

The Role of Trust Companies in the Creation of Community Foundations

The early banking business in Indiana has a spotty history that includes frequent failures, mismanagement and embezzlement, especially between 1814-1834. The first state chartered bank in Indianapolis was the State Bank of Indiana in 1834. One of its first directors was Calvin Fletcher, whose brother, Stoughton A. Fletcher, would start the first private bank in Indiana, the Fletcher-American National Bank in 1839. Stoughton's grandson, Stoughton A. Fletcher II, would play a prominent role in the Fletcher Trust and Savings Company which helped start the Indianapolis Foundation through the efforts of its vice-president and counsel, Evans Woollen. Another figure who would play prominently in the early years of the community foundation was William H. English. In May of 1863, English organized the First National Bank of Indianapolis.¹

The Indiana National Bank was established in 1865 and had as one of its first board members John H. Holliday. Holiday was a historian and newspaper man, and as such understood the power of both marketing and public relations. That same year the Merchants National Bank of Indianapolis was established and was run for the most part by officers and a board of directors dominated the Frenzel family: O. N. Frenzel, President; J. P. Frenzel, first vice-president; O. F. Frenzel, cashier; and J. P. Frenzel, Jr., junior cashier. Both John H. Holliday and J.P. Frenzel would play pivotal roles in the creation of Indiana trust companies and the Indianapolis Foundation.²

However, trust companies in Indiana were not created until 1893, several years after banks were born. As a result, in the early 1900s the management of personal trusts

¹ Hyman, Max R., "A Bit of Banking History," *Indiana, Past and Present*, April 1914, I.U. Bloomington, Wells Library. P. 16-17.

² *Ibid.*, p. 18-19.

by trust companies was a fairly new business and was regulated by a separate set of state laws. It's significant that John H. Holliday and John P. Frenzel, who headed two of the three trust companies that started the Indianapolis Foundation, were also part of a group who lobbied the Indiana General Assembly in 1893 to pass the Trust Act. They did this because business opportunity and potential profit, not concern for the community, was their primary objective. Frenzel was First vice-president of Merchants National Bank and Holliday was a board director of Indiana National Bank. As Weintraut and Nolan state:

Trust companies engaged in a much wider range of activities than did banks, including the administration of trusts, the handling of safe deposit boxes, and the establishment of travel departments. Shortly thereafter, Holliday formed the Union Trust Company. Union Trust and Indiana National Bank worked closely for the next fifty years until they formalized their relationship with a merger in the twentieth century.³

The introduction of the idea of trust companies was not at first embraced by many in the Indiana House of Representatives. First, the legislature by its nature was rife with lawyers whose profession, at the time, administered most of the personal trusts of the wealthy. Approval of trust companies would encroach on the profitability of the legal profession, and, as we will see, some lawyers had a very low regard for trust companies even after they were approved. In addition, the concept of trusts at that time was severely tainted by the mergers of large railroads in the 1880s followed by consolidations of large trusts of other industries up to 1904. These corporate trusts also involved the use of investment bankers and the U.S. Congress was very suspicious of their motives as well as

³ Weintraut, Linda, *Pioneers in Banking: A History of the Indiana National Bank* (Indianapolis: NBD Bank, N.A., 1994). P. 45.

their claims that consolidation made them more “efficient.” Many resented the resources that went into these mergers as well as the profits that the stockholders were making, leaving the impression that Wall Street was animated by human greed and that trusts cheated the public and its welfare.⁴

Trust companies were first established for use by corporations to “transact business of a fiduciary character out of the line of ordinary commercial banking, and to deal with real estate and collaterals and securities.”⁵ Because of this, they seemingly solved “the ancient and difficult problem of utilizing land values as a basis for credit in a safe way.”⁶ In 1901 they were allowed to be used as a place where people could deposit their cash in savings accounts and other valuables in safe deposit boxes. Until the establishment of savings and trust companies there really was no place where people could deposit their money. Part of this was due to resistance against banks of any sort by those who believed in the agrarian custom of barter and solid gold coin exchange.⁷ Stanley L. Jones summarizes the conflict that contributed to the suppression of banking in predominantly rural communities by stating that these farmers:

[...] believed that paper money by stimulating commercial and industrial development was a threat to their political and economic freedom. Paper money, they believed, was the cause for inflation, depression, and all the financial stability with which they had been so harassed in previous years. They looked upon paper money as

⁴ Hoffman, Susan, *Politics and Banking: Ideas, Public Policy, and the Creation of Financial Institutions* (Baltimore: The Johns Hopkins University Press, 2001).

⁵ Dunn, Jacob Piatt, *Greater Indianapolis: The History, the Industries, the Institutions, and the People of a City of Homes*, 2 vols., vol. I (Chicago: The Lewis Publishing Company, 1910). p. 356.

⁶ Ibid.

⁷ Jones, Stanley Llewellyn, “Anti-Bank and Anti-Monopoly Movements in Illinois, 1845-1862” (Doctoral Dissertation, University of Illinois, 1947).

the special tool by which monopolists achieved their privileged positions. Thus, these men believed that in fighting paper money banking they were helping to preserve a stable economy in which the small farm and the small town would prevail. On the other side, the advocates of paper money were those who were first of all interested in expanding business enterprise. They believed that paper money was necessary if their business and their town were to grow and prosper.⁸

The measure to approve of the establishment of Indiana trust companies had failed several times in previous attempts, the last failure, also backed by Frenzel, Holliday and Judge J.E. Inglehart, being in 1891.⁹ A major reason for this was that many legislators would not approve the bill because of the term “trust.” It took two years to educate the representatives and state senators that this was a different kind of trust.¹⁰ It was introduced again by Representative Collins on January 27, 1893 as Engrossed House Bill No. 362 which was:

A bill for an act to provide for the incorporation, organization and dissolution of Trust, Fidelity and Title Guaranty Companies, defining their purposes and powers, regulating their concerns and declaring an emergency.¹¹

⁸ Ibid.

⁹ Hyman, Max R., "A Bit of Banking History," *Indiana, Past and Present*, April 1914, I.U. Bloomington, Wells Library. P. 16-22.

¹⁰ Dunn, Jacob Piatt, *Greater Indianapolis: The History, the Industries, the Institutions, and the People of a City of Homes*, 2 vols., vol. I (Chicago: The Lewis Publishing Company, 1910). p. 356

¹¹ "Journal of the House of Representatives of the State of Indiana during the Fifty-Eighth Session of the General Assembly," ed. Representatives, House of (Indianapolis, IN: WM. B. Burford, Contractor for State Printing and Binding, 1893), 393. p.393.

Note the use of the words “fidelity” and “guaranty” in combination with “trust,” words that seem designed to bolster the credibility of trust companies to the legislators and the public. It was then referred to the Committee on Judiciary, whose head, Chairman McMullen, recommended the following amendment:

Before any corporations, created under this act, shall engage in any business for which the same is organized, it shall deposit with the Auditor of the State of Indiana bonds of the State of Indiana of the par value of fifty thousand dollars, or bonds of equal value, to secure the performance of all its obligations; and said company might from time to time make substitution of others for such bonds, but shall maintain the aggregate value of such deposit as long as it continues in business,” and when so amended that the bill do pass.¹²

It was again entered into the official record. It was later read a third time with the amendment and put to a vote, but even Representative Collins, who had originally introduced it, voted against it and it failed 39-37.¹³ It was introduced a fourth time by Collins once again, and this time was passed 61-15.¹⁴ It was introduced into the Indiana State Senate on February 21, and was made law under Chapter CLXI on March 4, 1893.

