

Where the principal action is of a summary nature the proceedings on an intervention therein are governed by the same rules.

This was a motion by petitioners to reject the inscription for evidence and hearing by default as premature and irregular.

PER CURIAM. The proceedings by petitioner are of a summary nature under C. C. P. 1000 *et seq.* and 1003. The usual delays for appearance and pleading do not apply. The petitioners contend that on the intervention the usual delays do apply. Against this pretension it is said that the intervention being an incident in the summary proceedings for injunction must be governed by the same rules. The accessory must follow the principal. *Accessorium regulatur secundum principale. Accessorium sequitur principale.* It would be intolerable if the intervener introducing himself into the record could have the effect of entirely altering the procedure and so deprive the case of its summary character. The case of the *Merchants' Bank v. The Montreal, Portland & Boston Railway Co.*, and *Ingram*, guardian, and *Shepherd*, intervener, decided by this Court and confirmed in review, is an entirely different case. The intervener there introduced himself into the record to protect his rights against the plaintiff, and there the ordinary procedure was observed as between him and plaintiff.

The demand by plaintiffs in that case was instituted under the ordinary procedure, and properly the intervention followed the same rules. Here in the present case, the exceptional procedure governs the petitioners and all the parties, because it is an exceptional case. In the present case the intervener is in the exercise of his legal rights, and his inscription should stand.

Motion rejected.

J. L. Morris, for intervener.

James O'Halloran, Q. C., for petitioner.

CIRCUIT COURT.

RICHMOND, January 21, 1884.

Before BROOKS, J.

ROBERT ALLEN et al. v. THE CORPORATION OF RICHMOND.

County Council—Rescission of *procès-verbal* of road.

A county council cannot, by mere resolution without notice, amend or rescind a procès-verbal establishing a highway.

Petition to set aside resolution of council rescinding action taken previously, to wit, on 13th December, 1882, homologating *procès-verbal* of Ferry Road.

PER CURIAM. It would appear that a petition of certain ratepayers in Richmond County, asking that a road called the Ferry road should be homologated, was submitted to the County Council on 20th November 1882. That Wm. Brooke was appointed special superintendent to report upon the petition at next session of Council and lay out and open the road. That on the 13th December, 1882, said William Brooke did so report and produced a *procès-verbal* of said road, declaring it a county road. That it was then resolved by motion in said Council that said report and *procès-verbal* be homologated, and that the said road be declared a county road. Matters remained in this condition, except that public notice was given of said homologation, until the next general meeting of the County Council, held on 14th March, 1883 (there having been a special meeting held on the 19th February, 1883), when the minutes of the December meeting were read and confirmed, and subsequently a resolution was passed by which, after referring to the previous action of the Council with regard to the Ferry Road, it was resolved upon the casting vote of the Warden (who also voted) that the action then taken be rescinded.

Certain ratepayers being dissatisfied with this proceeding have, under the provisions of articles 698 and 100 of the Municipal Code, petitioned to have said resolution of 14th March last declared illegal and null and set aside, alleging the main facts briefly, to wit, the petition for the road, the appointment of special superintendent, his report and *procès-verbal*, its homologation and notice thereof, and alleging that the resolution of the 14th March was null and void, and the County Council had no right to pass such a resolution, and could not as they attempted to do, without notice and without the formalities required by law, rescind their previous action. That no such formalities were observed and