THE COMPOSERS GET WISE*

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ARTISTS, as a race, have the reputation of being congenitally naive in all matters pertaining to money. Is that based on anything more than hearsay? I wouldn't know. But as regards the American composer of serious music I can testify that up to a few years ago he had hit an all-time low for economic innocence. I hasten to add that he is changing in this regard – and rapidly.

It seems to me that this change is part of the maturing development of our music. For after all, it is not mere money that is involved. Gradually the conviction is growing in many composers' minds that only through earning a livelihood by the *collection of monies directly derived from the music they compose,* will the creative artists in this country be able to produce a maximum amount of music. This maximum is not now possible when most of our composers are busy making a living by so many other ways than composing. When that thought really registers, an important step forward will have been made toward a fully developed school of American composers.

The principal sources of income for the practising composer, *as a composer,* at the present time are three: 1. Commissions to do specific jobs such as incidental music for a stage play, a commemoration symphony, a ballet or a film score, an especially written concerto for a two-piano team, etc.; 2. Royalty payments on the retail sale of printed music; and 3. Fees collectible on the performance rights of a composition protected under the copyright law, if the piece is published, or under common law if it is in manuscript.

It is the third category, the newest source of income for the composer, that invites first consideration. There are still a number of composers who maintain that they wish above all to be played, and that it is foolhardy to demand payment on a commodity of so little commercial value as a piece of serious music. Perhaps so. Nevertheless, it has been my observation

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that the composers who are played the most, are the ones who are paid. Americans are the first to conclude that if a thing costs nothing it can hardly be worth bothering about. I think it is true, however, that the majority of composers in America are beginning to assume the attitude that being played means being paid.

The ultimate goal in the performance-right field is, of course, total collection – which means that each time a piece is played in public "for profit" a performance fee should be collected. This applies to *any* piece, regardless of whether it is a song, a string quartet, a piano prelude or a symphonic poem. It applies whether the piece is played in Carnegie Hall, or in the Town Hall of Ozona, Texas. In practice, of course, it is only the radio industry which considers itself in danger of suit for infraction of copyright when an unauthorized performance takes place over the air. All other users of so-called serious music feel free to perform a copyrighted work as often and wherever they choose, for the simple reason that no effective machinery has been set up, to date, for the collection of these performance fees.

The establishment of the principle that a fee is collectible on the performance of music dates from the copyright law passed by Congress in 1909. In 1914, a number of composers of popular music banded together for the purpose of putting the law into actual operation by the setting up of an effective collecting agency – the ASCAP. It apparently did not seem worth-while to the popular composers to inaugurate a similar collection service for their less sought-after colleagues – the serious composer.

I do not believe that it is generally appreciated to what an extent our laws and forms of protection have been based, in the past, on the needs and customs of the song and dance field, without regard to conditions in the concert world.

Take, for example, the wording of the copyright law itself: it is only a performance "for profit" that, strictly speaking, comes under the jurisdiction of the copyright law. Now under this provision, no school, church, music club, or symphony orchestra need ever pay for the use of copyrighted music – a fact of little or no importance to the popular composer, since he derives his income mainly from hotels, taverns, ships, movie houses and similar places. No doubt schools, clubs, and churches are non-profit making organizations within the meaning of the law. Nevertheless, nobody ever suggests that the *publishers* of school and church texts present their books free of all charge to these institutions.

It would seem equitable that the serious composer should have the right to collect a performance fee even in cases where the performance is not strictly for profit. To ask a composer to forego payment of a fee from a symphonic organization, for instance, because it is primarily a cultural group not engaged in making profits would make sense only if all the other participants who make the performance possible, from doorman to conductor, were to contribute their services gratis.

In brief, if any one gets paid, the composer should be paid. Sooner or later, the serious composers must see to it that the "for profit" clause is eliminated from the copyright law.

Another branch of the copyright law, that covering phonograph recordings, works less well for the serious than for the popular composer. When a piece of music is recorded the copyright owner must be paid two cents a side, without regard to the type of music, the size of the record, or the price charged for it. This means that the popular composer, whose vocal selection may sell in the thousands, at thirty-five to fifty cents, gets a comparatively fair return for his labor. But the serious composer, whose music normally sells only in the hundreds, collects the same two cents a side, despite the fact that the recording companies charge one dollar per record. It's obvious, too, that a serious piece of music implies a much greater expenditure of time and effort than a popular ditty. Moreover, once a work has been recorded by a single company, all other companies may record it *without the composer's permission,* provided that the flat sum of two cents a side is paid the composer or his publisher. This last contingency would, no doubt, affect very few serious American composers at the present time. But since we are building for the future, the obsolete provisions must be put down as an abuse of the composer's right in his own music.

The contract between the serious composer and his publisher also bears scrutiny. The popular composer, through his organization, The Song Writers' Protective Association, has established in recent years a minimum basic form that has been accepted by all reputable song publishers. The serious composers have, up to present writing, no such document. Yet the publishers of serious music make no secret of the fact that they take joint action as the Music Publishers' Protective Association. The printed form contract that composers receive from their prospective publisher obviously has the blessing of the MPPA. At the risk of being platitudinous, may I point out that publishers are business men, intent on making money on

their investment. No one questions their right to make money on the raw material supplied them by their composers. But as far as I know no one has ever investigated the dividends their investments pay, and the relation of that dividend to the composer's share in the profits.

It is assumed, for instance, that ten per cent of the retail price of sheet music is a fair return to the composer. This ten per cent is incorporated without question into most contracts covering publication of serious music. It is definitely sanctioned by custom. But I have sometimes wondered whether the amount of royalty payments the composer gets is too much – or, perhaps, too little. When composers are less naive in these matters, a representative of the men who write the music will be asked to examine the books of music publishers, so that all concerned in the business of selling music to the public may be assured of a fair return. Eventually a contract will be discussed, point by point, and adopted by both publishers and composers. I venture to predict that such a contract will be somewhat different from that now drawn by only one of the contracting parties.

I have, of course, only touched upon some of the more elementary conditions affecting the composer's economic status. But the end-goal will always remain the same: we must make it possible for the composer to live by composing. Almost every musician has been asked at one time or another by some music-loving friend: "How do composers make a living?" I wonder how some of them make a living myself! But it would indeed be pleasant, one fine day, to be able to say quite simply, the answer is by writing music.