THE AMERICAN FEDERATION OF MUSICIANS'
RECORDING BAN, 1942-1944, AND ITS
EFFECT ON RADIO BROADCASTING
IN THE UNITED STATES

THESIS

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James Caesar Petrillo, President of the American Federation of Musicians, called a strike effective July 31, 1942, prohibiting union members from making any disc recordings or electrical transcriptions. The present study recounts the history of that strike, including efforts to end it, reactions to it by various government and trade organizations and the circumstances under which it finally did end. The study focuses on the effect of the strike on radio broadcasters, both directly (through recordings they used) and indirectly (through the strike's effects on the recording and related industries), and concludes that it changed the character of radio's music somewhat, but had little detrimental effect on radio's profits.
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CHAPTER I

INTRODUCTION

Background

On August 1, 1942, sound recording studios in the United States became strangely silent. The inactivity did not result so much from the inevitable shortages that accompany wartime involvement, as from a decision of the members of the American Federation of Musicians (AFM) to refuse employment from phonograph recording companies. The announcement came from James Caesar Petrillo, president of the AFM, who believed that the radio broadcasting of phonograph records was reducing employment opportunities for musicians. The union leader believed that radio stations would have to employ more musicians if there were no phonograph recordings to play over the air. The ban continued against the major recording companies for twenty-seven months.

Problem

The reduction of new phonograph records and transcriptions touched more than the record-buying public. Related industries such as motion pictures, commercial advertisers, retail music stores, and juke box operators
were affected in some manner. The broadcast day of many radio stations was filled with music from disc recordings. It would seem that the sudden cessation of new recordings would profoundly affect these businesses. Nevertheless, little has been written about the ban and its effect on these industries, especially the radio broadcasting industry, the union's admitted target.

Historical studies have so far failed to describe specifically the recording ban of 1942. This study fills the gap.

Purpose

This study is a history of the AFM's 1942 refusal to make transcriptions and phonograph records, the stated purpose for which was to hurt the radio broadcast industry. It further examines the results of the ban as it affected the radio and phonograph record industries.

Research Questions

This study was initiated to answer the following:

1. To what extent did the strike affect radio network affiliates and independent stations?
2. How did the strike influence the type of music being played on radio stations at the time?
3. What were the economic results of the strike on the radio, phonograph, and related industries?
4. What did the union achieve as a result of the strike?

Methodology

Substantive facts were gathered from primary sources such as court cases and Congressional Committee hearings, as well as literature published during the time of the ban. Regrettably, the transcripts of hearings held before the Senate Subcommittee on Interstate Commerce, which investigated the ban, were never printed by the U.S. Government Printing Office; only preliminary hearings were printed. The same is true of valuable testimony given before the National War Labor Board during its hearings begun in July, 1943.

Scope and Limitations

The time frame of the study was limited to a period beginning in the early 1930's when the American Federation of Musicians first lodged complaints against the radio industry, to 1944 when the recording ban, begun in 1942, finally came to an end. The study was further limited to an examination only of the ban's relation to American industry and American markets, and does not attempt to study the ban's effect on foreign markets.
Survey of Literature

The only publication to discuss the recording ban at length is Robert D. Leiter's *The Musicians and Petrillo*, a history of the American Federation of Musicians and its longtime president. Leiter gives a brief account of the circumstances prompting Petrillo to impose the ban in 1942, and chronicles the activities of the union and the recording and radio broadcasting industries as they interacted during the ban.

Respected broadcasting histories such as those by Erik Barnouw and Sterling and Kittross treat the twenty-seven-month ban cursorily. Less scholarly histories such as *Cavalcade of Broadcasting* do not mention the ban at all. A search of thesis and dissertation titles revealed nothing that could be used for this study, or that would cause it to be a duplication of effort.

Although many newspaper and periodical articles and editorials described the twenty-seven-month strike and its results at the time, the only retrospective study of the recording ban is an article by Mary Austin, published in 1978. That article constituted a preliminary report on research undertaken for the present study.
NOTES

1 Transcriptions, sometimes known as electrical transcriptions, were especially prepared discs which, because of the materials used and the method of recording, were used only for radio broadcasts. They were made to be played only a few times and were largely used to pre-record commercials or commercially sponsored programs.


CHAPTER II

FACTORS LEADING TO THE BAN

When in 1940, James Caesar Petrillo ascended to the national presidency of the American Federation of Musicians (AFM), the union gained a formidable musician's advocate. He had already established himself as a powerful union leader while serving as president of the Chicago Local 10. This powerful position, plus Petrillo's inherent pugnacity, was adequate background to prepare him for the reins of one of this country's most powerful national unions.

This chapter will describe the various factors which led to the union president's decision to ban all recording work. The chapter will describe growth of the AFM in the United States, the relationship between the AFM and the radio industry as it appeared to change from friend to competitor, and the development of the recording industry and its relationship to the AFM. Finally, the chapter will briefly discuss the influence of the introduction of modern technology.

Growth of AFM Power

The national musicians' union got its start when in 1886 the musicians' local unions in seven major cities met...
to form the National League of Musicians of the United States (NLM). Despite its name, the NLM was a league of local unions, not actually a national musicians' union. As early as 1887 the American Federation of Labor (AFL) invited the NLM to affiliate, but many musicians considered themselves to be professionals having little in common with labor, and so regularly refused the invitation. The AFL began to charter locals directly to form the American Federation of Musicians. By 1904 the AFM had enough chapters to consider itself a strong national musicians' union.¹

The new union made only modest gains until Nicholas Weber became its president in 1901. Under his leadership the union increased membership, expanded the powers of its president, improved working conditions and grew to be one of the most powerful unions in the labor movement.²

Petrillo joined the AFM's Chicago Local 10 in 1918 and became its president just four years later. For the next eighteen years Petrillo served as president of the Chicago Local 10, the second largest union local in the United States. In 1940 he was elected to the union's national presidency.³

Competition From Radio

In the meantime, broadcasting had been born. KKDA,
acknowledged by many to be the first broadcast station, signed on the air November 2, 1920 to report the Harding-Cox presidential results. By 1926 the first commercial radio network had been formed.\footnote{4} Congress established federal control over radio in 1928 when it formed the Federal Radio Commission (FRC). Regulation of the radio broadcast industry was later assumed by the Federal Communications Commission (FCC) under the mandate of the Communications Act of 1934.\footnote{5}

Petrillo was one of the first to believe that radio broadcasting had evolved from a friend to an enemy of musicians. At first musicians had believed radio to be an ally; they were among the first to be heard on radio in the early 1920's, performing without salary on the assumption that the publicity was adequate compensation.\footnote{6} Later when radio had established itself as a profit-making industry, some stations found they could play phonograph recordings on the air and avoid paying live musicians for work they had previously broadcast free. Often the audience was not informed that they were listening to a recording. This prompted the union to complain to the FRC as early as 1930.\footnote{7}

The union also pressured recording companies into labeling records "For Home Use Only" in an attempt to stop their use on radio. This condition agreed upon by the union and the record companies could not be legally
enforced, however. In a 1937 test case, the Pennsylvania Supreme Court had ruled that the performing artist did have a property right in his particular rendition of a work and might restrict the use of that rendition. The Court reasoned that without the restriction, the commercial use of that record would constitute unfair competition with the artist. But in a similar case in 1940, the U.S. Supreme Court reached a contrary decision. Conceding a common law property right in the performance, the Court maintained that the property right ended with the sale of the record, despite any label purporting to restrict the record's use to noncommercial purposes. Thus radio stations could not be prohibited from broadcasting such recordings.

