One of the sons died before the testator, so that it was impossible that the firm should be formed.

Held, that the bequest lapsed, and s. 36 of the Wills Act did not apply to prevent such lapse.

Bain, Q.C., and *J. W. Kerr* for the plaintiffs.

J. H. Nesbitt for the executors of the testator.

Moss, Q.C., for the executors of the deceased sons.

C. J. Holman for the legatee.

Practice.

Chancery Div'l Court.] [April 22.

GILDERSLEEVE *v.* BALFOUR.

Parties—Nominal corporation—Corporators—Partners — Contract—Joint liability—Application to add co-partners—Rule 324—Representatives of partners—Discretion.

In the case of a nominal corporation which has no legal status as such, the ostensible corporators are partners ; and their liability as partners on the contracts of the company is a joint, and not a joint and several, liability.

Where some, but not all, of the co-contractors are sued in an action, they are entitled of right to have all the others within the jurisdiciion added as defendants ; and, the plea of abatement having been abolished, the method of exception is by prompt application to the court under Rule 324.

As to the representatives of deceased or insolvent partners, there is a discretion to add or not.

Arnoldi, Q.C., and *Bristol* for the plaintiff.

Bruce, Q.C., and *L. G. McCarthy* for the defendants Leggatt and Ross.

BOYD, C.] [May 2.

WEISER *v.* HEINTZMAN.

Discovery—Action for defamation—Examination of defendant—Privilege—Criminating answers.

In an action of libel and slander, the plaintiff complained that the defendant had communicated to several persons the contents of a letter received from another person, in which the plaintiff was accused of larceny, etc. Upon an examination of the defendant for discovery, he refused to say whether he had received any letter from the person named, or to answer any questions in relation to such letter or its contents, giving as a reason that it might criminate him to do so.

Held, that the reason given was sufficient to privilege the defendant from answering ; and although it was not the receipt of the letter, but the publication, that would make the offence, that he was entitled to object to the line of inquiry at the outset.