Held, that the jury on the trial were justified in finding that the eldest son of M. had the sole and exclusive possession of the land for twenty years before 1870 which had ripened into a title. If not the deed to his sons in 1870 gave them exclusive possession and if they had not a perfect title then they had twenty years after in 1890.

Appeal dismissed with costs.

Roscoe, K.C.. for appellant. *Borden*, K.C., and *Gourley*, K.C., for respondent.

N.S.] PORTER *v.* PELTON. [June 2.

Contract under seal—Undisclosed principal—Partnership—Amendment.

P. sold mining areas and was paid part of the price. The purchaser signed an agreement under seal that he would organize a company to work the areas and give P. stock for the balance at the market price. H. organized a company which received a deed of the land and did some work, but finally ceased operations. Only a small part of the stock was sold and none was given to P. who took action against the purchaser, H. claiming that the latter was a partner of the purchaser and that the agreement was signed on behalf of both. The purchaser did not defend the action.

Held, that no action could lie against H. on the agreement under seal not signed by him even if it was for his benefit and a seal was not necessary.

The Court refused to interfere with the discretion of the Court below in refusing an amendment to the statement of claim.

Appeal dismissed with costs.

Russell, K.C., and *Wade*, K.C., for appellant. *Newcombe*, K.C., for respondents.

Province of Ontario.

COURT OF APPEAL.

From Falconbridge, C.J.K.B.] [June 20, 1901.

BALFOUR *v.* TORONTO RAILWAY CO.

Street railways—Negligence—Car running backwards—Jury—Answers to questions.

The plaintiff was injured by a waggon in which he was being driven being struck by an electric car of the defendants which was running backwards in a southerly direction on the easterly track in a street, which track, according to the usual custom of the defendants, should have been used only by cars running in a northerly direction. The motorman was at the