

APPEAL—*Continued.*

3. The court has the power to direct a fund in court to be invested pending an appeal, notwithstanding some of the parties interested in the fund may refuse their assent to such investment. *Ib.*

See PRACTICE IN CHANCERY, 15.

CONTRACT, 1.

APPORIONMENT OF RENT.

See SALES BY TRUSTEES, 6.

ARBITRATION AWARD.

1. 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. *Carter vs. Calvert*, 199.

2. 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. *Ib.*

3. 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. *Ib.*
4. 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. *Ib.*

ASSIGNMENT.

1. A debtor residing in San Francisco sent, by letter, to his agent in Baltimore, two drafts on New York and one on Baltimore, with request to collect them, and pay the proceeds to certain creditors specified in the letter, with the respective sums due each, and also gave those creditors orders on his agent for the sums due them. One of these orders was payable out of the proceeds of the New York drafts, the others