¹⁵ Although there are seventeen sections to the act, section ten and sections fourteen through sixteen are most relevant to the law’s role in creating community foundations.

¹² Ibid., p. 554 [punctuation original]

¹³ Ibid., p. 786

¹⁴ Ibid., p. 845

¹⁵ "Journal of the Indiana State Senate during the Fifty-Eighth Session of the General Assembly Commencing Thursday, January 5, 1893," ed. Senate, Indiana State (Indianapolis, IN: WM. B. Burford, Contractor for State Printing and Binding, 1893). p. 642.

"Laws of the State of Indiana passed at the Fifty-Eighth Regular Session of the General Assembly begun on the Fifth Day of January, A.D., 1893," ed. Assembly, Indiana General (Indianapolis, IN: WM. B. Burford, Contractor for the State Printing and Binding, 1893). p. 344.

The fourth power that was authorized to trust companies under section ten was:

To act as trustee, assignee or receiver in all cases where it shall be lawful for any court of record, officer, corporation, person or firm to appoint a trustee, assignee, or receiver, and to be commissioned and act as administrator of any estate, executor of any last will and testament of any deceased person, and as guardian of the person or estate of any minor or minors, or of the estate of any lunatic, imbecile, spendthrift, habitual drunkard or others person disqualified or unable from any cause to manage their estate;¹⁶

The crucial eighth power laid out under section ten specified the charges that a trust company was allowed to levy against any trust for services and fees, stating that:

For the faithful performance and discharge of any such trust, duty, obligation or service so imposed upon, conferred and accepted by any such corporation, it shall be entitled to ask, demand and receive such *reasonable compensation therefor as the same shall be worth, or such compensation as may have been or may be fixed by the contract or agreement of the parties*, as well as any advances necessarily paid out and expended in the discharge and performance thereof, and to charge legal interest on such advances unless otherwise agreed upon; and any compensation or commission paid or agreed to be paid for the negotiation or security of any loan or the execution of any trust by any such loan and trust and safe deposit company shall not be deemed interest within the meaning of any law of this State, nor shall any excess thereof over any rate of interest permitted by the laws of this State be decreed or held in any court of law or equity to be usury, and

¹⁶ "Laws of the State of Indiana passed at the Fifty-Eighth Regular Session of the General Assembly begun on the Fifth Day of January, A.D., 1883," ed. Assembly, Indiana General (Indianapolis, IN: WM. B. Burford, Contractor for the State Printing and Binding, 1893). p. 349.

such compensation may embrace the employment of legal services when necessary for the protection of trusts. (Emphasis added) ¹⁷

Trust companies gained the right to charge fees for their administrative services that were reasonable, but the definition of reasonable is never clarified. However, however, the law also specified that the charges must be in alignment with the original contract, if any, between the testator and the trust company. This may very well be a key reason, if not the main reason, that so many trust companies were anxious to help establish community foundations. If a trust could not be executed according to the wishes of the testator because the cause, person or organization designated as beneficiary no longer existed, then the estate could not be executed as originally agreed and management fees for payouts would not be allowed to be charged against the trust. This made “Dead Hand” trusts especially pernicious in the eyes of more profit-driven bankers. Moribund trusts caused a reduction in the amount of income a trust company could glean from such a trust. To give bankers even more motivation to find a way to avoid these “Dead Hand” situations, oversight from state regulators was extremely stringent:

It shall be the duty of such Public Examiner, once every six months, to make an examination of the books, property, affects [effects] and liabilities of said corporation, [...] If it shall appear to the said Auditor of State, from any examination made, [...] that said corporation has committed a violation of this act, or the law, or that it is conducting businesses in an unsafe or unauthorized manner [if the corporation does not respond satisfactorily to the

¹⁷ Ibid. p. 351. [spelling errors in original document, *italics* added for emphasis]

charges] he shall communicate the facts to the Prosecuting Attorney [...].¹⁸

J.P. Frenzel and John H. Holliday wasted no time capitalizing on their successful lobbying efforts to get legislative approval for the establishment of trust companies in Indiana. Frenzel started the Indiana Trust Company on April 1, 1893, less than four weeks after the law was put into place. Although all of the board of the Merchants National Bank, of which J.P. Frenzel was president, comprised Frenzel family members, John P. Frenzel was the lone Frenzel associated with the newly established trust company. Holliday, who was a director of the Indiana National Bank, incorporated the Union Trust Company two months later on May 31, 1893, and became its president.¹⁹

The utility of such a service to the average person caught on quickly. When the Indiana Trust Company started on April 4, it had a capital stock certificate issued for \$750,000 and less than a month later it was raised to \$1 million. By 1907, its deposits were more than \$7.5 million and exceeded the deposits of all other Indianapolis trust companies combined. However, J.P. Frenzel at least wished to appear to be community-minded even as a businessman. According to a book that was sponsored by the Merchants National Bank (the descendant of the Indiana Trust Company), two of the Frenzel brothers who were involved in banking, Otto N. and Oscar F., were always thrifty, worked hard, and always looked to the future for opportunities. J. P. Frenzel,

¹⁸ Ibid., p. 352-353.

¹⁹ Hyman, Max R., "A Bit of Banking History," *Indiana, Past and Present*, April 1914, I.U. Bloomington, Wells Library. P. 16-22.

The City and the Bank, 1865-1965: The Story of 100 Years in the Life of Indianapolis and the Merchants National Bank & Trust Company of Indianapolis, ed. Jarvis, Helen R., vol. 114 (Indianapolis: Merchants National Bank & Trust Company of Indianapolis/The Benham Press, 1965). P. 41.

however, differed from the other two in that, while they were devoted family men and shied away from community involvement. John was presented as “the civic-minded, community leader in the family, free to travel and devote unlimited time to his varied interests.”²⁰ It is important to remember, however, that these were sanitized versions of the history of these banks and those associated with them as they were published and/or sponsored by the banks themselves. In fact, most of the early “histories” of banks, trust companies and community trusts were paid for by the institutions themselves and must be viewed as extremely biased and premature efforts at positive public relations.

From the beginning, Holliday’s Union Trust Company was an “affiliate” of Indiana National Bank, and its self-published brief on its 80-year history stated:

Two strong affiliates...Each one strong and useful in its own right, the combined resources and services of The Indiana National Bank and The Union Trust Company offer their customers exceptional advantages in our City and State. These two institutions have combined resources of more than \$300,000,000. Whatever services common to the banking and trust company field one does not have the other does, so that together they are equipped to handle any banking or trust problem that could arise.²¹

Evidently using the word “trust” in the name of your business was a good marketing tool, so other financial enterprises started using it regardless of whether they had been chartered as a trust or not. This became such an issue (probably more for the legitimate trust companies) that an amendment to the act was made in 1899 which stated

²⁰ *The City and the Bank, 1865-1965: The Story of 100 Years in the Life of Indianapolis and the Merchants National Bank & Trust Company of Indianapolis*, ed. Jarvis, Helen R., vol. 114 (Indianapolis: Merchants National Bank & Trust Company of Indianapolis/The Benham Press, 1965). p. 72.

