
Liturgy and the Copyright Law

In our liturgical celebrations we are dependent on the work of many persons outside our worshipping communities. We need candles, vestments, bread and wine, altar cloths, crosses, windows, the church building itself. We expect to pay the artists, artisans, architects, builders, manufacturers and retailers that supply these requisites for worship. We need light, heat and water as well, and we pay for these municipal services.

We are also indebted to those who have composed or translated liturgical texts, those who have prepared the liturgical rites and the introductions, notes and rubrics that accompany them, as well as those who have translated the biblical readings and prepared the lectionary.

We also need to acknowledge the creative women and men who compose song texts and musical settings. Also to be named are editors, book designers, printers and publishers who make available to us the work of all these learned and creative people.

Many of those who supply the music, song texts and art on which we depend derive part or all of their income through this work. They need to eat, clothe and house themselves and often their spouses and children as well. Publishers invest a great deal of money in producing books and editions of music, and depend on selling them in order to stay in business so they can publish the next generation of resources.

→ **We have a moral obligation** to deal fairly with composers, editors, translators, writers and publishers, just as we have a moral obligation to deal fairly with those who provide candles, vestments and the design and construction of our church buildings. This is a matter of justice.

We also need to deal fairly with composers and writers in order to encourage and support the creation and publication of new works in the future. This is a matter of fostering gifts given by God for the enrichment of church and society, and of showing good stewardship of such creativity for the benefit of our children and the church and society of tomorrow.

Justice, the fostering of gifts, and providing for tomorrow are expressed and supported in concrete ways in the laws of our country. One kind of law has to do with buying and selling church goods, furnishings and related matters.

A second kind of law has to do with what is called "intellectual property:" in general, written or artistic works. This is the concern of copyright law, which is the main concern of this article.

Copyright laws have been on the books for many years. Many parish liturgists – pastors, musicians, liturgy planners, communities of religious sisters

and brothers, et al. – have become conscious of them only in recent years, however. The desire and need for new liturgical music and texts, coupled with the ready availability of duplication equipment, have tempted many (who has not sinned in this regard) to infringe the laws of copyright. We also are blessed with more and more creators of song texts and musical settings, and they seek the protection that the copyright regulations afford. Publishers whose rights are infringed also are seeking redress in and out of the courts, sometimes with large settlements. Finally, widespread publicity has attended the 1989 amendments to the copyright laws of Canada and discussions that may lead to further amendments in the future.

This article attempts to explain to Canadian pastoral liturgists how the Canadian copyright laws apply to us. What does copyright mean? To what does the copyright law apply? How is work copyrighted? How do we use copyrighted material correctly? How is the copyright law violated? (What is said here may not apply to commercial publishers, to whom stricter procedures apply.)

This can be a complex and highly technical subject. Only basic principles and practices that have particular application to liturgical celebrations or liturgical education will be dealt with here. For fine points, exceptions, other applications, judicial interpretations, etc., consultation with legal experts is required. While the editor of the *Bulletin* has sought expert advice, he is not a lawyer. Any errors are his, are inadvertent, and are not intended to circumvent the law.

The basic idea of copyright is this: The person who creates an original literary, artistic, musical or dramatic work is the only person who has the legal right to "copy" his or her work. Anyone else who wishes to copy the work requires the permission of the original author or creator, and needs to acknowledge the original source.

The economic dimension of copyright means that the creator of a work may copy and sell his or her own work, may charge a fee for others to copy it, and may assign (that is, transfer) his or her rights to a publisher or other party. In addition, the creator may charge if a musical or dramatic work is performed by others.

The moral dimension of copyright means that others may not change a copyrighted work, without the permission of the creator, if such editing is prejudicial to the honor or reputation of the copyright owner.

What does "copying" mean? Here it includes publishing, producing, reproducing, and performing the original work. It also includes photocopying, making transparencies or slides for projection, records, audiotapes, videotapes, and the like.

What kind of work may be copyrighted? The original literary, artistic, musical or dramatic works covered by the copyright law include books, articles, tables, translations, compilations, handouts, bulletins, computer programs, all kinds of musical works, sculpture, paintings, photographs, motion picture films, television productions, dance choreography, etc. So far as liturgy is concerned, all liturgical books and texts, all biblical readings and all music (texts and settings) are protected by copyright laws.

How does a work become copyrighted? In Canada, an original work of the type described above is protected by the copyright law as soon as it is created; this is done automatically in the very process of creating it. The copyright pro-

cess becomes more formal and more public if the work includes the designation "© Jane Doe 1990." One might include additional information as well: "Edmonton, Alberta" or "St. Mary's Cathedral, Regina."

