be the case as to the matters specially embodied in the decree of locality, the negative prescription is, as I think, incapable of being pleaded to the effect of excluding the pursuer from now claiming the teinds of Priestoun in payment *pro tanto* of the stipend modified in 1820. The teinds of Priestoun are not dealt with in the locality in any manner of way. As already stated, there is no judgment of the Court pronounced regarding them. There is thus no foundation for the plea of negative prescription; for the basis of that plea, as in regard to these teinds applicable in the present case, is, that there stands a judgment, capable it may be of being challenged, but which the lapse of 40 years now protects from challenge. Here there is no judgment on the matter one way or other. What the pursuer says is, that he has obtained an augmentation which the teinds allocated in the decree of locality of 1820 are insufficient to meet; and he asks that the lands of Priestoun, as not held on any title of exemption, should be allocated in payment of that stipend. He is met, as I conceive, by no judgment barring this demand. And I am of opinion that he is entitled to insist in it, irrespectively of any consent from the other side. There is no term of years which will wear out the inherent liability of teind to pay stipend.

But I conceive it equally clear that the demand of the pursuer cannot be carried farther back than the date of execution of the present summons. I do not so hold on the ground of the rule applicable to *fructus bona fide percepti;* a rule somewhat difficult of application in the case of an inherent burden such as that which lies on teind. But I proceed on the broad ground that, until the present summons was raised, no claim was judicially made to have these teinds included in the fund for payment of this augmentation. The present summons is the first judicial application to have these teinds localled for stipend. The pursuer can no more go back beyond the date of the summons in the present case than a minister can, in the ordinary case, go back to a period anterior to the raising of his process of modification and locality.

The pursuer's right in the matter now alluded to is, I conceive, to be given effect to by a decree of declarator of this Court. I consider a decree of reduction of the locality of 1820 unnecessary, and in a strict sense inadmissible. But the defender consents that it should be pronounced to the effect of sanctioning payments *de futuro* but not bygones: and there may be no objection to such a decree being pronounced of consent, if this appears to any of your Lordships advisable.

I have only to add that I agree with the Lord Ordinary in the mode in which he has dealt with the decrees of valuation referred to in his interlocutor and note.

Lord Deas explained that it was his opinion, and he understood it to be the opinion of the Court, that the negative prescription had nothing to do with the case.

Agent for Pursuer—A. Beveridge, S.S.C.
Agent for Defender—Alexander Howe, W.S.

Monday, December 28.

SECOND DIVISION.

(Before the Election Judges.)

CHRISTIE *v.* GRIEVE.

Parliamentary Elections Act 1868—*Bribery—Corrupt Practices—Motion to Dismiss Petition—Want of Specification. Held* (*per* Election Judges) that a petition against the return of a Member for Parliament was not liable to be dismissed on the ground that charges of bribery, &c., and of corrupt practices, were defective through want of specification.

This was a petition against the return of Provost Grieve as member for Greenock at the late Parliamentary election. The petition was at the instance of Mr Christie, the defeated candidate, and was in the following terms:—

"(1) Your petitioner was a candidate at the above election.

"(2) And your petitioner says that the nomination of the above election took place on the 16th day of November last, and that two candidates were duly nominated, viz., James Johnstone Grieve, then the Provost of the burgh, and your petitioner, and that on a show of hands the Sheriff declared your petitioner elected by a large majority; whereupon James Johnstone Grieve demanded a poll, and the polling took place on the next following day, the 17th of November; and on the morning of the next day, the 18th, the Sheriff declared the result of the polling to be 2962 votes for James Johnstone Grieve, and 2090 votes for your petitioner; and the Sheriff declared James Johnstone Grieve to have been elected member for the burgh, and he made a return accordingly to the Clerk of the Crown at Westminster, despatching it from Paisley of the 20th of November, and the Clerk of the Crown received the said return on the 21st November.

"(3) And your petitioner says that the election of James Johnstone Grieve was brought about and effected by an extensive and elaborate organisation of undue influence and large expenditure.

"(4) And your petitioner says that bribery, treating, and undue influence were practised by James Johnstone Grieve and his agents, and by others on his behalf, and that corrupt practices extensively prevailed.