²¹ *The Indiana National Bank of Indianapolis: 80 Years of Service, 1865-1945*, (Indianapolis: Indianapolis National Bank), IUPUI,

that it was unlawful for an unchartered entity to call itself a “trust.” Violators would be charged \$50 per day for each day of the offense by the attorney general.²² By 1908, trust companies were doing so well that the state government decided that they should pay for their own regulation and they were assessed bank examiner fees on a sliding scale according to their level of assets. Looking at the amendments of 1911, the trust businesses had grown considerably in just a few years. In addition, the power of the bank examiners was reduced, as well as their numbers, and it was made clear to them that they could be replaced at the anytime.²³

But 1915 was a year of huge changes in competition for Indiana trust companies. This was the year when the laws were amended so that all banks could engage in the trust businesses. The law was changed to read that any bank or savings institution operating in Indiana “shall be empowered by this act to accept and execute trusts of any and every description which may be committed or transferred to them, under the same rules and regulations as now govern like powers in loan and trust companies.”²⁴ This legislation ended the monopoly that trust companies had for over 20 years and now they were forced to compete with all banks for trust customers. This gave trust bankers and their powerful affiliated attorneys a major reason to make common cause in an effort to dominate jointly and profitably the trust business in Indianapolis. Trusts being such a lucrative business, it

²² Burns, Harrison, *Burns' Annotated Indiana Statutes showing the General Statutes in Force September 1, 1901, Volume II*, The Revision of 1881 as Amended, and All Permanent, General and Public Acts of the General Assembly Passed since the Adoption of that Revision, vol. II (Indianapolis: The Bowen-Merrill Company, 1901). P. 893.

²³ Burns, Harrison, *Burns' Annotated Indiana Statutes showing the General Statutes in Force January 1, 1914*, IV vols., Embracing the Revision of 1881 as Amended, and All Permanent, general and Public Acts of the general Assembly Passed since the Adoption of that Revision, vol. II (Indianapolis: The Bobs-Merrill Company, 1914). P. 295-297.

²⁴ Burns, Harrison, *Burn's Annotated Indiana Statutes Supplement of 1918 Containing the General Statutes Enacted at the Legislative Sessions of the 1915 and 1917, Together with Notes of the Decisions of the Highest Courts Vvols.*, vol. V (Indianapolis: The Bobbs-Merrill Company 1918). P. 162.

would be imperative that, in order to survive, competitive financial institutions would have to devise a way to market themselves as the more trustworthy choice among many. This could be an important reason that trust companies decided to help charter community foundations: being closely associated with such a philanthropic institution such as a community trust or foundation projected a trustworthy image to potential trust costumers. In fact, in other cities rival trust companies saw the importance of this advantage and expressed their dissatisfaction. For instance, several Chicago trust companies voiced their disapproval that the Harris Trust was the only trust company allowed to be associated with the Chicago Community Trust. As a result of their insistence that they be included in such a public institution, several other Chicago trust companies gained admittance to an Advisory Council, but this did not occur until 1949, more than 30 years after the creation of the community trust.²⁵ It is important to note that the original three trust companies chartering the Indianapolis Foundation never instituted any similar accommodations.²⁶ By 1925, more than 50 community trusts had been established but about 40 of them had been chartered by only one trust company. This clearly shows that, from the very beginning of the community foundation movement, trust bankers wanted to maintain monopolistic control over these foundations. Profit primarily drove their motives here. Logic dictates that if they were truly concerned about expanding the potential power of philanthropic trusts and of ending the scourge of the dreaded “Dead Hand,” then they should have set out to include as many trust companies as possible to help uplift their treasured local communities. Trust companies that were left out in the cold in other cities also saw the duplicity of this arrangement and pressured

²⁵ Loomis, Frank Denman, *The Chicago Community Trust: A History of its Development 1915-1962*. (Chicago: The Cleveland Community Trust, 1962).

²⁶ *Ibid.*, p. 7.

the original founders to open up the membership of this exclusive club. Support grew for the multiple trust approach because it was “more apt to enlist the active support of all qualified banks and trust companies of a community.”²⁷

Fees Charged by Trust Companies for Trust Administration and Distribution

For this study, the most important parts of trust company fee schedules are the charges for the distribution of funds from trusts, such as payments to beneficiaries. No one has ever looked at the profit motive for forming community foundations through this lens. It is a very important one. By 1925, there were laws and regulations in many states concerning limits on how much a trust company could charge its trusts for administrative and legal fees. However, Indiana had no such limit. But if the fees charged in other Midwestern states are an indicator of the fees that Indiana trust companies charged for trusts created by wills or court created trusts, the trust business was indeed highly lucrative. These fees range from ten percent of the first \$1,000 handled to one percent of funds over \$5,000. The *maximum* fees for the states closest to Indiana were as follows:

Michigan ... 5 per cent on first \$1,000, 2 ½ per cent on next \$4,000, 1 per cent on balance.

Ohio ... 6 per cent on first \$1,000, 4 percent on next \$4,000, 2 per cent on balance.

Illinois ... Not over 6 per cent on personal estate and 3 per cent on proceeds of sale of real estate.

Kentucky ... Not over 5 percent on all amounts received and disbursed.²⁸ (Spelling in original document.)

²⁷ Herrick, Clay, *Trust Departments in Banks and Trust Companies*, First ed. (New York: McGraw-Hill Book Company, Inc., 1925). p. 291.

²⁸ *Ibid.*, pp. 332-335.

From these suggested Midwestern fee schedules, we can reasonably assume that Indiana trust companies were charging four or five percent on the smaller amounts and around two percent on the larger balances just for handling those amounts, whether from the original acceptance or disbursement. Some even argued that the problem was not that trust companies charged too much but that they charged too little, which caused problems for the companies and the trust business in general. Even states' legislation included specific language concerning the right of the trust company to charge such fees. Part of this seemed to stem from the fear that financial institutions were not very stable at this time in history and failure was not unusual. One law book of the era even had a section titled "Necessity That Trust Company Should Receive Compensation," which stated that trust companies were corporate fiduciaries and thus it should follow that:

[...] as a corporate fiduciary is given particular power as a business agency it naturally would be deemed not only in accordance with, but in strict requirement of, public policy, that it should earn in the exercise of that power such compensation as will maintain its solvency. Like the compensation to which a common carrier or an insurance company, it not only is entitled to charge, but may be required to charge reasonable compensation for its services and the risk involved.²⁹

In fact, the main responsibility of regulators was not to protect the trust account of the individual from pillage, but to insure that the bank itself remained solvent. Furthermore, a bank examiner could insist that a trust company charge more for fees, reasoning that "naturally [he] would not permit such a company to

²⁹ Sears, John H., *A Treatise on Trust Company Law* (Chicago: T. H. Flood & Company, 1917). P. 27.

serve without compensation and thus imperil its solvency. By like token [he] could demand that it charge reasonable compensation.”³⁰

It was also a question of professional appearance to charge less than a reasonable fee for services. Although fee limits were set by law or contract, trust companies would often lower their fees to attract new customers or impress current ones. The result of this “unrestricted competition” was thought to cheapen the quality of service to the customer. The preference of some was to keep the fees at required consistent levels so that trust companies would have to compete on the quality of service instead of the disreputable cutting of fees below the federal rates. One of the justifications for this asserted that trust departments needed to employ a very specialized kind of personnel to function well, requiring “a certain kind of expert and trained clerical force, security analysts and also definite material facilities.”³¹

In 1925, Clay Herrick, vice-president of the Guardian Trust Company of Cleveland voiced this concern that the trust companies did not charge enough for their services, stating that:

As a matter of fact, there have been few instances in which trust companies have erred on the side of charging too much for their services. The tendency has been the other way. It is pretty well understood among trust department officials that the earning value of the department to its company lies in the steady and dependable income which it provides and in the growth of earnings as volume increases, and not in relatively large profits. [...] the value to

³⁰ Ibid., p. 28.

