

a "decretal order" or not, was neither mentioned in argument, nor considered by the Court. The investigation of the nature of the basis of such an order being a matter of much importance, was however, made with great care; because, upon its being ascertained, whether that basis was solid and uniform, or loose and shifting, depended the very interesting question presented in that argument—whether such orders were likely to be attended with good or ill consequences; or whether they were, or were not

**172** \* capable of being used as instruments of oppression? And it was, on finding that the authorities required the most broad and solid foundation, no less clear and strong than that of a final decree itself, that the Court was perfectly convinced of their great utility in all cases where there was a proper foundation for making them, and that they were no more capable of being abused, or applied to improper purposes, than final decrees themselves.

But the foundation, or basis of an order, does not determine its effect upon the controversy or the parties. An admitted, or incontrovertible state of facts, is required as the foundation of an order to bring money into Court. As the foundation of an order to account, it must appear that a computation is necessary relative to the matter on which the Court may be called on to decree; and to lay a proper foundation for an order to pay money out of Court, the party claiming it must show a clear title in himself. But no inference can be deduced from the nature of the basis of an order as to its true character, that is, whether it be interlocutory or final, a decretal order, or otherwise. Such questions can only be determined by the order itself, considered in all its relations and bearings upon the parties and upon the case.

Whether an appeal can be allowed, as moved for, must depend altogether upon, whether the order of the 12th of February last is or is not a "decretal order," within the true intent and meaning of the Act of 1818, ch. 193, s. 1. The English authorities explain, with tolerable accuracy, the difference between interlocutory and final decrees in Chancery, but the phrase, "decretal order," seems to be variously applied, and to have no settled or distinct meaning or application. The term "order" is almost always used in speaking of those general or special directions by which all suits in Chancery are governed, controlled, or facilitated throughout, or in the course of their progress from beginning to end; and, the term "decree" is most generally applied to the decisions of the Court upon some or all of the rights of the litigating parties. Hence it would seem, that a "decretal order" can only be such an order as finally determines some right between the parties.

But we have a satisfactory and conclusive authority of our own State upon this question. The Court of Appeals, in the case of