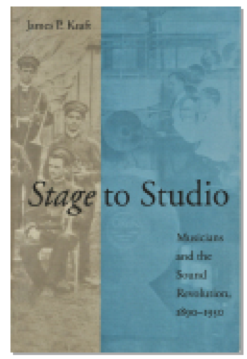
Stage to Studio



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Rising Militancy

FOR NEARLY A DECADE after the introduction of sound movies and network radio, American Federation of Musicians (AFM) president Joseph N. Weber had urged musicians to adapt to changing industrial conditions by arguing that resistance to technological change would fail. At the same time, Weber and other AFM leaders had tried to control the rapidly changing work environment of musicians. But in the late 1930s the union changed course and pursued bold new strategies. Unlike the contemporary struggles of workers in the steel, rubber, and auto industries, the musicians' struggle attracted little media attention. Nonetheless, it was real and important. Like the other disputes, it reflected growing concern about the maldistribution of wealth in America and showed that musicians, like other workers, could act to protect their jobs and income. While the union was striving to protect the interest and well-being of musicians in the half-decade or so around 1940, businesses too were facing their own challenges from technological change and fighting their own battles for survival.

THE IMPACT OF the sound revolution continued in the latter half of the 1930s, when approximately three thousand more theater musicians lost their jobs. Meanwhile, network programming and recorded music continued to reduce local opportunities in radio. In 1937 Weber complained that barely 10 percent of the nation's six hundred commercial stations employed musicians, together generating fewer than eight hundred full-time jobs.[1]

Other industrial developments presented additional challenges. Jukeboxes continued to displace instrumentalists wherever people wanted to hear music while they ate, danced, or otherwise relaxed. By the summer of 1937 roughly two hundred thousand of these music machines were operating nationwide, and entrepreneurs were installing more of them every day. A brisk trade in secondhand machines had curtailed production, but companies like J. P. Seeburg, Wurlitzer, and Rockola manufactured eighty thousand new machines that year. Many operators who installed and serviced the machines handled more than one hundred of them in retail locations and maintained stable, mutually beneficial relationships with proprietors who provided them to music consumers. The ingenious machines afforded millions of people hours of pleasure at nominal cost while indirectly costing musicians hundreds, even thousands, of jobs.[2]

"Wired-music" services were a newer mechanical menace. As early as 1907 the Telharmonic Company in New York had transmitted recorded music over telephone lines. The company failed to make commercial use of the transmission it pioneered. However, a similar firm, the Wired Music Company, appeared in 1931 and made headlines by picking up the music of a three-piece nonunion band at New York's Barclay Hotel and piping it to more than fifty local hotels and restaurants. The future of musicians in hotels and restaurants became even more problematic in 1934, when the North American Company established a new subsidiary, the Muzak Corporation. The federal government soon forced North American to divest itself of the subsidiary, which came under the control of Associated Music Publishers, a group sympathetic to musicians. Associated Music agreed to deploy Muzak technology without jeopardizing musical employment, but other wired-music companies made no such agreement.[3]

Even bandleaders who benefited from new recording and broadcasting technologies had reason to oppose these developments. The elite among musicians, these bandleaders found themselves victims of bootleggers and pirates surreptitiously stealing their live performances from radio broadcasts. Amendments to the Communications Act of 1934 had outlawed that practice, but musicians continued to complain about hearing their own radio music on records they had not recorded. At the same time, movie musicians protested that independent film producers were taking old soundtracks from music libraries and paying a few musicians to rerecord or dub new musical passages onto them, thereby eliminating the cost of orchestras.[4]

Meanwhile, AFM membership beyond the nation's largest media centers remained stagnant. In 1936 many locals were still 20 to 35 percent smaller than they had been in 1928. Those in Baltimore, Minneapolis, Atlanta, and some other cities were about half their former size. Hard times continued to take the heaviest toll on the union's smallest locals, many of which folded in these years. The total number of chartered locals in 1936 stood at 641, the lowest number since 1913. The fact that membership was rising in New York and Los Angeles was of little comfort to musicians and union officials living elsewhere. Indeed, it only increased their frustration.[5]

