

trust property to its payment, and yet if that claim had been submitted to the arbitrators, and they had awarded that more was due Mrs. Carter than she received under the settlement of 1836, it would be unjust to exclude her from the security of the property conveyed by the deed. The evidence relied upon by the defendant to show that Carter did agree, and expected that the settlement of 1836 should be opened, I do not think sufficient to overthrow the strong presumptions and positive proof the other way. The proof principally relied upon is found in the paper C. B. C., No. 3, and the evidence showing a correction by Carter of one of the items in the account written upon that paper. The account professes to be an account of moneys and property paid to, and charged against Mr. and Mrs. Carter, by George Calvert in his lifetime, commencing in June, 1833, and terminating in January, 1836. The charges amount in the aggregate to \$40,011 92. One of the items is a charge for one hundred and sixty acres of land described as "Allen's Purchase," at \$35 per acre, amounting to \$5600. The property and money embraced in this account was the consideration of the deed of the 12th of November, 1836, and the evidence shows that Mr. Carter corrected the account by deducting for one hundred and sixty acres at \$5 per acre, thereby reducing the sum of the debits to \$39,211 92, and this, it is strongly urged, is a recognition of the right of the arbitrators to ravel into and readjust the settlement of 1836, which resulted in, and was consummated by the execution of the deed of that date.

It does not appear to me, however, that this act can or ought to have the effect imputed to it. I cannot bring myself to think that if Mr. Carter had supposed that the settlement of 1836 was to be disturbed, and the arbitrators were to enter into an examination of the accounts upon which it was founded, that he would have contented himself with simply correcting a single item in the account. The account which was furnished by the defendant does not give the credits. It is simply a statement of the charges made by the late Mr. George Calvert against Mr. Charles H. Carter and his wife, and it is extremely difficult to conceive that if the latter gentleman had supposed that the