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## The Franklin Trust

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*Mississippi Valley Trust Company*

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# ST. LOUIS LAW REVIEW

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## THE FRANKLIN TRUST.\*

It is seldom that one has the privilege of reviewing the value of service rendered or the accounts of long time accumulating trust funds. Usually the income of a trust is expended or distributed from time to time in whole or in part, so there is no accumulation or only a partial accumulation of income, and the average rate of net income on the fund cannot be determined, except by those immediately in charge of the fund. Usually wills creating trusts do not outline the thoughts of the testator as to his plans and the financial results hoped for, and one cannot compare the actual with the expected or estimated results. It should be interesting to trustees of today to study the available records of various existing long time trusts. In this review consideration is given to the trust created by codicil to the will of Benjamin Franklin. That trust has been in existence since May 2, 1791, and is to continue until May 2, 1991.

Benjamin Franklin was born in Boston, January 17, 1706. He removed to Philadelphia in 1723, aged 17. At 82 years of age he made his last will, dated July 17, 1788. At 83 years of age he made the codicil, dated June 23, 1789. He died in Philadelphia, April 17, 1790, aged 84. His will and codicil were probated April 23, 1790.

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\*Review by Frederick Vierling, Vice-President of the Mississippi Valley Trust Company, St. Louis, Mo.

## PROVISIONS OF CODICIL.

The following provisions from his codicil are quoted in case reported in 184 Mass., page 373, to-wit:

“I have considered that among Artisans good Apprentices are most likely to make good Citizens, and having myself been bred to a manual Art Printing in my native Town, and afterwards assisted to set up my business in Philadelphia by the kind loan of Money from two Friends there, which was the foundation of my Fortune, and of all the utility in my life that may be ascribed to me,—(see Note 1)—I wish to be useful even after my Death, if possible, in forming and advancing other young men that may be serviceable to their Country in both those Towns.

“To this End I devote Two Thousand Pounds Sterling,—(see Note 2)—which I give, one thousand thereof to the Inhabitants of the Town of Boston, in Massachusetts,—(see Note 3)—and the other one thousand to the Inhabitants of the City of Philadelphia,—(see Note 4)—in trust to and for the Uses, Interests and Purposes hereinafter mentioned and declared.

“The said sum of One thousand Pounds Sterling, if accepted by the Inhabitants of the Town of Boston,—(see Note 5)—shall be managed under the direction of the Select Men, united with the Ministers of the oldest Episcopalian, Congregational and Presbyterian Churches in that Town;—(see Note 6)—who are to let out the same upon Interest at five per cent per Annum—(see Note 7)—to such young married artificers under age of twenty-five years—(see Note 8)—as have served an Apprenticeship in the said Town; and faithfully fulfilled the Duties required in their Indentures,—(see Note 9)—so as to obtain a good moral Character from at least two respectable Citizens, who are willing to become their Sureties in a Bond with the Applicants for the Repayment of the Monies so lent with Interest according to the Terms hereinafter prescribed.—(see Note 10)—All which

Bonds are to be taken for spanish milled Dollars or for the value thereof in current Gold Coin.—(see Note 11)—And the Managers shall keep a bound Book or Books wherein shall be entered the Names of those who shall apply and receive the benefit of this Institution and of their Sureties, together with the Sums lent, the Dates and other necessary and proper Records, respecting the Business and Concerns of this Institution. And as these Loans are intended to assist young married Artificers in setting up their Business, they are to be proportioned by the discretion of the Managers so as not to exceed Sixty Pounds Sterling to one Person, nor to be less than Fifteen Pounds.—(see Note 12)—And if the numbers of Appliers so entitled shall be so large, as that the sum will not suffice to afford to each as much as might otherwise not be improper, the proportion to each shall be diminished so as to afford to every one some Assistance. These aids may therefore be small at first; but as the Capital increases by the accumulated Interest, they will be more ample. And in order to serve as many as possible in their Turn, as well as to make the Repayment of the principal borrowed more easy, each Borrower shall be pledged to pay with the yearly Interest, one tenth part of the principal,—(see Note 13)—which Sums of Principal and Interest so paid in, shall be again let out to fresh borrowers. And it is presumed that there will always be found in Boston virtuous and benevolent Citizens willing to bestow a part of their Time in doing good to the rising Generation by Superintending and managing this Institution gratis, it is hoped that no part of the Money will at any time lie dead or be diverted to other purposes, but to be continually augmenting by the Interest, in which case there may in time be more than the occasions in Boston shall require and then some may be spared to their Neighboring or other Towns in the said State of Massachusetts who may desire it, such Towns engaging to pay punctually the Interest and the Portions of the principal annually to the Inhabitants of the Town of Boston.

