

the action, on the ground that they were resident out of the jurisdiction.

A. C. McMaster, for the plaintiffs.

R. C. H. Cassels, for the defendants.

KELLY, J., held that the plaintiffs, an incorporated company, having their head office out of Ontario, but having an office of their own in Ontario and doing business in Ontario, did not "reside out of Ontario" within the meaning of Rule 373 (a); and allowed the appeal; costs in the cause.

MIDDLETON, J.

JUNE 2ND, 1916.

BALDWIN v. O'BRIEN.

*Highway—Public Lane—Establishment of—Evidence—Dedication—
Time when Effectually Made, by Owner of Land in Fee Simple.*

Action for a declaration that the whole of town lot No. 7 on the north side of King street west, in the city of Toronto, and especially the lands demised by the plaintiffs to the defendants the North American Life Assurance Company, including the westerly 13 feet thereof, are vested in fee simple in the plaintiffs, and that the said defendant company are entitled to possession of the same as lessees of the plaintiffs; for an injunction restraining the other defendants from trespassing on the 13 feet; and for other relief.

The question arising in the action was, whether the 13-foot strip referred to, running from King street to Pearl street, immediately west of the defendant company's building, and a little east of York street, was or was not a public lane.

The action was tried without a jury at Toronto.

E. D. Armour, K.C., and J. W. Carrick, for the plaintiffs.

J. A. Paterson, K.C., for the defendant company.

W. N. Tilley, K.C., and Strachan Johnston, K.C., for the defendant O'Brien.

J. H. Moss, K.C., for the defendants the trustees of the Ross estate.

MIDDLETON, J., read a judgment in which he summarised the documentary and oral evidence with great care. He said that the contention of the defendant O'Brien was that the lane in question was dedicated to the public and became a highway. The