

FEDERAL RESERVE BOARD

X-4466

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

December 5, 1925.

Dear Sir:

For your information, there is quoted below the entry made in the official journal of the Supreme Court of the United States for November 30th (p.99) with reference to the Pascagoula National Bank case:

"No.242. The Pascagoula National Bank of Moss Point and Pascagoula, Mississippi, appellant, v. The Federal Reserve Bank of Atlanta et al. Appeal from the District Court of the United States for Northern District of Georgia. Per curiam: Transferred to the United States Circuit Court of Appeals for the Fifth Circuit, upon the authority of the act of September 6, 1916, c. 448, sec.3, 39 Stat. 727, and section 238 of the Judicial Code as amended by section 238 (a), act of September 14, 1922, c. 305, 42 Stat. 837; act of February 13, 1925; sec.14; Heitler v. The United States, 260 U.S. 438."

As you probably remember, the plaintiff appealed this case direct from the United States District Court to the Supreme Court on the ground that it involved a constitutional question. After hearing the argument of Counsel on behalf of the appellant, the Chief Justice stated that the Court did not wish to hear from Counsel for the Federal Reserve Bank of Atlanta and on the following Monday, November 30, the Court issued the above quoted order.

This means, of course, that the Court felt that the constitutional question raised by the plaintiff was not of sufficient substance to give the Court jurisdiction on a direct appeal and that, therefore, the case should have been appealed to the Circuit Court of Appeals in the first instance. This is tantamount to a decision that the provision of the first paragraph of Section 13 of the Federal Reserve Act, which forbids Federal reserve banks to pay exchange charges, and thus impliedly forbids member banks to charge exchange on checks presented to them by Federal reserve banks, does not deprive national banks of property without

due process of law within the meaning of the fifth amendment to the Constitution and, therefore, is not unconstitutional, as contended by the appellant.

The Court's action was a disappointment to us, because it will result in a postponement of a final decision on the other points involved in the case. Counsel for both sides have agreed, however, that it is desirable to obtain a hearing in the Circuit Court of Appeals as soon as possible. The Circuit Court of Appeals will not sit in Atlanta again before next October and, therefore, Counsel for both sides have agreed to enter into a stipulation permitting the case to be heard in New Orleans or some other place in the Fifth Circuit. We hope to get the case assigned specially for argument in the Circuit Court of Appeals at New Orleans sometime in January or February.

It is expected that the side which loses the case in the Circuit Court of Appeals will appeal it to the Supreme Court so that eventually a final decision will be obtained from the Supreme Court.

Very truly yours,

Walter Wyatt,
General Counsel.