“If this plan is executed and succeeds as projected without interruption for one hundred years, the Sum will then be one hundred and thirty-one thousand Pounds—(see Note 14)—of which I would have the Managers of the Donation to the Town of Boston, then lay out at their discretion one hundred thousand Pounds—(see Note 15)—in Public Works which may be judged of most general utility to the Inhabitants such as Fortifications, Bridges, Aqueducts, Public Building, Baths, Pavements or whatever may make living in the Town more convenient to its People and render it more agreeable to strangers, resorting thither for Health or a temporary residence.—(see Note 16)—The remaining thirty-one thousand Pounds I would have continued to be let out on interest in the manner above directed for another hundred years—(see Note 17)—as I hope it will have been found that the Institution has had a good effect on the conduct of Youth, and been of Service to many worthy Characters and useful Citizens. At the end of this second Term if no unfortunate accident has prevented the operation the sum will be Four Millions and Sixty one thousand Pounds Sterling—(see Note 18)—of which I leave one Million sixty one Thousand Pounds to the Disposition of the Inhabitants of the Town of Boston and Three Millions to the disposition of the Government of the State,—(see Note 19)—not presuming to carry my views farther.

“All the directions herein given respecting the Dispositions and Management of the Donation to the inhabitants of Boston, I would have observed respecting that to the Inhabitants of Philadelphia: only as Philadelphia is incorporated, I request the Corporation of the City to undertake the management agreeable to the said Directions—(see Note 4)—and I do hereby vest them with full and ample powers for that purpose; and having considered that the covering its Grand Plat with Buildings and Pavements, which carry off most of the Rain and prevent its soaking into the Earth and renew-

ing and purifying the Springs, whence the Water of the Wells must gradually grow worse, and in time be unfit to use, as I find has happened in all old Cities, I recommend that at the end of the first hundred years, if not done before, the Corporation of the City employ a part of the Hundred thousand Pounds in bringing by Pipes the Water of Wissahickon Creek into the Town, so as to supply the Inhabitants which I apprehend may be done without great difficulty, the level of that Creek being much above that of the City and may be made higher, by a Dam, I also recommend making the Schuykill completely navigable. At the end of the Second Hundred Years, I would have the disposition of the Four Million and Sixty one thousand Pounds divided between the Inhabitants of the City of Philadelphia and the Government of Pennsylvania, in the same manner as herein directed with respect to that of the Inhabitants of Boston and the Government of Massachusetts.

“It is my desire that this Institution should take place and begin to operate within one year after my decease;—(see Note 20)—for which purpose due notice should be publicly given previous to the expiration of that Year, that those for whose Benefit this establishment is intended may make their respective applications; And I hereby direct my Executors, the survivors or survivor of them, within six Months after my decease,—(see Note 21)—to pay over the said sum of Two thousand Pounds Sterling, to such Persons as shall be duly appointed by the Select Men of Boston and the Corporation of Philadelphia, to receive and take charge of their respective Sums of One thousand Pounds each, for the purposes aforesaid.