Petrillo had already demonstrated the power of boycott in 1936, when as president of the Chicago Local 10, he ordered Chicago musicians to stop making recordings and transcriptions. The national AFM president, Joseph Weber, endorsed Petrillo's action. Weber threatened a national strike unless representatives of the radio, transcription and recording industries met with him. The meetings resulted in agreements wherein radio networks and their affiliates (stations that contracted to carry network programs) agreed to retain a quota of musicians as fulltime employees. Unaffiliated stations negotiated through the National Committee of Independent Broadcasters
and reached similar quota agreements in 1938. The radio stations also agreed to hire only union members. These agreements were not renewed when they expired in 1940 because the Justice Department had advised the parties that they were not legal.\textsuperscript{10}

Another practice that perturbed musicians was the remote broadcasts of live orchestras performing in clubs and restaurants. The establishment originating the broadcast got free advertising, the radio station carrying the broadcast got a free sustaining (nonsponsored) program, but the musicians got no extra compensation despite the fact that their music was reaching a greater audience than those present at the broadcast. The AFM maintained that such broadcasts reduced the opportunities of many bands to be employed by radio, since the remote broadcast would preclude the necessity of hiring a band to play at the station's broadcast studio.

The AFM also objected to cooperatively sponsored radio programs. A cooperatively sponsored program was a network program that had a local sponsor in each market where it was broadcast. From the union's point of view, it appeared that the musicians participating in the broadcast were underpaid for their services by as many times as there were stations airing the program. In addition, such programs were eliminating work for the local musicians in each of those markets. So in 1941,
the AFM ordered musicians not to work on cooperatively sponsored radio programs. The order remained in effect until 1947; in the meantime many of these radio programs substituted vocal choirs for instrumental music or simply did without.11

The AFM and the radio industry clashed again when Petrillo put force behind his belief that "whenever amatuer musicians occupy the air, it means less work for the professional."12 In July, 1942, the union chief ordered the broadcast of the National High School Orchestra cancelled. The concert was an annual event that involved 160 youths from a nationally famous summer music camp in Interlochen, Michigan. The National Broadcasting Company (NBC) had broadcast these concerts for twelve years, but that year Petrillo prohibited NBC from permitting the broadcast of non-union musicians. Since most of the youngsters were not old enough to join the union, there was no alternative but to cancel the broadcast. There was a great public outcry against Petrillo and the union. Newspaper reports and radio commentaries across the country referred to the "Czar of the AFM,"13 the "Mussolini of Music," and "Little Caesar."14

FCC Chairman James Lawrence Fly demanded a letter of explanation for the Interlochen incident, and Petrillo responded in a letter which was subsequently published in the New York Times. In it Petrillo said that the
federal government was "protecting" radio stations, advertising agencies and record makers who had combined against the union. Petrillo pointed out that 95 percent of the music played on radio was recorded, and "that leaves only 5 percent for the poor professional musician who studies all his life so he might make a living for his family." For these reasons Petrillo remained unmoved, and NBC, knowing that a strike of musicians would cause the network severe hardship, complied before the threat of a strike was ever made. 15

Another tactic used by Petrillo was the "standby" practice. Whenever amateurs or nonunion musicians performed on the radio, stations were required to pay musicians to merely be present, or stand by. 16 The practice prevented the loss of jobs for professional musicians. Once when eight Chinese Boy Scouts wanted to proclaim the arrival of a giant Panda in the United States with a hail of bugle blasts, Petrillo insisted that eight professional musicians also be hired as standbys. 17

Development of Recorded Music

The recording industry also began as a friend of musicians. Thomas Alva Edison began a change in America's attitude toward music when he took out patents on inventions that permitted the recording of sound. By 1903, American singers were expanding their listening audiences
through the use of phonograph records; orchestral recording followed in a few years. The popularity of phonograph records precipitated a widespread appreciation and demand for music in all forms, thereby creating many new jobs for musicians.

Late in 1938 the union began to strengthen its power in the recording industry by issuing licenses to phonograph and transcription recording companies. The licensee agreed to hire only union musicians, in return for which the union permitted its members to work there. Union musicians were not permitted to work for unlicensed companies. It was at this time that the AFM required the record companies to add to their labels the restriction, "For Home Use Only."

One of Petrillo's early actions as AFM president is interesting to note here. He hired Ben Selvin; a respected orchestra leader and recording executive, to conduct an exhaustive study of the recording field and its effect on the employment of musicians. Selvin's report, presented at the 1940 AFM convention, estimated that by the end of 1941 the recording industry would have paid out more than three million dollars to working musicians. He concluded that it would be unwise to do anything to curtail industries where such large amounts were spent for musicians. He stated that there were remedies for the unemployment caused by the mechanization of music, but he warned, "a knockout
blow, which could not be delivered, is not the answer.\textsuperscript{20} Petrillo did not heed the advice.

**Encroaching Technology**

Petrillo and the union became even more irked with the radio and recording industries as modern technology accelerated its pace and nudged live musicians out of more jobs. The need for live musicians diminished as the popularity of sound films increased; juke boxes replaced musicians in cafes, clubs and restaurants; vaudeville was declining; and more people were staying home evenings to listen to the radio rather than go out to hear live music.\textsuperscript{21}

All of these incidents might have served to cue the radio, transcription and phonograph industries that bigger troubles were coming. Yet these parties were outraged when Petrillo declared that after July 31, 1942, union musicians would be barred from making any mechanical musical reproduction.\textsuperscript{22}

The Chicago Local 10 ban of the 1930's had lasted eighteen months and had cost union members a quarter of a million dollars in wages.\textsuperscript{23} But in 1942, industry officials doubted that Petrillo would actually go through with a strike that would involve all union musicians across the country. Certainly there was no way even to
speculate on the ramifications of such an action. Nevertheless, on August 1, 1942, recording studios across the country became silent.
NOTES

1 The NLM was dissolved at its convention in 1904. See Robert D. Leiter, The Musicians and Petrillo (New York: Bookman, 1953), p. 70.

2 Leiter, p. 72.

3 Leiter, p. 74.


5 Leiter, p. 66.


7 Leiter, p. 67.

8 Waring v. WDAS Broadcasting Station, Inc., 194 Atl. 631, October 8, 1937. Fred Waring was the leader of a prominent orchestra which had recorded two songs that had subsequently been broadcast by the defendant, despite the restrictive notice on the labels, "not licensed for
radio broadcast." This was the first time the question of artistic interpretation had come before the courts. The Pennsylvania Supreme Court held that the restrictive notice prevented the sale of records to the public from becoming a general publication, and therefore an abandonment to public use.

