

# Heavy is the head that wears the crown (copyright).

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The need for Crown copyright reform in Canada.

Amanda Wakaruk, Copyright Librarian  
ABC Copyright Conference  
Kingston, Ontario  
June 29, 2017



# What is Crown copyright?

*Copyright Act, s.12 (emphasis added)*

Without prejudice to any **rights or privileges of the Crown**, where any work is, or has been, **prepared or published by or under the direction or control** of Her Majesty or any government department, the copyright in the work shall, subject to any agreement with the author, **belong to Her Majesty** and in that case shall continue for the remainder of the calendar year of the first publication of the work and for a period of fifty years following the end of that calendar year.

**“Crown copyright comes from and is justified by a particular non-democratic conception of government.” -- David Vaver**

<https://web.archive.org/web/20100527140536/http://www.lexum.umontreal.ca/conf/dac/en/vaver/vaver.html>



June 12, 1981

COMMONS DEBATES

10545

## CROWN COPYRIGHT—REQUEST FOR REVIEW BY GOVERNMENT

**Mr. Ian Waddell (Vancouver-Kingsway):** Madam Speaker, my supplementary question is for the Prime Minister and it refers to government policy for distributing documents. In the United States every document is public property and can be distributed. In Canada we have Crown copyright, which is quite proper. Documents come out in this form and are very rarely distributed in this way. In the United Kingdom there is a sort of a middle road where there is Crown copyright but through a government circular some documents are made available to be published like this.

I hesitate to use the words, but in the interests of “participatory democracy”, which some people may still believe in, is the Prime Minister prepared to commit the government at least to reviewing the nature of publishing documents and government reports so that they can get out to the people who can read, in this case about the workings of the oil monopoly in Canada? They would become better informed citizens and would be able to deal with these problems.

**Hon. J.-J. Blais (Minister of Supply and Services):** Madam Speaker, I want to advise the hon. gentleman that the policy he has described is exactly that which I follow. I enter into negotiations on a regular basis, a bona fide basis, and I do grant the copyright at any time there is justification. The purpose of the policy that I follow is to make available to as many Canadians as possible the information they ought to have. In effect that is why the report is available both in summary and in complete form. As for negotiations, anyone who wants to deal with me in good faith, Madam Speaker, can rest assured that I will deal with him in good faith.

\* \* \*

- 1984 white paper recommended that guidelines be created to prevent unduly restrictions to public access to government works

- 1985 report of the Sub-Committee of the House of Commons Standing Committee on Communications and Culture on the Revision of Copyright recommended that, “Crown copyright be abolished for some categories of materials and that the scope be greatly restricted for other categories.”

See Judge, Elizabeth F. “Crown Copyright and Copyright Reform in Canada,” 2005.

service will be extended to the suburbs of Calgary when manpower becomes available. either by the lifting of con-

## Routine Proceedings

I would particularly like to pay tribute to the hon. member for Outremont for his work in chairing the subcommittee that drafted this report.

[*Editor's Note: See today's Votes and Proceedings.*]

\* \* \*

## COPYRIGHT ACT

## MEASURE TO AMEND

**Hon. Bob Kaplan (York Centre)** moved for leave to introduce Bill C-442, an act to amend the Copyright Act.

**Madam Deputy Speaker:** Pursuant to Standing Order 68(2), the motion is deemed adopted.

**Mr. Kaplan:** Madam Speaker, under the Canadian Copyright Act, which follows a British precedent several hundred years old, the copyright of documents which are issued by the government including statutes, for example, are the private property of the Crown. Anyone who copies them theoretically and legally is responsible to pay a royalty for them.

This is inconsistent with the practice in most other countries and the purpose of this proposed law is to abolish the Crown copyright and make public documents public property.

**Madam Deputy Speaker:** Mr. Kaplan moves that the bill be now read the first time and printed.

Pursuant to Standing Order 69(1), the motion is deemed adopted.

Bill read the first time and printed.

\* \* \*

# Reproduction of Federal Law Order

**SI/97-5**

Registration 1997-01-08

Reproduction of Federal Law Order


P.C. 1996-1995 1996-12-19

Whereas it is of fundamental importance to a democratic society that its law be widely known and that its citizens have unimpeded access to that law;

And whereas the Government of Canada wishes to facilitate access to its law by licensing the reproduction of federal law without charge or permission;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of Canadian Heritage, the Minister of Industry, the Minister of Public Works and Government Services, the Minister of Justice and the Treasury Board, hereby makes the annexed *Reproduction of Federal Law Order*.

