

# FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO  
THE FEDERAL RESERVE BOARD

April 30, 1924.  
X-4044

Dear Sir:

I am enclosing herewith for your information a copy of the opinion rendered April 28 by the Supreme Court of the United States in the case of *State ex rel Burnes National Bank of St. Joseph v. Duncan*, which reverses the decision of the Supreme Court of Missouri and upholds the right of national banks in Missouri to exercise trust powers.

As you probably know, the Burnes National Bank had been named as executor under a will and had made application to the Probate Court having jurisdiction, 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. On January 4, 1924, the Supreme Court of Missouri rendered a decision denying the writ of mandamus. The Court held in effect that the exercise of trust powers by national banks in Missouri was in contravention of State law. It considered the provision of Section 11(k) of the Federal Reserve Act that the exercise of trust powers by national banks shall not be considered 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 appealed to the Supreme Court of the United States, was advanced on the docket and was argued on April 11. 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 filed a brief and made an oral argument of the case in behalf of the United States as *amicus curiae*.

In reversing the decision of the Supreme Court of Missouri the Supreme Court of the United States said that, "Whatever may be the State law, national banks having the permit of the Federal Reserve Board may act as executors if trust companies competing with them have that power". This would seem to establish once and for all the right of national banks to exercise trust powers in any State in which competing State corporations exercise such powers, regardless of discriminatory State legislation. Mr. Justice Holmes rendered the opinion of the Court and Mr. Justice Sutherland rendered a dissenting opinion, in which Mr. Justice McReynolds concurred.

It is believed that this decision, which was rendered just seventeen days after the case was argued and less than seventeen weeks after the decision of the Supreme Court of Missouri, establishes quite a record for speed. It is also interesting to note that the case was finally decided by the Supreme Court of the United States almost exactly fifteen months after the Probate Court refused to issue letters testamentary to the national bank.

Very truly yours,

Walter Wyatt,  
General Counsel.

(Enclosure - opinion)