"(5) Your petitoner further complains that the returning officer, the Sheriff of Renfrewshire, acted illegally in appointing a number of distantly separated polling places in some of the wards or polling districts, with assignment thereto by an alphabetical division of different portions of the duly published lists of voters for the said wards or polling districts, disregarding a protest of your petitioner duly and in good time delivered to him, and that he further acted illegally in disregarding and neglecting to comply with a requisition for the appointment of specified numbers of booths, compartments, halls, rooms, or other places, for polling at the duly appointed polling places, of the first, fourth, and fifth wards, according to the provisions of the Act 16th Victoria, chap. 28, sec. 4, which your petitioner made to him at the same time with the aforesaid protest.

"(6) Your petitioner says that the arrangement made by the returning officer as to polling places was prejudicial to his interests, and that in the carrying out of the said arrangement the returning officer employed or acted with the Town-Clerk of Greenock, and that as soon as your petitioner became aware of the intervention of the Town-Clerk in the matter, he warned the returning officer, that as between the then Provost of Greenock and any other candidate, it was next to impossible to expect impartiality from the Town-Clerk.

"Wherefore your petitioner prays that justice

may be done, and all rightful relief given him in the premises, and that it may be determined that James Johnstone Grieve was not duly elected or returned member for Greenock, and that the election was void.

"*In respect whereof, &c.*

"W. D. CHRISTIE."

After the petition was presented, the following note was lodged by Mr Grieve:—

"To the Honourable Lord Cowan, and the Honourable Lord Jerviswoode, the Judges for the trial of Election Petitions for the time being, pursuant to 'The Parliamentary Elections Act, 1868.'

"*My Lords,*—

"The respondent makes the present application in writing to your Lordships, in accordance with section 24 of the rules of procedure made by your Lordships of date 27th November 1868; and he prays your Lordships to dismiss the petition, in respect that it does not, in terms of section 2 of said rules, 'set forth articulately,' 'according to the rules and practice of the Court of Session in ordinary proceedings,' the 'facts relied on in support of the prayer of the petition.'"

CLARK, for the respondent Mr Grieve, M.P., addressed the Court in support of the respondent's application. He said that the ground upon which the motion was rested might be thus generally stated, that the petition contained a mere general statement, and was expressed in the most general way without attempting to give any particulars whatever of the charge which was made against Mr Grieve. In connection with this matter, and to show its importance, it was right to notice that the petition was not laid simply on the ground that agents or persons active in the interest of Mr Grieve had been guilty of bribery, so that his election was null; but that the statement was that he himself, by himself as well as by his agents, was guilty of corrupt practices. He need not mention that to him that accusation raised a very important issue, for their Lordships would see, in the 43d, 44th, and 47th sections of the Bribery Act, what enormous sanctions followed upon the commission of such an offence. In this petition their Lordships had merely a statement in the most general terms asserting that the respondent brought about his election by the use of undue influence, by large expenditure—or, in other words, as stated in article 4, "by bribing, treating, and using undue influence"—but there was no specification of the time, place, or person. Now, the question was whether this petition was framed in accordance with the rules issued by their Lordships under the Corrupt Practices Act of 1868, in which it was provided that "an election petition shall set forth articulately, in the form of a condescendence, according to the rules and practice of the Court of Session in ordinary proceedings, the facts relied on in support of the prayer of the petition. Mr Clark proceeded to maintain that the injunction in the rule which he had quoted had not been complied with in this petition, because it contained nothing except the most general statement that the respondent had been guilty of using undue influence and bribery, and other corrupt practices. The substance of the objection to the petition was that the petitioner proposed to go to trial on the case without giving any specification whatever of the time, or place, or person. The forms and practice of the Court of Session in ordinary proceedings required that there should be specification of the offence charged in the condescendence; and he submitted that it was perfectly out of the question to suppose that this petition had been prepared according to the forms and practice of the Court of Session; it was prepared in direct disregard of these forms and practice, because the Court required in all papers specification of the charges made. He concluded by submitting that this was not an objection to the mere form of the petition, but to its substance, and that the petition ought to be dismissed in respect that nothing was charged which, according to the forms of the Court of Session, could be sent to proof.

