

graph wire from one Province into another is an extension of the work or undertaking beyond the limits of one Province, it is difficult to deny the same effect to a telephone wire. And the conclusion must be that the work or undertaking authorized by sec. 3 of the defendants' Act of incorporation is one falling within clause 10 (a) of sec. 92 of the B. N. A. Act. And the question of the legislative jurisdiction must be judged of by the terms of the enactment, and not by what may or may not be thereafter done under it. The failure or neglect to put into effect all the powers given by the legislative authority affords no ground for questioning the original jurisdiction, nor does it affect the validity of any incorporation or the status of the incorporated body as a corporation. As said by the Judicial Committee in *Colonial Building and Investment Association v. Attorney-General for Quebec* (1883), 9 App. Cas. at p. 165, "Surely the fact that the association has hitherto thought fit to confine the exercise of its powers to one Province cannot affect its status or capacity as a corporation, if the Act incorporating the association was originally within the legislative power of the Dominion. The company was incorporated with power to carry on its business, consisting of various kinds, throughout the Dominion. The Parliament of Canada could alone constitute a corporation with these powers; and the fact that the exercise of them has not been co-extensive with the grant cannot operate to repeal the Act of incorporation."

The first question must, therefore, be answered in the affirmative.

It remains to consider the second question. The argument for the respondents is that, granting the legislative authority to be in the Parliament, and not in the Legislature, the defendants, having applied for and obtained legislation from the Legislature, must be held to have consented that in any conflict of the enactments those passed by the Legislature should prevail.

It may well be doubted whether there was any occasion for the Act (45 Vict. ch. 71, O.) The general objects and purposes for which the defendants were incorporated being such as came within the legislative authority of Parliament, it was proper that it should confer upon the defendants such general powers as were necessary to enable the works or undertaking to be effectually proceeded with, and this was the purpose of sec. 3 of the Act of Incorporation. The preamble of the Provincial Act, however, shews that its purpose apparently was to allay doubts in regard to those portions of the defendants' work and undertaking which were local, and did not extend beyond the limits of this Province. And the