9 RCA Mfg. Co., Inc. v. Whiteman, 114 F 2d 86, CCA 2, July 25, 1940; affirmed by the U.S. Supreme Court, 311 U.S. 712, December 16, 1940.

10 Leiter, p. 70.

11 Leiter, p. 145. This ban was removed in 1947 after charges that it violated the Taft Hartley Act.


14 "Little Caesar," Time, 20 July 1942, p. 16.


16 This practice was made illegal with the passage of the Lea Act in 1946. See Leiter, p. 144.

17 "Little Caesar," p. 16.

18 Leiter, p. 70.
19 Leiter, p. 67.


22 Leiter, p. 132.

23 Leiter, p. 132.
CHAPTER III

REACTIONS AND EFFORTS TO END THE BAN

James C. Petrillo, president of the American Federation of Musicians (AFM), felt that when musicians accepted recording work, they were contributing to their own future unemployment. So with the consent of the union membership, Petrillo ordered that no union member would accept such employment after August 1, 1942. The last weeks of July, 1942, brought a flurry of activity as interested groups attempted to thwart Petrillo's recording ban. Senator Burton K. Wheeler; Chairman of the Senate Committee on Interstate Commerce, offered to act as mediator between the union and the recording companies, but the offer was rejected by Petrillo, who said he had no intention of negotiating. This was the spirit with which the union and its adversaries interacted as the strike deadline approached.

In this chapter, reactions of various government, trade and business organizations to the union's recording ban are discussed, and efforts of each organization to stop the ban are described. These organizations included the U.S. Department of Justice, the Federal Communications Commission (FCC), the National Association of Broadcasters (NAB), the Office of War Information (OWI), the U.S. Senate, the National War
Labor Board (NWLB), the phonograph recording industry, and the radio broadcasting industry.

Government Action

U.S. Department of Justice

On July 23, Thurmond Arnold, Assistant Attorney General, sought an injunction from the U.S. District Court in Chicago to stop the union ban on the basis that it would be a restraint of trade and a violation of the Sherman Antitrust Act. The court ruled, however, that the matter was a labor dispute within the meaning of the Norris-LaGuardia Act. The District Court was therefore without power to enjoin the union ban on recording.²

On the same day that Arnold filed the injunction suit, the Justice Department published a memorandum that set forth the positions of both sides.³ In the memorandum the department said that although it would be fair for the union to wish to create more work for its members, its action was selfish and unfair in at least two ways. First, it would be unjust to force employers and the consuming public to pay for the union's private system of unemployment relief. Second, it would be unfair for the union members to be absolved from the competitive necessity of learning a new job in times of rising unemployment. The memorandum ended by predicting disastrous effects on broadcasting stations,
advertising agencies, motion pictures, electrical transcription companies, recording companies, and the entertainment industry as a whole.³

Federal Communications Commission

The FCC could offer no help, but Commission Chairman James Lawrence Fly was critical of the union's action. To the press he made predictions that the ban would make it impossible for small and independent radio stations to operate. He further predicted that the ban would be a great impairment to radio broadcasting throughout America.⁴

Later, during a U.S. Senate investigation, Fly testified that if stations were forced to close because of the ban, the nation would be seriously handicapped since emergency messages and other war information would not be able to reach the people.⁵

Office of War Information

As the controversy continued, another government office was heard from. On July 29, 1942, Elmer Davis, Director of the OWI, sent a letter to Petrillo reminding him of his pledge made in December of the previous year. At that time Petrillo had sent a letter to the OWI in which he promised that the union would do everything possible to aid in the war efforts. Davis asked that Petrillo withdraw the ban
order, saying that a strike would impede the dissemination of war information by causing many small radio stations to close. The letter was made public and its point was clear—it was the union's patriotic duty to once again resume recording.⁶

Along with FCC Chairman Fly, Elmer Davis would also testify in Senate hearings that the musicians' union strike would hamper the war effort. He testified that there were more than one hundred fifty communities in the United States which were not within the jurisdiction of any AFM Local, but which were served by as many radio stations. These stations, he maintained, were dependent upon recorded music, without which they would go out of business. If the stations failed, the dissemination of war information would be impaired.⁷

U.S. Senate

It can be assumed that Petrillo did not agree with Fly or Davis, because the strike began on the first day of August, as planned. On August 27, 1942, Senator Worth Clark introduced Senate Resolution 286, which would authorize an investigation of the union's recording ban. Clark gave an emotional address to his fellow Senators wherein he called Petrillo an "ugly note" that would be an impedeance to the war effort. Petrillo's ban, he said, would destroy every vestige of phonograph music in the country,
and leave soldiers and small children with no musical entertainment. 8

Clark's resolution was referred to the Committee on Interstate Commerce. A subcommittee held three days of preliminary hearings to determine the need for an investigation. The resolution passed, and Senator Clark was authorized to chair an investigating subcommittee.

The investigation proved to be a two-headed coin. One side of the coin was Congress's opportunity to take some sort of action. Senator Burton Wheeler, Chairman of the Committee on Interstate Commerce, repeatedly asked Petrillo to state what he wanted and from whom he wanted it. When pressed for an answer, Petrillo responded, "To give you a direct answer, we want more work, and we won't make any more recordings." 9

The other side of the coin was the opportunity for Petrillo to publicize his grievances. He kept insisting that the AFM only wanted more work. Petrillo was quoted as saying, "We're the only labor organization making the machine that is destroying it [self]. If the iceman had something to do with making a refrigerator, I'll bet he wouldn't make it." 10 But the union boss still offered no conditions under which musicians would resume recording.

It must be noted that the phonograph recording and transcription industries were not the prime target of the union's action. Periodically Petrillo would make comments
that indicated that he saw the radio industry as the "enemy." During the Senate hearings Petrillo complained that over two hundred radio stations broadcast music on network programs and, as a result, employed no AFM musicians. Senator Wheeler asked if Petrillo wanted these stations to hire live musicians, and the union leader responded affirmatively. "Then it is really not the recording companies that you have your fight with," Senator Wheeler concluded.  

The facts uncovered during these investigations appear to have led Senator Clark to later introduce Senate Bill 2874, a bill "to prohibit certain contracts, agreements, conspiracies, and combinations which prevent the making of recordations [sic] for use by radio broadcasting stations and coin-operated phonographs." The bill was referred to the Committee on Interstate Commerce, from which it never emerged.

