

## SOME NOTES ON COPYRIGHT FOR CHURCH MUSICIANS

Recently there have been some scary reports of very hefty fines being levied against churches, schools and individuals for infringement of copyright. These infringements are nearly always the result of possessing illegal photocopies. Horror stories are current of RCMP officers coming up to organists after church services, asking politely, but firmly, to see the music library and walking away with boxes of incriminating paper. Just to make matters a little more hair-raising, we all should be aware that the person making the photocopies is liable to prosecution as well as the users.

It is time for all of us to do a little self-examination on this matter. A few comments follow, most of which are common sense. I must stress that whilst these notes have been vetted by a lawyer, they are not to be construed as a legal opinion. They are written by a non-lawyer for non-lawyers. We should start by remembering that copyright protects all printed matter, as well as manuscript materials carrying a note to that effect. To reproduce such materials without permission is illegal. The only exception is that it is permitted to reproduce (and by this we mean photocopy nearly always) portions of a copyright work for private study purposes. I believe that such a copy should be clearly marked "For Study purposes only". Personally I take this to mean also that I can photocopy a page of organ music to avoid an awkward turn.

Secondly, copyright lasts a long time. Copyright is granted for the life of the composer, author, arranger, or editor and for a period of 50 years after his or her death. An example may bring this home. Healey Willan died in February 1968. **Anything** by Willan is therefore copyright until 2018. However, a work like the *Epithalamium* based upon "Rise up, my love" for organ was edited for publication by John McIntosh. That won't go out of copyright until 50 years after the death of John McIntosh and he was very well the last time I talked to him. In actual fact very little music that you or I deal with on a regular basis is out of copyright. And it does not matter where in the world it was

originally copyrighted. So, to all intents and purposes it is illegal (or at best, a gamble) to copy any printed material. It might be that a work by John Stainer could be legally reproduced if no editor's name appears on the copy. But I would not like to say for sure – just let me know if you get to court on that one. (Incidentally the English have a habit of printing the phrase "Copyright renewed in..."; I am led to believe that this has no legal standing in Canada, but I would not like to be dogmatic.)

So, don't photocopy printed music! If a work is in print get organized, order it in good time. If it comes from overseas, get more organized and order it in very good time and have it sent by surface mail. In most cases it will be cheaper than photocopying. If you are disorganized, then there are the telephone and the airplane but they cost money.

Now we should turn to music which is out of print. Unfortunately the phrase "out of print" does **not** give permission to photocopy. The correct procedure then is to write to the publisher and ask for permission to reproduce a certain number of copies. (Incidentally I don't think you can expect music stockists to do this for you – there is nothing in it for them and anyway it's you that must have the permission. Where publishers operate their own photocopy reprint service, i.e. Novello and OUP, that is a different matter.) With permission anything is possible. You will never be turned down. In fact there is a legal process by which a publisher can be compelled to release out of print material for performance purposes. One of two things normally happens. Either they will give you permission to make a number of copies and will charge you a royalty fee or they will make them for you and charge you a unit price. Publishers will not ignore you nor refuse you – they are in the business of making money and they would like revenue from anything they have published. The reason it goes out of print is that they cannot afford to tie up capital in slow moving stock, not that they want to prevent a work from being performed.

There remains the very vexed question of a single piece that you wish to perform which is only available in an expensive anthology or collection. Again, contact the publisher. Often there are offprints

which are published and if not, it is likely they will see a chance of making a little money out of you and will give permission.

I am often asked about hymn texts and tunes. I'm afraid the rules still apply. It is illegal to take texts or tunes from various hymnbooks and to reproduce them for church services. Write and ask for permission and you are in the clear. This is an area where permission is readily and cheaply given.

A few loose ends:

- a) If a work is out of copyright you might want to make your own edition by writing it out in manuscript and making your own performance suggestions. This can then be copied. But be careful – the work must be out of copyright – otherwise it's still illegal.
- b) Morally – and I must stress that word – I feel that if I have ordered a piece of music and delivery is delayed, I can photocopy the number of copies I have ordered. On delivery these copies would be destroyed. However, I must warn you that technically this is still illegal unless you have permission.
- c) As far as anthologies are concerned some singers may like to purchase their own copies – this can save the church a lot of money. I have had some success in persuading people to donate rather more expensive sheet music as memorials or gifts in celebration of certain events.
- d) You and I complain about the high cost of sheet music but the publishers have a point when they say that illegal photocopying is one of the contributing factors.
- e) As Chester Music put on some of their publications: Don't photocopy – it's stealing.

The final word is that stealing is against the law. If you are caught it is going to hurt.



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