

LOWER CANADA, } **King's Bench.**
 DISTRICT OF ST. FRANCIS. }

August and September Term 1835.

Before Mr. Justice Bowen,
 “ “ Vallières,
 “ “ Fletcher.

SMITH Plaintiff, vs. TERRILL Defendant,

and

PHILLIPPS Opposant.

Held that the non-registration of a deed of conveyance, under the Prov. Stat. 10 and 11 Geo. IV, c. 8; 1st Wm. IV, c. 3 and 2nd Wm. IV, c. 7, does not operate as an absolute nullity, if the subsequent purchaser be not a *bonâ fide* purchaser for a valuable consideration.

This is an Opposition *afin de distraire*, for four lots of land in the township of Durham, of which, (though the whole were advertised) three only have been returned as having been actually seized; the *defendant himself* having, as it is stated in the return, given to the Sheriff the description of them, for the purpose of having them taken in execution, as belonging to him.

The title of the Opposant is as curator to the vacant estate of Thomas Scott, Esq., deceased, to whom the three lots in question appear to have been conveyed by Notarial Instruments of conveyance from Joseph Ellison and William Alkinbrock, both of them dated 1st October, 1802, and which appear to have been executed by Robert Morrough as the Attorney for the alienors, under powers of attorney dated the 3rd and 4th of July, in the same year.

The Opposition is contested by the Plaintiff, who, by his exception, sets up a title in the Defendant to the lots in question as having been purchased by him, and one William Richardson Willard, of one Ezra Dorman, and conveyed by him to them in 1833, and the Excipient alleges that the deeds under which the