Other Action

National Association of Broadcasters

Opposition to the ban also came from the NAB and its president, Neville Miller. Miller held press conferences and issued statements that portrayed Petrillo as a selfish villain. Miller said that Petrillo was mistaken to believe that the ban would result in more work for musicians.
Said Miller, "All it means is that millions of people will hear less music." 13

**Editorial Opinion**

A similar opinion was rendered by the *New Republic*. A July editorial called the ban "one of the flattest attempts to halt technological progress in the whole history of trade unionism." The editorial said that the union's desire to get more work for musicians in bars and establishments where records were played was nonsense because most of those institutions could not afford live music. "It is safe to predict that if Mr. Petrillo sticks to his guns most places will either abandon music, perhaps install a radio, or most likely, continue to use old records produced for home use only, in defiance of AFM." 14

**Royalty Proposal**

Finally in February, 1943, the union presented a proposal under which musicians would once again be employed. The AFM proposed a fixed fee royalty for all records and transcriptions made as a condition of lifting the ban. The royalty would be paid by the manufacturer of the records and would be paid directly to the union to use as it saw fit. This proposal was rejected by the companies involved, and several of them appealed to the U.S. Conciliation Service 15 asking that it mediate the dispute. 16 Petrillo made it clear
to the Conciliation Service that the recording industry was "peanuts" to him, and that he actually wanted to use that industry to tap the revenues of radio stations.\textsuperscript{17}

Since Petrillo was not willing to negotiate, the Conciliation Service formally requested the National War Labor Board to take action in the matter.\textsuperscript{18}

\textbf{National War Labor Board}

On July 9, 1943, the NWLB commenced to hold hearings in order to decide if the case was within the realm or their jurisdiction. Petrillo and the AFM attorney, Joseph Padway, protested that the NWLB had no jurisdiction because there was no labor dispute. As far as the union was concerned there was no disputing that the musicians would never again work for the industry that was destroying them. They said that they were "through permanently with the making of transcriptions, and that so far as the AFM is concerned, the transcription manufacturers can go out of business."\textsuperscript{19}

It is ironic that Petrillo insisted that the ban was not a labor dispute, since earlier the union had won the Justice Department's injunction case on the basis that the ban was a labor matter. Despite Petrillo's contention, the NWLB ruled that the matter was indeed within its jurisdiction and began its investigation.\textsuperscript{20}

In his testimony during the NWLB hearings, Petrillo
described what he felt to be the working situation for AFM members. "Gentlemen," he is quoted as saying, "There are nine hundred stations in the United States. Some five hundred stations don't employ any musicians. Those five hundred stations run practically sixteen hours a day with canned [recorded] music..."\(^21\) Petrillo's assessment seems to have been very accurate. \textit{Broadcasting Yearbook} reports that there were nine hundred seventeen radio stations in 1943.\(^22\) A survey of commercial network time by program types reveals a total of close to eighteen hours of music being broadcast daily, but most of that was performed live on variety programs.\(^23\) The five hundred stations Petrillo referred to were small stations which depended upon the networks for much of their programming, but did fill in much non-network program time with music from phonograph records. Of the two hundred and ninety eight non-affiliated stations, two hundred and eighty (94\%) relied on phonograph records or electrical transcriptions for more than half of their music time. Two hundred thirty of these stations used recorded music 80 to 100\% of the time.\(^24\)

Petrillo further testified that the networks grossed one hundred thirty million dollars, of which only thirteen million went to musicians. He considered that a small sum. Petrillo concluded, "These people don't understand that the party is over. You cannot take our musicians and sell them
without the musicians receiving some compensation. Gentlemen, we won't do it."26

One thing Petrillo did not mention in his testimony was the fact that in 1942 less than one third of the union membership actually depended upon music for their livelihood. For most AFM members, music had always been only a part-time job, whether by choice or by circumstance.27

The hearings for the NWLB investigation continued for many months, but in September, 1943, there appeared to be some hope that the strike might soon end completely. Decca Records plus over one hundred other smaller recording companies conceded defeat and signed an agreement with the AFM. The War Labor Board hearings continued, although in November there was a temporary recess while all parties waited to see if the larger record companies would also reach an agreement with the union. The hearings resumed when no additional settlement occurred, and finally in June the NWLB issued a back-to-work order. The order included instructions that immediate negotiations should be held to determine the manner in which employers should contribute to a musicians welfare fund.28 Petrillo ignored the order, in spite of the fact the NWLB order appeared to be in the union's favor.

Decca Yields to AFM

If unbearable situations are what make strikes successful,
then the large recording companies like Columbia and RCA-Victor were probably very surprised when Decca broke the united front and yielded to the union's demand, since the situation did not appear to be unbearable. When the ban had taken effect in August of 1942, the record companies had surveyed their vast stocks of unreleased recordings and decided they could outwait the musicians. For thirteen months they had maneuvered around Petrillo's edict by re-releasing popular songs, issuing old recordings that had not been released for one reason or another, and recording new songs with only vocal accompaniment.

But small companies found it harder to survive the ban's effects. They did not have the huge stockpiles of unreleased musical selections to use in lieu of new recordings. Neither did they have the large numbers of popular recording artists under contract as did bigger, more established companies such as RCA and Columbia.

The recording ban was actually the perfect setting for one record company to get a competitive edge on all the others. Many recording artists were most unhappy with the prohibition against recording. Big bands were learning new tunes, but their rise in popularity was hindered without phonograph recordings of the tunes to be played in the home or on the radio. A vocalist's earning potential from his talent was very limited without records of his songs.
Decca, a record company, could capitalize on this dissatisfaction of orchestras and vocalists if the company were excepted from the ban. It could settle with the union and stage a coup in the recording industry by hiring artists whose contracts had expired with the bigger record companies.

Such may have been the case with Decca. Whatever the reason, on September 18, 1943, Decca President, Jack Knapp and AFM President, James Caesar Petrillo, reached an oral agreement that ended the ban for Decca. It was soon followed with a solid contract that was used as a model for other companies who followed. The contract terms worked out with Decca provided for payment by the phonograph record manufacturers of royalties on every new record made from September 20, forward. The royalties ranged from a quarter cent per record sold for thirty-five cents, to a two-and-a-half percent royalty on all records selling for more than two dollars. The revenues collected from musical commercial transcriptions carried a royalty of three percent. The money was to be paid directly to the union to be included in an unemployment fund.

Record companies that had not yet reached agreements with the musicians' union soon began losing their contract talent. Many performers whose contracts had expired were refusing to renew, instead signing contracts with companies that were once again recording. When Jascha Heifetz left RCA-Victor after twenty-five years to sign with Decca, the
two major companies, Victor and Columbia, realized that they could not survive much longer without working musicians. But they tried to hold to what they considered a matter of principle; they objected strongly to paying a royalty directly into the AFM treasury with no guarantee that the money would actually be used to help unemployed musicians. Further, when these companies did seek similar agreements with the union, they found that the union demands prepared for them were different from that required of other recording companies. The late signers had requested that an industry representative participate in the disposition of the royalty payments, but this was not included in the final agreement. The union did include however, a stipulation that should the AFM decide not to renew the royalty agreements when they expired in three years time, the union members would be free to break their individual contracts with the recording companies and go immediately to work elsewhere. There was also a stipulation that provided for mandatory continuation of the contracts with any new owners should either RCA-Victor or Columbia be sold. It appeared that Petrillo had arranged terms that constituted unconditional surrender.

Reaction of the Broadcasting Industry

Radio stations across the country wrote letters of support to those companies who continued to participate
in the National War Labor Board Hearings. Decca was criticized by radio stations for breaking a united front; many stations cancelled Decca's library transcription service. The radio broadcasting industry was reported to believe that Petrillo's next move would be to require radio stations to pay a percentage of their gross incomes to the AFM for its employment fund.