³¹ Smith, James G., *The Development of Trust Companies in the United States* (New York: Henry Holt and Company, 1928). P. 363.

clients of the services of an experienced trust department is usually well above the charges made.³²

It is obvious that trust company officers felt that the fees they charged were a bargain compared to the expertise and advice offered to the client. The preservation of a profitable fee level was of such importance that, during the 1920 Trust Company Division meeting of the American Bankers' Association, it emerged as the main topic of discussion.³³ The Committee on Standardization of Charges was formed in 1918. At the 1920 meeting, a schedule of fees was introduced and adopted. The committee stated that the reasons for this suggested schedule included:

- (a) That a standard schedule must be fixed upon a basis that the average duties involved and responsibilities assumed are those usual in the average trust of its kind, as administered in the average community, with sufficient service rendered and adequate skill employed.
- (b) That the compensation must be fair and reasonable for the service rendered, and advantageous to the patron as well as remunerative to the trust company.
- (c) That exorbitant charges retard or prevent the growth of the trust business, while *inadequate charges eventually result in the deterioration of the quality of service rendered, which in turn reacts unfavorably upon the expansion of the trust business* [emphasis added].

³² Herrick, Clay, *Trust Departments in Banks and Trust Companies*, First ed. (New York: McGraw-Hill Book Company, Inc., 1925). P. 316.

³³ Smith, James G., *The Development of Trust Companies in the United States* (New York: Henry Holt and Company, 1928). Pp. 364-365.

- (d) That a uniform or standard method of charging throughout the country should tend to stabilize the trust business and create a better public opinion of the value of trust services.
- (e) That as a guide or indication of general trust costs the schedules should serve as a deterrent to that evil now prevalent in many communities, namely “injurious cutting,” which practice inevitably results in inefficient trust service.³⁴

It is clear from this passage that these trust company giants of capitalism did not truly trust Adam Smith’s “Invisible Hand.” They felt that they were above the crassness of competition based on price, that it was somehow dishonorable to offer the trust patrons or their heirs a better return on their money. The committee created twelve schedules of how the fees of different kinds of trusts should be handled. Schedule XI deals with court trusts, or trusts that are created by “Wills, Appointment or Court Decree.” It states that administration fees are not addressed and trusts should follow state guidelines. This is probably because trusts of this nature are very different from each other and therefore require a variety of administrative tasks that cannot be standardized. However, it does have recommended rates for both an annual fee and for closing or distribution fees. The annual fees recommended are three-fifths of one percent of the value for real estate with a minimum of \$15, and one-half of one percent of cash and securities with a minimum of \$10.³⁵

Even more important are the suggested fees for the distribution of funds, which include the cost of attorney fees plus one-half of one percent of the value of the disbursement with a minimum charge of \$25. It must also be mentioned, however, that

³⁴ Herrick, Clay, *Trust Departments in Banks and Trust Companies*, First ed. (New York: McGraw-Hill Book Company, Inc., 1925). Pp. 317-318.

³⁵ *Ibid.*, p. 327.

the schedule also suggests that the charge to charities could be free “if desired.”³⁶ As we will discover, the trust companies creating the Indianapolis Foundation ignored that passage, as they always charged fees for their administration of the foundation’s trusts. The crucial understanding here is that *if the trust companies could not disburse the funds, they could not charge an additional fee for disbursement*. In the case of “Dead Hand” trusts, or trusts that were difficult to administer to a beneficiary, this negatively affected the profitability of the trust company.

In addition, it is also clear from these proclamations that the trust companies wanted to maintain profitability and avoid competition at all costs, even if it bordered on price fixing. Price fixing was precisely the accusation levied against the railroad and oil trusts of the late 1800s and early 1900s which gave trusts a bad reputation in the first place. Conversely, the trust companies were also very concerned with gaining the trust of the patron as well as improving public opinions about trust companies on the whole. As a result, they wanted to avoid any controversy over egregious price gouging by their peer institutions.

Using Advertising and Marketing to Promote Community Trusts

To expand their trust business, most trust companies created booklets and pamphlets to distribute to law offices, bank offices, and to civic and charitable leaders in the community. Some newspaper advertising was done, with mixed reviews. For example, at great expense, the banks sponsoring The Chicago Community Trust took out a series of quarter-page ads in major newspapers. Although a few small gifts resulted, “the Distribution Committee came to the strong opinion that this campaign was a

³⁶ Ibid. p. 327.

mistake. The general community seemed to get the idea that the Community Trust was some kind of commercial enterprise, trying to cash in on charity. It took several years to live that down.”³⁷ The fact that the trust company went to such great expense to advertise its desire to hold these perpetual trusts is even further evidence that profit, not benevolence or real service, motivated its leaders. As competition for trust clients grew, opposition to trust companies rose up from a very formidable group: lawyers.

The Lawyers vs. the Bankers: Titans of Wealth Clash

Not everyone was as concerned about the well-being of trust companies, least of all the jealous lawyers who, until trust companies were created, had the largest share of the trust business and served as trust administrators.

One lawyer who vehemently opposed trust companies was A. K. Montrose. He wrote in the *Virginia Law Register* in 1911 about “Some Defects in Trust Companies.” Extensive direct quotations from his paper are included here only because he covers a good many issues that are not addressed by other historical documents and because he wrote imbued with sentiments of the legal profession at the time. Montrose claimed that the administration of a trust should be left to a capable individual rather than a company because the pressure of individual responsibility was the single most important insurance for the proper execution of such a trust. He accused trust companies of soliciting clients using unprofessional tactics. He blamed this, in part, on the growing number of corporations encroaching on traditional ways of doing business. He found among their undesirable practices:

³⁷ Loomis, Frank D., *Community Trusts of America: Their Origin, Development and Status After Thirty-Six Years, 1914-1950* (Chicago: National Committee on Foundations and Trusts, 1950), Joint University Libraries, Nashville, TN, p. 29.

One of these is the “drumming” for business. Many of them are as despicable in their methods of obtaining business as “ambulance lawyers,” the only difference being the difference in the kind of business they seek. Not infrequently the body of the deceased is no more under the sod until an officer of a trust company is ringing the door bell of his late residence and presenting to the widow and the heirs the advantages of an administration by his company. Even friends of the deceased are sought to obtain their influence with those interested in the estate. This is a complete reversal of the old order of affairs, and a course of conduct that no lawyer of any delicacy, and few of any sense of fitness and propriety of things, is willing to pursue. It is distinctly a violation of a lawyer’s code of ethics as expounded by all writers on that subject.³⁸

He stated that trust companies often assigned poorly paid employees to do the actual work and that no one person was held personally accountable for any problems that might arise. As many state and federal legislatures are dominated by lawyers, Montrose’s arguments may also reveal some of the key reasons it was so difficult to get legislation passed to allow trust companies to operate. He wrote:

Trust companies are formed for the purpose of making money for their stockholders. This is the sole motive for their formation. They are not benevolent institutions, but are thoroughly commercial. The larger their dividends the more valuable will be their stock, the more satisfied will be the stockholders, and the more likely will their managers be able to retain their positions.