ALEXANDER MONCRIEFF, for the petitioner, submitted that his friend Mr Clark had presented no argument in support of his statement that the objection made to this petition was one of substance, and not merely of form; the objection, he maintained, was truly one of form, and of nothing else than form. The rules issued by their Lordships had apparently been issued very much with the view of separating the various articles mentioned in the condescendence; and the articles had, in accordance with these rules, been separately mentioned in the petition in the order prescribed in the rules. The petition stated distinctly what was meant by "corrupt practices;" for it stated, in the fourth article, that bribery, treating, and undue influence were practised by Mr Grieve and his agents, and that corrupt practices extensively prevailed. The "corrupt practices" were broken down in the petition into these three separate and distinct things, bribery, treating, and undue influence. The only thing alleged was that the petition did not say with regard to what persons, or upon what dates these various things, bribery, treating, and undue influence, which constitute the corrupt practices of which he complained, were respectively practised. Mr Moncrieff proceeded to argue that the objection to the petition was one merely of form, which, if they were in a summons of the Court of Session, could have been easily cured by adding some details; and that it would be unfair, and would not tend to justice, if petitioners were compelled to state at the beginning of their case the names of all the parties bribed, who might in that case be interfered with. He submitted that the practice in England corresponded with that adopted in this petition, and referred to two English cases reported in the *Scotsman* of Friday in support of his position. He concluded that there were no grounds for granting the prayer of the application that the petition should be dismissed.

SOLICITOR-GENERAL, for the respondent, submitted that the Act provided that the petition "shall be in such form and state such matters as may be prescribed." Their Lordships had prescribed that "all election petitions shall set forth, according to the rules and practice of the Court of Session in ordinary proceedings, the facts relied on in support of the prayer of the petition." This election petition, he maintained, was not in accordance with the rules and practice of the Court of Session, and it failed to set forth the matters prescribed by their Lordships. That was not an objection to the form, but to the substance of the petition. The Solicitor-General proceeded to comment upon the language of the petition, maintaining that it did not even say on which side the corrupt practices prevailed, and that the grammatical construction led to the inference that the

corrupt practices had prevailed on the side of the petitioner. He referred to a jocular remark made by an old Judge, to the effect that indictments should be so simple as to consist simply of such a statement as "You are a thief, and you will be hanged;" and remarked that such an indictment would be no more in accordance with the rules and practice of the Court of Justiciary than the petition in this case was in accordance with the rules and practice of the Court of Session. There were many species of bribery and treating, and it was impossible for any one to defend himself against so general a charge as that in this petition. The use of the word "bribery" no more gave information to the party accused than the use of the word "debt" would give information to a defender in the Court of Session, or the use of the words "assault" or "fraud" would give information to parties accused in the Justiciary Court. He concluded by submitting that the petition could not be amended, because it did not set forth the facts which it ought to have done, and there was therefore in reality no petition to be amended.

MONCRIEFF, in reply, said that the radical fallacy of the argument on the other side was that it assumed that a failure to comply with the rules of procedure involved a nullity.

LORD COWAN—What do you propose to do? Is it your proposal that you should go to trial with the petition as it stands?

MONCRIEFF—I do not wish to go to trial with the petition as it stands. If your Lordships say that the petition, which is validly brought, is deficient in such specification as might give fair notice, I am quite prepared that I should be ready to add such specification at the time your Lordships think necessary; but I submit that the proper time would be six days before the trial.

LORD COWAN—Had this been an application for the formal specification of facts, there could have been no doubt that we might have disposed of it at once, under that regulation which provides that all interlocutory questions and matters, except as to the sufficiency of the caution, shall be made by application to the Judges, or to either of them. But this is an application for the dismissal of the petition altogether, and I doubt exceedingly whether we, sitting here, have jurisdiction so to act in the matter. It is not an interlocutory matter. It is a motion to the effect that this petition be altogether discharged; and had the Second Division not unfortunately risen this very day, probably Lord Jerviswoode would have concurred with me in thinking that it was a matter which we ought to have reported to be disposed of by the Second Division. I would like to have a little time to consider whether we can dispose of it ourselves, or whether, assuming that we do not think the grounds stated sufficient grounds for dismissing the petition, we can dispose of the motion. My notion of it is that the application for the dismissal of the petition should have been made to the Court. It has not been so made, but has been made to us. But certainly I should not feel that we have jurisdiction simply under this interlocutory question to dismiss a petition of this kind without referring to the Court. On the other hand, if we can be of opinion that the substance of the matter is in this petition, and that it requires only to be amended in respect that it has not that full specification which in form is required by our regulations, then we might dispose of this application by ordaining Mr Moncrieff's client to put in such an amendment in the petition as he proposes, and then dispose of the motion as made by the respondents. I will only say that my present impression is that the requisition of the Act of Parliament may be well enough satisfied by holding the charge of bribery by James Johnston Grieve to be sufficient as the matter or substance of the petition. The question how that can be held to comply with the order for an articulate statement of the facts relied on in support of that matter is a separate question; but after it comes to be separated in that way, it is for our consideration whether substantial justice would not be done by ordaining the petitioner to give that specification which certainly appears to me indispensable for the just trial of a matter so deeply involving consequences to the party alleged to have been guilty of bribery. Now, what I would propose to your Lordship would be that Mr Moncrieff should be required to put in the proposed amendment to the petition, and that we should then consider the motion made with reference to that regulation, assuming that Mr Moncrieff is prepared to amend the petition.

