

lie; and it was provided that any further regulations which might be judged expedient in favour of those occupiers of the long disputed territory, should be settled by a subsequent agreement.

A time was limited for carrying this agreement into execution. Commissioners, agreeably to one of its articles, were appointed to run the divisional lines, but through some objections made by those of Lord Baltimore to the principles on which the others desired to conduct the work, it was not completed, and the agreement fell through. Lord Baltimore now petitioned king George II. for a new grant confirming to him the lands on the Delaware as a part of his province notwithstanding the words (*m*) *HACTENUS INCULTA* in the original charter. The Penns (sons of William Penn, who was deceased,) opposed him by a counter petition:—By an order passed in 1735 the consideration of the petitions was adjourned, in order that the Penns might have an opportunity to proceed in a court of equity for relief upon the agreement of 1732. Upon this suggestion they exhibited their bill in chancery, praying to be quieted in the possession of the three lower counties, and that the agreement just mentioned might be decreed to be in force. After the delays incident to proceedings of such consequence, the lord chancellor Hardwick decreed, in 1750, that the aforesaid agreement should be carried into effect, with a saving of all rights which the parties to that agreement had not at the time of making it a right to conclude. Commissioners for this purpose were to be appointed on both sides within three months from the date of the decree, and two years were assigned for the complete execution of the agreement: the questions raised on the part of Lord Baltimore in the course of the suit were also decided:—One of these was whether the circle about Newcastle should be of a *radius* or only a *periphery* of twelve miles; another, where should be the centre of this circle, and a third concerned the exact situation of Cape Henlopen. The chancellor's decision was that the circle should be of a radius of twelve miles, and its centre the middle of the town of New Castle. Cape Henlopen he declared to be where it was laid down in the original articles of agreement.

Commissioners were appointed under this decree and the work begun, but new difficulties are stated to have been made by those of Maryland; to remove which the Penns had recourse to the lord chancellor under a reservation contained

(*m*) "Hitherto uncultivated"—These two unlucky words furnished the whole ground of the proceeding which has been stated in respect to the Delaware settlement; for the words "*partly occupied by savages*" would not have been sufficient, since that was certainly the fact, as well upon the Delaware as elsewhere, notwithstanding the alledged settlements of Dutch, Danes and Swedes in that quarter.