³⁸ Montrose, A. K., "Some Defects in Trust Companies," *The Virginia Law Register* 16, no. 9 (1911). P. 645.

The income of the trust companies in the handling of trusts or estates depends on the fees they receive as administrators, guardians, assignees, and receivers. If the income from these resources can be increased and the expenses of administration diminished, the larger will be the next dividend; or the value of their stock in the market will be enhanced thereby, because of the undivided profits remaining in the treasury.

In the very beginning the monetary interests of the trust companies are antagonistic to those of the trusts they are appointed to administer; and it is an antagonism with which it is difficult to cope. No court can be expected, in making them allowances, to know all the "ins and outs" of the business, nor always the exact value of the services rendered. To some extent the trusts, over which these Trust Companies are put, are at their mercy.

But at this point another factor enters, which is a far more serious one than the one just mentioned, and this is the cost to the trust companies in handling the business pertaining to estates and trusts. The less the company has to pay its employees, the less the cost of administration will be to the company, and, consequently, the greater the profits. But in the use of a cheap man there is a loss of efficiency. The handling of the property of an estate, of a guardianship, of an assignment, of a receivership of a trust, requires judgment and business capacity to secure the best results; and these cannot be secured in a cheap man.

It is the practice of trust companies to secure as cheap assistants as is compatible with the dispatch of business, although they are quick to deny this charge. A fifteen-dollar-a-week clerk is often placed in the actual charge of a difficult business, or in the winding

up of an involved estate or trust, which requires the insight and experience of a trained business man -- such a man as usually was secured before the trust companies came into the field. The best results cannot be thus attained; the best interests of the estate or trust cannot be thus served. Indeed, there is occasionally a manifest inclination to settle up an estate as quickly as possible, if thereby the cost to the company in handling the estate is lessened and the fees to it are the same as if the administration were longer drawn out; thus, to some extent, making a sacrifice of the estate for the benefit of the trust company.³⁹

The last two paragraphs of this passage directly addressed the fees that trust companies charged and the real incentive: the less their expenses, the greater their profit. This aggrieved lawyer also pointed out that those with little knowledge of the trust business do not have the professional knowledge to judge when fees are unreasonable or affairs are not handled correctly. He attacked the trust companies' claim that they paid interest on the trusts, stating that it was "usually three or four percent, and that by no means running over the entire period that the funds have been in their custody."⁴⁰ He also accused the trust companies of using the assets of estates "for their own private businesses and never account for the profits. It is the law, as we all know, that if an administrator uses the funds of a trust in his own business or in an investment for himself, he must account for all profits he receives, and the courts will hold him to strict accounting. Yet trust companies do not have to account for such profits."⁴¹ The reason for this was that trust companies paid interest on the trust and therefore had a right to invest the assets as they chose, but Montrose complained that the interest they paid was very

³⁹ Ibid., pp. 642-643.

⁴⁰ Ibid., p. 645.

⁴¹ Ibid., p. 647.

low compared to the actual profits and was something “a court would not tolerate for an instant in an individual.”⁴²

Further attacking trust companies as untrustworthy stewards, the combative Montrose emphasizes their relationship with banks, especially national banks. It must be remembered that banks at this time still did not have the security of a Federal Reserve System and were always looked upon suspiciously by government authorities and the general populace because of their imbroglions in financing big business. Montrose pulls no punches in his assessment of the seediness of this arrangement, claiming that:

Nearly every trust company has an invisible connection with a bank --- usually a national bank. Officers of these national banks are often on the directorate of the trust companies, or are heavy individual stockholders therein. As is well known, national banks cannot loan their funds on real estate security, but it is very easy to loan the bank’s funds to a favorite trust company which can loan them on real estate security. Thus, there is almost an evasion by the bank, through the convenience of a trust company, of the national banking act.⁴³

Montrose puts the finishing touches on his thrashing of trust companies by pointing out that these trust companies are involved in politics and use their influence to support legislators and judges who, once in office, cause the stock of the trust company supporting them to rise because the company now “ owned” such actors. Such charges caused delays in getting legislation passed to legalize the establishment of trust companies in several states. Lawyers also attempted to strip established trust companies

⁴² Ibid., p. 647.

⁴³ Ibid., p. 646.

of their ability to administer trusts. This could well explain the failed attempts to get trust companies legalized in Indiana in the early 1890s. As one author states, “In some of the mid-western and western states the progress of trust companies has been retarded by the fact that the legal profession prevented legislation looking to the formation of trust companies.”⁴⁴

The California Bar Association also weighed in on the issue. It felt that not only were the trust companies attempting to practice law, which the association believed was prohibited by state trust company law, but that they were giving away legal services for free! To make matters worse, they were hiring lawyers as employees to write up wills and take care of the legal processes, which many attorneys felt was a conflict of interest because the lawyers were not representing the client, only the interests of the trust company. A “Brief Submitted to the Committee of the Los Angeles Bar Association of Unlawful Practice of Law” proposed a new law specifically prohibiting trust companies from practicing law. It cited a brochure from a trust company and charged that:

[...] on page 17 thereof, under the heading entitled, “Have you made your Will?”, appears the following: “This institution will draw your will, deposit it in its strong vaults for safe keeping, and, at your death, deliver it to the Clerk of the Court for probate. Your property will be properly collected, cared for and distributed by officers who are selected because of their legal attainments and business judgment.” (Punctuation in original document).

The companies referred to above solicit free consultations respecting the preparation of Wills, advising clients by attorneys employed by them (and who are generally paid employees of such

⁴⁴ Smith, James G., *The Development of Trust Companies in the United States* (New York: Henry Holt and Company, 1928). p. 365.

companies, such attorneys in many cases being designated as trust officers) respecting laws governing distribution of property in estates of descendents. [...] The attorney trust officer that conducts the law practice for the corporation does not represent the customer, but represents the corporation, and is not directly responsible to the customer, but represents the corporation, and is not directly responsible to the customer, but is directly responsible to the corporation. The corporation is not qualified to practice law, yet by reason of the aid of such attorney trust officer, the corporation is practicing law which the proposed legislation is designed to prohibit.⁴⁵

The unlawful practice of law by trust companies and the resulting perceived conflicts of interest became a national concern among lawyers. On the east coast, lawyer Julius Henry Cohen from New York City wrote that a “trust company lawyer cannot act both for the trust company and the maker of the will without violating fiduciary principle. *No man can serve two masters.* It is precisely at this point that the differentiation between *business* and *profession* occurs.” (Italics in original document)⁴⁶ But it is curious as to why these lawyers and other trust administrators during the decades and centuries before 1914 had not developed the concept of the community trust. Surely they encountered the same problems in charitable administration that trust companies encountered.

