

**Enrolment Officer's Reply Submission in response to a Responding  
Submissions by Interested Parties:**

**Responding Report to Reply Submissions  
Regarding Ancestor  
Michel McDonald  
(RIN #14703)  
Dated April 26, 2023**



**Joan Holmes, Enrolment Officer for AOO  
Prepared for the Algonquin Tribunal  
April 2023**

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## 1. Introduction

The Tribunal received four responding submissions from three parties in support of retaining the ancestor Michel McDonald (RIN #14703) on the Schedule of Algonquin Ancestors. The submissions are posted on the Tribunal's website as:

<https://www.tanakiwin.com/tribunal/michel-mcdonald-3/>

They appear on the website as:

- Document 8 – Responding Submission by B. Majaury re. V. Coburn Submission
- Document 9 – Responding Submission by H. Majaury re. V. Coburn Submission
- Document 11 – Responding Submission by B. Whetung re. V. Coburn Submission
- Document 14 – Reply Submission by H. Majaury

The above noted submissions are responding to the submission made by V. Coburn in support of removing Michel McDonald from the Schedule of Algonquin Ancestors. V. Coburn's submission appears on the Tribunal website as:

- Document 6 – Submission by V. Coburn regarding Michel McDonald. It was dated February 22, 2023.

This reply report addresses the content in the Respondents' submissions that are relevant to the Tribunal's inquiry, which is to determine whether Michel McDonald (RIN #14703) is identified in a historic record or document dated on or before December 31, 1921, in such a way that it would be reasonable to conclude that he was considered to be an Algonquin or Nipissing, or a sibling of such a person. A "sibling of such a person" means a person with a common Algonquin parent.

The Respondents' submissions refer to some documents and facts that are contained in the Enrolment Officer's Report (posted as Document 1) or the Enrolment Officer's Responding Reports (posted as Documents 12 and 13). As noted in the Enrolment Officer's Reports, archival documents recording a family's life events have been assigned ALG document numbers; RIN numbers have been assigned to individuals discussed in the report to aid in identification. RIN numbers, ALG document numbers, and/or page numbers of existing reports will be referenced in this report for ease of discussion.

## 2. Document #8 – Responding Submission by B. Majaury re. V. Coburn Submission

The Respondent B. Majaury submitted a responding submission in support of retaining ancestor Michel McDonald (RIN #14703) on the Schedule of Ancestors.

The Respondent's comments are in response to the submission by V. Coburn (posted as Document 6). His comments are provided in red text within the body of the V. Coburn submission.

The Respondent provides information about his family, particularly his mother's background. The Respondent did not provide any new documentation relating to Michel McDonald's origins.

The Enrolment Officer has no comments on personal memories or oral family history.

The Respondent provides explanations for why the census recorded Michel McDonald as "Indian" noting that, at the time, family members identified themselves by the term "Indian" rather than by a nation name. He also suggests that Michel McDonald's lack of knowledge about his parentage, date of birth, and place of birth accounts for the information that was recorded on the 1871 census.

The Enrolment Officer has no comments on these statements.

The Respondent addresses V. Coburn's statement regarding the "innuendo raised by the Registrar" that Sarah Whiteduck had been Michel McDonald's third Algonquin wife but asserts that the relationship was "employer-employee." The Respondent argues that Sarah Whiteduck was assisting Michel McDonald, a widower, with the care of his family, which was a common practice in the area at that time. The Enrolment Officer addressed this relationship in her reply to V. Coburn (posted as Document 13) citing the instructions for enumerators regarding persons living in a household.

The Respondent submits that Sarah Whiteduck was Algonquin. The Enrolment Officer provided comments on the ethnicity of Sarah Whiteduck in her reply to V. Coburn (posted as Document 13) as well as listing the various ethnicities and places of birth listed for Michel McDonald on consecutive census tracts.

The Enrolment Officer has no further comments on this submission.

### **3. Document #9 – Responding Submission H. Majaury re. V. Coburn Submission**

The Respondent H. Majaury submitted a 50-page responding submission in support of retaining ancestor Michel McDonald (RIN #14703) on the Schedule of Ancestors. The Respondent's comments are in response to the submission by V. Coburn (posted as Document 6).

The Respondent raises the question of who wrote the genealogical report submitted in the V. Coburn submission. The author is not identified. The Enrolment Officer has no knowledge related to this question.