MONCRIEFF—I am not prepared to do that. I am not prepared to admit that the petition needs amendment. I am perfectly willing to give notice of particulars a certain number of days before the trial; but it is against the whole spirit of the Act and the previous practice to open one's hands in this matter until within a certain number of days of the trial.

LORD COWAN—The difficulty is for Lord Jerviswoode and me to deal with this matter as a mere requisition for particulars, because that is not the motion made; and although we refuse the motion in respect that it proceeds simply on the discharge of the petition, and that substantial justice can be got in another form before the trial, there may be another application brought before us.

SOLICITOR-GENERAL—The objection here is that there is no specification at all; but in the most analogous case which can occur in the Court of Session of deficient specification nothing is more common than for the Court, before pronouncing judgment, to have that found fatal, and to dismiss the action, and to require the party whose statement it is to specify any amendment or addition which he proposes to make; and I maintain that your Lordships, with a view to consider whether our present motion is or is not well founded, may offer that opportunity to the present petitioner. He may decline to take advantage of that opportunity, of course, if he please; but your Lordships will then consider the application in this light, that the petitioner declines to be more specific, and I apprehend that if your Lordships sustain this petition as you would do by refusing our motion, the petitioner would be under no obligation to be more specific. He has given in within twenty-one days what, under that hypothesis, must be a sufficient petition under the Act of Parliament, setting forth the matters on which he relied according to the forms and practice of the Court of Session, and if he has done that, I should myself find it difficult to maintain more. If he has not done that, there is no petition here; if he has done that, I cannot possibly ask more.

LORD COWAN—That would be for the Court to consider when any motion of that kind is made. In the meantime it must be manifest that this is quite a novel proceeding, and that it requires grave consideration. I may mention that these regulations were framed very much to accommo-

date the rules made by the English Judges under similar proceedings to our practice, and as far as possible to endeavour to assimilate the proceedings in petitions of this kind in the two ends of the island, because it is the same Act of Parliament the Judges are administering, and it would be certainly a most unfortunate occurrence if a petition of this kind should be receivable in England in the precise terms of this petition, with the understanding that the Court has power to admit particulars before trial to do justice, and we had to do a different thing. If our rules are not sufficiently full and precise to secure an articulate statement of the facts to be relied upon in support of the prayer of the petition, we shall take care to frame such additional regulation—which we have power to do—as to meet the justice of the case. We make avizandum of the case.

MONCRIEFF—I do not in the least refuse to state particulars before the trial.

At advising—

LORD COWAN—A few observations may be necessary in explanation of the grounds on which, after full consultation with my brother, Lord Jerviswoode, I have proceeded in disposing of the application made by the respondent. Its object is to have the petition dismissed in respect of its non-compliance with the 2d of the rules of procedure made under the Act 1868; and as explained by the counsel, it was made under the 24th rule, whereby any one of the Judges is empowered to dispose of interlocutory matters.

