id amply, and on the' same terms and conditions, as Parsonages or Rectories in England, had been actually carried into effect, and that the endowment had been made out of Lands the Clergy Reserves, the allotment of which, as has been stated, had been previously assigned to the Provincial Parliament.

The intelligence was of such a nature that at first it seemed to us incredible; and when the fact was known, it was publicly declared that Rectories had really been appointed and endowed over all the Province, we felt convinced that the measure must have been executed without sufficient authority, and would turn out to be ineffective and null. We were confirmed in this belief from the despatch of Lord Glenelg to Sir Francis Head, in which he states that the Home Government knew nothing of it, and therefore could not have authorized it, and were prepared to expect the decision which Law Officers of the Crown gave when they declared the Act neither legal nor valid.

Our minds were, in consequence, just beginning to recover from the surprise, the consternation which the extraordinary attempt had excited, when they have been agitated afresh by the unexpected information, now confirmed to us by your Excellency's recent communication, that the Law Officers of the Crown have reversed their former opinion, affirming the establishment of Rectories, which they before held to be neither legal nor valid, to be now legal and valid, and that the Rectors of the Parishes so erected and endowed have the same ecclesiastical authority within their respective limits as is vested in the Rector of a Parish in England.

Against this evident violation of the rights of the Church of Scotland we protest, and that on the following grounds:—1st, the authority on which it is asserted they rest, is said to be derived from a despatch transmitted by Lord Bathurst, in the Reign of George the fourth, in 1825, but the existence of which was not known, and which was not acted on, till the Reign of William the fourth in 1836.

To us it appears that this is an authority, under any circumstances, insufficient for the purpose, a simple letter from the Secretary of State communicating his opinion in favor of the measure not constituting that full Royal sanction indicated by the terms of the Act. But should it, nevertheless, be maintained that this is a sufficient sanction, the Minister being to be held the organ through whom the Royal purpose authoritatively emanates, it must at least be granted that this purpose can only so emanate when guarded by those securities which are constitutionally provided for its being truly conveyed, uninfluenced by misrepresentation of arguments or mis-statements of facts.

The securities constitutionally required for the voice of the minister thus validly conveying the Royal will are his responsibility to his Sovereign and his country. He is responsible to the former conveying it truly and exactly; he is responsible to the latter for anything contained therein prejudicial to the subject proceeding, as in such a case is constitutionally to be presumed, from the Royal Ear having been abused by his own misstatements or mis-representations. This constant responsibility of the minister, one of the guiding principles of our free and enlightened Constitution, gives, it is acknowledged, great authority to all Acts of his that have been guarded by it, but in the case before us the sanction which ministerial Acts thus receive is entirely wanting.

In the first place, there is no security that the missive of Lord Bathurst in 1825 really contains the Will of His Majesty George the fourth, for it is first made public and cited as authority for the most important changes, now, when the monarch has for years been laid in the tomb; secondly, it issues without being subject to the constitutional check of the minister's responsibility to this country, for it issues long after Lord Bathurst's retirement from office, when he has no longer those consequences to dread to which that Minister subjects himself who is known to have given to his Sovereign culpable advice, or advice that incurs the just odium of the people.

On these grounds, therefore, we maintain that the despatch of Lord Bathurst in 1825 cannot in any sense be held to convey a trustworthy or valid expression of the Royal Will, and cannot consequently communicate that authority which the Act requires.

Such a course of procedure is also, we hold, obviously at variance with the enactments of this Statute of the 31st Geo. 3., from which it should derive its force.

The Statute empowers "His Majesty, His Heirs and successors, to authorize the Governor or Lieutenant Governor in Upper Canada from time to time, with the advice of such Executive Council as shall have been appointed by His Majesty, His Heirs and successors, to constitute and erect," &c. The phraseology clearly indicates a co-existing Sovereign, Governor, and Council.

But if the despatch of Lord Bathurst of 1825 be assumed as valid authority for establishing the Rectories, it is assumed contrary to the evident meaning of the expressions of the Act that the authority is valid, though given by one Sovereign, operated on in the reign of another; given to one Governor, neglected and disobeyed by him, executed by a succeeding Governor; acted on, not with the advice of Counsellors previously appointed, but with the advice of Counsellors not in office till long after; such a course of procedure, as it is evidently informal, must be held to be void. Our objections on this head are not merely formal: they are grounded upon a careful examination of the obvious intentions of the Act, and inevitably arise from a due consideration of its provisions. All analogy justifies us in maintaining, that when the laws appoint different powers as necessary to the execution of any measure, they do so that these powers may do so as checks on each other.