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 in which it is asserted they rest, is said to be derived from a despatch transmitted by Lord Bathurst, in the reign of George the IV., in 1825, but the existence of which was not known, and which was not acted on till the reign of William IV., in 1836. To us, it appears that this is an authority, under any other circumstances, insufficient for the purpose, a simple letter from the Secretary of State, communicating his opinion in favour of the measure, not constituting the 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 thus truly conveyed, uninfluenced by misrepresentation of arguments or misstatement 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 for conveying it truly and exactly; he is responsible to the latter for any thing 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 misrepresentations.

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 IV.; for, it is first made public, and cited as authority for the most important changes, now when that monarch has been laid in the tomb. Secondly, it issues without being subject to the constitutional check of the minister's responsibility to his 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 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 trust-worthy 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 George III, from which it should derive its force.

The statute empowers "His Majesty, His heirs, and successors, to authorize the governor or lieutenant governor, or the person administering the government in Upper Canada, from time to time, with 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 coexisting 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 or disobeyed by him—executed by a succeeding governor, acted on, not with the advice of councillors previously appointed, but with the advice of councillors not in office till long after. Such a course of procedure, as it is evidently informal, must be held to be void.

Our objections, however, 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 serve as checks on each other.

That they may effectually do so however, it is always provided that the agency of these powers be concurrent. So only, it is obvious, can their mutually restraining influence be effectually exercised. Not to enlarge on an admitted principle, we may ask what irremediable damage to British legislation, and what interminable confusion to its procedure would be produced, were it competent for the House of Lords to pass any bill which had ever passed any preceding House of Commons, or for any Sovereign to assent to any bill which had ever thus slipped through both Houses!

The obviously mischievous tendency of the introduction of such a mode of procedure into the legislature of the empire, but faintly images its evils in this case; for, not only would it render the provisions of the statute nugatory in the prevention of error, but, by removing the necessary publicity of the earlier stages of the process, and the check on human passions and prejudices which publicity furnishes, it would make