

Owing to a change in the firm of plaintiffs' solicitors, the order was not complied with; and on 18th January, 1905, an order issued under Rule 1203 dismissing the action with costs; but no judgment was entered or costs taxed.

On 23rd January this order came to the knowledge of plaintiffs' solicitors; they at once moved under Rule 358 to be allowed to put in security and proceed with the action.

Notice of this motion was served on defendant's solicitor (as appeared by admission indorsed thereon). But on the return of the motion on 28th January, he stated that defendant had been informed by him that the action had been dismissed, and that defendant had left the province, without giving any address; and that the solicitor did not consider himself any longer entitled to act.

The motion thereupon stood sine die to consider what was the proper course under these facts.

Further argument was heard on 16th February.

A. R. Clute, for plaintiffs.

S. B. Woods, for defendant's solicitor.

THE MASTER:—The whole matter was discussed in *De la Pole v. Dick*, 29 Ch. D. 351. It was there thought to be doubtful how long the solicitor on the record continued to represent the client under the English Rule corresponding to our Rule 335.

In 1893 the point again came up in *Regina v. Justices of Oxfordshire*, [1893] 2 Q. B. 149, in which, as in *De la Pole v. Dick* (supra), Lord Bowen took part. It was there held unanimously that the retainer did not continue after the order had been made in that case. The decision seems to have been based on the ground that it was not a matter in the High Court, and therefore even the English Rule, as it then stood, did not apply. This had been amended in 1885 by the addition of the words "until the final conclusion of the cause or matter, whether in the High Court or in the Court of Appeal." But no such amendment has been made to our Rule.

The point so far as can be ascertained is new. No authority was cited on either side beyond what is said in *Holmsted & Langton* in the notes on Rule 335 (see pp. 513-516).

It was argued that the application under Rule 358 is really an appeal. This seems to be correct. So that the point for decision is just what was raised in *De la Pole v. Dick*, where the head-note reads: "Whether the solicitors on the record do not continue to represent their client until the expiration of the time allowed for appealing, quare."