carried into effect the deliberate, well-considered intentions of the plaintiff; that he had ample independent advice, which put him in possession of a distinct knowledge of what he was about to do, and that the arrangement, having regard to the situation of the family and the relative circumstances of the father and son at the time, was a reasonable and proper one; and that, in addition to all the other objections, the delay of fourteen years in filing the bill, and, admittedly, seven years after the plaintiff had full knowledge of his rights, was fatal to the bill, which, so far as it sought to impeach the transactions of 1855, must be dismissed with costs. From this decision plaintiff has appealed.

Now on the material point as to the due execution of the settlement, the Lord Chancellor differed from the Vice-Chancellor, and concurred alone on the ground of the delay.

He was "unable to agree with Vice-Chancellor Malins that the provision made by this young man for his father, and his father's family, was either a prudent or a reasonable arrangement for a young man circumstanced as he was to have made." The Lord Chancellor then adds this extraordinary remark: "The Vice Chancellor seemed to be influenced by one or two considerations which, with great respect for his Honour, *had nothing whatever to do with the case.*" This is very startling, but as the case was one in which individual opinion of the operation of particular motives upon a man's mind would be likely to differ, the illustration of judicial conflict is not so striking as in a case where the construction of an Act of Parliament is in issue.

As we stated at the outset, we have an instance of this also, the judges being the same.

In *Pemberton* v. *Barnes* (25 L. T. Rep. N. S. 577) the Lord Chancellor reviewed and overruled a decision of Vice-Chancellor Malins dealing with the Partition Act of 1868 (31 & 32 Vict. c. 40). The judgment of the Lord Chancellor opens in a manner quite as extraordinary as the passage in his jndgment in *Turner* v. *Collins*, to which we have referred. "It appears to me," said his Lordship, "that in this case the Vice-Chancellor has adopted a construction of the Partition Act which entirely destroys the effect of the 4th section." The suit was for partition of a large estate. The plaintiffs, who were devisees in trust under a will of one equal undivided moiety, asked for a sale instead of a partition, under the aforesaid sect. 4. The Vice-Chancellor held that a large estate like the one in question was not within the purview of the Act, and made a decree for partition. The Lord Chancellor said that the difficulty of partition was dealt with in sect. 3, and that there is not in sect. 4 a single word about the size of the estate or the difficulty of partition—it simply speaks of a case where half the parties interested desire a sale, and it provides that they shall have a preponderating voice. Consequently the decree of the Vice-Chancellor was reversed, and an order for sale substituted for that for partition.

And lastly, the Vice-Chancellor seems to have stretched the equitable doctrine of the liability of trustees to an extent calculated seriously to alarm trustees. The comments of our contemporary, the *Times*, will best describe the alarm:—"The myriad trustees and executors scattered throughout the kingdom will have read with dismay our report of the judgment of Vice-Chancellor Malins in a case reported in our columns last Thursday, and have asked themselves, 'Who, then, is safe?' Many more, who are not yet trustees, will probably have resolved, from a perusal of the same report, never upon any consideration to to undertake the office. A man knows that he subjects himself to great trouble for few thanks, but he strains a point to oblige a living friend, or to do what he can for the family of one whom he has known intimately and pleasantly all the years of his manhood. He is content to give his time and his pains for the sake of 'auld lang syne.' Vice-Chancellor Malins shows us by his decision in *Sculthorpe* v. *Tipper* that a trustee exposes himself to many liabilities beyond the mere labour and the vexation of spirit attendant upon it. He may have to make good the value of the estate which he has most conscientiously striven to guard. A man dies, and by his will leaves certain property to some friends to watch over and sell 'so soon after his death as they may see fit.' For little more than two years they dealt with it just as he would have done had he been alive, and it then turns out to their unbounded surprise, as it would have been to his unbounded surprise, that part of it is worthless. If the man had lived, he would have suffered the loss, and those upon whom he intended to confer his bounty would have suffered it: but as he luckily died at an opportune time, his friends and executors find that they are personally called upon to pay for his indiscreet investments. If the law be as it was enunciated by Vice-Chancellor Malins, the executors and trustees in *Sculthorpe* v. *Tipper* must perforce submit to it. There is, however, always the possibility of an appeal, and until the time for it has passed by it would be premature to call upon Parliament to relieve trustees from so unexpected a pitfall." And our contemporary feels so strongly on the case that it goes into the law of it, quotes Lord Cottenham against the Vice-Chancellor, and plainly doubts whether the latter's view of the law be sound.

These three cases even as they stand, the third being unappealed as yet, present an extraordinary condition of things—a condition of things unpleasant to comment upon, and which it is only possible to deal with gracefully by leaving alone.—*Law Times.*