

ment pronounced by the Chancellor, upon a *caveat*, there was no appeal to a higher court as from a decree in an ordinary contro-

wherefore it was thought convenient upon his petition to postpone it until the Provincial Court in October following. Whereupon James Heath, of counsel for the petitioner, moved on his client's behalf, that no further or other process should be granted unto Vincent Hemsley or any other person in relation to the said tract of land called *Coursey upon Wye*; but if any error or defect be found therein, other than that which was already moved by Vincent Hemsley aforesaid, that she might have the liberty in the pre-emption of his lordship's favour therein, which was likewise granted and ordered accordingly.

October Provincial Court being the appointed time for hearing of this cause, Vincent Hemsley did neither appear by himself nor his counsel; but sent a petitionary letter urging many great inconveniences, that he must necessarily labour under if he were obliged to come to a hearing at that time. Wherefore, in favour of justice, and to prevent any censures of deciding his cause unheard, a further time was granted him; and a hearing appointed to be on the 29th of January, 1721, at the dwelling-house of Philemon Lloyd, the judge in land affairs aforesaid, as a place convenient unto both parties, and where it was supposed Mr. Hemsley could most conveniently attend.

At which appointed time, viz: the 29th of January, 1721, both parties appeared; and the complainant then moved, that the said Hemsley's special warrant, with the certificate of resurvey thereon, made and returned into his lordship's Land Office, for two hundred and thirty acres of cultivated land, part of *Coursey upon Wye* aforesaid, might be set aside and declared null and void; and that a minute thereof might be made in the margin of the record book, where the special warrant aforesaid is recorded. Seeing that the said Hemsley hath alleged the said two hundred and thirty acres of cultivated land is part of and included within the lines of a greater tract called *Coursey upon Wye*, heretofore surveyed for Col. Coursey, deceased, and his lordship's Letters Patent had thereon, more than twenty years past for the same; and that the said William Coursey, by his last will and testament, devised part of the tract of land aforesaid, called *Coursey upon Wye*, unto her said son William Coursey, a minor.

Thereupon the said Vincent Hemsley in justification of his resurvey and return aforesaid alleged in the *first* place, that notwithstanding the cultivated land, by him lately taken up, had been heretofore surveyed by Col. William Coursey, in his lifetime, as is suggested, and was a part of a greater tract called *Coursey upon Wye*; yet that the same survey, in law, and according to the strict rules of the office, is deemed and held to be null and invalid as if such survey had never been made; and as all other pretended surveys are deemed to be when made and done without sufficient authority from his lordship's Land Office. And further alleged, that the land warrant, upon which the said survey was grounded, was upon assignment from Col. Peter Lawyer, for nine hundred and twenty acres, part of a warrant for two thousand three hundred and forty-five acres, dated the 27th of February, 1694, which said warrant, upon inspection, was found to have been executed upon other land before the time of the assignment aforesaid, as appears by an entry upon the land records, where the said warrant is recorded; and further said, that the case of the said warrant is not at all mended by what follows upon record, viz: that new caution was given for the same. Seeing that the caution is not said to be given by Col. William Coursey, nor by any other person for his use; and, consequently, no warrant at all to affect that, nor any other lands, nor gave any authority to the surveyor