sequence of the difficulty of arriving at the correct balance of a debt of 9765*l.* 11*s.* 1*d.*, owing by the firm to Mr. Syers. No other account of the partnership was ever rendered to Mrs. Syers.

The bill alleged that the firm was never indebted to Mr. Syers in the above amount, which was greatly in excess of the truth, if indeed the firm owed him anything at the death of William Taylor. The bill then stated a great number of facts connected with the business, and, *inter alia*, that the brothers had, since the decease of William Taylor, retained in their hands and employed a balance belonging to his estate, in the business (which they continued to carry on as "Taylor Brothers"), and had made large profits thereby.

The plaintiff attained his majority in September 1862, and he then applied to his uncles for an account of the partnership assets, and on their refusal to render one, he requested his mother (as the legal personal representative of William Taylor) and Mr. Syers to take proceedings to enforce them to do so. Mr. and Mrs. Syers, however, being advised that such proceedings would prove ineffectual, refused to comply with the plaintiff's request.

The plaintiff thereupon filed this bill in 1866, against his uncles and Mr. and Mrs. Syers, praying a decree for an account of all the dealings and transactions of the partnership of 'Taylor Brothers,' from the 23rd July 1841, and of the share and interest therein of his father; an account of the profits made by the brothers from the business since that date; for a receiver; and for a declaration that he was also entitled to two-thirds of the moneys to be recovered in the suit, and Mr. and Mrs. Syers to one-third.

The *Solicitor-General* (Sir George Jessel, Q. C.), *Dickinson*, Q.C., and *Westlake*, for the plaintiff, contended that the result of the evidence showed that the item of 9765*l.* 11*s.* 1*d.* was altogether fictitious. The partnership, instead of being, as the widow was informed, insolvent at the time of her husband's death, was in reality solvent. She was misled by the misrepresentations made to her by the surviving partners, who by their conduct had placed themselves in a fiduciary relation to her and the plaintiff. They were bound, therefore, as if they were trustees, to account to her, and, as she would not take proceedings against them, the plaintiff was entitled to sue them in her stead, and compel them to account. Further, the Statute of Limitations was, in the view of the case taken by the plaintiff, no bar to the relief sought by the plaintiff in the suit.

[During the arguments the *Solicitor-General* commented in terms of dissatisfaction on the decision in the case of *Knox* v. *Gye* (L. Rep. 5 E. & I. App. 656), as reported, which he submitted ought not to be considered as an authority in the present case]

*Amphlett*, Q.C., *Osborne Morgan*, Q.C., *Lindley*, Q. C., *A. G. Marten*, *A. A'Beckett*, *Terrell Moseley*, and *R. T. Reid*, (of the Common Law Bar), for the defendants, were not called upon.

The Lord Justice.—This case so far as I have heard it, is one of those which, though sometimes met with in this court, might well make people think that the Court of Chancery can do as much harm by ruining honest men as good by preventing and alleviating fraud. If the law governing this case is such as I suggested it to be in the course of the argument, it would be waste of time to go through the mass of facts, occurring some thirty or forty years ago, with which this case is loaded: and it would, moreover, be extremely hard on the other suitors to do so. In the first place, I entertain a very strong opinion that such a bill as this in the present suit is not maintainable by a person in the position of the plaintiff. I do not think it can be supposed for a moment to be correct that any one who thinks himself interested in the estate of a deceased partner can file a bill like this merely on the allegation that the legal personal representative appointed to represent the estate will not sue in respect of it. If one person could do it, ten or any other number might; and the result would be most disastrous to the defendants, who would have to meet some case or other which they might not by any possibility be able to answer. There may be, no doubt, cases in which, from the course of the dealings between the parties, otherwise strangers to each other, a privity has been created which might be sufficient to uphold a bill in some respects similar, perhaps, to this one. There may be cases in which the executors of a deceased partner would not be the proper parties to deal with the partnership assets of the testator. But that would be the result of special ingredients in the case, and would arise from the particular character of the transactions immediately in question. Here the plaintiff and the defendants are strangers to each other. Unless there is fraud or collusion or some other circumstance creating a privity between the parties, a plaintiff in the situation of the one now before the court has no valid ground on which to file a bill against the surviving partners. The ordinary course of proceeding is to institute a suit for the administration of