

Menard is a man of some education and experience as a real estate agent and conveyancer. Gendron and Labelle are illiterate and each speaks French but has a very imperfect knowledge of English. Menard's evidence is to the effect that on the day named he had two interviews with the defendant, as a result of which he wrote a memorandum of agreement in a small pocket notebook in the words following:—

“I, Damase Labelle of 1281 St. Catherine St. East, Montreal (at Hospice Gameline), hereby acknowledge that the amt. due me by Elie Gendron on the s. w. $\frac{1}{4}$ lot 20, con. 1, Cumberland, is \$700, payable as stated in the agreement, and that there is no arrears except \$21 due the 1st inst. That I consent to the transfer of the said land as made by Gendron to F. Prudhomme of South India, and I am aware that Prudhomme or E. J. Menard of Embrin will make the payments hereafter, and I agree to inform them or either of them in writing of my address and whereabouts should I leave this place here. That in view of the transfer of the said land by Gendron to Prudhomme and in view of the increase in value of the said land, I consent that Prudhomme shall not be bound to fulfil the conditions of the agreement in so far as the building of the barn and the clearing of the land is concerned. That I am a beneficial owner of the said land and my sister Onesime has nothing to do with it. I agree to have any power of attorney or other document signed by my sister at any time if those I hold are found defective or not according to Ontario law so as to insure proper conveyance of the said land to Prudhomme. Signed, Thomas Labelle, his mark, Montreal, May 25th, 1911. Signed, Emile J. Menard, witness.”

Menard also says that while the talk was in French, as the land was in Ontario and he understood how to write English better than French, he wrote the alleged agreement in English. He states that it was explained to Labelle, he understood it and signed it by making his mark thereto. As a matter of fact Gendron had not yet made a transfer of the land to Prudhomme as the deed was produced at the trial and is dated 26th May, 1911.

Damase Labelle on the contrary says that no agreement was entered into on that day at all, that Menard did not ask him to sign or make his mark to any document and that he did not do so.