

benefit, holds them as a trustee for others, and that it is in the interest of one or more of the cestues que trust that this "found money" should be considered as income, and in the interest of others that it be considered as capital. Now, the trustee must decide which pocket he will put it in. Let us, in order to be more easily understood, suppose one of the cestues que trust to be the widow of the testator who has the interest of a life tenant, and the other a child or children, who have the interest of a remainderman. Let us then look squarely at the question, and answer it if we can, and tell the trustee to whom he shall pay the found money, whether to the widow as tenant for life, or to the children having the interest in remainder. If the money belongs to income it goes to the widow — if it belongs to capital it goes to the children.

I may as well at this point state that the decisions in the United States, and there are many of them directly on the point, preponderate in favour of capital, and this preponderance is not confined to the courts of many of the individual States, but is found in the decisions of the Federal Courts, including the Supreme Court of the United States.

Cook on Corporations, 6th ed., sec. 559, expresses with sufficient clearness the trend of American decisions on this subject in the words following: "The right to subscribe for new shares at par upon an increase of the capital stock, which is an incident of the ownership of the stock, does not belong as a privilege to the life tenant, but such increment must be treated as capital, and be added to the trust fund for the remainderman. This is equally the rule whether the trustee subscribes for the new stock for the benefit of the trust, or sells the right to subscribe for a valuable consideration. In either event the increase goes to the corpus." And again, in the same section 559, Cook states what he believes to be the law in his country in the following succinct language: "Where new stock is issued and the *right to subscribe* therefor is sold, the proceeds of such sale belong to the remainderman and not to the life tenant." If this were the law in Canada or in England (except by statute), we would not need to make