grant in separate lots, and would often wait for a considerable period, until he could obtain what he deemed a suitable location, rather than put up with an inferior lot. It therefore generally happened that no grant in any one township was equal to more than from 200 to 600 acres, and that therefore it was necessary to specify in the deed by which it was made as the appropriation for a Protestant clergy some fractional portion of a lot set apart for that purpose. It was therefore natural that the terms of the Act should be followed in spite of the original error of setting apart one-seventh instead of one-eighth, and in practice 28½ acres were specified in each grant of a 200 acre lot, as the appropriation and allotment for the support and maintenance of a Protestant clergy, in respect of the same. This quantity, it will be seen, was equal in amount, and, the land being of the same average quality, equal also in value, to a seventh of the land granted. Assuming, however, each township to be of the dimensions stated above (63,000 acres), of which 9,000 were set apart for the clergy reserves, and 54,000 acres, including the reserves for the Crown, were open to grant, it is obvious that when the whole of the latter amount had been granted, there would have been specified at the rate of 28½ for each 200 acres, only 7,714½ acres, leaving unspecified 1,285½ acres, or one-seventh of the whole original proportion set apart for a clergy reserve. The practice pursued at first, with regard to the specification, was to specify six-sevenths of each separate lot, so that in every township there would be a portion of each lot nominally clergy reserve, but in reality still Crown land. For it would seem clear, under the words of the Act, that no land becomes clergy reserve until it has been specifically appropriated in respect of a grant from the Crown. The setting apart the lots in the diagram, and keeping them closed against settlement, was merely an arrangement adopted for the supposed convenience of the land-granting department, and could have no effect upon the legal property in the land. It was a device adopted by the land-granting department, in order to comply with an enactment evidently made in ignorance of the degree in which the best method of executing it would be found cumbrous and complicated. At a later period, however, the practice of specifying only six-sevenths of each lot was changed, and, instead of a part, the whole of each lot was specified; but one-seventh of the reserved lots in each township was left in its original character of Crown land.

In the evidence of Mr. Radenhurst, the chief clerk in the Surveyor-general's office, it is stated that this excess has occurred in about two-thirds of the surveyed townships. From a careful consideration of the returns that he has supplied, it, however, appears that the actual excess at the present time is about 300,000 acres.

I have selected the case of Upper Canada in the first instance, because it is more simple, and because the practice of the Surveyor-general in making the actual appropriation to be specified in the grant, by its conformity with the terms of the Act, exhibits clearly the nature and extent of the original error committed by the Governor and Council, in setting apart the seventh of each township. In Lower Canada the same amount of reservation was made for both the Crown and the clergy; but the different methods of granting land pursued by the Government of that colony, led to a practice on the part of the Surveyor-general which greatly aggravated this original error. The first grant made after the passing of the Constitutional Act, appears to have been to the Honourable Thomas Dunn and 47 others, of the whole of the township of Dunham, with the exception of the Crown and clergy reserve, or five-sevenths of the township, amounting to about 45,000 acres. In the patent for this grant the Surveyor-general specified the whole 9,000 acres of clergy reserve in the township as the allotment and appropriation in respect of the lands granted, and thus made the appropriation equal to one-fifth, instead of one-seventh, of the grant, being an excess in that particular case of 2,571½ acres. In the ten following years after the making of this grant, nearly 1,500,000 acres were granted by the Crown in a similar manner, and in each patent the whole of the land set apart as a reserve for the clergy in the granted portion of each township was specified as the allotment and appropriation for the clergy in respect of the grant. The practice 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 28½ for every 200 acres, it was at the rate of 40 acres, being an excess in each case of 11½ 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 7,714½ acres, amounted to 10,800 acres, being an excess of 3,085½ acres. In addition, moreover, to the excess thus occasioned, the sale of a portion of the clergy reserves authorized