

the contrary, what was included in the reasonable allowance for depletion by the established construction of the earlier acts gave significant content to the word as used in the Act of 1926. There is no ground for supposing that Congress, by providing a new method for computing the allowance for depletion intended to break with the past and narrow the function of that allowance. The reasonable inference is that it did not and that depletion includes under the 1926 Act precisely what it included under the earlier acts. The regulations under the 1926 Act so ruled, as has been shown, by continuing the provisions of earlier regulations under which costs of development and drilling were returnable by the depletion allowance and not by an additional allowance for depreciation.¹⁰

It is true that the Board of Tax Appeals in construing the 1924 and 1926 Acts has held that capitalized drilling costs are subject to a depreciation rather than a depletion allowance. *Jergins Trust Co. v. Commissioner*, 22 B. T. A. 551; *Ziegler v. Commissioner*, 23 B. T. A. 1091; *P. M. K. Petroleum Co. v. Commissioner*, 24 B. T. A. 360. But these cases were all decided after the enactment of the 1926 Act and did not consider the administrative and legislative history, which we think decisive.

Reversed.

PETROLEUM EXPLORATION v. BURNET, COMMISSIONER OF INTERNAL REVENUE.

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

No. 448. Argued February 8, 1933.—Decided March 13, 1933.

Decided on the authority of *United States v. Dakota-Montana Oil Co.*, *ante*, p. 459.

61 F. (2d) 273, affirmed.

¹⁰ Compare also Treasury Decision 4333, Internal Revenue Bulletin XI, April 11, 1932, No. 15, pp. 2, 3.

CERTIORARI, 287 U. S. 592, to review the reversal of an order of the Board of Tax Appeals, 23 B. T. A. 890, overruling a deficiency assessment of income tax.

Mr. Robert Ash 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.

By leave of Court, briefs of *amici curiae* were filed as follows: by *Messrs. Thomas R. Dempsey* and *A. Calder Mackay*; by *Mr. R. B. Goodell*, on behalf of *Petroleum Reclamation Corp.*; and by *Messrs. George W. Wickersham* and *Clarence Castimore*, on behalf of *Amerada Corporation*.

MR. JUSTICE STONE delivered the opinion of the Court.

Petitioner, a Maine corporation, in making its tax returns of income derived from the operation of oil wells in the years 1925, 1926, and 1927, claimed a deduction from gross income of a depreciation allowance on account of the capitalized costs of drilling the oil wells. The Commissioner refused to allow the deductions and assessed a corresponding deficiency against the taxpayer. On appeal the Board of Tax Appeals held that the deductions should have been allowed. 23 B. T. A. 890. On petition for review the Court of Appeals for the Fourth Circuit reversed the order of the Board. 61 F. (2d) 273. The court held that the deductions claimed were included in the depletion allowance fixed by § 234 (a) (8) of the Revenue Act of 1926 at 27½% of petitioner's gross income for the years in question, and could not be allowed as depreciation of improvements. This Court granted certiorari to resolve a conflict of the decision below with that of the

Court of Claims in *Dakota-Montana Oil Co. v. United States*, 59 F. (2d) 853. For reasons stated in *United States v. Dakota-Montana Oil Co.*, decided this day, *ante*, p. 459, the Commissioner rightly refused to allow the deductions claimed and the judgment below is

Affirmed.

CENTRAL TRANSFER CO. v. TERMINAL RAIL-
ROAD ASSOCIATION OF ST. LOUIS ET AL.

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

No. 523. Argued February 14, 1933.—Decided March 13, 1933.

Several rail carriers agreed with a single transfer company that only its places of business should be designated as their "off track" stations in a certain city; that it should have the exclusive right to transfer less-than-carload freight between their "on track" stations and between them and the "off track" stations in the city; and that they would file the necessary amended tariffs with the Interstate Commerce Commission to carry out the agreement, and would pay for the transfer services at prescribed rates, absorbed in their line-haul rates. Tariffs were filed accordingly and approved by the Commission. *Held* that a rival transfer company, which was excluded by this arrangement from business that it previously had enjoyed, had no standing under § 16 of the Clayton Act to enjoin performance of the agreement as contrary to the Sherman Act, since it is provided by the Clayton Act that no one, except the United States, shall be thereby entitled to sue for injunctive relief against any common carrier subject to the Interstate Commerce Act "in respect of any matter subject to the regulation, supervision or other jurisdiction of the Interstate Commerce Commission." P. 473.

61 F. (2d) 546, affirmed.

CERTIORARI, 287 U. S. 595, to review the affirmance of a decree dismissing a suit by a transfer company against numerous interstate carriers and another transfer company to restrain an alleged violation of the Sherman Antitrust Act.