

STROTHER *v.* BURNET, COMMISSIONER OF
INTERNAL REVENUE.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
FOURTH CIRCUIT.

No. 105. Argued November 18, 1932.—Decided December 5, 1932.

Decided in accordance with *Bankers Pocahontas Coal Co. v. Burnet*,
ante, p. 308, pursuant to a stipulation of the parties.
55 F. (2d) 626, affirmed.

CERTIORARI * to review a judgment sustaining a decision of the Board of Tax Appeals, 18 B. T. A. 901, which upheld a ruling of the Commissioner of Internal Revenue.

Mr. Camden R. McAtee, with whom *Mr. Wells Goodykoontz* was on the brief, for petitioner.

Assistant Attorney General Youngquist, with whom *Solicitor General Thacher*, and *Messrs. Whitney North Seymour, Sewall Key, and Andrew D. Sharpe* were on the brief, for respondent.

MR. JUSTICE STONE delivered the opinion of the Court.

The decision in this case, which is here on certiorari, turns on that in *Bankers Pocahontas Coal Co. v. Burnet*, just decided, *ante*, p. 308.

Petitioner, a stockholder in the Bankers Pocahontas Coal Co., received dividends upon his stock which were, to some extent, a distribution of the royalty payments received by the corporation and involved in its suit against the Commissioner. The ruling of the Commissioner in this case, that the amounts so distributed from royalties were taxable income, was upheld by the Board of Tax Appeals, 18 B. T. A. 901, and by the Court of

* See Table of Cases Reported in this volume.

Appeals for the Fourth Circuit, 55 F. (2d) 626, which remanded the case to the Board for further proceedings, to enable the petitioner to offer additional testimony having a bearing on the correct computation of the deficiency, in accordance with the opinion of the court. The parties stipulate that the decision of this case shall be controlled by that of *Bankers Pocahontas Coal Co. v. Burnet*, and the judgment below is accordingly

Affirmed.

REICHELDERFER ET AL. v. QUINN ET AL.

CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

No. 9. Argued October 17, 1932.—Decided December 5, 1932.

1. Under the Act of Congress authorizing the establishment of Rock Creek Park in the District of Columbia, the lands taken for the park by purchase and condemnation were "perpetually dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people of the United States." By Act of a later Congress, the Commissioners of the District were directed to erect a fire engine house at a designated location in the park. Owners of neighboring land, claiming a right, in the nature of an easement, to have the land used for park purposes and no other, sought to enjoin the construction. *Held:*

(1) The neighboring landowners derived no rights against the Government from the dedication of the park alone, since this constituted only a declaration of public policy by the particular Congress, which was not binding on its successors. P. 318.

(2) Assuming that the building of the engine house was a diversion of the land from park uses, the change of use was within the legislative power. P. 320.

2. The existence of value alone does not generate interests protected by the Constitution against diminution by the Government, especially where the value was both created and diminished as an incident of the operation of government. P. 319.
3. The Rock Creek Park Act directed that surrounding lands be assessed to the extent that they were "specially benefited by reason