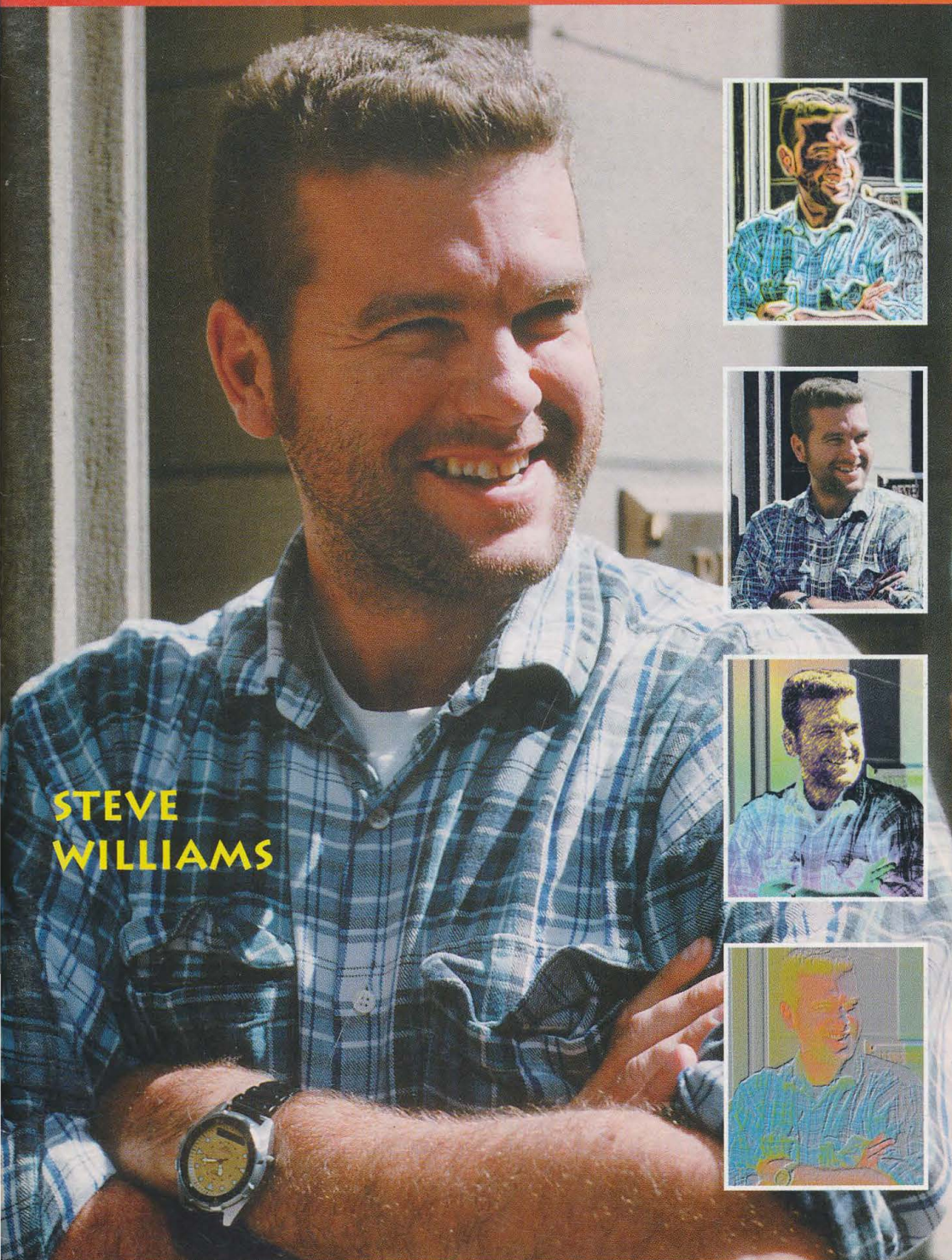


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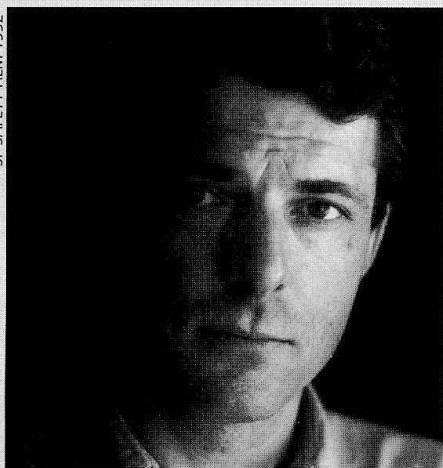
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Caught in the ACT

by Brian Greer

Status Of The Artist Act: Creative confinement or Union continuity?

With this issue of Studio Probe having a very heavy focus on the exciting changes in digital technology and what they may mean to photographers in the future, I would like to be writing an article about how digital technology changed my life. Better yet, I could give you the inside scoop on the demo programs we have been trying out at the studio. Instead, what you are going to get is more about the government and how the laws they pass directly influence your life.