Concern over these and other problems made the convention in Louisville, Kentucky, in 1937 one of the most clangorous in AFM history. Delegates demanded that Weber launch an aggressive campaign against the "undue use" of recorded music and insisted that unless he stimulated musical employment, he should call emergency sessions of all locals to work out ways to fight canned music. Some locals wanted an outright ban on recording. "It is absurd," delegates from New Orleans Local 174 maintained, "for musicians to furnish the music for making sound films." The New Orleans delegates then asked Weber to prohibit musicians from recording until record manufacturers agreed not to sell their products to broadcasters and jukebox operators. New York Local 802, meanwhile, presented fifteen specific proposals to restrict the mechanization of music. "The abuse and misuse of mechanical reproductions of music," the New York delegation warned, "constitute a threat which may annihilate the profession."[6]

These calls for action represented more than dissent from the policies of Weber and the AFM; they reflected growing disaffection among the rank-and-file musicians and demands for more militant strategies. Faced with shrinking job markets in a persistently depressed economy, musicians across the country were demanding that the union face up to the crisis. In 1937 a disgruntled member of New York Local 802, J. F. McMahon, wrote to William Green, president of the American Federation of Labor (AFL), berating Weber's policy of accommodation. "[Weber] refuses to assist us in our drive for Live Music," McMahon complained; "[he] says it is futile. . . . We must face facts. Invention, mass production, and unfettered monster trusts have us by the throat, [but] Weber does nothing." McMahon thought Weber "useless" and even a "hindrance" and suggested that Green investigate Weber's use of union funds while encouraging musicians to remove him from office.[7]

Union leaders realized that such surging unrest jeopardized their positions. That is perhaps why the 1937 convention redefined the way the union dealt with technological innovation. For nearly four decades the federation had opposed every suggestion to boycott record manufacturers or those who used their products. Now union leaders appeared ready to change that stance if they could find a way to deal with so intractable a problem.

Clearly sound films, records, and network radio were here to stay. Accepting that premise, Weber and the union executive board decided that radio, whose growing profits during the depression defied national economic trends, held the key to the musicians' dilemma. In closed-door sessions the board agreed on a plan to pressure the networks to increase the number and size of the staff orchestras employed by their affiliated stations. The strategy reflected the fact that there were many more affiliated than network-owned stations, and those stations therefore had the potential for creating far more jobs than did the networks themselves, and jobs too across the nation. The union thus threatened to strike the networks and record companies—the sources of most of the material the affiliates broadcast—and hoped the threats would cause the networks and record companies to force the affiliates to accept union demands to increase employment in radio. The same action might also increase employment in nonaffiliated stations, thus easing somewhat the problems caused by jukeboxes, wired music, and pirating.

On July 13, less than a month after the Louisville convention, Weber set this plan in motion. In sharply worded letters to network executives he threatened a strike unless they agreed to union demands. "Kindly be advised," he wrote, that members of the AFM "will cease to render services at any broadcasting station" on August 14, 1937, "unless [you] have agreed to the regulation of the indiscriminate use of phonograph records or electrical transcriptions." Weber invited the executives to meet him in New York to discuss ways to prevent the strike. "If you fail to respond to this invitation," he stated, "then you will, of course, leave the Federation no other alternative except to hold that your corporation, organization, broadcasting system, individual station or network is no longer interested in having services rendered to it by [AFM] members."[8]

Three days later, in an interview published in *Variety,* Weber elaborated the union's concerns. Denouncing the programming policies of affiliated stations, he insisted that musicians would no longer work for networks that fed programs to stations without staff orchestras. His meaning was clear: unless radio made concessions on this matter, the union would strike the industry. He also hinted that it might strike the record industry too.

The latter threat became explicit when New York Local 802 publicly instructed its members to make no phonograph records or electrical transcriptions after September 30.[9]

In response to these threats, leaders of the recording and radio industries agreed to meet with union leaders. Thus, on July 26–27 Weber and the union executive board met with representatives from leading record companies, among them World Broadcasting, Trans-American, RCA-Victor, Brunswick, and Decca. In two subsequent meetings, on July 29 and 30, they also met with representatives from the major networks, the National Association of Broadcasters (NAB), and several affiliated stations. In a clever move designed to show that he had the support of another union, Weber held some of these meetings in the New York headquarters of the American Society of Composers, Authors, and Publishers (ASCAP).[10]

These dealings between the union and the executives and legal staffs of some of the nation's largest corporations underscored the revolutionary changes that had recently occurred in the music business, and thus in the work environment of musicians. The array of business talent, legal expertise, and financial power Weber and the union confronted showed that instrumentalists and their union now had to deal with sophisticated, well-financed corporate enterprises committed to minimizing production costs through new technologies and new strategies in labor relations, and fully capable of achieving their purpose. The task of the men facing Weber and his union across the bargaining table was to prevent the union from controlling—or even meaningfully influencing—the circumstances, economic or otherwise, created by the new technologies. The AFM might wrest specific concessions from such men, but its chance of dominating the negotiating process was small indeed.