The attitudes of lawyers began to change slowly, mostly because lawyers were still needed by trust companies to draw up and defend wills and trusts. The lawyers and bankers were realizing the many mutual advantages in this profitable

⁴⁵ *Proceedings, Eleventh Annual Meeting, California Bar Association, Santa Cruz, California, September 23, 24, 25, 1920.*, (San Francisco: California Bar Association, 1921), Stanford University Library, the Law School,

⁴⁶ Cohen, Julius Henry, "Unlawful Practice of the Law Must Be Prevented," *Annals of the American Academy of Political and Social Science* CI, no. May, 22 (1922).

endeavor and began to make common cause. In 1910, several years after trust company laws were enacted in Indiana, the Vice-president of the Indiana Bar Association, E.R. Keith, addressed the Indiana Bankers Association on the apparent conflict. He reported that, “The lawyer looked upon the Trust Company with as much suspicion as does the small boy upon the advent of his baby brother - he knew his status up to that time, but was not at all assured as to the hereafter.[...] there was a decided feeling of opposition, on the theory that the Trust Company was going to usurp the field of the lawyer in probate matters – briefly, that the trust company was going to practice law.”⁴⁷ He admitted that, before trust companies, reliance on lawyers alone led to:

[...] a laxness in the handling of estates and guardianships at least in the more populous counties, that will never be repeated in the history of the state. [...] And when you reflect that the maker of a will who selected a prosperous business man to act as his executor had no assurance that the prosperous business man would still be prosperous, or even be in existence when will became effective, it is small wonder that people were ready for something more permanent than personal executors.[...] In the beginning, and to some extent it still exists, lawyers were afraid to have their clients get into communication with Trust Companies, for the very vital reason that *they were not assured of the future control of the client’s business.* (Emphasis added)⁴⁸

During the same convention, the President of the Trust Company Section, James L. Randel, attempted to bridge the divide between bankers and trust companies by stating

⁴⁷ *The Indiana Bankers Association Fourteenth Annual Convention*, (Evansville: The Indiana Bankers Association, 1910),

⁴⁸ *Ibid.*,

their common interests. Addressing the trust company officers, he urged them to understand that:

The lawyer stands at the threshold of your existence into the administration of trusts, for the public comes first to him with their troubles, therefore it becomes your duty to educate him to understand and feel that you are not his enemy; that your interests and his are identical, and to show him by frank and honest treatment that he has nothing to fear from you. You will find him skeptical. He fears that when you establish your reputation the public will come to you first, and that instead of him naming you as administrator, you are to name him as attorney. But you must have attorneys, and why not be frank and fair to all? The young attorney who has not yet firmly established his own reputation, takes more kindly to your interests than the older ones. Then when you fail to impress the lawyer you must go directly to the public and show them, in fact, show them both at the same time, for the information you give to the public will do the lawyer no harm.⁴⁹

It seems clear that, in the legal profession, the trust companies were not well thought of and were being portrayed as business-stealing, money-hungry, devious institutions that preyed on the bereaved. As Montrose also pointed out, these were not benevolent institutions but, first and foremost, profit-making corporations. Combating this attitude became, I believe, a large part of the motivation of trust companies to establish community foundations. Not only would such foundations enhance the reputation of trust companies by advancing corporatized (but spurious) philanthropy within the community, they would also give them a competitive edge in credibility over

⁴⁹ Ibid.,

other trust companies and eventually all banks. “Philanthropic” bankers could then crowd out individual lawyers from trust administration, engrossing the fees that lawyers once collected for trust services. The desire for this competitive edge can also explain why community foundations were started by only one trust company in the early years. In this context, the Indianapolis Foundation was a rarity; a foundation with multiple trust companies involved, although only three were invited to participate. The role of the foundation became to relieve trust companies of the burden of charitable administration, and while lessening the cost to the trust companies of administering the terms of any charitable trust.

Still, for several years after the creation of the Cleveland Foundation, many authorities on the subject continued to insist that it was the issue of the “Dead Hand” trust that caused the creation of the community trust. As James G. Smith, of Princeton University, wrote in 1928:

It has long been a problem in the proper administration of charitable gifts to apply the funds in accordance with the specified purpose of the gift after conditions have so changed that the specified purpose is no longer practicable, if indeed possible at all. A charitable trust fund left in 1835 to help poor immigrants make a start in what was then the far west and now is called the Ohio valley, is not practicable under modern conditions. Funds left for specified purposes for the benefit of students often outlive the purpose named when customs change. Yet, under the law of trusts, the trustee is bound to observe the terms of the deed of trust, will, or indentured creating the trust; but the law has recognized these difficulties and for many generations has solved them or attempted to solve them by the application of the doctrine known as *cy pres*. Under this doctrine of the law, when it becomes impossible or

impracticable to apply the funds of a charitable trust in exact accord with the terms of the deed, the courts will allow the trustee to use the funds for some charitable purpose closely related to the one named by the grantor. [...] In order to overcome these difficulties and to promote philanthropic work of a highly beneficial character, the trust companies of many cities in recent years have devised the community trust plan.⁵⁰

Some may argue that benevolence, not profit, was the motivation for creating community foundations and trusts, but the fact remains that the *cy pres* legal procedure was available to free outdated trusts from their original donor intent if need be. But litigation meant expensive and protracted legal action in the courts, as well as the expenditure of valuable time that could be better utilized in making money rather than giving it away. It is also true that many people considered philanthropic trusts as only available to the wealthy and they did not consider leaving their small amount of funds with a trust company. Therefore, encouraging donors of moderate means to pool their money into a community trust was yet another way to grow the trust company's assets and business.

The Clash between Banks and Trust Companies

Even among their financial banking brethren, there was animosity toward trust companies. Most of this was driven by what bankers thought were unfair levels of oversight of banks compared to the oversight of trust companies. Clearly, trust companies were cutting into the banking businesses and it was not

⁵⁰ Smith, James G., *The Development of Trust Companies in the United States* (New York: Henry Holt and Company, 1928). Pp. 109-110.

appreciated. As Alexander Noyes concluded, “The simple truth of the matter is, that either the state and national banks are unreasonably restricted, or else the precautions surrounding trust companies are too loose. [...] The banking law, in my judgment, ought unquestionably be amended so that institutions doing a simple deposit banking business under another name shall be required to erect the safeguards demanded of the banks.”⁵¹ Although Noyes claimed to be concerned about the failure of trust companies in the event of a financial calamity such as those in 1857, 1873 and 1893, he also commented on the enormous growth of trust companies in a short period of time. He cautioned that this growth is because the trust companies had the benefit of “several years of great prosperity” and had not yet been tested by a major financial downturn.

The State Superintendent of Banks of New York also commented on the state of trust company regulation in 1904. He cited several states and the differences in their trust company regulations and laws. He voiced his frustration with the lack of standardized controls. He also railed against the ability of trust companies to accept deposits from businesses because they were doing things that only banks should be allowed to do. In addition, he also felt that trust companies should not be allowed to invest in untried and untested securities, another arena of banks. In closing, he states that, “It would be well if the name “Trust Company” could have a uniform meaning throughout the land, always implying strict

⁵¹ Noyes, Alexander D., "The Trust Companies: Is There Danger in the System?," *Political Science Quarterly* 16, no. 2 (1901).

compliance with wise laws, adequate State supervision and control and conservative and safe management.”⁵²

It seems that these critics’ concerns were amply warranted, whatever their motivations. The great financial panic of 1907 took its toll on all banking institutions, but trust companies seemed to fare worse. According to one source, “Trust companies in New York City suffered a tremendous contraction in deposits and loans as a result of depositor withdrawals during the Panic of 1907, while state and national banks experienced no comparable contraction.”⁵³

The Proof is in the Assets

The test of whether or not the creation of the Indianapolis Foundation became especially profitable to the three trust companies that chartered it may be seen in a comparison of the trio’s growth in assets versus other trust companies not involved with the foundation. In order to see if there was such a pattern, I decided to also make this same comparison of trust companies in Chicago and Cleveland. I did this because the community trusts in those cities were started about the same time and all three are in the Midwest. For comparison, I chose only trust companies that were in business during the same periods of time before and after the community trusts were established [with the exception of the Fletcher Trust and Savings because it was not established until 1912 and was one of the trusts that started the Indianapolis Foundation]. As we see in figure 1, in the

⁵² Kilburn, Frederick D., "Control and Supervision of Trust Companies," *Annals of the American Academy of Political and Social Science* 24, no. The Government in Its Relationship to Industry (1904).