“Considering the accidents to which all human Affairs and Projects are subject in such a length of time, I have perhaps too much flattered myself with a vain Fancy, that these dispositions, if carried into execution, will be continued without interruption, and have the Effects proposed. I hope, however, that if the Inhabitants of the two Cities should not

think fit to undertake the execution—(see Note 4)—they will at least accept the offer of this donation as a Mark of my good-Will, a token of my Gratitude and a Testimony of my earnest desire to be useful to them even after my departure. I wish indeed that they may both undertake to endeavour the Execution of this Project; because I think that tho' unforeseen Difficulties may arise, expedience will be found to remove them, and the Scheme be found practicable; If one of them accepts the Money with the Conditions and the other refuses: my Will then is that both Sums be given to the Inhabitants of the City accepting the Whole: to be applied to the same purpose and under the same Regulations directed for the separate Parts: and if both refuse, the Money of course remains in the Mass of my Estate and is to be disposed of therewith according to my Will made the seventeenth day of July 1788."

#### ANNOTATIONS.

Franklin, in his will proper provided for the members of his immediate family. In his will he made no benevolent or charitable bequests. He must have realized the omission and thereupon made his codicil. The codicil appears to be a longer instrument than the will itself. By reference notes inserted in parentheses in the provisions above set out, quoted from the codicil, attention is directed to the following annotations, commenting on the respective provisions.

#### Note 1.

In the preamble to his codicil Franklin acknowledged that his training in the printing art and assistance of two friends were the foundation of his fortune and expressed his wish to be useful even after death in forming and advancing other young men. Early as an employed printer, Franklin was ambitious to have a printing establishment of his own. The chance came when the father of another young printer

suggested that the two young printers go in business for themselves, the sponser to supply the funds needed to equip the establishment. The equipment was selected and purchased on installment payments. The first installment was paid. Before the second became due, the sponser had financial difficulties and could not go on with the payments. It was suggested that Franklin assume the unpaid installments and take over the business, releasing his partner and his sponser from further liability. This was agreed upon. Franklin's financial standing was at stake and the strain was relieved by the separate offer of two friends to loan him the money needed to pay for the business. He accepted from each one-half of the amount required and thus was saved from the disgrace of failure, and perhaps imprisonment for debt. Throughout the remainder of his life he was deeply grateful for the help thus given in his time of need. The amounts received by him as loans were in due time repaid. He planned by his codicil to help others, as he himself had been aided in his youth.

#### Note 2.

At the time Franklin made the codicil the money unit in use in this country was the English pound Sterling. The bequests of Franklin were therefore made in pounds Sterling. The first gold coined in this country was on July 31, 1795. On a gold parity basis £1000 gold were the equivalent of \$4,866.55 U. S. Gold Dollars, as later authorized by Congress.

#### Note 3.

The bequest was to the "Inhabitants of the Town of Boston". Boston was not incorporated as a city until February 23, 1822. The bequest to the inhabitants of an unincorporated town, or to such unincorporated town direct, from a lawyer's viewpoint, was irregular.



## Note 4.

Franklin recognized there must be a difference in the management of the two trust funds given Boston and Philadelphia respectively. Philadelphia existed as a municipal corporation at the time of execution of the codicil. Philadelphia was incorporated in 1701 under a charter granted by William Penn. The authorities of Philadelphia, it is said, accepted the payment of the legacy to that city, but decided not to establish the trust fund and used the funds for a then immediate public purpose. Therefore no comparison of results may be made between the trust funds given by Franklin to the two cities respectively.

## Note 5.

As the town of Boston was not incorporated, Franklin probably deemed it necessary that the inhabitants of the town should have a town meeting, to vote upon the question of accepting or rejecting the legacy. Such meeting was held May 25, 1790. The vote was in favor of accepting the legacy upon the trusts provided in the codicil.

