

10. The plaintiffs have never made any claim or demand upon the defendants, the Canadian Pacific Railway Company, in respect of the matters herein complained of, although they are alleged to have existed ever since the year 1882, nor did they the defendants ever hear of any such claims until the beginning of this action, and they believe that the plaintiffs have some other purpose or object in now asserting them than a *bona fide* expectation of establishing them, and they plead the laches of the plaintiffs in a matter of this nature as a bar to the said action.

11. The plaintiffs have brought three other separate actions against the defendants, all in respect of matters arising out of the contracts with the defendants, the Canadian Pacific Railway Company, for the construction of their railway, and the said defendants charge that they have done so vexatiously, and that all of the said actions ought to be consolidated. 10

12. The defendants submit that this action should be dismissed against each of them respectively with costs.

Delivered the 5th day of May, 1886, by R. M. Wells, of No. 110 King St. West, Toronto, Defendants' Solicitors.

JOINDER OF ISSUE AND REPLY.

The plaintiffs join issue upon the defendants' Statement of Defence herein.

And for a reply to the ninth paragraph of the said statement, the plaintiffs say that the said provisions were merely for guidance, and were waived by the defendants, and were construed by the manager, as he is authorized to do under the contract, as not referring to such progress estimates as were issued. 20

Delivered this 10th day of May, 1886.

McCARTHY, OSLER, HOSKIN & CREELMAN,

Plaintiffs' Solicitors.