

## GUIDE TO COPYRIGHT AND PHOTOGRAPHS

### Scope

These guidelines provide information about the application of Canadian copyright law to **photographs** in the holdings of The Rooms Provincial Archives. Please see Rooms Provincial Archives staff for the application of copyright to other materials.

This guide should not be considered a legal authority or a comprehensive interpretation of the *Copyright Act*. Clients with a particular concern should seek a qualified legal opinion.

### What is copyright?

Copyright is a bundle of rights created by law (in Canada, the Canadian *Copyright Act*). The *Copyright Act* gives the creator of a work certain exclusive rights, including the right to reproduce, to publish, to broadcast, and to exhibit the work in public. If someone else wants to do any of these things with the work, they usually have to obtain the copyright owner's permission. However, the Act also balances the rights of copyright owners by permitting specific uses of a copyrighted work, subject to certain conditions, without the permission of the copyright owner.

The **duration** of copyright is defined in legislation. When copyright ends, the work becomes part of the **public domain**, and may be used freely by anyone.

The holdings of The Rooms Provincial Archives include photographs that are in the public domain as well as those that are still protected by copyright.

### Reproducing photographs for research or private study

The Rooms Provincial Archives will make one copy of any photograph in its holdings for the purpose of research or private study, **unless**

- donors or copyright holders have expressly prohibited copying
- the original is too fragile to be copied
- the photo is a reproduction acquired for research purposes from another institution, in which case the Archives will direct clients to the repository where the original is located, if known.

The Rooms Provincial Archives staff will verify the **photographer** and the **date** of the images, **to the extent possible**, based on current descriptions, and will check their files to see if the copyright has been assigned to The Rooms Provincial Archives.

The Rooms Provincial Archives staff **will not alter or enhance** the reproduction of any image. This includes cropping, details from collages, etc. This is intended to preserve the historical and artistic integrity of the original.

**Research or private study** includes private uses such as the use of a reproduction of a photograph for decorations or gifts.

However, **commercial uses** or any use that involves a wide distribution of copies or viewing by many people is **outside** the scope of research or private study.

If you will be using the photograph for a purpose other than research or private study, you must request permission to publish, exhibit or broadcast, as noted below.

### **Publishing a Photograph**

Publication includes any use, **not-for-profit** or **profit**, which involves a wide distribution of copies or viewing by many people, including (but not limited to) the following:

- **All traditional printed works**, including books, pamphlets, brochures, newsletters, advertisements, newspapers, articles, postcards, etc.
- **Film, television, internet broadcasting**
- **Internet, CD-ROMs, DVDs, web sites.**
- **Public exhibits, displays**
- **Novelty items**, e.g., T-shirts, mugs, etc.

If you intend to publish a photograph, you **must complete The Rooms Provincial Archives Permission to Publish, Exhibit or Broadcast Form.**

The Rooms Provincial Archives does **not** automatically own the copyright in the photographs in its holdings. However, The Rooms Provincial Archives can authorize reproduction and publication of:

- photographs produced by departments and agencies of the Government of Newfoundland and Labrador, or
- photographs for which the copyright holder has **assigned the copyright** to The Rooms Provincial Archives when the photos were acquired

If the image is in the public domain or if copyright is held by The Rooms Provincial Archives, permission to publish will be granted on a one-time only basis, for the use stated in **The Rooms Provincial Archives Permission to Publish, Exhibit or Broadcast Form.**

If The Rooms Provincial Archives does **not** own the copyright in the image or the copyright holder cannot be identified, the client will be contacted using the contact information provided, and asked if they still wish to order the image(s) or if they wish to cancel the order. If they still wish to order the images, The Rooms Provincial Archives will provide a single copy for research or private study only. **It is the responsibility of the client to obtain any necessary authorizations for any uses other than research or private study.**

The Rooms Provincial Archives staff cannot do additional research to ascertain the copyright status or to identify or locate the copyright owner; nor can they provide legal advice on copyright matters.

### **What are your responsibilities if you intend to publish a photograph?**

**Manipulation of Images:** The Rooms Provincial Archives staff will not alter or enhance the reproduction of any image. This includes cropping, details from collages, etc. If an image is altered or manipulated in any way during publication, **this must be indicated in an accompanying caption.** This is intended to preserve the historical and artistic integrity of the original.

**Citations and credit:** Each image provided by The Rooms Provincial Archives will be accompanied by a **full citation** suitable for footnotes and bibliographical citation (subject to the chosen style sheet) and a brief credit which should be placed in close proximity to the image.

The form of the credit must include the following: **The Rooms Provincial Archives, Image number, Name of photographer [if known].** The image number allows the photograph to be located in the extensive holdings of the Archives.

### **Further Information**

Copyright is a complex topic, and the rules pertaining to photographs are particularly complex. For further information about copyright matters pertaining to photographs, please consult:

*Copyright Act* <http://laws.justice.gc.ca/en/C-42/index.html>

Jean Dryden, *Demystifying Copyright: A Researcher's Guide to Copyright in Canadian Libraries and Archives* (Ottawa: Canadian Library Association, 2001).