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SI/98-113(F).

Date modified: 2016-12-02

<http://laws.justice.gc.ca/eng/regulations/SI-97-5/FullText.html>











I had some difficulty in adjusting the conflicting claims of Bobtail and Sam tail should not be given all the land from neighborhood of the Methodist Mission, a there; that he himself had drawn logs for wanted to live near Rev. Mr. Glass, whos his reserve, and not in Bobtail's; and, mo on the north side of the river as far as th possession of it before Bobtail, as could Morleyville. After carefully considering line north from a point on the river twer dence, so as to take in the logs he had dr river frontage of a mile and a-half on the Bobtail, on a visit to some lakes which h Green, my assistant, whom I had instructe corner of a field belonging to Bobtail, wa from the men and sat down on them, as a band's rights. After talking the matter to the west immediately south of the fei he had drawn for a house. Bobtail wish in Papaschase's house, but the latter had

*For Seven Generations*  
*An Information Legacy of the*  
*Royal Commission on Aboriginal Peoples*

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*Quick Start Guide* *Français*

Visit the RCAP web site at [www.libraxis.com/RCAP](http://www.libraxis.com/RCAP)

# Web Renewal Action Plan



**Treasury Board of Canada Secretariat** Canada

Home > M > News Rel > Speeches > Media Ad > Multimed

Departmental Activities | Policy Suite | Information for | Resource Centre

Home > TB Policy Suite > Web Standards > Web Usability > Reduce Redundant, Outdated and Trivial Content

## Reduce Redundant, Outdated and Trivial Content

Government of Canada websites should deliver easy-to-find, clear, accurate, up-to-date information to their visitors. To make government information easy to find and use, government departments need to be aware of the information published online and ensure quality information is delivered, evaluated and reviewed regularly.

The key steps in managing an effective content lifecycle are outlined below.

The benefits of removing Web content that has become redundant, outdated or trivial (ROT) include:

- Increased ease of finding and using Web content
- A better experience for visitors
- Decreased website maintenance costs
- Enhanced ability to deliver services online

thus improve services by saving clients time and effort.

[Show table of contents](#)



# What is Open Government?



Government of Canada  
Gouvernement du Canada

Jobs ▾ Immigration ▾ Travel ▾ Business ▾

[Home](#) → Open Government

## Open Government

Welcome to Canada's new Open Government portal. Here you can explore how the Government of Canada is working with the national and international open government community to create greater transparency and accountability, increase citizen engagement, and drive innovation and economic opportunities through open data, open information, and open dialogue.

## Open Government Portal

**As we launch this enhanced integrated Open Government Portal search, you may notice that there has been a reduction in the number of open information records. Please note that you can still access the publications that no longer appear here by visiting: [Government of Canada Publications](#) and [Library and Archives Canada](#). If you have any comments or questions [contact us!](#)**

### Search Records

Search...

**165 records found**


Order by: Relevance ▾

[Suggest a Dataset](#)

[Publications](#) ✕

### Search Filters [Clear All](#)

- Portal Type
  - Open Information (165)
  - Clear All
- Collection Type
  - Geospatial (109829)
  - Non-Spatial (7723)
  - Open Maps (567)
  - Publications (165)



Librarian Questions (email correspondence with TBS Open Government Team, November 2016):

Q: What is covered under the Open Government licence?

A: The Open Government Licence covers everything that is published on [open.canada.ca](https://open.canada.ca) (datasets, open information, proactive disclosure, access to information requests).

Q: Does this include ALL information published and openly disseminated by the Government of Canada? That is, publications and documents regardless of format?

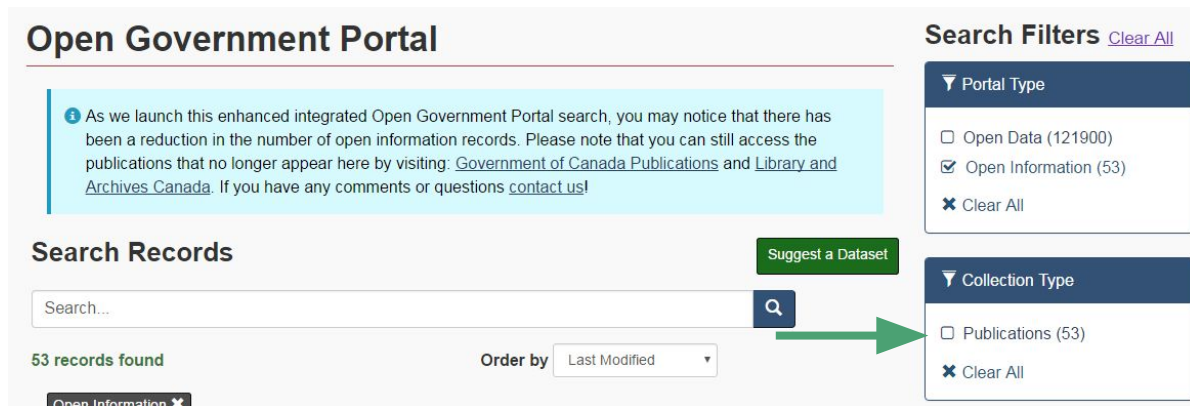
A: No, the Open Government Licence only applies to what is published on [open.canada.ca](https://open.canada.ca) (regardless of format).