⁵³ Jon Moen, Ellis W. Tallman, "The Bank Panic of 1907: The Role of Trust Companies," *The Journal of Economic History* 52, no. 3 (1992). P. 628

nine years between 1905 and 1914, before the Indianapolis Foundation was created, the assets of the Union Trust Company and the Fletcher Trust and Savings Company increased 110%. This is a substantial increase, but not as large as the three other trust companies in existence during the same period. They had a total asset increase of 229%. However, this changes dramatically from 1914, two years before the foundation was created, until 1921, five years after it was established. The three banks associated with the Indianapolis Foundation posted a 148% increase, while the others had only 60% growth as a group.

Figure 1

	Assets 1905	Assets 1914	1914 Increase over 1905	1914 % Increase Over 1905	Assets 1921	1921 Increase over 1914	1921 % Increase Over 1914
Trust Company Assets Connected to Community Foundations or Trusts in Indianapolis							
Fletcher Trust and Savings Company, Indianapolis	0	9,633,000	0		16,638,000	7,005,000	72.72%
Indiana Trust Company	7,269,000	9,510,000	2,241,000	30.83%	17,586,000	8,076,000	84.92%
Union Trust, Indianapolis	3,678,000	3,898,000	220,000	5.98%	22,930,000	19,032,000	488.25%
Total Assets	10,947,000	23,041,000	12,094,000	110.48%	57,154,000	34,113,000	148.05%
Trust Company Assets NOT Connected to Community Foundations or Trusts							
Farmers Trust Company, Indianapolis	122,000	1,263,000	1,141,000	935.25%	1,859,000	596,000	47.19%
Security Trust Company, Indianapolis	752,000	1,615,000	863,000	114.76%	2,746,000	1,131,000	70.03%
Total Assets	874,000	2,878,000	2,004,000	229.29%	4,605,000	1,727,000	60.01%

Comparison of Trust Company Assets in Indianapolis 1905 to 1921.⁵⁴

Similar results were found when looking at a comparison of the Cleveland Trust Company, which was the only trust company involved in the creation of the Cleveland Foundation, with those who were not so involved. I compared its assets against the only three trust companies that were in existence between 1906

⁵⁴ *Trust Companies of the United States: 1914 Edition*, (New York: United States Mortgage & Trust Companies, 1914), Stanford Library,

Annual Report of the Auditor of State of the State of Indiana, (Indianapolis: State of Indiana, 1906),

State, Indiana Secretary of, *Annual Reports of State Officers, Departments, Bureaus, Boards and Commissions for the Fiscal Year Ending September 30, 1921* (1922),

and 1922. According to the chart in figure 2, from 1906 to 1914, the Cleveland Trust increased its assets by \$7,978,679, or 26%. During that same period, the other three trust companies had increased assets of \$20,053,413, or 97.33%, far outpacing the Cleveland Trust Company. Keeping in mind that the Cleveland Foundation was established in 1914, the tables turn from 1914 to 1922, with the Cleveland Trust increasing by \$124,717,564, resulting in a 322% increase, while the other three banks record an increase of \$87,172,457, only a 214% increase. In addition, by 1922, the Cleveland Trust had more assets than the three other trust companies combined.

Figure 2

Cleveland	Assets 1906	Assets 1914	1914 Increase over 1906	1914 % Increase Over 1906	Assets 1922	1922 Increase over 1914	1922 % Increase Over 1914
Trust Company Assets Connected to Community Foundations or Trusts in Cleveland							
Cleveland Trust Company	30,759,722	38,738,401	7,978,679	25.94%	163,455,965	124,717,564	321.95%
Total Assets	30,759,722	38,738,401	7,978,679	25.94%	163,455,965	124,717,564	321.95%
Trust Company Assets NOT Connected to Community Foundations or Trusts							
Guardian Trust Savings & Trust Company	14,660,240	31,275,273	16,615,033	113.33%	93,649,312	62,374,039	199.44%
The Pearl Street Savings & Trust Co.	2,895,176	5,994,732	3,099,556	107.06%	22,417,688	16,422,956	273.96%
The State Banking & Trust Co.	3,048,676	3,387,500	338,824	11.11%	11,762,962	8,375,462	247.25%
Total Assets	20,604,092	40,657,505	20,053,413	97.33%	127,829,962	87,172,457	214.41%

Comparison of Trust Company Assets in Cleveland 1906-1922.⁵⁵

To see if this pattern was common among trust companies that chartered community trusts and foundations, I also decided to look at the Harris Trust Company and its relationship with the Chicago Community Trust. Like the Cleveland Trust Company, it was the solo trust for the foundation in the beginning. However, the Harris Trust & Savings was not founded until 1907, so the data was collected for all trust companies in that year for comparison. The data for comparison was taken from the same 1914 and 1922 resources as the Cleveland comparison. In figure 3, we see that, from 1907 to 1914, the Harris

⁵⁵ *Trust Companies of the United States, 1906 Edition; A Compilation of the Statements of Condition of Trust Companies of the United States and of June 30th, 1906*, (New York: The United States Mortgage & Trust Company, 1906), Harvard University Library,

Trust Companies of the United States: 1914 Edition, (New York: United States Mortgage & Trust Companies, 1914), Stanford Library,

Trust Companies of the United States, 1922 Edition: Statements of Condition, June 30, 1922, (New York: United States Mortgage & Trust Company, 1922), University Library, Princeton,

Trust had a tremendous increase in assets compared to the other trust companies (up 330 percent compared to an increase of 44 percent). It must be taken into account, however, that the Harris Trust had just started in 1907, and during the years before 1914 it had merged with several other trust companies, absorbing their assets. This could be the direct result of the Panic of 1907 which depleted the resources of several trust companies and made them vulnerable to takeovers. The Harris family, who were already in the banking business, had the financial acumen to execute such moves. So buy-outs and mergers, rather than increased reputation and customer confidence, deserves the major credit for its increased assets during this time. Even so, after the creation of the Chicago Community Trust, the Harris Trust still bested the average increase of all the others with an improvement of 99 percent versus 75 percent.

