

Comments RE: Orphan works and copyright

Current copyright, especially regarding orphan works, detrimentally affects the historian's ability to properly illustrate work. Instead of being able to use the exact photograph of the event or place, the uncertainty forces the use of 'stock' images over and over, thus hiding important visual references from the reader. Poor history, that.

This is especially hard on someone like myself who as an independent scholar is writing a mss. As an example, in my case, I have found important photographs in the Library of Congress for which there is no copyright evidence at all. Most likely, they were taken by Army Signal Corps photographers and were then presented to a government official in a scrapbook...then given to the LOC by the family of that official. But without an expensive search, I cannot be certain...and even then the outcome is not necessarily the definitive answer. This muddle inhibits the publication of new, exciting and different images that better illustrate historical events

I have run into this same problem with news photographs taken during WWII. In this second case, apparently an organization has bought out ACME and other news agencies and hold copyright on some, but not all, of the photographs. They will not tell me if they have copyright, only that if I go to them, they will charge a (for me) a high license fee even if they do not hold the copyright. And the Library of Congress too cannot tell me more than that.

In short, the copyright process is so muddled that it inhibits scholarly work, reduces the historian's ability to show new images to the public and explore more of our history.

Copyright in this case turns everything into a commodity; the photographer is not protected, only the company acting as the broker is guaranteed a profit on something the company has not produced. With this new look at Orphaned material, you have the ability to ease the fear of using a photographs AND simplifying the search process. If nothing else, remake the search process to include orphaned work (at best, now, I need the name of the photographer to search (if I can determine the correct topic to search) but the name/s is not known. **At the best, provide the green light to use orphaned photographs in non-fiction work as long as the sources of the photographs are noted. This protects the work and its provenance and facilitates its use. This is the academic way.**

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