

Inglis and City of Toronto, 8 O.L.R. 570, where MacMahon, J., said, with reference to a street-closing by-law which was void as being passed without the consent of the Dominion Government, that—consent being a necessary condition precedent to the exercise of municipal jurisdiction—“it was a void by-law by reason of the consent of the Dominion not having been obtained; and that void by-law, in the passing of which the council had exhausted its powers, could not be given life and rendered valid by the subsequent consent of the Dominion Government and the passing of the amending by-law.”

I am inclined to think that the expression “in the passing of which the council had exhausted its powers” was a mere dictum, and that the decision was really based upon the ground that the subsequent consent and amendment of the by-law could not give validity to that which was void in its inception.

But, quite apart from this, there are many other cases in which the question as to whether a power can be exercised from time to time, or only once for all, is discussed. These cases are now of no real value, because, by the Interpretation Act, 7 Edw. VII. ch. 2, sec. 7 (33), “if a power is conferred . . . the power may be exercised . . . from time to time as occasion requires.” This provision is similar to the provision of the English Interpretation Act, 52 & 53 Vict. ch. 63, sec. 32; concerning which Craies states (p. 243): “The substantial effect of the provision is to rebut the presumption that the power is exhausted by a single exercise.”

Even under the old law, I should have come to the conclusion, having regard to the subject-matter of the legislation, that it was not intended that the power should be exhausted by a single exercise.

The application, in my view, fails, and must be dismissed with costs.