By the 20th section of the Act the petition is to be in "such form" and to "state such matters" as may be prescribed. The rule referred to was made to carry out this enactment. It prescribes that the petition shall set forth articulately, in the form of a condescendence, the matters stated in the three heads of which the 2d rule consists. This has been here strictly observed as regards the 1st and 2d heads, but as regards the 3d head, which requires "the facts relied on in support of the prayer of the petition" to be stated, the petitioner merely says, in art. 3, that "the election" was brought about "by undue influence and by large expenditure:" and in article 4, "that bribery, treating, and undue influence were practised by the respondent, and his agents, and by others on his behalf. On the facts thus stated, the petitioner relies to support his prayer, which is to the effect that the respondent "was not duly elected," and that "the election was void." And general as is the statement in art. 4 as to bribing, treating, and undue influence, it is not doubtful that on these corrupt practices, as alleged, being established by evidence as matter of fact, the prayer of the petition will have been supported. It might have been more in accordance with the prescribed rule, that *each* of the three heads should have been separately set forth as practised by the respondent, his agents, and others on his behalf, and that some more information of a general kind should have been given, but the fact relied on of bribery, &c. being practised, is alleged, and as the statement is not alternative in any of its branches, it is not so open to this objection as it might otherwise have been. On full consideration of the argument, therefore, I cannot entertain the objection—to the effect of dismissing the petition. It is in truth an objection, in this view of it, to the form rather than to the substance of the petition, and falls within the 35th rule.

I have arrived at this conclusion the more readily, as it appears to me, that the hardship to which the respondent may be exposed from the generality of the statement in the petition, may be obviated by ordaining the petitioner to lodge with the clerk, and to furnish the respondent with a written statement of the particular matters in support of the several charges of bribery, treating, and undue influence, to which his evidence at the trial is to be directed. Such an order has accordingly been embodied in the deliverance on this application. The number of days before the trial for lodging this written statement has been the subject of deliberate consideration. According to the practice in election petitions hitherto, it is understood that information as to the facts to be proved was only given at the opening of the proceedings before the committee. But while this might obviate the danger to the petitioner of premature disclosure of his case, it has been considered by the Judges in England, acting under the Election Act, and we concur with them in their views on this subject, that notice of particulars, at least three days before the day fixed for the trial, should be given to the respondent, that he may not be taken by surprise, and may have time for preparation. There are difficulties as regards this matter, and the interests of both parties have to be consulted; but the order now pronounced will substantially meet the justice of the case. If this is found not to be fully realized, it will be in the power of either party, under the Act and relative rules, to make such farther application to the Court, or to the Judges, as may be thought expedient.

Besides the specific charges of bribery and others, there are general statements in the petition which cannot be allowed to stand with a view to the trial without amendment, if under those general terms any other illegal and corrupt practice is intended to be charged. The concluding part of the deliverance now pronounced, deals with the matter and is sufficiently explicit. Should an amendment be made to the effect of adding to the charges of bribery, treating, and undue influence, any other illegal or corrupt practice, the same particulars must be furnished as in reference to bribery and other charges, and within the same time before the trial.

LORD JERVISWOODE concurred.

The following interlocutor was pronounced:—"Having considered the note for the respondent, and heard counsel for the parties,—Refuse the prayer for the dismissal of the petition, in so far as regards the averment in article 4 of bribery, treating, and undue influence: Under the declaration that not less than three days before the day fixed for the trial, the petitioner shall lodge with the principal clerk, and serve upon the respondent, a written statement, setting forth articulately the names and designations of the person or persons alleged to have been bribed, treated, and unduly influenced by the respondent and his agents, and by others on his behalf, with such particulars as to the said alleged acts as shall afford to the respondent fair information in relation thereto; and that no evidence shall be received at the trial except as to matters within said written statement, and tending to support the same, without the leave of the Court or the Judge; and upon such condition as to postponement of the trial, payment of costs, and otherwise, as may be ordered; And inasmuch as art. 4 of the petition, and also art. 3, contain allegations in general terms of 'corrupt practices' having 'extensively prevailed,' and of an extensive and elaborate organisation of undue influence and large expenditure,—appoints the petitioner to state,

within four days of the date of this order, what illegal acts or corrupt practices, if any, are thereby intended to be charged distinct from the bribery, treating, and undue influence charged in article 4 against the respondent, his agents, and others on his behalf.

"JOHN COWAN,
"*One of the Judges on the Rota for Election Petitions.*"

Agents for Petitioner — Graham & Johnston, W.S.

Agents for Respondent — Duncan, Dewar, & Black, W.S.

Monday, January 12.