#### ***3.1 History (page 3)***

The Respondent refers to the application of the Proposed Beneficiary Criteria and the enrolment history of her family. These issues do not assist in determining the ethnicity of the Michel McDonald in the context of this inquiry.

The Respondent provides an example of a Esab Arcand, a son of Cecilia Whiteduck and Francis Arcand, and brother of Eliza Arcand, who was the third wife of Michel McDonald. The

Enrolment Officer has no documentation on Esab Arcand and cannot comment on his relationship to the Michel McDonald family.

### ***3.2 The Proposed Beneficiary Criteria (page 4)***

The Respondent refers to the decision of 2013 (the Justice Chadwick decision) and then discusses the changes made to the Beneficiary Criteria (PBC) and the "removal" of John Christmas McDonald in 2020.

The Enrolment Officer confirms that no historic persons were "removed" in the process of assessing applications under the Proposed Beneficiary Criteria (PBC). Living applicants were deemed to either meet, or not meet, the PBC. The Respondent's submission included a copy of a letter her father, B. Majaury, sent to the Enrolment Officer dated March 15, 2022 in which he states that the descendants who did not meet the PBC were deprived of a hearing.

The Algonquin Enrolment Board and Algonquin Tribunal were established by an ANR Special Resolution of April 20, 2021 (Motion 20210420-01).

The ANRs asked the Tribunal to determine whether the following historic persons (Subject Ancestors) meet the definition of "Algonquin Ancestor" as set out in the Enrolment Criteria. This request was made by way of motion, dated June 16, 2022, which motion is available on the Tribunal's website. The question currently before the Tribunal is whether or not Michel McDonald is properly included on the Schedule of Algonquin Ancestors. His name was included in a reference to the Tribunal initiated by a Special Resolution of the ANRs made on June 16, 2022. The purpose of the Special Resolution was to determining whether certain historic persons are identified in a historic record or document dated on or before December 31, 1921, in such a way that it would be reasonable to conclude that the person was considered to be an Algonquin or Nipissing, or a sibling of such a person. A "sibling of such a person" means a person with a common Algonquin parent.

These hearings are the Respondent's opportunity to present their reasons for retaining Michel McDonald on the Schedule of Algonquin Ancestors. This opportunity has been extended to persons who were known to the Algonquin Tribunal as being descendants of Michel McDonald, regardless of whether they met other aspects of the PBC. Appeals by applicants who did not meet the PBC for other reasons are expected to occur in the next phase of Enrolment Board and Tribunal hearings.

### ***3.3 Manitoba versus Ontario (page 6)***

The Respondent provides a chart which shows the reported birth location of Michel McDonald in various census returns, noting that the overwhelming consensus based on this information was that Michel was born in Ontario. The Respondent refers to cases in which other individuals who were incorrectly documented on census returns but does not provide documents to illustrate this statement. The Enrolment Officer agrees that there are instances where census documents incorrectly report a person's birthplace or origin.

The census records for 1871, 1881, 1891, and 1901 that list Michel McDonald were provided and discussed in the Enrolment Officer's report (posted as Document 1). The Enrolment Officer did not find an 1861 census that was clearly related to the subject ancestor. The 1921 census reports of Michel McDonald's children were provided and discussed in the Enrolment Officer's Report (posted as Document 1).

The Enrolment Office has no record of the individuals the Respondent names (Bernard, Callihoo, etc.) and cannot comment on their histories or movements.

The Enrolment Officer has no comments on possible movement of Michel McDonald between Manitoba and Algonquin territory or on the reasoning of Justice Chadwick in 2013.

### ***3.4 Identity and Enrollment (page 9)***

The Respondent provides a timeline regarding her family's involvement with the enrolment process.

The Enrolment Officer has no comment on this material.

### ***3.5 Dibajimowinan (page 10)***

The Respondent provides a family story as told to her by her grandmother Frances Dobbie (nee McDonald), a granddaughter of Michel McDonald.

The Enrolment Officer has no comment on oral family history.

### ***3.6 1901 Census (page 11)***

The Respondent queries V. Coburn's reliance on the 1901 Census as proof of Michel McDonald's origins, citing his reliance on the "infallibility of the census taker" and his repeated reference to "self-identification."

