declared to be capital this disputed money when it left the hands of the company was paid out of profits made by the company and was returned to, and validly capitalized by the company.

The decision in *Re Armitage* (1893), Chan. Div., vol. 3, page 337, does not in the least contravene the principle that I have just stated. There the disputed money was the difference between £9 5s. 6½d. and £8 and this difference £1 5s. 6½d. per share was claimed both by the remainderman and by the tenant for life. The court decided that it was capital and belonged to the remainderman. Mr. Justice Lopes, at page 347, says: "It is admitted that if these shares had been sold by the executors for £9 5s. 6½d. per share before this sale *en masse* of all the shares of the new company, the excess of £1 5s. 6½d. per share would have been regarded as capital and would not have gone to the tenant for life." This being *admitted* the case for the life tenant, of course, fell to the ground, on the well known principle that the whole includes all its parts.

I beg to refer briefly to the only Canadian case that I have been able to find on this important question. It is in *Re Estate of Jairus Hart*, vol. 5, Eastern Law Reporter, page 93, in which the learned Chief Justice of Nova Scotia has decided that what I have designated "found money" was capital and not income. In arriving at a decision in this case the Chief Justice seems to have relied upon Cook on Corporations and the two English decisions that I have herein discussed. How he could find any support for his decision in the two English cases mentioned or in any other English case I am at a loss to know. The opinion of a jurist so learned in the law, and of such broad legal experience is entitled to great respect; but I cannot but differ from him after studying the authorities with all the care and research that I can give to the subject.

At the close of his reasons for judgment the Chief Justice says: "The rights of parties in cases of this kind have always been regarded as a difficult question, and in deciding in favour of the remainder interest, I do not feel all the confidence I could wish to have on such an important point." I am not surprised at the learned Chief Justice's "want of confidence."