

OTTAWA, CANADA.

**Opinion of Blake, Lash & Cassels.**

Toronto, October 12, 1907.

The Honourable J. M. Gibson, K.C.,  
Hamilton, Ontario.

Dear Sir:—

**THE HAMILTON RADIAL ELECTRIC RAILWAY  
COMPANY.**

We have considered the questions asked in your letters of the 8th and 10th of October, and referred to also in the statement of facts mentioned in your letter, and a copy of which is attached hereto.

The question asked is whether, in our opinion, by virtue of the railway legislation of 1888, the Hamilton Radial Electric Company has become a Dominion Railway, and subject exclusively to the jurisdiction of the Dominion Parliament. It is claimed, as we understand it, by certain persons, that notwithstanding the provisions of the Railway Act of 1888, the Hamilton Radial Electric Railway Company is still under the jurisdiction of the Ontario Legislature.

The Company was incorporated by **Chapter 89 of 56 Victoria**, assented to on the 27th of May, 1893. By **chapter 88, 57 Victoria, 1894**, the previous statute of 1893 was repealed.

The corporate existence of The Hamilton Radial Electric Railway Company depends upon this latter statute of 57 Victoria.

1. We have considered very carefully the various statutes and judgments relating to this question, and we are of the opinion that The Hamilton Radial Electric Railway Company is a **railway**, and not a street railway.

2. That the railway, by virtue of the legislation of 1888, is a Dominion Railway, and exclusively under the jurisdiction of the Dominion Parliament.

3. That the Ontario Legislature would have no jurisdiction to grant legislation in respect of this railway.

4. The mere fact that the motive power for operating the railway is electric, is of no consequence. For instance, you will have noticed that the Intercolonial is beginning to operate part of its system by means of electricity. The C. P. R. is also about to utilize electric power. The char-