

*Eddington v. Boornan*, 4 I.R. 2 and 4; *London & Blackwall Ry. Co. v. Limehouse Board*, 3 K. & J. 123; *Goldson v. Ruck*, 15 East 372, and *Fitzgerald v. Champneys*, 3 Jo. & H. 54 (per Page-Wood, V.-C.); that if it were a private act, the Interpretation Act of the province had expressly provided that "no act of a private nature shall affect the right of any person or body . . . such only excepted as are therein mentioned or referred to:" and that in view of the meticulous manner in which the Legislature had regulated the creation, disposition, and extinction of these reserves, it could not be presumed that they were intended to pass sub silentio.

The principal interest in the case centres in the argument adduced in support of the second submission in order to bring the reserve in question within the words of the exception it was necessary to establish that there had been an alienation, and as a preliminary step to ascertain the exact operation in law of a governmental act "reserving" a piece of land.

It was contended on behalf of the government that the Legislature having delegated to the executive the power of creating reserves, the act of creation by proclamation was an act of the sovereign power and must therefore have legal efficacy attributed to it; the only possible effect that could be ascribed to it was that of the creation by declaration of a trust. The force of this contention was strengthened by the passing of the Act, 1882, forbidding alienation of such reserves without the consent of the school trustees of the district, and by the consideration that such a mode of alienation was strictly ejusdem generis with an "agreement for sale" mentioned in the exception clause; an agreement for sale having the effect of passing the equitable interest to the prospective purchaser while leaving the legal estate in the owner of the property; the declaration of trust thus contended for would consequently fall within the words "other alienation" of the exception clause of the principal Act, to which effect must be given, and harmonize with the modes of alienation already specifically enumerated.

Having thus shewn that to regard the creation of a reserve as a declaration of trust was in precise analogy with the opera-