

after the death of those capable of explaining it. This second deed was drawn by Mr. *Walsh*, the then register of the county, and was executed in his presence, and witnessed by *John Thomas* and *Peter Desjardins*: both the witnesses and Mr. *Walsh* are spoken of in the evidence as very respectable. The witnesses upon whose evidence it is impeached are *William McMichael* himself, and *John Williams*; according to their evidence *William McMichael* was in such a state of utter intoxication as to be unable to know whether he signed a paper as a party or a witness. But, in the first place, their evidence is discredited upon the oath of several witnesses, who swore that they would not believe them upon oath, and their evidence is discrepant in several particulars; and against their position is the signature of *William McMichael* itself, written in a clear firm hand, though not in the hand of a person in the habit of writing much. It is written to the receipt as well as opposite to the seal; and, as indicating a consciousness that he was executing as a party, not as a witness, part of the signature is carried over the seal. But a still stronger fact is, that the memorial to this same deed appears to have been also signed by *William McMichael*, and three days after the deed. This might, of course, have been executed by *McKay*, and if *William McMichael's* signature had been obtained by such means as is now pretended, *McKay* would hardly have run the gratuitous risk of asking for his signature a second time. Indeed, the second signature, after an interval of three days, does of itself appear to me to negative the grounds upon which the deed is impeached.

1857.

Fick
v
McMichael.

Judgment.

It is pretended that *William McMichael* did not become aware that he had executed this second deed until 1837, thirty-one years afterwards. In that year at any rate *William McMichael* and *Job Williams* went to the registry office, and there saw the present register, Mr. *Francis Walsh*, and they represent that gentleman as having told them in effect that the deed