It would be easy to add to these references, but the law in France as stated in them admits of no doubt. Nor does, indeed, the law in England, for all the cases cited from the English books in support of the proceedings and award of Messrs. MacPherson and Gray establish simply two things.

1st. That a *majority* of Arbitrators may decide *when specially authorized by the reference*, against the opinion of the third, and sometimes, (but this is not so well settled) even in his absence after a hearing and deliberation by all.

2nd. That in matters of public authority committed to officers to be enforced against private interests, the majority may decide or act and so in public companies the majority of the Directors or other administrators bind the minority.

This is the utmost extent of the rules derivable from the cases referred to; and no case has been or can be produced in which it has been held that upon reference to a certain number of Arbitrators, whether such reference be by private instrument or public statute, an award can be given by less than the whole number when there is no provision to that effect; and of course, by stronger reason, in the absence of the third from the hearing and judgment. On the contrary, the whole of the authorities cited from the English law shew the illegality of the proceedings after the withdrawal of the Arbitrator appointed by Quebec. The same may be said of the cases cited from the American books. They conform in general principles with the English cases and give no support to these proceedings. The case of Croker *vs* Crowe (21 Wendell 211) was a matter of the distribution of Bank Stock by the Directors. Exparte Rogers (7 Cowen 526) was a case of assessment of damages by the Canal Commissioners of the State of New York. One of these commissioners, after hearing and deliberation with the other two, and the settlement of the judgment, dissented, and declared himself absent, although actually present at the decision. The Court said that the party could have suffered no injury from the declaration of absence, as the Commissioner was not appointed by the party, and had been present at the hearing and deliberation. There is no analogy between that case and the present one, and no rule can possibly be deduced from it to support the proceedings under consideration.

Before leaving this subject it may be incidentally observed that the passages referred to from Caldwell on Arbitrations (p. 202 to 210) want precision, and convey an erroneous impression. They are not borne out by the cases to which he refers, inasmuch as in all those cases the majority was specially authorized to decide.

Barnes p 57, Waller vs. King, 9 mod. 63.

The third question is—

3rd. Whether after one Arbitrator had resigned his office and his authority had been revoked, the remaining two could legally proceed to hear the case and make a final award.

This question differs radically from the two preceding ones. Those relate merely to the manner and conditions under which a duly constituted body, complete according to the authority by which it is created, may exercise its powers, while this raises an issue upon the authority of a portion of such a body after it has become incomplete by the loss of one of its members.