

"Dith grant said motion; doth quash the appeal with costs, and doth order that the record be sent back to the Superior Court of the district of Montreal."

**MOUNT ROYAL PARK INCLINE RAILWAY COMPANY,
in liquidation v. ROBSON & THE CITY OF
MONTREAL.**

**Liquidation -- Sale of assets -- Jurisdiction -- Ultra
petita.**

The judge who, in a petition by a liquidator demanding the authorization to call for tender for the sale of the assets of the insolvent Company, refuses the demand and orders this assets to be sold by the sheriff, acts without jurisdiction and *ultra petita*.

The judgment of the Superior Court which is reversed, was rendered by Mr. Justice Bruneau on January 31, 1919.

The liquidator of the insolvent Company presented to the Superior Court, a petition demanding the authorization to call for tender for the sale of the assets of the Company. This demand was refused and the Court ordered that the assets shall be sold by the sheriff.

The appeal was heard *ex parte*. The Court maintained the appeal by the following judgment:

"Sur l'appel porté par l'appelant du jugement de la Cour supérieure, du district de Montréal, rendu le 31^{ème} jour de janvier, 1919, refusant au liquidateur la permis-

Lamothe, Chief Justice, Cross, Carroll, Pelletier and Martin, JJ.—Court of King's Bench.—No. 212-306.—Montreal, 28th of May 1919.—Foster, Mann, MacKinnon, Hacket, and Mulvenâ, attorneys for appellant.