The National Association of Broadcasters was critical of the agreements. The NAB Steering Committee issued a statement that called the agreements unsound, immoral, and illegal, and suggested that the agreements amounted to extortion. The Committee believed that the contracts established a principle that amounted to a tax levied on the recording companies for the privilege of hiring members of the AFM. They saw this as a private system of unemployment relief that was restrictive of good relations between labor and industry. The statement called for all American citizens to join the NAB in condemning and rejecting the principles of direct payment to the union.

In October, the President of the United States requested Petrillo to end the strike, but Petrillo refused. The President then referred the matter to the Office of Economic Stabilization. In a strongly worded, lengthy telegram to the office, Ed Wallerstein, the president of Columbia Records, pleaded for help saying, "the economic
pressures on us now are such that we can no longer wait and must now either sign or go out of business." On November 11, 1944, both Columbia and RCA-Victor signed agreements with the American Federation of Musicians rather than go out of business.

The terms of the agreement were similar to the previous agreement with Decca except for the conditions previously mentioned. Petrillo did however, finally agree to the setting up of a trust fund to be administered by a trustee appointed by the record manufacturers. The Music Performance Fund, as it was called, was to be used to finance free concerts to be given by musicians in various communities. It was hoped that the concerts would give needed employment to musicians as well as stimulate music appreciation.

In a statement to the press, Petrillo saw the agreements as the "greatest victory for a labor organization in the history of the labor movement." He further noted that the AFM was the first labor organization to receive agreements that provided for direct payment of money to the union over and above payment for actual work done in the making of the recordings. These contracts were good until December 31, 1947.
NOTES


5 Hearings, p. 33.


7 Hearings, p. 4.

8 Journal of the Senate of the United States of

10 "Petrillo Would End...," p. 23.


14 "Petrillo As King Canute," *New Republic*, 20 July 1942, p. 69.

15 The U. S. Conciliation Service was an arbitrating board of labor lawyers who would mediate labor disputes when requested to do so. Compliance was voluntary.


17 "Words and Music," p. 84.

18 The National War Labor Board, created in 1942, was
a board of twelve representatives from the public, labor, and management sectors. The board had authority to settle labor disputes by mediation and arbitration. "Words and Music," p. 84.

"Washington Leans to Opinion WLB Will Take Jurisdiction in Disc Co.'s Case; Decca's Deal Efforts Bared," Variety, 14 July 1943, p. 81.

"Washington Leans....," p. 81.

"Washington Leans....," p. 81.


1944 Broadcasting Yearbook, p. 28.


"Washington Leans...p. 82.

"Washington Leans...p. 82.


Leiter, p. 117.


31 Gelatt, p. 279.


33 The complete text of the AFM-Decca contract is reproduced in Broadcasting, 4 Oct. 1943, p. 50.


36 "AFM and Disc Makers Hope to Reach Accord This Week," Broadcasting, 4 Oct. 1943, p. 17.

37 "Broadcasters Next...," p. 61.

38 "Broadcasters Next...," p. 12.

39 "NAB Assails Petrillo's Disc Contract;...," p. 16.


41 Gelatt, p. 281


CHAPTER IV

EFFECTS OF THE BAN

From August 1942, until September 1943, no AFM member participated in the making of any phonograph recordings. Since virtually all professional musicians were union members, the result was a scarcity of newly recorded releases on the market. This chapter will describe the recording ban's effect on juke box entertainment, sheet music sales and the buying public. The chapter also discusses the effect of the ban on big bands, as well as its effect on the phonograph record industry and radio broadcast industry.

Shellac Shortage

It seems that the cessation of recording due to the AFM ban, followed a slowdown in production that was caused by other factors. The number of records offered for sale had already diminished due to war engendered shortages. Since December, 1941, shellac, which was used in the manufacture of phonograph records, had become a scarce commodity. Supplies were cut by 70 percent. As of January, 1943, record companies were operating on 20 percent of the amounts of shellac each had used the previous year. As an economy measure, record companies deleted many recordings from
catalogs, leaving only the most marketable items.³
Even if the ban had not occurred, it is possible that the
numbers of phonograph records available to radio stations
and the buying public could have been just as low.

Public Reaction

Despite a shortage, the public demonstrated its
eagerness to buy anything it could, including stockpiled,
umsold records, as well as new records made from old masters.⁴
According to a Newsweek article at the time, "Any new re-
lease sells, and a flop is almost unheard of."⁵

The lack of new recordings may have also led to a
rise in the sale of sheet music. An article in a January
issue of Variety noted that instead of the usual slump in
sales after Christmas, sales had continued to rise. The
author of the article conjectured that the rise was due to
two factors. First, the war had caused a reduction of
pleasure driving as a form of entertainment, and therefore
more people were staying home to entertain themselves by
listening to music on the radio or phonograph. Second,
since most new songs were not available on a phonograph
record, people were motivated to purchase the sheet music
in order to play the tunes for themselves.⁶

The Juke Box

Juke boxes were coin-operated phonographs which were
located in public places. The juke box industry did very well during the ban in spite of a short supply of records. It would seem a fair assumption that the public would tire of the same old records, but this assumption proved untrue. Instead, the records stayed on the juke box until they were worn and scratchy sounding.

Records were marketed with a "hit" side, which featured the most popular song of the two on a record, and a "flip" side, which carried some other song that was not expected by the manufacturer to be as popular. But during the course of the recording ban, the flip side was played as much as the hit side on juke boxes. The popularity of juke box entertainment remained high.

Black Market Records

The public's insatiable appetite for records also gave impetus to black market sales. Many records were no longer readily available either because of the shellac shortage or because of the AFM ban on recording. Some of these reached the status of collector items and were traded and sold for higher than normal prices. The supply of records was inadequate to meet the great demand. So called "bootleg" records (copies of records made without permission) suddenly appeared. All the records that could be supplied were sold, and no one asked from where the records had come.
Records Made During the Ban

Although the supply of fresh recordings had sharply diminished, there were exceptions and those exceptions sounded very different from records made in previous years. Necessity proved to be the mother of invention, as the recording industry invented methods of circumventing Petrillo's edict.

Petrillo had ruled that the harmonica was not a musical instrument, therefore was not prohibited from being recorded. This situation gave rise to harmonica bands such as the Harmonicats who accompanied vocal artists as well as recorded their own tunes. In lieu of harmonica accompaniment, some artists sang to melodies created by vocal groups who used their voices as musical instruments. The following review of Ethel Merman's recording of "Marching Through Berlin" describes how the Petrillo ban altered the sound of recorded music.

The use of instruments "frozen" by Petrillo impasse, Victor brings forth another all-vocal disc to attract attention to this new war ditty. An expert male quintet supports Miss Merman expertly, four of the voices sounding like the Modernaires when they were with the Glen Miller Band. Fifth voice is a bass and booms out foundation notes in walking style that keeps the rhythm stepping along.
The all-vocal records caught on and for a while filled the gap left by the musicians' refusal to record. A year later the same reviewer said,

Now that the all-vocal sides have gotten over with the public i.e. been accepted by , the enthusiasm should be much greater, altho [sic] it still remains to be seen how the all-vocal discs will stack up in sales competition with the instrumentals offered by other recording labels. 13

Petrillo ultimately decided that vocal recordings were counterproductive to his cause and in July, 1943, he requested they be stopped. Although he could not technically ban vocal artists from recording in this manner, no singer wished to have Mr. Petrillo for an enemy, so all complied.

