

thus commenced was continued after the circumstances out of which it arose no longer existed, and it became a settled course to specify for the clergy in the patent for every grant a portion of land equal to one-fifth of the amount of the grant. So that instead of the reserve being at the rate of  $28\frac{4}{7}$  for every 200 acres, it was at the rate of 40 acres, being an excess in each case of  $11\frac{3}{7}$  acres, or two-fifths upon the reserve awarded by law.

When, however, the system of disposing of the public lands in the colony by sale, instead of free grant, was introduced, the Crown reserve of one-seventh was offered for sale with the other public land. But when the purchasers of this land, after having paid the purchase-money, applied for a patent, the Attorney-general of the province, by whom these patents were prepared, conceived that any patent for the land thus sold, as a grant of land under the authority of the Crown, would be rendered invalid by the clause in the Constitutional Act quoted above, unless it contained a specification of an allotment for the clergy in respect of the land it purported to convey. Under this opinion he refused to sign the draft of any patent which did not contain such specification. As however the whole of the land originally set apart for this purpose in each township had been already specified in previous patents, it was necessary that a fresh reserve should be made, either out of the Crown reserves in that township, or out of other lands, for the purpose. This was accordingly done, but this fresh reserve was again equal to one-fifth, instead of one-seventh of the land granted; so that the reserve for the clergy upon the grant of 54,000 being the six-sevenths of a township, exclusively of the reserve for the clergy, instead of  $7,714\frac{2}{7}$  acres, amounted to 10,800 acres, being an excess of  $3,085\frac{5}{7}$  acres. In addition, moreover, to the excess thus occasioned, the sale of a portion of the clergy reserves authorized by the Act of the Imperial Parliament, 7 Geo. 4, c. [\*] has been made the occasion of a further reserve. It appeared to the Attorney-general that the sales under the authority of this Act were grants by the Crown, and, as such, required a specification of a reserve for the clergy in respect of the land comprised in any patent, in order to their being valid. This interpretation of the law prevailed, and accordingly a further reserve of one-fifth was made upon these sales, making the reserve 12,600, instead of  $7,714\frac{2}{7}$  acres for each township of 63,000 acres, and the excess over the reserve

\* Sic in the Blue Book, no doubt the Act of 1827, 7 & 8 Geo. IV, cap. 62. [Ed.]