which the Legacy Trust Fund has always been described, it has been discovered that there is no deed in existence that created a trust. Originally, a private organisation called the "Blind Deaf and Dumb Institution" existed. The institution did charitable work for people with disabilities, but the exact nature of the services is obscure.

From the time the institution was declared to be a public charitable institution for the purposes of the Charitable Institutions Management Act 1885, the institution benefited from both bequests and donations. Some of the bequests were expressed to be for general charitable purposes while others were expressed as more specific bequests.

In any event, monies received from bequests prior to 1917 were dealt with by the private institution as if it were a trustee. The institution was "nationalised" in 1917 and the Legacy Trust Fund was established and administered by the Government.

In 1931, the Institution was formally divided into what became the Queensland School for the Blind and the Queensland Industrial Institute for the Blind. From this point, the two programs were administered by different Government departments with the Department of Public Instruction (now Education) responsible for the school, and the Home Secretary's Department responsible for the Institution.

In 1945, it was formally arranged that the books in relation to the fund account be kept at the Institution, however payments out of the account had to be made on the approval of the Minister or Under Secretary.

At some time during the early 1980's, departmental officers began referring to the account as the "Queensland Industrial Institution for the Blind Legacy Trust Account".

In 1988, the Auditor-General advised that the accounts of the Institution, including the Legacy Trust Account, were "miscellaneous departmental accounts" and that financial statements for the Trust account were to be submitted to audit and certification.

During the financial year 1988/89, the Industrial Institution, now the Queensland Blind Industrial Centre, was transferred to the Department of Employment, Vocational Education and Training (DEVET). In arranging the transfer, it was suggested by the Director-General of the Department of Family Services, that "all operations and accounts of the Queensland Blind Industrial Centre, Except for the Legacy Trust Account and the Talking Book Library, be transferred from the Department to DEVET", but that because "the Legacy Trust Account was established and maintained for the general benefit of sight disabled people" It should be retained within the Department of Family Services.

In September 1995, the Queensland Blind Industrial Centre was restructured and a private sector charitable company, Vision Queensland, was established to manage the institution. Vision Queensland subsequently made a claim on the Department that the Legacy Trust Fund rightfully belonged to the new organisation as manager of the Queensland Blind Industrial Centre.

I appreciate that vision queensland could not have known the full history of the fund—in the sense that the sources of money coming into the fund were disparate and that records showing the exact purpose for which each and every bequest, donation or gift were not available. The claim by vision queensland gave rise to the obtaining of legal advice from the Crown Solicitor and the freezing of the account pending a legislative solution.

The advice obtained from the Crown Solicitor was to the effect that the Legacy Trust Fund was never set up as a trust, is not now a trust and that most of the funds are likely to be the Department's to disburse as it sees fit. The records, however, do not allow individual legacies and accumulated interest to be differentiated from other monies coming into the fund. The Crown Solicitor's opinion was that an indeterminate proportion of the fund is held by the Department as trustee and that one of the potential beneficiaries is Vision Queensland.

It is not legally possible to deal with the funds held in the Departmental account in the alternative way of applying to the Courts for directions as to the management of the funds under the Trusts Act 1973. THIS IS because the fund itself is not a trust, nor can the quantum of individual sums held on trust be determined.

The Bill will vest the funds currently in the departmental account in the Queensland Government and enable them to be paid to organisations benefiting the vision impaired. this is a legal device which, together with the provision to prevent future actions, will rectify the present problems with accessing the funds. Vision Queensland, as the manager of the Queensland Blind Industrial Centre, will qualify for a proportion of the funds under this new legislative scheme.

The advantage of this legislative approach is that it will finally allow the Queensland Government to disburse the funds presently held in the Legacy Trust Fund—free of any legal ambiguity. Funds may only be disbursed from the account for the purposes set out in the Legislation i.e. a purpose that benefits persons with a vision impairment.

It gives me great pleasure to introduce this legislation which will finally correct these historical anomalies and allow an amount of approximately \$370,000 to be used for the benefit of Queenslanders with a vision disability.

I commend the Bill to the House.