The Enrolment Officer addressed the content and anomalies in the 1901 census in her report responding to V. Coburn's submission in section 2.3.f (posted as Document 13).

The Enrolment Officer has no comments on the other individuals cited by the Respondent (Clems, Benedict) in her submission. Peter Clemo (RIN #2442) and Madalaine Miconce (RIN #2443) did have a son Angus Clemo/Clement (RIN #5858) who lived from 1842 to 1941; however, the census reference by the Respondent has not been provided and would need to be consulted to determine if this is the same person.

### ***3.7 Metis vrs. Indian vrs. Non-Status vrs. Algonquin – Wholism instead of Reductionism (page 18)***

The Enrolment Officer has no comments on the statements made in this section.

### **3.8 Sarah Whiteduck (page 20)**

The Respondent asserts that Sarah Whiteduck was living with Michel McDonald as noted on the 1901 census, citing clause 76 of the instructions to enumerators regarding who should be recorded in each household.

The Enrolment Officer also responded to the recording of Sarah Whiteduck on the 1901 census in her Reply (posted as Document 13) which commented on V. Coburn's submission (posted as Document 6).

The Enrolment Officer has no further comments to make on this section.

### **3.9 Process and Removal (page 21)**

The Respondent states that "we [presumably meaning the Respondents' family] were removed from the enrolment list without appeal."

The Enrolment Officer confirms that some descendants of Michel McDonald met the Proposed Beneficiary Criteria (PBC) and some did not. Failure to meet all the criteria was not dependent on ancestor Michel McDonald being questioned but on lack of evidence demonstrating that all the other elements of the PBC were met. It is expected that people who were determined not to meet the PBC during the most recent enrolment process will have an opportunity to appeal the decision when the second phase of the Algonquin Enrolment Board and Algonquin Tribunal is initiated.

Assessments under the Proposed Beneficiary Criteria (PBC) are not at issue in this inquiry. The only question before the Tribunal is whether or not Michel McDonald meets the definition of Algonquin Ancestor.

The full Schedule of Algonquin Ancestors is on file with the AOO and the Enrolment Office. It was referenced in the Special Resolutions but was not attached.

### **3.10 Prior Decisions (page 22)**

The Respondent cites the Justice Chadwick Decision as evidence of Michel McDonald being accepted as Algonquin. The Respondent also repeats comments on census records, the role of ethnicity, the problem of lack of written documentation, as well as making comments on other ancestors who are being reviewed.

With regard the 2013 decision by Justice Chadwick, the Enrolment Officer notes that the ANRs passed a Special Resolution on April 20, 2021 (Motion 20210420-1) which established the Tribunal and its mandate. The Special Resolution specifies in clause 77 that: "Any matter brought to the Tribunal for determination shall be heard and be determined as a new proceeding, but this does not preclude the Tribunal from considering decisions made by other decision-making bodies including with respect to past enrolment processes."

The Respondent's statement that birth records did not exist in Ontario at the time of Michel McDonald's birth is incorrect. Civil registration did not become law until 1869 and recording of births became more widespread after that time. However, documents recording births existed prior to that legal requirement. In addition, there are numerous church records that record baptisms of infants and other children in Ontario from an early period.

The Enrolment Officer has no comments to make about UNDRIP, other ancestors under review, or oral family history.

### ***3.11 Corrections (page 29)***

The Respondent makes corrections to V. Coburn's submission regarding census ethnicity and name spellings.

Sarah Whiteduck (RIN #2339) was the daughter of Simon Samuel Whiteduck (RIN #18909) and Therese Jacob (RIN #18910). She was a descendant of men on the Schedule of Algonquin Ancestors and their wives, as follows: Joseph Pekakassiketch (RIN #6527) and Cecile Panosinokwe (RIN #6531); Mathias Cabakkawatch (RIN #6390) and Elisabeth Kijikgiwanokwe (RIN #6391); and Jacques Kamiskwabininich (RIN #7189) and Cecile Otichkwetchiwanokwe (RIN #7190).

The Enrolment Officer has no further comments to make on these corrections, most of which are differences of interpretation.

### ***3.12 Presentism (page 31)***

The Respondent discusses the use of the term "self-identified" as stated in V. Coburn's submission with regards to ethnicity on census returns giving her opinion that it is "presentism." The Respondent also references family oral history in relation to identification.