# What is Open Government? (Dec 2016)



The screenshot shows the top navigation bar of the Government of Canada website. It includes the Canadian flag, the text "Government of Canada" and "Gouvernement du Canada", and a menu with "Jobs", "Immigration", "Travel", and "Business". Below this is a breadcrumb trail: "Home → Open Government". The main heading is "Open Government", followed by a welcome message: "Welcome to Canada's new Open Government portal. Here you can explore how the Government of Canada is working with the national and international open government community to create greater transparency and accountability, increase citizen engagement, and drive innovation and economic opportunities through open data, open information, and open dialogue."



The screenshot shows the "Open Government Portal" search results page. At the top, there is a "Search Filters" section with a "Clear All" link. Below this are two filter categories: "Portal Type" and "Collection Type". The "Portal Type" filter has three options: "Open Data (121900)", "Open Information (53)" (which is selected), and "Clear All". The "Collection Type" filter has two options: "Publications (53)" and "Clear All". A green arrow points from the "Suggest a Dataset" button to the "Collection Type" filter. The main search area shows a search bar with "Search...", a "Suggest a Dataset" button, and a search icon. Below the search bar, it says "53 records found" and "Order by Last Modified". A "Open Information" tag is visible at the bottom left of the search results area.

Librarian Questions (email correspondence with TBS Open Government Team, November 2016):

Q: What is covered under the Open Government licence?

A: The Open Government Licence covers everything that is published on [open.canada.ca](http://open.canada.ca) (datasets, open information, proactive disclosure, access to information requests).

Q: Does this include ALL information published and openly disseminated by the Government of Canada? That is, publications and documents regardless of format?

A: No, the Open Government Licence only applies to what is published on [open.canada.ca](http://open.canada.ca) (regardless of format).



CANAL

OP

Dead link

Ena

- b. In May 2015, Canadian librarians and government information management experts were consulted on the planned direction for the Open Information Portal. The Government of Canada's [Open Information Portal](#) was launched and integrated into Open.Canada.ca. Progress to date is considered to be Phase 1 of the portal's development.

The portal consolidated and provided single-window, searchable access to over 170,000 digital information resources from the Government of Canada Publications collection ([publications.gc.ca](#)) and from Library & Archives Canada. All digital information resources that it provides are available for free download via this service and are licenced under the [Open Government Licence - Canada](#). A common metadata profile for open data and open information has been developed and shared with data and information experts internal and external to the Government of Canada.

*January 2017*

Removed due to incompatibility with OGL (e.g., Crown copyright).

# Open Information Portal

**i** Our goal is to provide access to all information collections throughout the Government of Canada. To accomplish this, we are applying a 'phased' approach to integrate the different technical systems currently in use across the Government of Canada. This release of the 'Open Information portal' is the first of multiple phases, and consists of a consolidation of the electronic publications provided by [Government of Canada](#)

Removed due to incompatibility with OGL (e.g., Crown copyright).

Sea

Se

170,180 resources found

Order by

Last Modified

## Search Filters

### Language

[English \(97964\)](#)[French \(86684\)](#)

### Organization

[Statistics Canada \(19231\)](#)[Canada Mortgage and](#)[Housing Corporation \(13426\)](#)[Fisheries and Oceans Canada](#)[\(8489\)](#)[Health Canada \(8037\)](#)[Natural Resources Canada](#)[\(6220\)](#)

# Crown or Emperor?

Image of Emperor Palpatine removed due to lack of permission for distribution on the Internet. See [http://starwars.wikia.com/wiki/File:Emperor\\_Palpatine\\_TNsR.jpg](http://starwars.wikia.com/wiki/File:Emperor_Palpatine_TNsR.jpg)

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# The Emperor's New Clothes

A story explained by pluralistic  
ignorance exposed by an  
innocent.

