and be compelled to place to the credit of the reserve fund. The plaintiffs ask the return of such sum as they claim has been overpaid by them to the company as the price of gas consumed, and ask an accounting of the receipts and disbursements of the defendants since April 23rd, 1887, and a mandatory order directing the defendants to comply with the provisions of the Act of 1887.

The company by its defence raised the question of the proper construction of the statute relating to their rest and reserve fund, and stated that they had reduced the price of gas, and that the plaintiffs had no *locus standi* to bring the action. The parties agreed upon a special case to be submitted, and Judge Ferguson has handed out a judgment in which he has answered the questions as put.

To the first question, whether the plaintiffs had a right to maintain the action as constituted, the Court gives an affirmative answer. To the second question, whether the defendants were obliged to include in the rest or reserve fund, which the Act of 1887 directed them to have, the moneys which the defendants had standing to the credit of profit and loss account, to the credit of contingent account at the time of passing thereof, and all the money received from the premiums on the sale of stock authorized by the Act to be sold until the fund amounted to fifty per cent. of the paid-up capital—the answer of the Court is also in the affirmative. The third question was, whether it was *ultra vires* of the company to invest or use the reserve fund or any portion of it in the purchase or construction of their plant or buildings, or in their business generally, and the answer is that it was *ultra vires*. It is answered that it was *ultra vires* of the company to invest the premiums on the sale of stock, or any part thereof, in the erection of buildings, until the rest or reserve fund had been found equal to one-half of the paid-up capital. Did the defendants establish, maintain, invest and use the rest or reserve fund in accordance with the provisions of the Act? is the sixth question, and the answer is, no. The sixth question the judge thinks it is not necessary to answer. Has the plant and buildings renewal fund ever been created or maintained within the meaning of the Act? is the seventh question, and the answer is: "It does not appear that this fund has been created or maintained as required by the sixth section of the Act." The eighth question is whether after providing for all usual and ordinary repairs and renewals, was it *ultra vires* of the company to invest or use the surplus of the plant and buildings renewal fund in their general business, or was the fund to be kept separate from the other moneys of the company uninvested? As to this the court finds that the company had no power to invest or use the surplus of the plant and building renewals fund in their general business. To the ninth question: "If the usual and ordinary repairs and renewals did not amount to as much as the five per cent. referred to in the Act, should the full five per cent. be carried to the credit of the plant and buildings renewal fund, or only sufficient to cover the usual and ordinary repairs?" the answer is: "There is no objection to the investment of any portion of this fund remaining unemployed, in such securities as would be readily available in case the funds should be required, but there is no obligation resting upon the company so to invest." In addition to keeping the plant and buildings in repair by means of this fund, has the defendant company, it is asked, the right to write off sums of money from profits by "depreciation in plant?" and the answer is in the negative.

This finding is entirely in the plaintiffs' favor, but will, of course, be appealed to the court of last resort. Even if it be maintained, the judgment will not give those who have since 1887 been gas consumers any right to recover back the difference paid in excess of the price at which gas ought to have been supplied, except by separate actions brought for that purpose, though the consumer of to-morrow may benefit by that as well as all other features of the judgment. The directors and officers of the Consumers Gas Company are well known to be men of integrity and undoubted commercial standing, and firmly assert that if the time should ever come for taking an account, it will be found that by spending large sums on increasing and improving the gas producing plant, which it is alleged should have gone into the reserve fund, they have sold gas to the consumer at a cheaper rate per thousand feet than it could have been sold at, if the sums so spent had gone to the reserve fund, and there by force of the statute played its part in lowering the price to the consumer. The company has often voluntarily reduced the price of gas, and in no case has a dividend in excess of the statutory amount been paid to the shareholders; the error made, if any, has been in spending money which ought to have gone into the reserve fund on material and plant, which disposition, however, the company says has very materially reduced the price of gas to the man who pays for it, thus accomplishing the object of the statute.

INSPECTION OF GRAIN.

Almost a year ago, namely, in October, 1894, representations were made to the Government by the Montreal Board of Trade and by the Toronto Board of Trade complaining that the certificates granted by the Inspector of Grain at Fort William or Port Arthur allowed an admixture of damaged or scoured wheat, and asking the Government to direct the discontinuance of the practice, which grain dealers and flour millers had long complained of. During the past summer an Order-in-Council was passed at Ottawa prohibiting the placing of scoured wheat in the grade of No. 1 hard, much to the satisfaction of dealers aforesaid. Now, however, without warning or apparent reason, an Order-in-Council is passed rescinding the order, and people who are so disposed may go on mixing smutty wheat and passing it off as the best in the world, without any intervention from the powers that be.

We cannot wonder that the grain section of the Toronto Board of Trade records its strong disapproval of the rescinding of the order, and urges its re-enactment immediately, that it may come into effect before the present Manitoba crop begins to move. Still more significant is it that the Dominion Millers' Association, at its meeting on Tuesday last, condemned, both by speech and resolution, the recent action of the Dominion Government in rescinding the Order-in-Council prohibiting this mixing. They declared, and not without reason, that it would mean ruin to Manitoba and to the reputation of Manitoba wheat with English millers, as well as great injury to the millers and exporters in Ontario.

It is not necessary in discussing the matter to abuse the Controller, as some do, and to say that the Government has taken this step "to please certain parties." Governments cannot often afford to do this sort of thing. But the Government should at least be consistent. If the step taken by the order of 6th August was right and in the interest of the whole country, we are aware of no circumstances that make it wrong now. They tell us that Mr. Van Horne thinks the Government has done right in rescinding the order. He thought, or at least spoke, very differently when interviewed by millers in November last.