

CHARLES H. CARTER
 vs.
 CHARLES B. CALVERT,
 GEORGE H. CALVERT ET AL. } DECEMBER TERM, 1851.

[ARBITRATION—AWARD.]

By arbitration bonds executed in 1846 between complainant and the executor of G. C., it was recited, that complainant, in right of his wife, claimed to be entitled to certain portions of the estates "of the *father*, aunt, and other relations and ancestors" of the mother of his wife, which had come to the hands of said executor, and that the parties had mutually agreed to refer "all the *differences* between and among them, and *all said claims* as aforesaid" to arbitrators, "in order to avoid litigation," &c. A settlement had been made in 1836, between complainant and G. C., in his lifetime, in reference to the *paternal* succession of complainant's wife, which was consummated by deeds and other writings, and had ever since been acquiesced in and regarded by all parties as *final*. HELD—

That as there might have been, or the parties to the arbitration might have supposed there was, some portion of the *paternal* succession which had come to the hands of the executor, besides that embraced in the settlement of 1836, the arbitrators transcended their power in disturbing that settlement.

The award found a certain sum due by G. C. at his death to complainant, and that "payments to a considerable amount had been made by" the executor "on account thereof" since the death of said G. C., "for which he is entitled to credit thereon," and then awarded "that a fair account be taken between the parties of the balance due, if any," without stating by whom the account was to be taken, or within what time, or upon what principles. HELD—That the award was void because it did not make a *final* determination of all the matters submitted.

The reservation of a future power by the arbitrators in their award, if it affect the whole of the award, will render it totally void, because the award itself should close up all matters submitted.

But the reservation of a mere ministerial act, such as an arithmetical calculation, and not a *judicial* question, will not have the effect to vitiate the award.

[The bill in this case was filed by the complainant on the 1st day of February, 1849.

It states that in 1799, George Calvert married Rosalie Eugenia Steer, daughter of Henry Joseph Steer, of Antwerp, and had by her five children who survived their mother. That prior to and in contemplation of said marriage, a marriage settlement was made, dated the 8th of June, 1799. That Henry Joseph