Image of Emperor Palpatine  
removed due to lack of  
permission for distribution on  
the Internet. See  
[http://starwars.wikia.com/wiki/File:Emperor\\_Palpatine\\_TNsR.jpg](http://starwars.wikia.com/wiki/File:Emperor_Palpatine_TNsR.jpg)

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# Crown Copyright

## *Advantages*

Government's perspective:

- Revenue generation: provides monopoly over the production, reproduction, performance, or publication of a work.
- Integrity, accuracy, authenticity of the work. (Official marks are a better mechanism than Crown copyright for these purposes.)

User's perspective:

- Can't think of any.

## *Disadvantages*

Government's perspective:

- Administration: Have to staff positions to answer permission requests, questions.

User's perspective:

- Barrier to re-use (privacy, limited distribution/access, fees, etc.).
- Bolsters democratic deficit, especially given that aims are at odds with Open Government principles.



## E-petitions

Please note that e-mail addresses from the Government of Canada may not be used to create, support, or sign an e-petition.

Subscribe to RSS Feed

# E-1116 (COPYRIGHT)

Sign the petition

42ND PARLIAMENT

Initiated by Amanda Wakarusa from Edmonton, Alberta, on May 26, 2017, at 3:19 p.m. (EDT)

keywords Crown copyr

The Petition is open for s



Petition details



Sponsor



History

**Open for signature** : May 26, 2017, at 3:19 p.m. (EDT)

**Closed for signature** : September 23, 2017, at 3:19 p.m. (EDT)



Signatures (885)

# e-petition on Crown Copyright

Canadians have a right to use and re-use works produced by their government. Unfortunately, because of our outdated system of Crown copyright, such uses are unduly restricted.

Whereas

- access to government information and the ability to distribute and encourage its re-use is of fundamental importance to a democratic society, as noted in the *Reproduction of Federal Law Order*, SI/97-5 <http://laws.justice.gc.ca/eng/regulations/SI-97-5/FullText.html>)
- the Government of Canada is committed to open government principles (<http://open.canada.ca/>)



## Whereas

- the Government of Canada believes that (commercial) exploitation of IP contributes to economic growth and job creation, and that such exploitation is best achieved outside of government (as noted in TBS Policy <http://www.ic.gc.ca/eic/site/068.nsf/eng/00005.html>)
- academic library projects to preserve and provide access to government works have been delayed or prevented due to confusion over Crown copyright (e.g., Canadian government publications restricted in HathiTrust, hundreds of hours spent to obtain permissions, etc.)

## Whereas

- current interpretations of existing government terms of use and government licences by government employees are inconsistent and confusing, especially since the closure of the Crown Copyright Licensing program in 2013

(<http://publications.gc.ca/site/eng/ccl/index.html>, see also

<http://www.michaelgeist.ca/2013/11/crown-copyright-change/>)

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Distribution

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Incentives

Energy Offices and Labs

## Oil Sands: Indigenous peoples

[PDF version](#), 1.61 MB

### Impact of the oil sands on Indigenous communities

About 23,000 Indigenous peoples from 18 First Nations and 6 Métis settlements live in the oil sands region in northeast Alberta. Some Indigenous peoples in the region have expressed concern over the cumulative effects of oil sands development. The Government of Canada is working directly with Indigenous communities in and around the oil sands region to address and manage the impacts of development.





# Oil Sands

A strategic resource for Canada, North America and the global market

## Indigenous peoples

### Impact of the oil sands on Indigenous communities

major project reviews was announced that includes five principles. Two of these principles directly address concerns expressed to the Government of Canada by Indigenous peoples:

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*Aussi disponible en français sous le titre : Sables bitumineux : Peuples autochtones*

May 2016

**Publications****NRC publications**

Bioenergy Perspectives

Codes Canada publications

Construction Innovation

Construction Technology Updates

Energy Storage News

Canadian National Master Construction  
Specification (NMS)

Skygazing

NRC Publications Archive

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## HOUSING MARKET INSIGHT

Halifax



CANADA M C

Date Released

*Two forces, weak  
homes and the a  
stock, will support  
market for the ye*

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# Federal government correspondence

## Asked permission to web archive site (2012):

*Unfortunately we are not in a position to help advise you on how to resolve your technical difficulties\* in archiving GoC website content.*

*My more immediate concern is ensuring you are provided proper guidance and information regarding Crown Copyright and Licensing and what the...  
archive...  
institute...  
email to the Crown Copyright and Licensing and Library of Canada seeking their advice and input on this matter.*

Where is such guidance and why is it necessary if noncommercial use is ok?

\*not wanting to circumvent a robot.txt file

## Asked permission to web archive site (2013):

*I apologize for the delay in getting back to you. Unfortunately, we decline your request to allow your user agent archive.org\_bot to crawl the website. To respect the recommendation of the Office of the Privacy Commissioner of Canada that xxxx protect personal information on their website... protocols, the xx... col to prevent... from crawling... at include personal information about individuals who participate in xxxx processes and displaying these search results.*

Why is restricted personal information openly available on a govt web site in the first place?

# Federal government correspondence

## Asked permission to make a copy for a library collection (2015):

Usually, when a publication is not on the website anymore, it means it is no longer available to the public and the government of Canada is not allowed to be reproduced. However, there are exceptions for a non-commercial purpose. For example, the reproduction of a publication owned by xxxxxx for your research:

New restrictions for new formats? Were print publications ever withdrawn from depository libraries?

<http://www.DEPARTMENT.gc.ca/home-accueil/important-eng.php>

## My requests for information about OGL and/or Crown copyright from federal agencies/depts:

June 2011: CCL provided email confirmation that TBS (nc) terms of use applied across formats.

January 2015 - December 2016: Open Government Canada (TBS)

- OGL only applies to 53 publications on open.canada.ca (as of December 2016)

November 30, 2016: Canadian Heritage (CH) and Innovation, Science, and Economic Development Canada encourage public input. CH confirmed briefing file for Crown copyright.



**Having to ask permission is a barrier.**

**Government employees not being able to or taking an unreasonable amount of time to answer requests for permission is a barrier.**

**Government employees providing inconsistent answers to requests for permissions is a barrier.**

**Crown copyright is a barrier.**

## Whereas

- objectives of copyright law do not apply to publicly disseminated government works given that such works are created by public organizations for the benefit of the public (as per the Supreme Court of Canada in *Théberge v. Galerie d'Art du Petit Champlain* and *CCH v. LSUC*, which state that the objective of the law is to balance the incentivization and rewarding of creators with the encouragement of disseminating works in order to benefit society)

Whereas

- the Government of Canada almost never pursues Crown copyright infringement claims (e.g., see Sessional paper 8555-412-57, tabled December 4, 2013, House of Commons)

## CBC threatens podcast app developer for using publicly available content, suggests 'license fee model'

[Facebook](#) | [Twitter](#) | [Google+](#) | [Email](#)

Sean Craig  
Tuesday, Nov. 8, 2016

In a move that could impact your morning commute, the Canadian Broadcasting Corp. has sent a legal threat to the developers of a podcast app, claiming that accessing the public broadcaster's publicly available RSS feed without paying a licensing fee constitutes "commercial use" and is a violation of its copyright.

A spokesperson for the CBC said that while the broadcaster offers its podcasts for free on most third party apps and services, those third parties are "not permitted to sell ads on CBC content without our consent. To that end, we have sent a letter reminding them of this policy."



THE CANADIAN PRESS/Nathan Denette

One of Canada's leading experts on digital and intellectual property law was left baffled by the CBC's message.

"I don't get the claim," said Michael Geist, the Canada Research Chair in Internet and E-Commerce Law at the University of Ottawa. "An app that simply brings in a publicly available feed that you have made public is not something I'm convinced is a commercial use."

Geist added that CBC News articles have terms and conditions associated with them, as does the broadcaster's website. "If I read a news article through a browser or any other reader, which are applications that access publicly available content, that's not a commercial misuse."

"This all leaves beside the broader issue of why the CBC would want to limit the access the public has to content and information they paid for," he said.

## Whereas

- not all government works are intended for broad dissemination
- some works published by government agencies are authored or prepared by third parties
- the *Reproduction of Federal Law Order* is limited to federally-constituted courts and administrative tribunals



**We, the undersigned citizens or residents of Canada call upon the House of Commons to add Section 12.1 to the *Copyright Act*:**

**12.1 Works noted in section 12 are no longer protected by copyright upon being made available to the public.**

**<https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-1116>**

# Resources

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<https://era.library.ualberta.ca/files/b2b88qc23g#.VtYEdlSrJaQ>

# Questions?

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University of Alberta

<https://sites.google.com/a/uaberta.ca/wakaruk/>

[amanda.wakaruk@ualberta.ca](mailto:amanda.wakaruk@ualberta.ca)

@awakaruk (personal)

[FixCrownCopyright.ca](https://www.fixcrowncopyright.ca)



Courtesy of Kim Kemmer