

The defendants relied on *Hinds v. Town of Barrie*, 6 O. L. R. 656, 2 O. W. R. 995, and *Grandin v. New Ontario S. S. Co.*, 6 O. W. R. 553.

The plaintiff cited Rule 192. But if he was obliged to rely on this he must fail, as is shewn in *Quigley v. Waterloo Manufacturing Co.*, 1 O. L. R. 606. . . .

Here in the last paragraph, as confirmed by the particulars, there is *prima facie* a joint cause of action alleged. Whether or not this can be proved at the trial so as to maintain this assertion is not now to be determined. In disposing of the motion, however, the particulars given by plaintiff cannot be overlooked, as they must be considered as amendments of the statement of claim when furnished at this stage of the action: see *Smith v. Boyd*, 17 P. R. at p. 467; *Milbank v. Milbank*, [1900] 1 Ch. 384; *Temperton v. Russell*, 9 Times L. R. 319 (per Bowen, L.J.)

Here, if looked at in the most unfavourable light, the particulars . . . might seem to set up a joint cause of action in respect of the roadbed against all the defendants, and a separate cause of action against the foundry company in respect of the derrick. From the view of Rule 192 taken by plaintiff's counsel, he, no doubt, thought that these, even if different causes of action, could be joined.

It might have been better to have waited before giving particulars. The motive of the haste was, no doubt, the desire to get to trial at Guelph assizes next week, if possible. As the statement of claim itself stands, "the defendants" spoken of throughout must be all the defendants. This, so far as the roadbed is concerned, is not qualified by the particulars, and in the following paragraphs there is a sufficient allegation of joint liability for plaintiff's injury.

There might have been less difficulty in disposing of the motion if these particulars had not been furnished.

Even as the matter stands, it does not seem necessary to read the statement of claim in the light of the particulars so as to require plaintiff to elect. In paragraph D. of the particulars plaintiff charges that all the defendants were engaged and concerned in placing the girder; and in paragraph E. that all the defendants are responsible for the condition of the roadbed, and that in other respects (i.e., I