Copyright protection becomes still more public and formal if the work is registered with the Copyright Office of the Government of Canada. Registration involves completing a simple form and paying a fee. Registration does not require that copies be submitted. However, two copies of all works published in Canada must be deposited with the National Library of Canada.⁷

The process just described is the procedure in Canada. In some other countries only works that are registered with the national copyright office are protected by law.

If an author wishes to allow others to copy his or her work without asking permission, this may be indicated by a statement such as "This may be reproduced" or "Permission to copy granted" or "Permission to copy is granted for one-time liturgical use" or the like.

Copyright protection lasts for the life of the author plus 50 years. A work that is older than this is said to be in the public domain, and may be copied without permission.

Copyright laws vary from country to country. Because of international agreements, works that are copyrighted in one country are (usually) protected by the laws of other countries. In such cases it is the copyright law of the country in which the work is used that applies. Thus works registered for copyright purposes in the United States or the United Kingdom, but used in Canada, *are under the protection of Canadian law*, not those of the U.S. or U.K. (This point often is not understood either by Canadian users or U.S. copyright owners.)

Copyright laws try to balance the rights of the creator with those of persons who would like to use his or her work. In Canada the law very much favors the creator; in other countries the users receive more consideration. Canada has very strict copyright laws compared to those in many other countries.

The copyright laws can be violated by infringement and by piracy. Infringement is the most common form of violation among liturgists; it is simply copying a work without permission and/or without giving acknowledgment. Piracy is copying and selling copies for profit.

A separate issue, but one that should be mentioned here as well, is that of plagiarism. This is saying or implying that a work is yours when it is not. To avoid plagiarism one gives acknowledgment that a work is that of someone else.

Making Copies

Proper acknowledgment of the source of any material copied must always be made. This usually will include the name of the author, the name of the article,

⁷ Forms and further information may be obtained from local offices of Consumer and Corporate Affairs Canada, or from the Copyright and Industrial Design Branch, Consumer and Corporate Affairs, 50 Victoria Street, Place du Portage Tower 1, Hull, Quebec K1A 0C9.

book or other work from which an excerpt is taken, the name of the copyright owner, and the date of copyright. The copyright owner may specify the content and form of the acknowledgment and even where it is to appear.

Copying Without Asking Permission

It is permissible to make copies under the following conditions without asking permission.

- If the work in question is in the public domain; that is, copyright protection has run out.

The International Commission on English in the Liturgy (ICEL) has compiled and created the *Resource Collection of Hymns and Service Music for the Liturgy*. This book contains 250 hymns in the public domain and 106 settings of music for the rites which may be reproduced without charge. This resource is published by GIA Publications (Chicago). A companion volume, *ICEL Lec-tionary Music*, is also published by GIA.

The words and melodies of Christmas carols and other traditional music are in the public domain. (However, particular musical arrangements may be protected by copyright.)

- If the creator states on the work that it may be copied without permission.

Some publishers grant permission to copy musical refrains or responses for congregational use, if sufficient copies of the whole work have been purchased for choir, cantor, organist, etc.

Other publishers grant permission for one time liturgical use.

- If the part that is copied is less than a “substantial” portion of the work.

“Substantial” may mean that only a small part of a work is copied – one or a few pages from a book, for example. However, it is also measured by the importance (“quality”) of the material that is copied. Thus a congregational refrain or response may be considered substantial, even if it is only a small portion of a larger composition from a quantitative point of view. There are no precise rules regarding this matter. In a legal suit, the judge makes the final decision.

- If the copying constitutes “fair dealing.”

The legal principle of “fair dealing” allows you to make one copy of a copyrighted work for the purposes of private study, research, criticism, review or newspaper study. Such copying may not be done simply to avoid purchasing the item. It is not a right, but rather a legal defense with respect to infringement. (In the United States the legal doctrine of “fair use” constitutes a right to make single copies. In law there is an appreciable difference between fair dealing and fair use; in practice they both allow single copies to be made.)

No special exceptions or exemptions are made in Canada for religious or educational purposes or institutions. (Such exceptions are made in some other countries.)

Asking Permission to Copy

In all other cases permission needs to be obtained – before making any copies. Obtaining permission does not necessarily mean that a fee needs to be paid. Publishers of liturgical materials often – but not always – permit copying for one-time use or for a small number of copies or for educational use without requiring a fee. They usually still require that their permission be asked first, however.

In all cases, proper acknowledgment must be made.