Exceptions were made at times. For example, Bing Crosby was granted permission to record all-vocal renditions of several songs from a motion picture in which he starred. The reason for Petrillo's beneficence was the fact that Crosby was an AFM member, listed on the membership role as a drummer. 15

Big Bands

The all-vocal recording trend created another trend,
a working separation between some big bands and their vocalists. Many, like Dick Haymes who had gained popularity with the Benny Goodman Band, made records during this time without a band. 16

For the big bands, the early forties should have been a period of the greatest prosperity. The popularity of the bands and their featured singers was at an all-time high. Fan magazines often featured more stories and photographs of band leaders and singers than movie stars. 17

Radio broadcasts of live performances were beneficial to the bands, giving them publicity and exposure they could not afford to buy. There was a great deal of competition for network jobs, even when they did not pay well, since the broadcast exposure could enable a band to demand more money on the road later. The value of the radio medium to publicize the band and promote specific songs was recognized by both the band leaders and song publishers. For these reasons, most band leaders strongly disagreed with the AFM ban on recorded music. They believed that both records and radio were important to their future success. 18

There were exceptions. One was Fred Waring, a popular band leader who for ten years refused to record his music. He maintained that recordings played over the air were competing with his live radio performances. 19 Other band leaders such as Hal Kemp and Paul Whiteman refused to make
records due to pressure from their sponsors. The sponsors did not like to pay for a live band to perform on the radio when the station could just as easily duplicate the program for less money by playing a recording over the air.\textsuperscript{20}

George Simon, chronicler of the big band era, has written that the ban was detrimental to the big bands:

\begin{quote}
It didn't hit recording companies nearly so hard as it did the big bands. And then when the bands finally did get up from the floor, after a long count of two years and two months, they found that they were no longer champions of the recording field. While they had been down, the singers had taken over, and the recording field would never again be the same for big bands.\textsuperscript{21}
\end{quote}

Radio's Use of Records

It should be noted here that the policies of the two major radio networks, NBC and CBS, prohibited the broadcast of recorded music. However, network affiliates and independent radio stations used recorded music as part of their own local programming, and it was these stations Petrillo hoped would hire a permanent staff of musicians.\textsuperscript{23} There were radio announcers at this time known as "disc jockeys," but their programs were mostly
local and unsponsored. One well-known program that used recorded music was Martin Block's "Make-Believe Ballroom," broadcast on the independent WNEW in New York. Begun in 1935, the program simulated live performances of popular dance bands as if in a giant ballroom. The program was very successful and many small stations throughout the country imitated the program. Martin block clashed with Petrillo when in July, 1943, Block began importing records of English bands to play on his program. The AFM initiated a brief strike against WNEW which was ended when the station stopped using the imported records.

The Radio Industry

Petrillo had consistently maintained that his real target during the ban was the radio industry. He wanted radio stations to hire more musicians, especially as permanent staff. He seems to have believed that cutting off the supply of phonograph records would cause radio severe hardships, but that does not appear to have been the result, although many people made ominous predictions about the result of the ban on radio stations. Said FCC Chairman Fly:

Certainly with hundreds of stations, service will rapidly deteriorate, audiences will decrease as interest slackens, revenues will fall off and many stations will close down entirely.
Fly's words reflected the general opinion that shortly Petrillo would turn his full attention to the broadcast industry, perhaps even to forbid musicians from working for radio stations. Variety speculated that Petrillo would first strike against motion picture producers and theater chains, and postpone a strike against radio until contracts with the networks were renewed in 1944. But these fears proved to be unfounded. Petrillo did not call a strike against the radio industry, and contrary to predictions, the radio industry appears to have enjoyed a period of prosperity during the twenty-seven month recording ban.

Fly's forboding resulted from his interpretation of figures tabulated from a response to a questionnaire sent by the FCC to all standard radio stations in 1942. Using the week of April 5-11, 1942 as a typical week, radio licensees were asked to indicate among other things, what portion of their programs, both commercial and sustaining (nonsponsored), contained music. 796 radio stations returned the questionnaires, and with this information, Chairman Fly reported the following figures to a Senate investigating committee: of the total broadcast time, 42.6 percent employed no full-time musicians, and 15.6 percent employed only one musician. The FCC Chairman concluded, "The figures I have given you clearly show that if the ban
on recordings continues it will not be long before the radio broadcast industry is seriously affected."32

But Fly was assuming that without new recorded music to broadcast, radio stations would lose their radio listeners, and advertising revenues would diminish in proportion. That did not happen. In fact, the years during the ban all showed a rise in the volume of advertising time sold. The total time sales33 of the radio industry in 1944, the year the ban ended, were close to twice the receipts of 1942 when the ban started.34 Time sales during this period accounted for about 95 percent of radio's total income, so high sales would indicate prosperity.35 The volume of advertising time sold during the years between 1942 and 1944 indicate increasing prosperity with each year. Time sales in 1943 had increased 19.6 percent over 1942, while 1944 showed a gain of 25 percent over 1943.36 Available advertising time was close to being sold out during 1943.37

A further indication of the radio industry's prosperity is revealed in the escalation of the value of radio stations. One example of success is the story of WINX in Washington. Built in 1940 at the cost of $50,000, the station was sold in 1944 for over $500,000.38

Radio listening audiences increased as well. Because of expanded production due to U.S. involvement in World War II, many factories employed late night and early
morning workers, thus creating new groups of night radio listeners. By December of 1943, 89 percent of all American homes had one or more radios.

One further indication of the radio industry's seeming immunity from any harmful effects of the recording ban is the lack of evidence to the contrary. Broadcasting and Broadcast Advertising Yearbook features an analysis of the radio broadcast business for the preceding year of each yearbook's annual publication. The analysis usually includes a comparison of the radio medium to other media, an examination of trends within the medium, an examination of financial considerations, etc. For the years 1942 through 1944, there is no mention of the AFM recording ban as having had any influence whatever on the radio broadcasting industry.
NOTES


3 Gelatt, p. 280.

4 The term "old master" refers to a master recording kept on file, from which could be made many subsequent records. When the song, "As Time Goes By" achieved such widespread popularity in the motion picture *Casablanca*, RCA-Victor pressed thousands of new records from a twelve-year-old master recording. See "Marketing," in *Business Week*, 24 July 1943, p. 84.

5 "Render Not Unto Caesar," *Newsweek*, 8 March 1943, p. 66.


8 "Render Not Unto Caesar," p. 66.

10 "Render Not Unto Caesar," p. 66.


13 The "other recording labels" refers to those companies which had already signed agreements with the AFM and begun to record again. See Orodenker's "On the Records," Billboard, 1 Jan. 1944, p. 17.

