

a holder of defendants' shares, suing on behalf of himself and all other shareholders, against the company, alleging certain breaches by defendants of their duties under 50 Vict. ch. 85 (O.), and praying that they may be ordered to perform them, and that accounts may be taken of their assets and the manner in which they have dealt with them since the passing of the Act, and that certain alleged improper dealings of defendants with their assets and certain alleged improper entries in their books may be corrected, and that their accounts may be retaken so as to comply with the Act; also alleging that by reason of the breaches of duty aforesaid, and by their improper method of dealing with their assets, and keeping their accounts, the price of gas supplied to plaintiffs and other consumers has been kept at a higher figure than it should have been in accordance with the Act, and asking for an account of the sums so overcharged to plaintiffs and for repayment and for other relief.

E. F. B. Johnston, K.C., and A. F. Lobb, for plaintiffs.

S. H. Blake, K.C., and A. B. Aylesworth, K.C., for defendants.

STREET, J., held that plaintiffs were not only in error in their contention that the reserve fund had not been properly maintained, but had entirely failed to shew that they had been injured by the manner in which it had in fact been kept.

The second complaint was, that certain sums written off the company's assets had been charged to profit and loss or reserve fund, instead of to the plant and buildings renewal fund. The defendants were justified in writing these sums off the value at which their plant stood in their books, and it was a matter of no moment whether they were charged to profit and loss account or to the reserve fund, for the latter could only be increased from the former. The defendants were not bound under sec. 6 of the Act to charge these sums to the plant and buildings renewal fund, a charge for depreciation and loss not coming within the words "all usual and ordinary renewals and repairs." Even if it were held that the amounts written off the profit and loss account for depreciation, which amount in all to \$321,431.38, should have been written off the plant and buildings renewal fund instead, the reserve fund would still be larger by the difference between these two sums, that is, by \$44,491.85, than it would have been had defendants exercised the full rights given them by the Act.