In writing to ask permission, address your request to the “Permissions Department.” Say that you are writing to request permission to make reproductions of a work (or part of a work), the rights for which you understand are owned or exercised by that firm.

Add that, if permission is granted, you undertake to ensure that any reproduction of the work will be carried out in accordance with any requirements the owner specifies, and that a notice of copyright will be included with each copy. Also say that if you do reproduce the work, you will remit any fees stipulated by the copyright owner.

Copyright owners prefer to deal with written requests, which means that the request needs to be submitted a month or more before the date of anticipated use. This may not always be possible, for example, in the case of funerals. In addition, some copyright owners do not always reply promptly. In such cases they may be contacted by telephone.

Supply as much of the following information as possible:

- the name and address of organization making the request, and of the contact person
- title of work to be copied
- author and/or editor
- edition and date
- wording of copyright notice on the work
- ISBN number (for books), if available
- selections, chapters or page numbers to be copied
- total number of original pages
- number of copies to be made
- use to be made of reproduced material
- is the material to be revised and/or abridged? If so, a copy of the proposed changes should be attached;
- form of distribution (e.g., classroom, bulletin)
- will the material be sold? At what price?
- type of reprint (photocopy, offset, typeset)
- date of use or when copying will be done.

Biblical Texts

English translations of the Bible are copyrighted by their respective publishers. Though small portions of the Jerusalem Bible and New American Bible may be copied without fee, their publishers require that written permission be requested. Small portions of the Revised Standard Version may be copied without asking permission.² Addresses of some commonly used biblical translations follow:

Jerusalem Bible
New Jerusalem Bible

Doubleday & Company, Inc.
245 Park Avenue
New York, NY 10017
(212) 953-4561

Revised Standard Version
New Revised Standard Version

National Council of the Churches of Christ
475 Riverside Drive
New York, NY 10115-0050
(212) 870-2271

New American Bible
Revised New Testament of the New American Bible

The Confraternity of Christian Doctrine, Inc.
3211 4th Street NE
Washington, DC 20017
(202) 541-3098

The Grail Psalms

Grail
c/o A. P. Watt Ltd
20 John Street
London, England WC1N 2DL
01-405-67-74

Liturgical Texts

Copyright for the following texts is owned by the International Consultation on English Texts (ICET). They may be used without prior permission, but acknowledgment should be given. New versions of some of these texts have recently been published by ICET's successor, The English Language Liturgical Consultation (ELLC),³ but they have not yet been approved for liturgical use in Canada.

² Further information may be found in: *Copyright Update*. Reprint permission policies of publishers of liturgical music and sacred scripture, published by the Federation of Diocesan Liturgical Commissions, PO Box 29039, Washington, DC 20017, (202) 635-6991.

³ *Praying Together*, by the English Language Liturgical Consultation (Nashville: Abingdon 1988)

The Lord's Prayer, Kyrie Eleison (Lord, have mercy), Gloria in Excelsis (Gloria), Nicene Creed, Apostles' Creed, Sursum Corda (Preface dialogue), Sanctus and Benedictus (Holy, holy), Agnus Dei (Lamb of God), Gloria Patri (Glory to the Father), Te Deum Laudamus, Benedictus (Song of Zechariah), Magnificat (Song of Mary), and Nunc Dimittis (Song of Simeon)

Most other Roman Catholic liturgical texts in English are copyrighted by the International Commission on English in the Liturgy (ICEL) (its address is given below). (a) For one-time use, you do not have to obtain prior permission from ICEL, though, as always, acknowledgment should be given. (b) The publication in Canada of ICEL texts by commercial publishers requires both the prior permission of ICEL and the consent of the National Liturgical Office (90 Parent Avenue, Ottawa, Ontario K1N 7B1). (c) Parishes or religious communities who wish to use ICEL materials in any permanent or semi-permanent document need to ask ICEL's permission. ICEL may or may not ask that they consult the National Liturgical Office as well.

International Commission on English in the Liturgy
1275 K Street NW, Suite 1202
Washington, DC 20005-4097
(202) 347-0800

Canadian additions or adaptations of ICEL materials, or original materials, are copyrighted by the Canadian Conference of Catholic Bishops. Permission to use these may be requested from the CCCB Publications Service, 90 Parent Avenue, Ottawa, Ontario K1N 7B1.

Music

The copyright situation with respect to music can be quite complicated.