14 "Petrillo's Disarranger," Newsweek, 5 July 1943, p. 84.

15 "Petrillo's Disc Crackdown Only Pertains to E.T.'s" Variety, 7 July 1943, p. 43.

16 "The Week's Best Releases," Variety, 29 Jan 1943, p. 66. The column notes that Haymes gets all-vocal support from the Song Spinners, a well-known group of radio singers, for the song, "It Can't Be Wrong."

17 "Appointment in Sinatra," Newsweek, 5 July 1943, p. 84.


19 Simon, p. 56.
20 Simon, p. 54.


23 Simon, p. 55.


27 *Hearings*..., p. 33


30 *Hearings*... p. 18.

31 *Hearings*... p. 24.

32 Time sales figures represent gross billings for advertising time sold, less discounts, before the deduction of agency commissions.

33 Bernard Smith, "Is There a Case for Petrillo?"


37 Bernard Smith, p. 78.


Summary and Conclusion

Summary

When James Caesar Petrillo forbade the members of the American Federation of Musicians to work for recording companies, it was not a sudden or capricious decision. The union had complained as early as 1930 to governmental authorities charging that radio was unfair to musicians. The relationship between musicians and radio had changed rapidly from friend to competitor, especially after court decisions that failed to stop radio stations from broadcasting phonograph records. Even when records were labeled "Home Use Only" there was no legal way to prevent them from being broadcast.

The radio industry continued to frustrate the musicians union with such practices as remote broadcasts and cooperatively sponsored programs. One of the most notorious exchanges between Petrillo and radio leaders occurred when the union boss demanded that NBC cancel its plans to broadcast the National High School Orchestra at Interlochen, Michigan.

Certainly the technology that enabled radio stations to
replace live orchestras with phonograph records was bad enough, in the eyes of the AFM, but musicians were nudged out of jobs in other areas too. The advent of sound motion pictures and juke boxes, the popularity of radio entertainment, combined with the decline of vaudeville, served to diminish employment opportunities for musicians.

The AFM retaliated against this technology with tactics directed against radio broadcasting. In addition to the unsuccessful tactic of labeling records for home use only, the union instigated the "standby" practice, but this was successful only for a short time.

Petrillo's ultimate reaction to encroaching technology was a ban on recording work for AFM members, effective August 1, 1942. Many interested groups tried to thwart the ban. The recording industry looked to the U.S. Department of Justice and the courts for succor while the radio industry received vocal support from the Federal Communications Commission and the National Association of Broadcasters. The U.S. Senate Committee on Interstate Commerce conducted public hearings as did the National War Labor Board. All efforts were to no avail. Even the President of the United States could not move Petrillo to lift the ban.

The lack of newly recorded phonograph records on the market appears to have created some side effects. Sales of
sheet music rose and the use of juke boxes as entertainment remained high. The black market thrived with sales of hard-to-get records and bootleg records.

Some records were produced during the ban, and these had a sound peculiar to the times—they were either all-vocal recordings or harmonica music. The fact that musicians could make no records was detrimental to the big bands who relied on broadcast exposure to keep their names before the public, and to keep their songs popular.

Although many persons speculated that the AFM would next strike against radio, that never happened. In fact, the radio industry appears to have enjoyed a period of prosperity during the twenty-seven month ban. However, none of the trade organizations, government agencies or court actions was able to stop the ban. The fear of losing big recording talent ultimately forced the larger phonograph record companies to reach an agreement with the union by November, 1944. Smaller companies had yielded to union demands a year earlier.

Conclusion

The first chapter of this study specified questions to be answered by the ensuing research. Subsequent chapters set forth information gathered in pursuit of these answers. The information therein may now be offered with discussion and conclusions.
The first of the research questions asked the extent to which the strike affected radio network affiliates and independent stations. Surprisingly, the recording ban's effect on network affiliates and independent stations appears to have been minimal. Stations which relied heavily on recordings continued to play whatever records they had before the ban. Although this certainly must have resulted in some songs being played with undesirable frequency, the lack of freshness does not seem to have been a problem. Perhaps this presaged the phenomenal success of the Top 40 radio format just ten years later, a characteristic of which is the frequent replay of the most popular songs.

Some stations, like New York's independent WNEW, tried to play records imported from foreign countries. This however, appears to have been an isolated occurrence rather than a trend. There were some new records available for radio play. The recordings of harmonica bands, and the all-vocal recordings made popular at this time were broadcast by radio stations. The network affiliates had access to network program and therefore had less time to fill with their own programming. The networks offered live music as well as nonmusic programs such as dramas, quiz programs, and variety shows. As far as the ban's effect upon network affiliated stations and independent stations, the research does not show that one
was affected more or less than the other, but rather that the effect on each was negligible.

The second research question asked how the strike influenced the type of music being played on radio stations at the time. As previously mentioned, the scarcity of new records available to both the public and radio stations must have resulted in many records being overplayed. Phonograph records during this period were considerably smaller than a contemporary longplaying album and operated at a faster playing speed. Because of the size and playing speed of the record, only one song per side could be recorded on each disc. Only two songs then, were available to be played per record, compared to the five or six songs per side on a contemporary record. Because of this condition, the strike in 1942 left radio stations with fewer selections to play than if the ban were to occur today.

The ban on instrumental recordings was also responsible for the creation of all-vocal recordings. In an effort to circumvent Petrillo's edict that AFM members could not accept recording work, some singers recorded songs with only vocal choirs providing backup music. However this tactic came to an end when Petrillo requested that it be stopped. Another alternative to instrumental music was harmonica music (the AFM did not recognize the harmonica as a musical instrument). The harmonica was used during the
ban as both accompaniment and a solo instrument. Neither harmonica music nor vocal accompaniment became an enduring musical style. Each lasted only as long as the recording ban.

The third research question sought to determine the economic results of the strike on the radio, phonograph, and related industries. Because the United States was in a state of war during the time period covered by the recording ban, general economic conditions were abnormal. This condition makes it difficult to examine trends or correctly assess whether certain factors existed because of the ban, or because of the condition of war. For instance, the general public may have been more willing to put up with the scarcity of new phonograph records knowing that the war had caused a shortage of shellac than might be tolerated otherwise.

Actually, Petrillo had given so much notice of his intention to strike that most of the record companies involved had adequate time to stockpile recordings and therefore were able to hold out easily for over two years. The phonograph record companies may have saved money and increased their profits during the ban since their sales remained high, yet they were saving the cost of recording. Had it not been for the early capitulation, Decca and the other small companies, and the loss of many big-name recording artists to some of these companies,
the strike might have continued for quite some time. Since the majority of AFM members did not rely on music for their livelihood, the members also could probably have lasted longer.

Radio listening audiences increased because of their need to receive war information. Also increases in factory workshifts created new audiences for late night radio. Another factor that may have turned more people to radio as a form of entertainment was the very circumstance of a record shortage. A new, popular tune was not often available for purchase as a phonograph record. But this same tune could possibly be heard performed live on a radio program. The live performance would have undoubtedly been better than any record produced at this time, since the shortage of shellac had lowered the quality of recordings.

