

The payments were to the customer the price of the service. The receipts have gone, so far as here involved, to add to the Company's surplus. They have not been taxed as income, presumably because it has been thought to be precluded by this Court's decisions in *Edwards v. Cuba R. Co.*, 268 U. S. 628, holding that under the circumstances of that case a government subsidy to induce railroad construction was not income. But it does not follow that the Company must be permitted to recoup through untaxed depreciation accruals on investment it has refused to make. The Commissioner was warranted in adjusting the depreciation base to represent the taxpayer's net investment. Nothing in the Regulations is to the contrary and nothing in *Helvering v. American Dental Co.*, 318 U. S. 322, when read in the context of its facts touches this problem at all.

Affirmed.

The CHIEF JUSTICE did not participate in the consideration or decision of this case.

JONES *v.* OPELIKA.*

CERTIORARI TO THE SUPREME COURT OF ALABAMA.

No. 280, October Term, 1941. Reargued March 10, 11, 1943.—
Decided May 3, 1943.

Upon rehearing, 318 U. S. 796, the judgments heretofore entered in these cases, 316 U. S. 584, affirming the judgments of the state courts, are vacated, and the judgments of the state courts are reversed. P. 104.

242 Ala. 549, 7 So. 2d 503, reversed.

202 Ark. 614, 151 S. W. 2d 1000, reversed.

58 Ariz. 144, 118 P. 2d 97, reversed.

*Together with No. 314, October Term, 1941, *Bowden et al. v. Fort Smith*, on writ of certiorari, 315 U. S. 793, to the Supreme Court of Arkansas, and No. 966, October Term, 1941, *Jobin v. Arizona*, on appeal from the Supreme Court of Arizona.

Opinion of the Court.

319 U. S.

Mr. Hayden C. Covington for petitioners.

No appearance for respondents in Nos. 280 and 314, and
appellee in No. 966.

Briefs of *amici curiae* were filed by *Mr. Osmond K. Fraenkel*, on behalf of the American Civil Liberties Union, in support of the petition for rehearing; and by *Mr. Elisha Hanson*, on behalf of the American Newspaper Publishers Association, and *Messrs. Homer Cummings* and *Millward C. Taft*, on behalf of the General Conference of Seventh-Day Adventists, in support of the petition for rehearing and urging reversal.

PER CURIAM (announced by MR. JUSTICE DOUGLAS):

The judgments in these cases were affirmed at the October Term, 1941. 316 U. S. 584. Because the issues in all three cases were of the same character as those brought before us in other cases by applications for certiorari at the present term, we ordered a reargument and heard these cases together with *Murdock v. Pennsylvania*, *post*, p. 105. For the reasons stated in the opinion of the Court in the *Murdock* case, and in the dissenting opinions filed in the present cases after the argument last term, the Court is of opinion that the judgment in each case should be reversed. The judgments of this Court heretofore entered in these cases are therefore vacated, and the judgments of the state courts are reversed.

So ordered.

For dissenting opinions, see *post*, pp. 117-140.