The issue of self-identification on census records has been discussed in the Enrolment Officer's Response (posed as Document 13) to V. Coburn's submission.

### ***3.13 U.N.D.P.R.I.P. + Provincial and Federal Influence (page 35)***

The Enrolment Officer has no comments regarding UNDRIP or its impact on the PBC. These are not issue before the Tribunal.

It should be stated that the Proposed Beneficiary Criteria for enrolment in the Algonquins of Ontario was developed by the Algonquin Negotiation Representatives (ANRs) and accepted by a formal resolution of the ANRs on April 20, 2021 (Motion 20210420-01). Neither the Government of the Province of Ontario nor the Government of Canada had a role in developing the Proposed Beneficiary Criteria. Their "input" was limited to having the different elements of PBC explained to them.

In a previous submission (posted as Document 5) on the Tribunal website on page 19 and again in this current submission on page 37, the Respondent relates an oral history that Michel



McDonald bought land in 1907 in order to leave property to his descendants, and that he was not cash wealthy so saved a long time to raise these funds. The Respondent did not provide primary documentation for this claim.

Further research undertaken by the genealogist in the Enrolment Office could not locate the 1907 document that the Respondent referred to. She did locate land record documents for two lots of land in South Canonto township for which Michel McDonald held the Crown Patent from 1891 onwards.<sup>1</sup> Lot 20 was 98 acres and Lot 21 was 52 acres. Lot 20 was sold by Michel McDonald's sons in 1920, and Lot 21 was sold in 1902 to Peter Arcol/Arcand.

A Crown Patent was a legal document used to transfer Crown land to a private owner and included the name of the person, the purchase price, the description of the land, the date of patent and any other conditions to which the patent was subject.

### ***3.14 Disclaimer (page 38)***

The Enrolment Officer has no comments to make on this section.

### ***3.15 Added Thoughts to Consider (page 40)***

The Enrolment Officer has no comments to make on this section.

### ***3.16 Appendices (page 43)***

The Respondent included a genealogical report written by Noreen Kruzich.

The written evidence cited in this section has been covered previously. The genealogist adds comments on her experience of consulting census records regarding Indigenous people.

The Enrolment Officer has no further comments to make on this section.

The Respondent's assertion that birth records for Ontario did not exist prior to 1869 is incorrect. It is correct that civil registration did not officially become law until 1869 and became more widespread after that time. However, there are records for births before official provincial legislation. The Respondent also does not take into account the numerous church records recording baptisms that took place in Ontario prior to 1869.

The Enrolment Officer is not commenting on the numerous examples of individuals who were variously described on census records as having different ethnic identities. Inconsistencies in early census records are well-known and well-documented by researchers who have done detailed work with census records regarding Indigenous persons.

The Enrolment Officer would caution that thorough research is not limited to an assessment of census records alone.

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<sup>1</sup>ALG-40592

#### **4. Document #11 – Responding Submission B. Whetung re. V. Coburn Submission**

The Respondent B. Whetung submitted a responding submission in support of retaining ancestor Michel McDonald (RIN #14703) on the Schedule of Ancestors. This mainly consisted of oral history.

The Respondent cites the Justice Chadwick Decision as evidence of Michel McDonald being accepted as Algonquin, and concluded that the Tribunal is participating in double jeopardy by again reviewing Michel McDonald.

The ANRs passed a Special Resolution on April 20, 2021 (Motion 20210420-1) which established the Tribunal and its mandate. The establishment of the Tribunal authorized it to hear appeals and protests, including those related to ancestors on the Schedule of Ancestors. It was anticipated in a Special Resolution dated January 22, 2020 (Motion 20200122-1). The Special Resolution of April 20, 2021 specifies in Clause 77 that: "Any matter brought to the Tribunal for determination shall be heard and be determined as a new proceeding, but this does not preclude the Tribunal from considering decisions made by other decision-making bodies including with respect to past enrolment processes."

Furthermore, the Tribunal process allows for the consideration of oral history in determining whether a person meets the Beneficiary Criteria. Section III Articles 6 to 8 of the Resolution dated April 20, 2022 provides guidance for the consideration of oral history.

The Enrolment Officer has no further comments to this submission or on the oral family history recounted.