In June of this year, Parliament passed a law called the "Status of the Artist Act". It did not get much media attention and I am quite sure I did not see it on CBC's *The Journal*. Yet, this Act will affect *all* photographic work carried out either directly or indirectly for the government. How much work is involved? Well, take out your calculator.

The Department of Supply and Services (DSS) estimates that they contract approximately 15,000 photographic projects per year. Roughly half of these are "grip and grin", but the other half consists of photo projects of varying types. DSS passes these jobs out to about 700 listed photo suppliers on a national basis. You should also know that many government departments contract much of their own photographic work and bypass DSS.

Additionally, the legislation covers *all* work done for agencies or designers working on government contracts. One final note is that it seems extremely likely that all provinces will introduce similar legislation. Sounds like there might be a few dollars involved doesn't it?

So what does the "Status of the Artist Act" say and do? The Act applies to *all* independent contractors working for the government. The Act expects that artists will be represented by one association that represents their interests. This association would have the

right to negotiate rates, terms of work, copyright arrangements etc., on behalf of all the artists represented by the association. Only one association will exist and be certified by the government for each artistic pursuit. In other words, if the National Association of Dog Breeders and Photographers were able to convince the government that they represented the interests of photographers, it would have "Exclusive authority to bargain on behalf of artists in the sector". You would not have to be a member to work for the government. You will have to live with whatever has been negotiated on your behalf.

Who will decide which association will represent photographers? The Act provides for the creation of a Canadian Artists and Producers Professional Relations Tribunal. The tribunal will have the power to certify or decertify artist's associations. It will have the power to decide whether you are represented by an association. It will have the power of a court to decide any question associated with the Act, including whether a person is a producer or an artist and whether or not you are covered by a "scale agreement" that has been agreed to by the government and your representative association. The tribunal can call evidence and award costs.

Now what exactly is a scale agreement? Well, that's simple. In effect, it is a union contract which covers work of a specific type. If the scale agreement says that photography is worth \$60 an hour, then that is what will be paid on *all* work. The Act also tells us how a scale agreement will come into force. As soon as an organization is certified by the tribunal as representing a sector, either the association or the government can request that negotiations commence. Once in force, the scale agreement is binding. In fact, there is even a requirement in the Act that non-members of an association will have to pay annual dues

DSS estimates that they contract approximately 15,000 photographic projects per year.



to the certified association if they do work. There is also a passing reference to the possibility that an agreement might require the government to grant preferential treatment to an association member.

One last area worth looking at is the possibility of doing work on a sub-contract basis with an agency or designer. You get called by XYZ Agency to discuss the interior shots for a brochure they are producing for the government. For those of you who are familiar with government contracts, you will *not* be quoting this job. The photography will be a line item on the proposal that the agency makes to the government. Photography, film, and prints will have a value assigned to them by the scale agreement. Your only decision will be how many hours and how many rolls are required. The price of "One Hour - Creative" will already be decided upon.

Please note that the Status of the Artist Act is law now. This article is not about calling your MP to complain. The time for that has passed. What you should be thinking about is who you want to represent you.

Although the Act will permit you to object to the certifying of an association, the fact is that sooner or later some group or association will be certified as representing the rights and interests of photographers in this country. When that happens, my guess is that a scale agreement will not be far behind.

It seems extremely likely that a scale agreement will also affect your rates and terms of work in other situations where you are not working either directly or indirectly for the government. Let's face it. If a designer has a book in front of him that lists out the value of an 8x10 print, it's not likely he will want to vary from that amount. Maybe the agencies won't even call for quotes any more. They can quote, themselves, from the agreement. If you think that I am exaggerating, I urge you to think again. I know that I am not the only person in the world who uses catalogues to decide how much it will cost me to do something.

The book is not going to list out rates for "Really Creative Photographer", "Kind of

Creative Photographer" and "Hack". It is possible that a scale agreement would incorporate years of experience into the rates. But an 8 x 10 print is an 8 x 10 print and I expect that is the way any agreement will read.

Whoever represents photographers has a responsibility to get the maximum possible benefits for all photographers, because this Act is going to impact directly on the large base of government work produced in Canada as well as much of the work produced for private sector users.

When Provincial legislation is passed, the best that you can hope for is that it does not conflict with the Federal law and require you to join two or more organizations in order to do work which is intended for the government.

I have said it before and this is the time to say it again. If you are not a member of a professional organization, you should be. Press your organization to find out what they are doing about the Status of the Artist legislation.

This is the law today. We must accept that. The question is how to derive maximum benefit from the law.

If the net result is a union contract that results in photographers being forever locked into the low end of the Canadian economy, then that is what you will have to live with. Over the next few years this legislation will affect all photographic work created in Canada.

If, on the other hand, a professional association uses this as an opportunity to ensure that Canadians think of artists as professionals, and understand that the rates and working conditions of a professional must reflect the knowledge and experience of that person, the law can produce positive results. Doctors have not suffered under legislation that specifies their income and billing procedures. I assume that you have a phone on your desk. Call somebody now and talk about it. SP

Mr. Greer owns Corporate Photography, an Ottawa-based firm specializing in People, Location, and the Advanced Technology Sector. He is currently Vice President (Business Practices) of CAPIC.

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