Figure 3

Chicago	Assets 1907	Assets 1914	1914 Increase over 1907	1914 % Increase Over 1907	Assets 1922	1922 Increase over 1914	1922 % Increase Over 1914
Trust Company Assets Connected to Community Foundations or Trusts in Chicago							
Harris Trust and Savings	5,890,234	25,338,544	19,448,310	330.18%	50,525,598	25,187,054	99.40%
Total Assets	5,890,234	25,338,544	19,448,310	330.18%	50,525,598	25,187,054	99.40%
Trust Company Assets NOT Connected to Community Foundations or Trusts							
Central Trust Co. of Illinois	16,596,086	51,056,911	34,460,825	207.64%	85,295,015	34,238,104	67.06%
Chicago Title & Trust Co.	12,739,910	21,941,794	9,201,884	72.23%	19,082,540	-2,859,254	-13.03%
Drovers Trust & Savings Bank	2,428,314	4,688,984	2,260,670	93.10%	7,097,872	2,408,888	51.37%
First Trust & Savings Bank	30,854,781	71,416,383	40,561,602	131.46%	117,328,933	45,912,550	64.29%
Illinois Trust & Savings Bank	108,029,209	109,633,797	1,604,588	1.49%	168,219,836	58,586,039	53.44%
Merchants' Loan & Trust Company	56,603,041	64,521,308	7,918,267	13.99%	151,075,197	86,553,889	134.15%
The Northern Trust Company	31,358,182	35,691,034	4,332,852	13.82%	59,033,944	23,342,910	65.40%
North-Western Trust & Savings Bank	1,208,905	5,282,003	4,073,098	336.92%	18,542,255	13,260,252	251.05%
The Peoples Trust & Savings Bank of Chicago	1,179,023	7,765,093	6,586,070	558.60%	15,977,026	8,211,933	105.75%
The Pullman Trust & Savings Bank	4,301,621	4,940,664	639,043	14.86%	6,531,833	1,591,169	32.21%
State Bank of Chicago	19,850,258	30,333,373	10,483,115	52.81%	51,903,357	21,569,984	71.11%
Union Trust Company	14,528,358	24,614,826	10,086,468	69.43%	57,700,297	33,085,471	134.41%
Total Assets	299,677,688	431,886,170	132,208,482	44.12%	757,788,105	325,901,935	75.46%

Comparison of Trust Company Assets in Chicago 1906-1922 ⁵⁶

Given the above comparative financial information, it is clear to me that there is an important correlation between the increased assets of the trust companies and their role in creating community trusts and foundations.

⁵⁶ *Trust Companies of the United States, 1907 Edition: a Compilation of the Statements of Condition of Trust Companies of the United States as of June 29th, 1907*, (New York, 1907), Princeton University Library,

Trust Companies of the United States: 1914 Edition, (New York: United States Mortgage & Trust Companies, 1914), Stanford Library,

Trust Companies of the United States, 1922 Edition: Statements of Condition, June 30, 1922, (New York: United States Mortgage & Trust Company, 1922), University Library, Princeton,

Not only did community trusts help increase trust company assets, they also relieved trust companies of a responsibility which most were quite ill-prepared to perform and which was actually the antithesis of their main charge to create wealth: to give money away. Evans Woollen stated frankly in 1927 to the New York Community Trust that, as a banker, he believed the “community foundation deserves to be regarded as an asset of primary importance.”⁵⁷ Notice that he referred to it as an “asset” relative to the bank and not to the community in any way. The community foundation took on the task of locating a beneficiary and handling the philanthropic decisions and exchanges, a time-consuming job that increasingly required specialized skills and information. As a result, “the financial trustee is freed from duties other than the purely fiscal ones which it is best equipped and organized to perform.”⁵⁸ This sentiment was reiterated almost 50 years later by Daniel J. Koshland, the first Chairman of the Distribution Committee of the San Francisco Foundation, established in 1948. In an interview for an oral history of the foundation, he recalled that “we heard from banks whose trust departments came into funds to go to charitable organizations, that they had no way of knowing where those funds should go. Bank officers are not particularly cognizant of the various needs of the community.”⁵⁹

⁵⁷ Woollen, Evans, "Speech before the New York Community Trust," April 6 1927. Copy of Speech, Woollen Collection, Indianapolis, Indianapolis Marion County Public Library/ The Indianapolis Room Archive,

⁵⁸ Ibid.,

⁵⁹ Morris, Gabrielle, "Bay Area Foundation History, Volume III: Daniel J. Koshland: Responding to the Flow of New ideas in the Community," in *Bay Area Foundation History Series* (Berkeley: Regents of the University of Berkeley, 1976). P. 2.

Conclusion

My research shows that Trust Companies came into being and flourished because they filled a gap in public need. There was no place for middle-class people to have savings accounts and safety deposit boxes for their valuables, including wills. Only the wealthy elite and corporations were given access to the banks of the day. Even if they had been accessible, they would have been seriously mistrusted by the general public. It is no accident that these new entities decided to call themselves “trust” companies, as trust was what they were selling to a very skeptical clientele.

Lawyers, many of whom were also in state legislatures and self-interestedly impeded the creation of trust companies, looked upon them and their founders as parasites of the bereaved and scoundrels who lacked ethics and who were attempting to practice law without a license. This was especially true of lawyers who specialized in wills and administered estates. They saw the trust company as a devious competitor, neglectful of their clients’ needs in pursuit of profit. Even lawyers who were employed by trust companies were held in contempt by other lawyers. Unable to convince the old guard of the legal establishment that trust companies meant them no harm, trust company officers targeted young lawyers for recruitment who had little experience and no established legal practice. Eventually, as bankers and lawyers saw the mutual financial benefit of working together, these claims of a lack of ethics and character faded away. These professionalizing business elites had found common

ground, and now they increasingly controlled estate philanthropic giving as a profitable partnership.

Even the banks themselves did not like the concept of trust companies because they saw them as threats. Eventually, as trust companies gained assets, the banks were envious of their success and wanted in on the profits. As a result, in the early 1900s, banks were given the legal right to have their own trust departments. This, in turn, forced the trust companies to market themselves more aggressively to the public. One of those marketing schemes was to attach themselves to community trusts such as the Indianapolis Foundation to increase their public repute and win the confidence of new clients who would in turn entrust them with their fortunes and wills.

The genius of this arrangement was that neither the trust companies nor their leaders were required to invest one philanthropic dime into the foundation (although some did voluntarily, such as the Harris Trust in Chicago). We will see in the following chapters what kind of financial commitment was made by the trust companies and the founders of the Indianapolis Foundation. These were the very people who touted what a great philanthropic boon this would be to the community, claiming how important the community's welfare was to them and their trust companies. In reality, this was a great and inexpensive public relations ploy benefitting the reputations of the trust companies and enriching them, and making their presidents look generous while sparing them from any deep, personal charitable investment in their communities.

There was clearly a profit motive impelling trust company officers beyond the merely increased business from those who placed their confidence in the trust company because of its exclusive association with the community trust. First, unlike “Dead Hand” trusts that could no longer be administered, trust company agents could charge fees every time the funds were handled within, or dispersed from, an active trust. Second, the officers would no longer need to embroil themselves in the costly and time consuming legal proceedings of *cy pres* in order to change the philanthropic intent or beneficiary of a private trust. Third, they were relieved of the difficult task of locating a beneficiary or deciding the best use of the funds in the community, which again cut their costs and increased profits. Finally, it satisfied the state examiners who not only inquired what they were doing with the trust funds, but whether they were financially solvent. In other words, were they charging adequate fees to insure they would survive economic upheaval? These influences lead us to a new understanding of the motivations that led only trust companies to create community foundations, and not individual donors, lawyers in charge of trusts, private foundations, banks, or any other entity. All of the factors above not only ensured that trust companies would survive, but that they would thrive beyond expectation. I suggest that the combination of a loss of fees for distribution, the legal expenses of invoking *cy pres*, the strictness of state regulators, increased competition from banks and other trust companies in 1915, and the concern over how trust companies were perceived by the public were much stronger incentives for creating community foundations than the reason most cited: corporate benevolence initiated by community-minded wealthy businessmen. To begin to understand the relationship between trust companies and community foundations, it is imperative that we understand

these powerful, wealthy elite white men who started them and their motives - self-serving and benevolent - for doing so.

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