was not shewn by the evidence to have been made in full accordance with what was intended by the parties to it, at the time of the deed of 4th January being executed, but varied in several particulars; wherefore it was contended that the deed of 4th January cannot be said to have been made upon the considerations which may be collected from the face of the second deed, because they were not in the mind of the grantor at the time, and did not move him to make the deed of the 4th January.

1862.

Bank of Toronto v. Eccles.

And further, it was objected, that the trust deed of 5th January never having been registered the registered judgment in favour of the plaintiffs cannot be affected by it, and cannot be postponed by reason of the prior registration of the first deed, if that first deed, taken by itself, does not shew a valid title.

It was upon the objection which I have first stated and which is relied on as the 4th reason of appeal, that the argument for the appellants principally turned; but I will first state my opinion on the other points: 1st.—As to the exception that the deed of the 4th January, 1858, being stated (in the deed itself) to have been made upon a consideration of five shillings, any evidence *aliunde* to prove another and more valuable consideration was inadmissible, as being repugnant to the deed: I have no doubt that the exception is not tenable. The title of the defendants is not resisted by any person claiming to hold as a purchaser for value from *Ranney* under a deed made subsequent to that of 4th January, 1858. This, therefore, is not a case under the 27 Elizabeth, ch. 4, which was made specially for the protection of such subsequent purchaser against prior fraudulent conveyances.

Judgment.

The question is, whether the deed to the defendants is void under the statute 13 Elizabeth, ch. 5, passed for the