

SUPERIOR COURT.

Expropriation—Railway Act—Award—Appeal—Evidence—Delay—Notice.

MONTREAL, March 4th. 1914.

ARCHER, J.

THE LACHINE, JACQUES-CARTIER & MAISONNEUVE RAILWAY CO., vs KELLY & BEDARD & AL. mis-en-cause.

1o. In a matter of expropriation under the Railway Act (F) when the majority of the arbitrators have agreed to make an award granting \$1717.20 and gave instructions to a notary to prepare a deed for this award, they cannot at a subsequent meeting, one of the majority alleging he had made an error, change this award and grant only \$1431, and give instructions to the notary to substitute in the deed this last sum for the former one. The first award is binding in law.

2o. When an appeal is taken from the award of the arbitrators, under article 209 C. S. C., ch. 37 (Railway Act), no new evidence should be allowed, and the appeal should be decided upon the evidence before the arbitrators as in a case of original jurisdiction.

3o. The appeal under said article 209 must be taken within one month from the notice of the rendering of the award of the arbitrators, given either by the arbitrators themselves or by any of the parties in the case. C. S. S., ch. 37 (Railway Act), articles 193, 194, 209.

The facts and the law in this cause relating to the power of the arbitrators and to their award in expropriation under the Federal Railway Act, are fully explained in the following remarks: