

# Memorandum

CLARK WILSON LLP

**To** Canadian Research Knowledge Network  
Natalie MacDonald, Metadata Analyst

**From** Clark Wilson LLP  
Michal Jaworski, Partner and Co-Chair Higher Learning Practice Group

**Date** Oct 23, 2020

**Re** **Analytical Framework and Rights Statement for Sub-Collection and Items in the Canadiana Collection**

PRIVILEGED AND CONFIDENTIAL

## REQUEST

You have asked us to propose a framework for applying a copyright rights statement to each Sub-Collection of the CRKN Canadiana Collection, and to each individual record in the Collection.

## EXECUTIVE SUMMARY

1. To determine the most appropriate right statement, one must consider the copyright status of the Items in the Collection. Given their date of creation and publication, the most relevant legal principle is the expiry of the copyright term. This memo explains the principles involved in determining whether or not an Item is in the public domain, or is still protected by copyright.
2. This memo sets out the information that is required to make a copyright determination for each Item, including whether the work was a crown publication; the identity of the author(s); the date of death of the author(s); whether it was posthumously published; and so on.
3. Inevitably, some information will not be known; therefore, this memo discusses a risk-based decision-making framework, referencing an example from Simon Fraser University.
4. With respect to the copyright determinations for each Sub-Collection as a whole, we offer the following recommended rights-statements:
  - (a) Government Publications. The recommendation is:
    - (i) Rightsstatements.org: Copyright Not Evaluated.
    - (ii) Several of the Items in the Government Publication collection received contained some works that are about Indigenous peoples and communities, the Rightsstatement.org: "Other legal restrictions", would be appropriate.
  - (b) Serials: Periodicals, Annuals, Newspapers. The recommendation is:
    - (i) Rightsstatements.org: Copyright Not Evaluated.

- (ii) In the Items evaluated, only one Item was by or about Indigenous peoples and communities. Nonetheless, if there is a significant potential for other works to contain such material, the Rightsstatement.org: “Other legal restrictions”, would be appropriate.
  - (c) Monographs. The recommendation is:
    - (i) Rightsstatements.org: Copyright Not Evaluated.
    - (ii) In the Items evaluated, none contained works that are by or about Indigenous peoples and communities. Nonetheless, if there is a significant potential for other works to contain such material, the Rightsstatement.org: “Other legal restrictions”, would be appropriate.
5. With respect to the copyright determinations for each Item, the result will be that each Item will fall into one of three categories. Each category will have a rights-statements assigned to it. In summary, the categories and the recommended rights statements are:
- (a) **Clearly Public Domain:**
    - Creative Commons: “Public Domain”.
    - For works that contain, or potentially contain, Indigenous cultural expression or property: Rightsstatements.org: “Other legal restrictions”, may be appropriate.
  - (b) **Likely Public Domain:**
    - Rightsstatement.org: “No known copyright”.
    - For works that contain, or potentially contain, Indigenous cultural expression or property, the Rightsstatement.org: “Other legal restrictions”, may be appropriate.
  - (c) **Copyrighted:**
    - If author/exclusive licensee has granted permission to CRKN: “Published with Permission”.
    - If author/exclusive licensee has *not* granted permission:
      - o If legal and dispute risk is low: “All Rights Reserved. For non-commercial research purposes only.”
      - o If the legal and/or dispute risk is medium-high, consider removing public access to the Item until either permission is secured, or until such time as the work falls into one of the other categories above.

## ANALYSIS

### 1. Determining the copyright status of each Item in the Canadiana Collection.

The Collection is comprised of many individual written works, including literary, artistic, musical works, and photographs and drawings (in this memorandum, we will refer to these collectively and/or singularly as **Items**). The Collection does not contain audio or audio-visual works.

There are few commonalities between Items, with most published in some manner, each created at different times and in different contexts, and some created/published in other countries. As such, each Item will need to be reviewed to determine its specific copyright status.

Given the age of the Items, the most common legal principle to be applied is the copyright term. Copyright law gives the copyright owner exclusive rights, but only for a limited time. Once the copyright term has expired, the work is free for any person to use in any way they wish (note, moral rights expire at the same time as the copyright term).

CRKN and the Collection are based in Canada, and therefore Canadian copyright law should be the basis for determining CRKN's rights to copy and disseminate its Collection online.

The basic principles of determining the term of copyright are attached as Schedule A to this Memo. These principles were originally distributed to CRKN as part of our Memo dated August 6, 2020, regarding the Canadiana Collection.

Given that the copyright term is the key consideration, we will turn to the information you will require to make that decision.

### 2. Due diligence - the information required to make a copyright status decision

To determine whether or not the copyright term in an Item has expired, one must know the following:

- (a) Was the work created in Canada?

If no → consider the law of the country in which it was created. Schedule A contains information regarding certain publications in the U.S. and the U.K. This information will need to be supplemented as new circumstances emerge.

If yes → move to the next question.

- (b) Was the work prepared or published by, or under the direction or control of, the Canadian or a Provincial or Territorial government?

If yes → apply the crown copyright rules.

If no → move to the next question.

- (c) Is the identity of the author(s) known?

If yes → move to the next question.

If no<sup>1</sup>→apply the rules governing anonymous works.

(d) Was the work published during the author's lifetime?

If yes→move to the next question.

If no→identify:

- The date of the author's death; and
- The date of first publication.

With that information in hand, apply the rules for posthumously published works.

(e) Is the Item a single work (e.g. a book, pamphlet, article, drawing, etc.), or a compilation (e.g. database, directory listing, a newspaper, a journal containing multiple, separately authored articles, an anthology, etc.)

If the Item is a single work→identify:

- the author(s) of the work; and
- the date of death of the author(s) (note, if there were multiple authors, the date that the last of the authors died is the key date).

With that information in hand, apply the general rule.

If the Item is a compilation→identify:

- the person(s) who made the compilation (e.g. the editor(s)); and
- the date of the death of the editor, and if there were multiple editors, the date that the last of the editors died is the key date);

With that information in hand, apply the general rule to the compilation. However, also ask the next question.

Additional question→ If the compilation contains works that are likely used *in isolation* (e.g. articles in a newspaper, articles in an academic journal, individual pieces (e.g. stories, poems) in an anthology, etc.), then consider whether to also determine the copyright in each work.

For example, a newspaper contains the work of potentially tens of individuals (reporters, photographers, editors, ad writers and illustrators, etc.). The term of copyright in each item (a news report, an illustration or photo, an ad) would be determined individually, with each author also having moral rights in their work.

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<sup>1</sup> For example, this could be if the work is published anonymously or under an alias with the author's identity unknown.

Given the number of individuals involved, it would likely be considered going to extreme lengths to determine the identity and death dates of all these individuals.

So, if the compilation is (or is likely to be) in the public domain, consider including a section in the rights statement noting that copyright and moral rights may still be retained by the author(s) of any individual item within the compilation – and it is up to the viewer to obtain any required permissions.

On the other hand, an anthology may contain the works of a limited number of authors or artists, so it may be feasible to identify the authors and their death dates. In this case, the copyright analysis shown above for a “single work” can be applied to each individual work within the compilation, and noted alongside the rights statement to the compilation.

3. **A risk-based decision-making process regarding works where the copyright status is ultimately unknown, or confidence in the copyright determination is low.**

There will be situations where some of the necessary facts (identified above) are unknown, and therefore a conclusive determination of copyright status is impossible or would entail too great an effort. Therefore, we propose that CRKN adopt a risk-based decision-making approach.

The risks involved are both legal risks and dispute risks.

**Legal risk** refers to the chance of an incorrect legal judgment regarding the copyright status of a Sub-Collection, an Item, and CRKN's rights to provide access to digital copies.

Legal risk is *low* when we know or can discern a sufficient number of facts to determine the copyright status and CRKN's rights. For example, if we know who the author of a published work is and what date they died, that would clearly identify the copyright term. Similarly, if we do *not* know *who* the author is, but the work was published in the 18th century or up to the mid-19<sup>th</sup> century, it is reasonable to presume that the copyright term has expired under every available rule.

Legal risk is *high* when we have no facts upon which to make a judgement. For example, the work does not display any authorship or publication dates or other identifying information, and the work was published in the mid-20<sup>th</sup> century—such works are likely still subject to copyright protection.

Legal risk is *medium* when we have a partial set of facts. For example, the work has not been published anonymously, but it is impossible to determine authorship or confirm any details about the author. If the date of publication is from the late 19th century or later, this would indicate that there is a higher possibility that the work is still subject to copyright protection.

**Dispute risk** is the risk of a copyright holder (or purported copyright holder) making a take-down request or seeking compensation (or both) for CRKN's distribution of an Item. Dispute risk also takes into account reputational risk—that is, the risk that CRKN's publication of an Item will be seen as taking advantage of copyright owners, or flouting the law.

Dispute risk is *low* for works that are clearly in the public domain (i.e. the copyright term has expired), works that are of a public or non-commercial character (i.e. meant to be freely distributed), government works, and, arguably, works of lesser-known authors that are out of print.

Dispute risk is *high* for works that are not clearly in the public domain, are of a commercial nature, that are still in circulation, and that are published by commercial publishers who may offer repositories of their materials on commercial terms.

The risk is *medium* for works that are not clearly in the public domain, but where the work is not of a commercial nature and likely only of academic interest. Commercially published works which are no longer in circulation could also fall into this category, if the original publisher is still in business.

We recommend that CRKN develop a copyright analysis framework that is modeled after the example offered by Simon Fraser University's Library Services for its digitization projects<sup>2</sup>. The framework should contain:

- (a) a policy statement setting CRKN's goals and commitment to respect copyright law in a way that balances owners' and users' rights;
- (b) a work-sheet that will identify and track responses to the information relevant to determine the legal and dispute risk of each Item; and
- (c) a decision-making matrix or flow-chart that identifies how the information and considerations are to be used to arrive at a risk based decision.

#### 4. **Categorizing each Sub-Collection**

**Government Publications:** As described in our August 6, 2020 memorandum, this Sub-Collection is comprised of various documents, statutes, reports, correspondence, etc., from all levels of Canadian Government, pre-confederation Canadian government (i.e. as a colony of Great Britain), and the United States.

This Sub-Collection is the least risky, on account of the records found here having been old enough to be in the public domain. In our review, one item was found to be still copyright protected, but this was nonetheless a document of a public nature (a report tabled in Parliament). On the basis of this sample, in our view, this Sub-Collection carries a very low dispute risk.

We have reviewed the licenses available from Creative Commons and Rightsstatements.org, and believe that the following rights-statements would be appropriate to apply to the Government Publication Sub-Collection:

- (a) **Rightsstatements.org: Copyright Not Evaluated.** This rights-statement notes that CRKN has not conducted a copyright analysis. This statement is similar to the proposed Canadiana Terms of Service being proposed—whereby the Items are provided “as is”, without any promise that the user is able to use any Item for any purpose (other than that allowed by the *Copyright Act*).
- (b) **Rightsstatement.org: Other legal restrictions.** Because the Items in the Government Publication collection contain works that are by and about Indigenous peoples and communities, the Rightsstatement.org: “Other legal restrictions”, would also be appropriate.

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<sup>2</sup> This is appended to this Memorandum, as Schedule B

This statement confirms that while copyright may not be a concern (because the Items are in the public domain), there may be other legal restrictions that a viewer should take into account before using the Item, including cultural heritage and traditional cultural expression.

Note, Rightsstatements.org suggests that, if this statement is used, that the “the organization that intends to make the Item available should provide a link to a page detailing the legal restrictions that limit re-use of the Item.” If this rights-statement is selected, additional work will be required to craft this document. There is no additional guidance provided by Rightsstatements.org regarding how specific this additional documentation must be. Given the breadth and scope of this Sub-Collection, the description of the legal restrictions will, of necessity, be broad and should put the onus on the user to scrutinize the Item to determine what communications and possibly permissions would be required to use the Items in this Sub-Collection.

### **Serials: Periodicals, Annuals, Newspapers**

As stated in our August 6, 2020 memorandum, the Items in this Sub-Collection are generally riskier than the Items in the Government Publications collection. This is because some of the individual articles as well as some of the collective works themselves may be still be copyrighted. Also, there are likely works of joint authorship, where different authors own rights in the work. Also, it is more common to see databases of historical newspapers and the like be offered commercially. These factors raise the dispute risk (the likelihood someone will complain), even if the legal risk (the risk that the works we’ve declared to be in the public domain, are actually copyrighted) is low.

However, the examples we have reviewed are sufficiently old (e.g. published up to the 1910s), and do not obviously indicate any commercial value in addition to their historical value (e.g. the newspapers appear to be local rather than national, and some were limited to a local cultural community).

We have reviewed the licenses available from Creative Commons and Rightsstatements.org, and believe that the following rights-statements would be appropriate to apply to this Sub-Collection:

- (a) **Rightsstatements.org: Copyright Not Evaluated.** As noted in respect of the Government Publications Sub-Collection, this rights-statement notes that CRKN has not conducted a copyright analysis, and is similar to the proposed Canadiana Terms of Service being proposed—whereby the Items are provided “as is”, without any promise that the user is able to use any Item for any purpose (other than that allowed by the *Copyright Act*).
- (b) **Rightsstatement.org: Other legal restrictions.** In the Items evaluated, only one Item presented content about Indigenous peoples and communities. However, if there is nonetheless a significant potential for other works to contain such material, this rights-statement should be considered.

### **Monographs**

As noted in our August 6, 2020 memorandum, the Monographs Sub-Collection is riskier, as it features published works of lasting commercial and cultural value. However, the copyright has clearly expired in the best-known Items, included the works of LM Montgomery, Louisa Alcott, and translations of Oscar Wilde.

Still, we understand that this Sub-Collection may contain younger works (well into the 20th century), where we can expect that works remain copyrighted.

We have reviewed the licenses available from Creative Commons and Rightsstatements.org, and believe that the following rights-statements would be appropriate to apply to this Sub-Collection:

- (a) **Rightsstatements.org: Copyright Not Evaluated.** As noted in respect of the other Sub-Collections, this rights-statement notes that CRKN has not conducted a copyright analysis, and is similar to the proposed Canadiana Terms of Service being proposed—whereby the Items are provided “as is”, without any promise that the user is able to use any Item for any purpose (other than that allowed by the *Copyright Act*).
- (b) **Rightsstatement.org: Other legal restrictions.** In the Items evaluated, none contained works that are by or about Indigenous peoples and communities. Nonetheless, if there is a significant potential for other works to contain such material, this rights statement would be appropriate.

## 5. Rights statements for Individual Items

By rights statements, we mean a statement that is attached to each Item that identifies the terms upon which the Item is provided by CRKN to the Collection’s users.

By default, all Items will be provided on the terms identified in the Canadiana Terms of Service, which are, in effect, on an as-is basis. Updates of the Terms of Service will add that, if a rights statement is attached at a Sub-Collective level, that rights statement will govern, but if a rights statement is attached to a specific Item, that rights statement will govern.

Considering what we have found in the Canadiana Collection, we feel that Items will likely fall into one of three categories: (A) works that are *clearly* in the public domain; (B) works that are *likely* in the public domain, but we are not sure; and (A) works that are copyrighted and works that are *not likely* in the public domain.

The rights statements for each category are discussed below.

### **(A) Clearly Public Domain**

Where a work is clearly in the public domain, we recommend applying the Creative Commons “Public Domain Mark”. The Creative Commons website explains that this mark is designed as a “tag or a label” for knowledgeable institutions to apply to items that they’ve determined to be in the public domain.

An important caveat on the Public Domain Mark is that the label should not be used if the work is in the public domain in Canada if the work is known to be protected by copyright in other jurisdiction—this is an issue where works are created in a foreign country that has a longer copyright term than Canada (e.g. the USA). As discussed in Schedule A, this is a matter of some complexity—if in doubt, it is better to treat the Item as presenting a higher legal and dispute risk and therefore categorize it as “Likely Public Domain” (see the next section).

In addition, for works that potentially contain Indigenous cultural expression or concern Indigenous peoples or communities, consider the Rightsstatement.org, “Other legal restrictions”, which

communicates that while the work may be in the public domain, there are known restrictions that prevent entirely free re-use of the content, such as for example, cultural heritage or traditional cultural expression.

### **(B) Likely Public Domain**

Where there is insufficient information to confidently determine the copyright status of the work, but a risk-based judgement indicates that the work likely is in the public domain and the dispute risk is low, we recommend the Rightsstatement.org, “No known copyright”, which communicates that the copyright status has not been determined conclusively, but there is “reasonable cause” to believe that the work is in the public domain.

Again, for works that potentially contain Indigenous cultural expression, consider the Rightsstatement.org, “Other legal restrictions”, which communicates that while the work may be in the public domain, there are known restrictions that prevent entirely free re-use of the content, such as cultural heritage or traditional cultural expression.

### **(C) Copyrighted**

This category is appropriate not only for works that are found to be copyrighted (e.g. we have sufficient information to determine that the copyright term has not expired), but it should also be the category for Items where there is insufficient information to confidently determine the copyright status, or a risk-based judgement indicates that the dispute risk is high.

Where an Item is found to be copyrighted, the Item can only be made available with the permission of the copyright owner or exclusive licensee, or by relying upon user rights set out in the Copyright Act.

In our view, in general, applying available user rights in the *Copyright Act* to a copyrighted work posted, in full, in the Canadiana Collection presents a high legal risk (i.e. a high risk that this application of the user right is incorrect) and a high dispute risk (i.e. a high risk that the copyright owner will complain and perhaps pursue a claim against CRKN).

Therefore, the permission of the copyright owner or exclusive licensee should be sought. Without such permission, the Item should not be made available in the online Collection.

However, there may be considerations that reduce the legal risk and dispute risk, including the nature and purpose of the work and whether the work has commercial value. If the risk is reduced to the point where CRKN determines it is acceptable to post the Item online, we recommend applying the following rights statement: “All Rights Reserved. For non-commercial research purposes only.” This communicates that the work is being made available for online viewing only, and that any further use of the work must either be authorized by the copyright owner, or be permitted by copyright law (e.g. fair dealing).

This rights-statement could be prominently displayed on the work (perhaps has a permanent footer or watermark). The risk inherent in this approach can be reduced if the rights statement is set out in a pop-up notice that appears when a viewer clicks into the Item. Ideally, the pop-up would include a checkbox that confirms that the viewer understands and agrees that their use is limited to non-commercial research purposes only. Note, this approach will reduce, but not eliminate the legal and dispute risk of posting copyrighted Items in the Collection without permission from the copyright owner or exclusive licensee.

**SCHEDULE A  
COPYRIGHT TERM SUMMARY**

<b>Term of Copyright Summary - Law of Canada</b>	
<b>RULE</b>	<b>Description</b>
<b>General Rule</b>	Term is the Author's life, plus the rest of the calendar year of their death, plus 50 years. (s. 6)
<b>Special Rules: Multiple Authors</b>	If more than one author, the term runs until the term expires for the last author to die. (s. 9.1)
<b>Special Rules: Unknown Author(s)</b>	<p>If author(s) are unknown, the term runs for either:</p> <p>(a) for published works, the remainder of the calendar year of publication, plus 50 years, or</p> <p>(b) for unpublished work, the remainder of the calendar year that the work was made, plus 75 years.</p> <p><u>Note</u>: if identity of the author or one of the authors becomes known, the general rule applies.</p> <p>(s. 6.1 and 6.2)</p>
<b>Special Rules: Certain Unpublished Works of Deceased Authors</b>	<p>For literary, dramatic or musical works, engravings that have been <b>unpublished</b>, and a lecture or a dramatic or musical work that has been <b>unperformed</b>, before the death of the author/last of the joint authors to die, then (s. 7):</p> <ol style="list-style-type: none"> <li>1. <b>Unpublished works published by the estate before Dec 31, 1998.</b> If the author's estate published the work before December 31, 1998, the rule: the work is protected for 50 years from the date it was published.</li> <li>2. <b>Unpublished works when author died <u>before</u> Dec 31, 1948 and publication happened after 1998.</b> If the author died <u>before</u> December 31, 1948 and the work was not published on or before December 31, 1998, the rule: the work was protected until December 31, 2003 (for 5 years following the end of 1998). It came into the public domain on January 1, 2004.</li> <li>3. <b>Unpublished works when author died <u>after</u> Dec 31, 1948 and publication</b></li> </ol>

	<p><b>happened after 1998.</b> If the author died <u>on or after</u> December 31, 1948 and the work was not published on or before December 31, 1998, the rule: the work is protected until December 31, 2048 (for a period of fifty years following the end of 1998). It comes into the public domain on January 1, 2049.</p> <p>4. <b>All works after Dec 31, 1998.</b> If an author dies after December 31, 1998, rule: all unpublished works are treated the same as other works - the work is protected until the end of the year in which the author dies and for a period of fifty years following the end of that calendar year.</p>
<p><b>Special Rules: Cinematographic Works</b></p>	<p>For works that are not of a “dramatic character”:</p> <ol style="list-style-type: none"> <li>1. If published - the year of publication plus 50 years</li> <li>2. If not published within 50 years of the calendar year in which it was made, then for an additional 50 years.</li> </ol> <p>For works of a “dramatic character”, the General Rule applies - life of the author or last of the authors to die, the rest of that calendar year, plus 50 years. (s. 11.1)</p>
<p><b>Special Rules - Crown Copyright</b></p>	<p>For “published” works: if a work is “prepared or published by or under the direction or control of Her Majesty or any government department”, copyright expires 50 years <u>plus</u> the rest of the calendar year of publication. (S. 12 of <i>Copyright Act</i>)</p> <p>For “unpublished” crown works: unlimited. <u>Note</u>: we presume publication because the work made its way into this collection. (s. 12)</p>

<p><b>Other Issues</b></p>	
<p><b>The Copyright Term in the International Context</b></p>	<p>By virtue of international treaties entered into over the past approximately 150 years, an international understanding of how works created in one country are protected in other countries—with some theoretical harmonization. However, international treaties must not only be agreed upon by governments, they must be implemented through legislation in each country (as is sometimes said, treaties are not “self-executing”). As a result, even the international treaties with the most signatories have not been implemented (or <i>fully</i> implemented) in each of those signatories.</p> <p>Regarding the term of copyright, the Berne Convention establishes a two</p>

