

alleged in their pleading would afford them, and was a final adjudication against them upon this portion of their alleged rights; and the defendants should not be deprived of the right to appeal merely because an adjudication, in its nature final, had been made by an order in form intermediate.

2. The jurisdiction conferred by Rule 261 may not be invoked for the excision of a portion of a pleading. It is only when the entire pleading discloses no reasonable ground of action or answer that this rule applies.

C. A. Ross, for defendants, appellants. Kilmer, for plaintiff.

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Meredith, J.]      CARTWRIGHT v. NAPANEE.      [Nov. 27, 1905.

*Municipal corporations—By-law—Electrical works—Motion to quash—Irregularity.*

The jurisdiction to quash by-laws on motion conferred upon a judge of the High Court by Municipal Act, 1903, s. 378, ought, generally speaking, to be exercised in every case of an illegal by-law which cannot be validated. In the case of an invalid by-law which can be cured, again generally speaking, the jurisdiction ought to be exercised when the irregularities which render it invalid affect or might have affected the passing of it, but ought not to be exercised when they could not.

Motion to quash a by-law of the defendants, providing for the construction of electric light works and debentures for that purpose, upon the ground that the Municipal Act, 1903, s. 569 (5), had not been complied with, inasmuch as there had been only publication in four weekly issues of a weekly paper, instead of publication for one month as required by the section.

*Held*, that this was a substantial objection, but that the by-law was within the category of invalid ones which could become validated, and inasmuch as the application seemed really made solely in the interests of a company, the business of which, if continued, would be injured by the business to be done by the municipal corporation, under the by-law, and it was clear the applicant had not been in any way prejudiced or affected by any irregularity in the proceedings, and there had been many months' delay in launching the present motion, and the by-law would undoubtedly again be passed if now quashed, and extensive proceedings and operations had been begun under it—the case was one for letting the curative provisions of the Act operate, and declining to exercise the jurisdiction to quash.