- In some cases the copyright for the words, melody line, harmonization and instrumentation may be held by different persons or publishers.
- The publishers of hymnals or other collections often do not own the copyright for individual pieces included. They have been granted permission to use these materials by the copyright owners, but have no legal right to grant such permission to others. Some modern hymnals give addresses of the copyright owners, usually at the back.
- Each publisher has its own policies and procedures.
- Copyright holders of music own both "reproduction rights," (which have already been considered) and "performance rights." If you have bought enough copies for everyone in the choir and for the organist and other instrumentalists, you need not ask for permission to perform that piece in a worship service. But if the same group of musicians, using the same music, puts on a concert and charges admission, then a royalty for performance rights is also payable to the copyright holder, unless they have granted an exemption.

Addresses of some music publishers are given below.

Damean Music PO Box 250 South Weymouth, MA 02190 (617) 848-9699	Oxford University Press, Inc. Music Department 200 Madison Avenue New York, NY 10016 (212) 679-7300, ext. 7164, 7165
F. E. L. Publications 3342 S. Sandhill Road, No. 9-444 Las Vegas, NV 89121-3455 (702) 737-0142	Pastoral Arts Associates of North America 642 N. Grandview Daytona Beach, FL 32018 (904) 255-5161
GIA Publications, Inc. 7404 S. Mason Avenue Chicago, IL 60638 (708) 496-3800	Resource Publications, Inc. 160 E. Virginia Street, Suite 290 San Jose, CA 95112 (408) 286-8505
Hope Publishing Company/Agape Carol Stream, IL 60187 (312) 665-3200	Weston Priory Productions Rural Route 1, Box 50 Weston, VT (802) 824-5409
Medical Mission Sisters 77 Sherman Street Hartford, CT 06105 (203) 232-4451 (Monday-Friday/Daytime) (203) 233-0875 (Saturday-Sunday/Evening)	Word of God Music/Servant Music PO Box 8617 840 Airport Blvd Ann Arbor, MI 48107 (313) 761-8505
North American Liturgy Resources 10802 North 23rd Avenue Phoenix, AZ 85029 (602) 864-1980	World Library Publications/ J.S. Paluch Co. Inc. 3815 N. Willow Road Schiller Park, IL 60176 (312) 678-0621
Oregon Catholic Press/ OCP Publications 5536 NE Hassalo Portland, OR 97214-0809 (503) 281-1191	

Classroom Use

The copyright laws also cover materials that might be copied for use in classroom or by students in libraries. The rules for acknowledgment, for copying without asking permission, and for asking for copyright permission already given, apply to this situation also.

Letters asking permission for this type of use might be composed along the following lines.

I would like your permission to copy the following (portions) of publication(s) for which you own the copyright: (list the publications; include author, title, inclusive pages. If a periodical article or in a collection of essays, include the full citation to the periodical or collection. Provide ISBN number if available).

I am teaching a course (name it) in/at (name the institution and department). This course has an enrollment of (number of students).

I wish to distribute the material identified below to each member of the class. *OR* I wish to place on reserve in the library (number of copies) of the material mentioned below for student use. *OR* I plan to compile an in-house materials book for student use.

The material will be used internally only, solely for the private study of the students enrolled in the course and will not be otherwise published and/or made available for sale.

Addresses of a few publishers whose materials are often used are given below.

The Liturgical Press
St. John's Abbey
Collegeville, MN 56321
(612) 363-2217

Liturgy Training Publications
1800 North Hermitage Avenue
Chicago, IL 60622-1101
(312) 486-8970

Pastoral Press
225 N. Sheridan Street NW
Washington, DC 20011
(202) 723-1254

Paulist Press
997 MacArthur Blvd
Mahwah, NJ 07430
(201) 825-7300

Pastoral Press
225 N. Sheridan Street NW
Washington, DC 20011
(202) 723-1254

Paulist Press
997 MacArthur Blvd
Mahwah, NJ 07430
(201) 825-7300

Making Changes in Copyrighted Texts

What are the copyright implications of making changes in a text, for example, to make it easier to read or more inclusive, or more suitable for children?

- If making such changes involves copying, for example by typing out the emended text in a bulletin or other participation aid or some other printed form, you will need to ask permission both to make the copy and to make the changes. Some copyright owners will gladly grant permission to make such changes, and others will not.
- If a presider, reader or cantor simply makes the changes as they speak them, and if the changes are not such as to distort the text so that the honor or reputation of the copyright owner is prejudiced, then this is permitted.

Inasmuch as ICEL and some other publishers have now adopted principles of inclusive language, making such changes orally would not seem to be against their wishes and would not prejudice their reputation – provided that the changes are done well. Remember, though, that prior permission is required if such changes are to be put into writing.