

as that Rule can be invoked the action is still pending, and the solicitor on the record is still solicitor until a change has been made as directed in Rule 335.

The Master in Chambers has jurisdiction under Rule 358 to set aside an order dismissing the action for default of compliance with an order for security for costs.

Where owing to the neglect or forgetfulness of the plaintiff's solicitor, security for costs was not furnished within the time allowed, and the defendant obtained an ex parte order dismissing the action, the plaintiffs were allowed, upon terms, to give security and proceed with the action, it appearing that the Statute of Limitations would be a bar to a new action.

Clute, for plaintiff. *S. B. Woods*, for defendant.

Boyd, C.] McNIROY v. TOWN OF BRACEBRIDGE. [June 8.

*Way—Non-repair of highway—Injury to pedestrian—Sidewalk
—Negligence—Supervision—Notice.*

In an action for damages for injuries sustained by the plaintiff from a fall upon a sidewalk in a town, it appeared that the defect in the sidewalk was slight in character—not conspicuous or notorious—on a street comparatively little frequented, over which there was weekly supervision, and that the defect had not existed for more than six days before the plaintiff was hurt, was not actually noticed by any officer of the municipality, and that no complaint was lodged:

Held, that notice of the condition of the sidewalk was not to be attributed to the municipality.

Arnold, for plaintiff. *Godson*, for defendants.

Auglin, J.] RE GILHULA. [June 16.
RE CAIN.

Constitutional law—Deportation of aliens—Ultra vires.

Section 6 of 60 & 61 Vict. c. 11 (D) (amended by 1 Edw. VII. c. 13, s. 3), providing for the return of certain immigrants to the country whence they came, is beyond the powers of the Dominion Parliament; and detention of an immigrant for the illegal purpose of return is unwarranted.

J. A. Robinson, for Gilhula. *J. B. MacKenzie*, for Cain. *Sneypley*, K.C., for the Attorney-General for Canada.