#### **5. Document #14 – Reply Submission by H. Majaury**

The Respondent H. Majaury submitted a reply submission in support of retaining ancestor Michel McDonald (RIN #14703) on the Schedule of Ancestors. This mainly consisted of oral history.

The Enrolment Officer has no comments of the Respondent's references to other files being adjudicated by the Tribunal, scarcity of written records, the pace of the appeal and protest process, the application of oral family history, assessment of applicants under the Proposed Beneficiary Criteria, or UNDRIP. Information regarding the whereabouts of Michel McDonald as reflected by the 1871, 1881, 1891 and 1901 census has already been outlined in the Enrolment Officer's Report (posted as Document 1) and the Enrolment Officer's Responding Report (posted as Document 12).

The Respondent provided documentation regarding the Whiteduck/Kelford family and John Christmas. This would be a matter that pertains to the application of the Proposed Beneficiary Criteria and does not add any new information regarding the ethnicity of Michel McDonald,

beyond showing an association of the Michel McDonald family with the Whiteduck/Kelford family.

For completeness, the Enrolment Officer notes that the Respondent is correct in saying that the marriage document identifies Joseph Whiteduck (called Kelford) born about 1894 as the son of Joseph Whiteduck and Mary Kelford. However, the link to his grandparents on the Whiteduck side is not known. The Respondent then asserts that Phoebe Kelford (born about 1874) is the sister of Joseph Whiteduck-Kelford. Phoebe Kelford married Steven Peters and they had a daughter Mary Ann Peters (born 1894) who married John Christmas McDonald. The Respondent states that Mary Ann Peters was the niece of Joseph Whiteduck-Kelford. The genealogical connection between Phoebe Kelford, her daughter Mary Ann, and Joseph Whiteduck-Kelford needs to be demonstrated. Note that Joseph Whiteduck-Kelford and Mary Ann Peters, who is said to be his niece, were born in the same year.

Again, the Enrolment Officer notes that, even if this connection is established, it would not add any new information regarding the ethnicity of Michel McDonald, beyond showing an association of the Michel McDonald family with the Whiteduck/Kelford family.

The possibility of Michel McDonald being recorded on the 1861 census was outlined in the Enrolment Officer's Report (posted as Document 1). There is nothing in this census record that is very conclusive as to the identity of the man listed as the 18-year-old Michel ODonald/McDonald who is single, works as a labourer, and is an absent member of the family.

***Appendix A: Supporting Document List for Michel McDonald***

The documents in this table are listed by ALG number and appended in Appendix B.

<b>Document Number</b>	<b>Document Date</b>	<b>Document Description</b>	<b>Reference</b>
ALG-40592	1891-09-19	Township of South Canonto, Lot No. 20 in the 2 <sup>nd</sup> Concession Township of Canonto, Lot No. 21 in the 2 <sup>nd</sup> Concession	Family Search Abstract index books, 1800-1959 Canonto Township image 68 Film / 008637527

***Appendix B: Supporting Document Package for Michel McDonald***

The documents are organized by ALG document number.  
They appear in the same order as in the list in Appendix A and are bookmarked for ease of reference.

K O D A K S A F E T Y V L F I L M +

TOWNSHIP OF CANONTO. Lot No. 20 in the 2<sup>nd</sup> Concession.

TOWNSHIP OF CANONTO. Lot No. 21 in the 2<sup>nd</sup> Concession.

No. of Instrument.	Instrument.	Its Date.	Date of Registry.	GRANTOR.	GRANTEE.	Quantity of Land.	Consideration or amount of Mortgage.	Remarks.
	Patent	Sept. 19, 1891		Crown	Michael McDonald	Lot 20 <sup>ac</sup>		
A 172	John's Deed B. 15	March 11, 1901	April 2, 1901	William McShuckie	Robert S. Minin	2 1/2 Trant Lake	\$100 <sup>00</sup>	
A 206	Under Deed B. 15	Aug 10, 1900	Oct 7, 1900	Michael McDonald	A. Seldon Denison	2 1/2 Trant Lake	\$150 <sup>00</sup>	
A 311	Grant	Oct 2, 1900	May 4, 1902	Michael McDonald; George McDonald; John McDonald; John McDonald	Jacob E. Meier	Lot	\$100 <sup>00</sup>	
<del>A 322</del>	Grant	Jan 4, 1924	Jan 11, 1924	Gerald Meier	Alexander W. Gavra	1/2 Lot	\$10 <sup>00</sup>	
A 325	Grant	Oct 3, 1924	Jan 24, 1925	A. Seldon Denison	Adolphus Chapman	Lot	\$1 <sup>00</sup>	rather
A 369	Tax Deed.	Mar. 19, 1934	April 20, 1934	County of Frontenac	H. T. Dugan	Lot.	\$24 <sup>75</sup>	
A 453	Grant	Oct 18, 1933	Mar. 1, 1935	High Mortgage Dugan; High Mortgage Dugan	Robert Sulman	Lot	\$256 <sup>00</sup>	rather