Advertising time sales also increased because of the war. War is generally a time of increased business prosperity, and one could reasonably expect a popular communications medium to do well because of the nation's need for information. Many advertisers, enjoying a period of prosperity brought on by the condition of war might have had more capital to spend on advertising. Whatever the reason, neither advertising time sales nor numbers of radio listeners decreased during the period of the recording ban, and the reduced numbers of records
does not appear to have hurt the radio broadcasting industry. Although it was Petrillo's intention that the ban on making phonograph records should hurt the radio industry, that industry appears to have been the least affected.

The fourth research question asked what the union achieved as a result of the ban. Certainly the ban did not solve the problem that Petrillo saw—job displacement due to new technology. Petrillo believed that the technology of phonograph recording and network broadcasting was diminishing a number of jobs available to musicians by radio stations. The recording ban was intended to cut off the supply of records and force the radio industry to employ more musicians. This was not the result. No more musicians were employed by radio as a result of the ban. Job opportunities in radio have continued to dwindle for musicians until today, virtually no radio station employs musicians as permanent staff. The radio industry does not seem to have been harmed by the ban. However, after all record companies had signed agreements with the AFM, a condition existed which had not existed previously. A fixed royalty fee system, formed as a condition of lifting the ban, began to augment the AFM treasury. The union collected more than $4,500,000.00 through 1947. The money was spent after 1947 to give close to 19,000 free music concerts in hospitals, schools, and public
places. The main issue of the AFM ban on recording was not merely a union striking to obtain more employment, but rather the broader issue of technological progress versus job displacement. It appears that both the phonograph recording and radio broadcasting industries evolved from situations where their existence created more jobs for musicians, to situations where technological advances may have diminished employment opportunities for musicians by these same industries. Ben Selvin's study in 1940, of the recording field and its effect on the employment of musicians, indicated that in the early 1940's at least, this industry was a lucrative source of employment for musicians. The existence of phonograph records permitted music to reach more people than just those who might be able to attend a live performance of music. For the recording artists, the existence of records permitted far greater exposure of their performing skills than would have been possible without the records. The existence of radio broadcasting also increased exposure for the musician by offering a medium to convey either a live or recorded performance to audiences who, for whatever the reason, might not have attended a live performance. This radio exposure had a direct effect in that it enabled a band or a singer to charge more for an engagement when performing on the road. Even in the cases of remote broadcasts and
cooperatively sponsored programs, to which Petrillo objected, there is no evidence that more employment for musicians would have resulted from the absence of these practices.

For a short time following the conclusion of the 1942 recording ban, Petrillo attempted to force radio stations to hire musicians as "platter turners" (technicians who actually put the records on the turntables). This tactic was dropped after it caused a conflict with the National Association of Broadcast Engineers and Technicians, another union organization.4

Petrillo made it clear that to him, the radio broadcasting of phonograph records was symptomatic of a serious ailment—fewer musicians being employed by radio stations. His treatment was to cut off the supply of phonograph records by creating a situation (i.e., the ban) in which new records could not be made. Petrillo's statements indicate that he believed this treatment would result in a cure—more work for musicians. The information presented in this study indicates that Petrillo was wrong in both his diagnosis and his prognosis. The research revealed that radio network policy already prohibited the broadcasting of recorded music. As for small radio stations, it was found that most of these could not have afforded to hire musicians rather than broadcast records. Indeed, in many small communities there were no union musicians to
hire, although there were small radio stations which broadcast music during at least a portion of their day. Based on evidence, Petrillo's naming the radio broadcasting industry as the guilty party cannot be supported. Nor does the research support the prognosis that the recording ban would result in more employment for musicians. On the contrary, the circumstance of the recording ban totally eliminated employment opportunities for musicians in the recording field for an extended period. Also Petrillo seems not to have foreseen a change in the tastes of the American public. Although the performance of music has always been a popular form of entertainment, it was found during the ban that the public would just as easily accept music that did not include performances by union musicians; (i.e., harmonica music or all-vocal renditions of songs). The United States' involvement in World War II created larger radio listening audiences, and more broadcast times with nonmusic programs such as quiz programs and dramas.

One further point in considering Petrillo's view of radio broadcasting as a problem to musicians is the fact that the law was clearly on the side of radio stations. The U.S. Supreme Court had already determined that radio stations had the right to broadcast records. This fact, coupled with the fact that recording companies were not able to regulate the use of records after their sale, (i.e., prohibit stations from broadcasting them) seems to make Petrillo's recording ban a moot action.
The recording ban of 1942 diminishes in significance when viewed in a historical perspective that includes several subsequent years. The contracts between the AFM and recording industry that ended the 1942 ban were not renewed when they expired in December, 1947. Rather, Petrillo initiated another recording ban which brought about the same results as the 1942 ban: public outrage, government interference, congressional investigations, and new contracts which included essentially the same terms as the 1942 agreements.

This 1948 ban was primarily a reaction to the Taft-Hartly Act of 1947 (Labor Management Relations Act) which brought the Musicians Performance Fund under federal regulation. The law detailed guidelines to be followed in any agreements between labor and management which included such a welfare fund. The AFM resented this law which they believed interfered with their internal affairs. The musicians' union had also been the target of other labor laws, such as the Lea Act which President Harry Truman signed into law in 1946. This act, otherwise known as the Anti-Petrillo Act, made it unlawful to compel a radio station to employ more persons than it needed, or pay for services not performed. This effectively put a stop to the union's standby practice.

The agreements between the AFM and the recording industry which were signed in late 1948 ushered in a
period of relative stability, at least as far as the supply of records was concerned, for no more phonograph recording bans followed. The next few years brought other technological advancements that drew Petrillo's attention. By 1944 the development of frequency modulation radio broadcasting enabled radio stations to broadcast the same program content simultaneously to both AM and FM radio receivers. The AFM objected to the fact that these duplicated radio programs did not result in duplicated wages to musicians.

It was also during the late 1940's that commercial television became a reality and an apparent threat to musicians. The AFM saw the kinescope (a method of recording television programs) as an instrument to create "canned" television in the same way that the phonograph created "canned" music, so for a period of time musicians refused to work for television.

Other ways in which the AFM has continued to deal with technological advances that threaten to reduce employment for musicians can be left for examination in future research. The present study has been concerned with the AFM's 1942 refusal to accept employment from the recording industry. The research has shown that the primary factor leading to the 1942 ban was the union's fear of job displacement due to the broadcasting of phonograph records and electrical transcriptions. This type of job displacement was not rectified by the recording ban.
The 1942 dispute only temporarily soothed the situation with the creation of the Music Performance Fund, which was subsequently used to create a minimal amount of impermanent jobs for musicians. Because the problem of job displacement was not rectified, the musicians once again refused recording work in 1948. But here again, the resolution of the recording ban did not solve the problem of fewer employment opportunities for musicians. It appears that more recording bans, or more direct action against radio broadcasting was avoided because newer forms of job displacement emerged, and Petrillo turned his attentions toward these problems instead.
NOTES


5 Leiter, p. 158.

6 Leiter, p. 173.

7 Leiter, p. 174.
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