

REYNOLDS, COLLECTOR OF INTERNAL REVENUE, *v.* RICHARD F. COOPER.*

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

No. 227. Argued December 11, 1933.—Decided January 15, 1934.

Decided upon the authority of *Helvering v. Falk*, *ante*, p. 183.
64 F. (2d) 644, affirmed.

WRITS of certiorari, 290 U.S. 616, to review judgments affirming recoveries by taxpayers in three suits against the collector, which were tried together in the District Court and on appeal.

Mr. Erwin N. Griswold, with whom *Solicitor General Biggs*, *Mr. Sewall Key*, and *Miss Helen R. Carlross* were on the brief, for petitioner.

Mr. N. E. Corthell, with whom *Mr. A. W. McCollough* was on the brief, for respondents.

MR. JUSTICE McREYNOLDS delivered the opinion of the Court.

In each of these causes a beneficiary received from trustees royalties arising from a lease of oil and gas lands in Wyoming. Taxes were exacted upon the full amounts so received. Separate suits were brought to recover proper allowances for depletion. The respondents prevailed in both of the courts below. Here the causes were heard together.

* Together with No. 228, *Reynolds, Collector of Internal Revenue, v. Barbara V. Cooper*, and No. 229, *Reynolds, Collector of Internal Revenue, v. Richard F. Cooper et al.*, certiorari to the Circuit Court of Appeals for the Tenth Circuit.

The Solicitor General says—"The question is identical with that raised in *Helvering v. Falk*, No. 225, October Term, 1933, and the argument made in the Government's brief in that case is likewise applicable here. . . . There is therefore substantially no difference between the position of the beneficiaries in this case and the *Falk* case."

The judgments below are affirmed upon authority of *Helvering v. Falk*, decided this day, *ante*, p. 183.

Affirmed.

MR. JUSTICE BRANDEIS, MR. JUSTICE STONE, and MR. JUSTICE CARDOZO think that these cases are to be distinguished from No. 225, *Helvering v. Falk*, just decided, because of the nature of the duties imposed upon the trustees, and of the remainder interest granted to the beneficiaries by the trust instrument presently involved, and accordingly concur in the result.

BROWN v. HELVERING, COMMISSIONER OF
INTERNAL REVENUE.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
NINTH DISTRICT.

No. 187. Argued December 13, 14, 1933.—Decided January 15, 1934.

A general agent of fire insurance companies received "overriding commissions" on the business written each year, subject however to the contingent liability that when any of the policies was canceled before its term had run, a part of the commission thereon, proportionate to the premium money repaid the policyholder, must be charged against the agent in favor of the company. In his accounts and income tax returns involved in this case, he deducted from the accrued commissions of each year a sum entered in a reserve account to represent that part of them which, according to the experience of earlier years, would be returnable because of cancellations. *Held*;