## Note 6.

The codicil provided that the fund should be managed under the direction of the Select Men, united with the ministers of the oldest Episcopalian, Congregational and Presbyterian churches in the town. At the time of Franklin's death there was no Presbyterian church in Boston and the fund was managed by the Select Men and the ministers of the oldest Episcopalian and Congregational churches. Such management was continued until the incorporation of Boston in February, 1822. After the incorporation of the city, the fund was managed by the Board of Aldermen of the city and the two ministers and their respective successor. The management by the Aldermen and two ministers continued until 1904, when the time had passed to make a first division of

the fund authorized by the codicil. It became important to inquire if the Board of Aldermen ex officio had the legal right to act with the two ministers as trustees of the fund. In 1904 the Massachusetts Court, in case reported in 184 Mass., 373, held that the Board of Aldermen of the incorporated city were not the legal successors to the Select Men of the former unincorporated town of Boston, and that such Aldermen ex officio were not legal trustees of the fund. Under its authority over trusts, on the principle that courts of chancery jurisdiction will not permit trusts to fail for want of trustees, the court appointed as trustees of the fund 9 residents of Boston, to act with 3 ministers, one each of the oldest then Episcopalian, Congregational and Presbyterian churches in Boston. Said Board of 12 trustees and their respective successors are still in control of the fund.

#### Note 7.

Franklin directs that loans made from the funds should be upon interest at 5% per annum. No doubt 5% per annum was a very moderate rate of interest upon loans, in the undeveloped condition of the country in Franklin's time.

#### Note 8.

Franklin directed that loans should be made to young married artificers under the age of twenty-five years. He realized that young men who had just learned a trade had no opportunity to save sufficient capital to establish a business or to establish a credit standing, so as to be able to borrow in usual channels for business purposes. He wished loans of the funds to be confined to young married men, no doubt believing, and as he taught, that young married men were usually more settled in life and were more to be depended upon than if single. Franklin assumed that there would also be borrowers enough always to keep the fund at work. He did not look forward to a time, like the present,

when the system of small trading businesses would be superseded by the vast manufacturing establishments of today in the various lines of today. Today practically there are no borrowers of the type provided for by Franklin, as the apprentice system has been almost abolished. Therefore, the trustees of the fund must make other investments to keep the fund at work. From report of the Auditor of the City of Boston, as of January 31, 1922, the fund is invested in policies of the Massachusetts Hospital Life Insurance Company.

#### Note 9.

Franklin stipulated that loans from the fund should be limited to young men as have served an apprenticeship in Boston and faithfully fulfilled the duties required in their indentures. In his day, trades were taught through the apprentice system, under which boys were bound out by their parents or guardians to a man of trade, to serve for little compensation until the apprentice became of age, the apprentice usually residing with their masters and being under their authority. Under apprenticeship indentures masters had authority to administer reasonable corporal punishment, if it seemed necessary. To learn the printing business, Franklin had been bound to an elder brother having a printing establishment. The brother seems to have been severe with Franklin and at 17 years of age he ran away, arriving in Philadelphia. Franklin afterwards regretted leaving his brother. From Franklin's codicil, it is noted that to the last he did not approve of violations of terms of apprenticeship indentures, and he did not want any man in default under such indenture to become a borrower from the fund.

#### Note 10.

In addition to the other requirements referred to, Franklin made it necessary for a borrower to earn for himself a good name, such that he could have two respectable citizens

become his surety in a bond for the repayment of the amount loaned and the interest to accrue thereon. The Morris Banks of today make use of this principle, discerned by Franklin, that notes of reasonable amounts of honorable persons of small means, with one or two good co-makers or sureties, are safe for such banks and at the same time are a boon to the community wherein located.

Note 11.

In Franklin's requirement that the obligations for loans from the fund be payable in Spanish milled dollars, or for the value thereof in current gold, he recognized the fact that this country had no silver coin of its own and it was necessary in the conduct of business to accept other money than in general use. The first silver coins of the United States were made October 15, 1795. Our own money in time supplanted the Spanish milled dollars, as well as the English pounds Sterling. From the terms of the codicil, it would appear that Franklin did not stop to consider that this country would have its own money system.