CHRISTIE *v.* GRIEVE

Parliamentary Election Act 1868—*Bribery—Corrupt Practices—Motion to Dismiss Petition—Want of Specification—Competency of Motion. Held* that a motion to dismiss a petition against the return of a Member of Parliament was incompetently made before the Election Judges, the scope of such an application being beyond that of "interlocutory questions and matters." Motion to refuse petition in respect of want of specification, *refused.*

In the petition against the return of Mr Grieve as member for Greenock, leave to appeal against the interlocutor of the Election Judges of December 28 was granted by Lord Cowan. At the same time the respondent Mr Grieve boxed the following note:—

"My Lord Justice-Clerk,—Of this date (Dec. 17 1868) the respondent, Mr Grieve, presented to the Honourable Lord Cowan and the Honourable Lord Jerviswoode, the Judges for the trial of election petitions for the time being, pursuant to 'The Parliamentary Elections Act 1868,' a note to have the petition in question dismissed: Of this date (Dec. 28, 1868) Lord Cowan refused the application to have the petition dismissed, and a reclaiming note has been boxed bringing his Lordship's interlocutor under the review of the Court.

"It has been suggested that there is some doubt whether an application to dismiss should not rather come before the Court in the first instance, instead of before one of the election Judges, the scope of such an application being said to be beyond that of 'interlocutory questions and matters,' within the meaning of the 24th section of the general rules of 27th November 1868. To provide against this view of the matter the present note is presented to your Lordship; and the respondent accordingly prays your Lordship to move the Court

"To set aside the interlocutor of Lord Cowan, of date 28th December 1868, to dismiss the petition, in respect that it does not, in terms of section 2 of said rules, 'set forth articulately,' 'according to the rules and practice of the Court of Session in ordinary proceedings,' the facts relied on in support of the prayer of the petition; that is to say, the allegations in fact which form the ground of action; or, at least to find and declare that the 3d and 5th articles of said petition do not set forth any ground of fact which can be the subject of trial: and to dismiss the petition in so far as it is founded on any averments contained in said articles; or to do further or otherwise in the premises as to their Lordships may seem proper."

The case was again argued.

SOLICITOR-GENERAL and CLARK in support of motion to dismiss petition.

A. MONCRIEFF in answer.

The arguments were substantially the same as those already reported.

At advising—

The LORD JUSTICE-CLERK in giving his opinion said that they had before them two forms of application for the dismissal of the petition presented by Mr Christie against the return of Mr Grieve—the one in the form of a reclaiming note against the judgment pronounced by Lord Cowan, the Judge selected from the rota to try the case, and the other an independent application made to them directly by Mr Grieve, that the petition should be dismissed. These steps had been taken on opposite views as to the proper tribunal to adjudicate on the matter of the former proceeding, and as to the process of review by which the Court could correct the judgment pronounced on such matters by the Judge who was to try the case. As the right or the claim to review such a judgment was contested, it became material for them to consider the facts relative to the position of the Court and of the Judge in reference to such questions. He spoke of the inquiry, in the first place, as to the tribunal which fell to deal with such an application as the present. The application was one to dismiss the petition. It proceeded upon the assumption that there had been no statutory petition presented within the time fixed by the Act of Parliament. It was said to be awanting in that which was alleged to be necessary in a petition framed and presented according to the rules of the Court by which they were to be guided, which had in this matter all the power and effect which statutory regulation could possess. The rules of the Court, as framed by the judges, distinguished—and he thought in perfect accordance with the spirit of the statute—between the special functions of the Court, and of the Judge who had the cause for trial. The 24th rule contained the direction on which the question must hinge, and to which reference has been made as the test-rule applicable to the present discussion:—"All interlocutory questions and matters, except as to the sufficiency of the security, shall be made upon application in writing, to be lodged at the office of the principal Clerk of Court, and shall be heard and disposed of by one of the election Judges, or in their absence by the Lord Ordinary on the Bills." The question therefore before the Court, in so far as related to the proper tribunal before which application should be made, might be stated as identical with the question whether the application of Mr Grieve to have this petition dismissed, was on a question or matter interlocutory, or whether it was on a question or matter of a different character. He held that, in seeking for the dismissal of the petition, Mr Grieve raised matter not of an interlocutory nature, but of a nature which went to the absolute and definite termination of the cause which was before the Court. It was an application to dismiss the petition, not an application to obtain further specification, or for the amendment of the petition, or for certain rules by which the broad generality complained of might in effect be obviated, but for the absolute disposal of the case as it was presented to the Court. In a popular sense, an interlocutor may mean any judgment of a Court embodying the finding of that Court; but that was not its legal construction; and when a matter interlocutory was referred to, it had a reference to orders in a cause which was in dependence—ad-