	<p>part rule. The first part says that the copyright term is determined by the country in which protection is claimed. So, if you create a work in Austria (where the term is life + 70 years), but the work finds its way to Canada (where the term is life + 50 years), and someone copies it on the 51<sup>st</sup> anniversary of the author's death, there can be no infringement claim brought in Canada – because the work entered the public domain <u>in Canada</u> only after life + 50 years. Of course, the work remains in copyright <u>in Austria</u> for 20 more years.</p> <p>The second part of the rule is the flip side of the first. It says that the term of copyright protection in another country cannot exceed the term granted in the country in which it was created (unless local law expressly provides otherwise). So, if you create a work in Canada, and then make it available in Austria, the term of copyright in both places is life + 50 years. In other words, Canadian authors do not get the benefit of the longer copyright term in Austria.</p> <p>Unfortunately, the United States is one of several countries that have not implemented this rule fully. Therefore, a work created in Canada and also available in the USA may be in the public domain in Canada (life + 50 years) and still protected by copyright in the USA (life + 70 years).</p> <p>This, in part, explains why the length of copyright protection differs in almost every country.</p> <p>Practically speaking, the copyright term for literary works in most countries is between 50 and 70 years. The longest terms are, as at the date of this memorandum, between 90 and 120 years from the work's creation (usually reserved for posthumously or anonymously published works) and usually apply to works published from the 20<sup>th</sup> century forward.</p> <p>Since the Collection is primarily made up of materials made by and about Canada, we have, in the risk-based decision making process, applied the Canadian rules for establishing whether a work is in the public domain.</p> <p>If, in the course of reviewing any individual Item we find that the Item is or will be of interest in another country, and in particular the USA, and less than 70 years has passed since the author's death, the Item should not be considered to be in the public domain—rather, a rights statement that reflects this uncertainty should be selected.</p>
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<p><b>Copyright in US government works</b> - statutes, ordinances, reports, etc.</p>	<p>Within the United States, the US federal government does not claim copyright over federal publications of statutes, ordinances and reports of employees acting in their official capacities.</p> <p>However, the US government may seek to enforce copyright in such works in foreign countries. Source: <a href="https://www.usa.gov/government-works">https://www.usa.gov/government-works</a></p> <p>Therefore, for purposes of this Collection, a judgement needs to be made about how to treat such works. The options are to treat them as being in the public domain by virtue of the US government's general policy <u>within</u> the US (unless there is a clear indication to the contrary in the record itself); or to apply the General Rule (life of author + 50 years).</p> <p>Practically, the General Rule will be used for all such records.</p> <p>For records pre [1920*], it can be reasonably assumed, even without knowing who the author(s) is/are, that the copyright term has expired (i.e. that all authors passed away before 1969). Also, the risk of the US government asserting copyright is likely lower for historical records than for current records and those records containing external party content (e.g. work by contractors).</p> <p>For records dated [1920*], a judgement will need to be made based on the record and the corresponding legal and dispute risk.</p> <p>*This date ought to be considered. Would an author publishing a government work in 1920 reasonably be expected to have lived to and beyond 1969?</p>
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<p><b>Copyright in Government works from the United Kingdom (Great Britain)</b></p>	<p><u>General rule:</u></p> <p>Pursuant to S. 163 of the <i>Copyright, Designs and Patents Act 1988</i>, the term of copyright in literary, dramatic, musical or artistic works created by "Her Majesty or an officer or servant of Her Majesty in the course of their duties" has a term of:</p> <ul style="list-style-type: none"><li>- 125 years after the work was made;</li><li>- if the work is published within 75 years of being made, then the term is the date of publication, the rest of the calendar year, plus 50 years.</li></ul> <p><u>General rule regarding Acts and Measures:</u></p> <p>Pursuant to s. 164 of the <i>Copyright, Designs and Patents Act 1988</i>, the copyright in Acts and Measures (of the Welsh National Assembly) have a term of 50 years from the date of Royal Assent/Approval.</p> <p><u>General rule regarding Parliamentary works</u> (works made by or under the direction or control of the House of Commons or the House of Lords, including (a) any work made by an officer or employee of that House in the course of his duties, and (b) any sound recording, film or live broadcast of the proceedings of that House):</p> <p>Pursuant to section 165 of the <i>Copyright, Design and Patents Act 1998</i>, the term of copyright in literary, dramatic, musical or artistic works under Parliamentary copyright is 50 years from the date they are made.</p>
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## Schedule B

Risk Management Copyright Policy Framework for SFU Library Digitization Projects

<https://summit.sfu.ca/item/16740>