Note 12.

The loans were directed to be made in amounts the equivalent, on a gold parity basis, of not to exceed \$292, and not less than \$72, to one person. Truly, business was conducted on a modest scale in Franklin's day.

Note 13.

In order that the repayment of the principal borrowed might be made "more easy," Franklin directed that the loans made by the fund should be made on a basis of repayment of one-tenth of the principal each year with the annual interest. It thus appears he was familiar with the amortization plan of payment of loans, such as is now in use by our Federal Land Banks, building associations and other loan agencies.

## Note 14.

Franklin assumed that at the end of 100 years the fund of £1000 would increase to £131,000, or from the equivalent of \$4,866.55 to the equivalent of \$637,518. Such would appear the result of a calculation by the aid of a four-place table of logarithms. By the aid of a five-place table of logarithms, the total would appear to be £131,500, which he might have rounded off to £131,000, so as to have a round amount. By the use of an eight-place table of logarithms, the amount found would be £131,501.21. Calculation made by the use of the eight-place table, to find rate of interest compounded annually required to increase £1000 to £131,000 in 100 years, shows interest rate of decimal value of .04996, compounded annually. Thus Franklin unconsciously adopted, as the assumed rate of growth of the fund, a rate of interest of the decimal value of .04996 compounded annually, instead of a rate of the decimal value of .05000 compounded annually.

## Note 15.

At the end of the first 100 years the fund amounted to about \$383,089, as found by calculation explained below. Franklin's assumed amount of \$637,518 exceeds \$383,089 by more than 66% of the latter amount, or by \$254,429. Instead of increasing at a rate of interest of the decimal value of .049960 compounded annually, the actual growth of the fund for the first 100 years was at a rate of interest having decimal value of .044626 compounded annually. The difference between the two rates of interest is the decimal value of .005334.

## Note 16.

Franklin directed that 100/131sts of the fund should be paid to the city for public works, and the city was entitled to receive 100/131sts of the \$383,089, instead of \$637,518.

In other words, the city was entitled to receive \$292,434, instead of \$486,655, as of May 2, 1891, that time being 100 years after the payment of the original amount to the Select Men of the town of Boston. However, the fund was not divided until Jan. 17, 1894. At that date, according to report of Auditor of the City of Boston, the fund amounted to total of \$431,383.63. At that time there was paid to the city 100/131sts of \$431,383.63, or the sum of \$329,300.48. The latter amount thus represents the above amount of \$292,434, and the increase thereof for two years, eight months, fifteen days.

#### Note 17.

Franklin directed that 31/131sts of the amount of the fund at the end of the first 100 years should continue in trust for a second period of 100 years. His estimate of the amount to be so set aside and continue in trust was the equivalent of \$150,863. The amount actually set aside as of May 2, 1891, was the present worth at that date of the sum of \$102,083.15, or the sum of \$90,654. The latter amount was \$60,209 less than Franklin's estimate of \$150,863, to be set aside and continued in trust.

#### Note 18.

Franklin estimated at the end of the second period of 100 years the amount reserved at the end of the first 100 years would increase to the equivalent of \$19,763,060. This estimate assumed that the second period would start with the equivalent of \$150,863, and would earn interest at the net rate of 5% per annum, compounded annually. As the first distribution was not made at the end of the first period, but was delayed to Jan. 17, 1894, the end of the second period will be reached 97 years, 3½ months from Jan. 17, 1894, or May 2, 1991. If the actual reserved amount of \$102,083 above mentioned earn net interest at the same rate