No. of Instrument.	Instrument.	Its Date.	Date of Registry.	GRANTOR.	GRANTEE.	Quantity of Land.	Consideration or amount of Mortgage.	Remarks.
	Patent	Sept. 19, 1891		Crown	Michael McDonald	Lot 21 <sup>ac</sup>		
A 172	John's Deed B. 15	March 11, 1901	April 2, 1901	William McShuckie	Robert S. Minin	2 1/2 Trant Lake	\$100 <sup>00</sup>	
A 199	B. 15	Nov 19, 1902	Dec 20, 1902	Michael McDonald	John C. Meier	Lot 20 <sup>ac</sup>	\$45 <sup>00</sup>	
A 219	B. 15	Sept 25, 1905	Sept 27, 1905	John C. Meier	Samuel Shanks Jr	Lot	\$200 <sup>00</sup>	
A 220	Lease	June 17, 1910	Sept 6, 1910	Alfred Lockhart	Lawrence Brothers Limited	Lot 20	\$10 <sup>00</sup>	
A 267	B. 15	June 26, 1908	July 18, 1910	Peter Arnold	A. Lockhart	Lot 20	\$500 <sup>00</sup>	
A 285	B. 15	Nov 27, 1912	Jan 15, 1915	Alfred Lockhart	William A. Mouch	Lot	\$800 <sup>00</sup>	
A 289	Mortgage	July 18, 1915	July 18, 1915	William A. Mouch	Samuel Shanks	Lot	\$400 <sup>00</sup>	
A 297	Grant	Oct 1, 1919	Oct 29, 1919	William A. Mouch	Jacob E. Meier	Lot	\$500 <sup>00</sup>	
A 301	Mortgage	Oct 20, 1920	Dec 4, 1920	Jacob E. Meier	William A. Mouch	Lot	\$500 <sup>00</sup>	
A 302	Rel Mtge	Jan 5, 1921	Jan 5, 1921	Nehemiah G. Cross	Jacob E. Meier	Lot	\$301 <sup>00</sup>	
A 303	Mortgage	Jan 5, 1921	Jan 5, 1921	Jacob E. Meier	Jacques Meier	Lot	\$5758 <sup>00</sup>	
A 304	Grant	Jan 5, 1921	Jan 5, 1921	Jacob E. Meier	Hella T. Meier	Lot	\$1 <sup>00</sup>	
A 305	Mortgage	Jan 5, 1921	Jan 5, 1921	Jacob E. Meier	Jacob E. Meier	Lot	\$256 <sup>00</sup>	
A 310	Grant	Oct 31, 1921	Nov 2, 1921	Blanca Della Meier	Roscoe S. Meier	Lot	\$1 <sup>00</sup>	
A 318	Rel Mtge	July 4, 1922	Dec 14, 1922	Jacques Meier	Jacob E. Meier	Lot	\$5758 <sup>00</sup>	
A 325	Grant	Jan 4, 1924	Jan 6, 1924	Gerald Meier	Alexander W. Gavra	Lot	\$10 <sup>00</sup>	
A 328	Grant	Feb 29, 1924	Apr 10, 1924	Gerald Meier	Alexander W. Gavra	Lot	\$1 <sup>00</sup>	
A 421	Grant	Nov 27, 1947	Nov 30, 1947	Gertrude Shanks; William J. Shanks; Henry Shanks; (Edna Samuel Shanks)	William J. Shanks; Henry Shanks	Lot	\$2000 <sup>00</sup>	
106705	Tax Deed	Dec 18, 1953	Nov 11, 1958	County of Frontenac	Michael McDonald	Lot	\$14 <sup>25</sup>	

B. Polo 577