

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4014

March 31, 1924.

Dear Sir:

There is enclosed herewith for your information as Counsel to the Federal Reserve Bank of , a copy of a brief filed in the Supreme Court of the United States by the Solicitor General of the United States as amicus curiae in the case of the State of Missouri at the relation of the Burnes National Bank, St. Joseph, Missouri, v. A. B. Duncan, Judge of the Probate Court of Buchanan County, Missouri, which case is now pending before the Supreme Court of the United States on a writ of error to the Supreme Court of Missouri.

As you probably know, the Burnes National Bank had been named as executor under a will and had made application to the Probate Court for appointment as such executor. On January 29, 1923, the Probate Court refused to issue letters testamentary to the national bank on the ground that under the laws of Missouri the bank was not authorized to act as executor. The national bank applied to the Supreme Court of Missouri for a writ of mandamus requiring the Probate Court to appoint it as executor. The Supreme Court of Missouri upheld the decision of the Probate Court and denied the writ of mandamus. The opinion of the Court, a copy of which I sent you some time ago, is to the effect that the exercise of trust powers by national banks in Missouri is in contravention of State law. The Court considered the provision in Section 11(k) of the Federal Reserve Act that the exercise of trust powers by national banks shall not be deemed to be in contravention of State law when State institutions which compete with national banks are permitted to exercise such powers, but failed to apply this provision, arguing that it is not controlling and that trust companies in Missouri do not compete with national banks in the sense contemplated by the statute.

The case was promptly taken to the Supreme Court of the United States on a writ of error and has been advanced on the docket and set for argument on April 7th. It is hoped, therefore, that a final decision of this question will be rendered by the Supreme Court of the United States before the Court adjourns in June. The case is of particular interest because it is the first one presented to the Supreme Court of the United States which involves the application of Section 11(k) of the Federal Reserve Act as amended by the Act of September 25, 1918.

At the suggestion of the Federal Reserve Board and the Comptroller of the Currency, the Secretary of the Treasury requested the Department of Justice to intervene in the case on behalf of the United States, and in accordance with this request the Solicitor General obtained leave of the Court to file a brief and make an oral argument in the case on behalf of the United States as *amicus curiae*. At the request of the Solicitor General, the enclosed brief was prepared largely in this office.

Very truly yours,

Walter Wyatt
General Counsel

Enclosure.

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