as the fund earned during the first period of 102 years, 8 months, 15 days, then, from Jan. 17, 1894, the aforesaid reserved amount will accumulate for 97 years at compound interest and for  $3\frac{1}{2}$  months at simple interest, to May 2, 1991, at an interest rate of the decimal value of .044626, compounded annually. If interest be compounded semi-annually, it will require an interest rate of the decimal value of .044100. On either the annual or semi-annual basis, at the respective rates mentioned, the fund at the end of the second period of 100 years will increase to \$7,151,154, instead of the amount of \$19,763,060 estimated by Franklin. The experience with the Franklin fund proves that the assumed increase, at the rate of 5% per annum, compounded annually, was much too high. At the present time, in calculating the reserves of life insurance companies, the rate of increase assumed is at the rate of  $3\frac{1}{2}\%$  per annum, compounded annually. The latter rate is conservative and has been justified by the experience of such companies. On the basis of  $3\frac{1}{2}\%$  interest, compounded annually for 97 years and with simple interest at the same rate for  $3\frac{1}{2}$  months, the aforesaid actual sum of \$102,083 would increase to \$2,871,890. The latter amount is \$16,891,170 less than Franklin's estimate.

#### Note 19.

Franklin directed the disposition of the fund at the end of the second period, hoping there would be paid to the Town of Boston the equivalent of \$5,163,409, and to the State of Massachusetts the equivalent of \$14,599,650, together making the total of \$19,763,060. On the above basis of actual experience with the fund for the first period of 100 years, the amount to be paid to the City of Boston at the end of the second period will be \$1,865,738, being \$3,297,671 less than Franklin estimated, and the amount to be paid the State of Massachusetts at the end of the second period will be \$5,275,416, being \$9,324,234 less than Franklin estimated,

## Note 20.

Franklin expressed the desire that the fund should begin to operate within one year after his decease. He died April 17, 1790. The amount was not paid to the authorities of Boston until one year, fifteen days, after his death, to-wit: May 2, 1791.

## Note 21.

Franklin directed his executors within six months after his decease to pay the legacy to the authorities of Boston, so those in charge of the fund could have his plan in operation by the end of 12 months. As above stated, payment was delayed until May 2, 1791. The periods of the trust will therefore count from the latter date. Strictly speaking, the trust became effective immediately upon his death, April 17, 1790, and the two periods should count from April 17, 1790, instead of May 2, 1791.

## CONCLUSION.

As figures are not readily available to us as to the actual amount of trust fund on hand May 2, 1891, end of the first period of 100 years, notice is taken of actual amount on hand Jan. 17, 1894, the time of the first distribution. To find amount of fund May 2, 1893, 102 full years after payment of legacy, it is assumed that for 8½ months (from May 2, 1893, to January 17, 1894) the fund earned net interest at rate of decimal value of .045000. On that basis the present worth May 2, 1893, of the fund on hand January 17, 1894, was found to be \$418,058. The next calculation necessary was to find rate of growth of fund of \$4,866.55 to \$418,058, in 102 years; and this was found to be an interest rate of the decimal value of .044626, compounded annually. The final calculation, to arrive at the amount of the fund at the end of the first 100 years, was to find the amount of sum of \$4,866.55 at compound interest for 100 years at a rate



of interest of decimal value of .044626, compounded annually; and the amount was found to be the sum of \$383,089 used above in Notes 15 and 16.

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The City of Boston purchased a lot for the erection thereon of a school building and the amount received by the City from the first distribution of the Franklin fund was expended in the erection of such building on the lot and for the equipment of the building. The building contains a large hall and many class rooms and is used by the institution known as the Franklin Union to instruct people working at trades to increase their knowledge in their respective trade activities. In August, 1904, Mr. Andrew Carnegie promised to add to the then Franklin fund 100% of the then amount thereof, and in December, 1905, he transferred and paid to the City of Boston, \$408,000 in bonds and about \$400 in cash. The income from the enlarged fund, with income from the Franklin Union school, is used to pay the expenses of the school. For the year ended January 31, 1922, the income from the enlarged fund was more than \$22,500, and the income of the school for tuition and rent of space let in its building amounted to \$186,500. While Franklin's original plan can no longer operate under present conditions, the facts stated above show that the fund he left to the City of Boston has served the community well and is very much worth while now.