It is worth noting that the corporate spokesmen in this confrontation represented a distinct social group. They shared common ethnic and class backgrounds, and thus educational and career experiences. They even had similar lifestyles. Indeed, homogeneity in the business community went far beyond matters of race, ethnicity, gender, and class. It also involved considerations of ideology and world-view. Corporate policymakers shared common assumptions about the appropriate way to organize industry and society. Their assumptions embraced notions of the sanctity of private property, individual initiative and responsibility, and the subordination of labor to management. While reproving state interference in their own affairs, they nevertheless expected government help in overcoming the problems they encountered in the production and exchange of goods.

Most of them had come to accept trade unions as a fact of industrial society, yet they continued to view concrete union demands as assaults on managerial prerogatives. This, in brief, was the corporate psyche AFM officials confronted toward the end of the depression decade.[11]

IN THE NEGOTIATIONS that resulted from the union demands, Weber told industry leaders that musicians intended to strike the radio and recording industries because they had no choice. The high unemployment among instrumentalists—thirteen thousand AFM members, he noted, were on public relief—was forcing the union's hand, and one of the "prime reasons" for this situation was "the uncontrolled use of recordings." "[Records] are multiplied and duplicated by the thousands," Weber complained, "and then sold to and used in places where otherwise musicians would be employed." In an appeal to the better side of recorders, he spoke of the cultural implications of these practices. He argued that the practices had so reduced the incentives for young people to enter the music profession that the music business itself would soon have to rely on artists of inferior talent. "If musicians cannot find employment," Weber warned, "good musicianship will reach a lower level and the rendition of good music will become the exception rather than the rule." The decline of the nation's musical culture, he predicted, "is only a matter of time."[12]

Weber offered various proposals for regulating the commercial use of recordings. The most important and controversial of these would prohibit recorders from selling recordings to businesses that profited from playing music but did not employ musicians, which meant jukebox operators as well as network affiliates without staff orchestras. To enforce the prohibition, the union proposed to license recordings and through the licensing process restrict the use of recordings. Manufacturers who failed to license their recordings, or who violated the stipulations in the license, would be labeled unfair and denied the services of union members. Industry executives quickly branded Weber's proposal a secondary boycott that violated the antitrust laws and constituted a restraint of trade. Any effort to implement the proposal would therefore spawn expensive legal battles.[13]

Again the union had run up against the antitrust laws. The original antitrust law, named for its sponsor, Senator John Sherman of Ohio, ostensibly ensured competition in the marketplace by outlawing monopolistic practices of big business. The law, however, did not define *monopoly* or specify the monopolistic practices it forbade. It was therefore a vaguely worded endorsement of the antimonopoly principle and dependent for its meaning on judicial interpretation. The implications for labor became clear in 1894, when a federal judge in Chicago found striking railroad workers to be a combination in restraint of trade and enjoined them from interfering with the operation of the railroads they were striking against. Over the ensuing decades other courts applied that precedent to many striking workers. Even the Clayton Antitrust Act of 1914, which specifically exempted labor unions from the provisions of the Sherman Act, did not prevent courts from using the antitrust laws against union strike activity.

Despite the threat of the antitrust laws, AFM leaders defended their proposal to license and restrict the commercial use of recordings. When an industry leader mentioned the Sherman Act, Weber retorted, "A worker has a right to stipulate under what conditions he wants to work, where he wants to work, and how he wants to work." James C. Petrillo, already an influential member of the union executive board, echoed Weber's sentiments: "Does this gentleman know any Federal law, or city law, or state law," Petrillo asked, "whereby a man cannot protect his livelihood?" Other board members, including Charles Bagley, vice president of the union, and Chauncey Weaver, secretary of the executive board, responded to questions with equal assertiveness, especially questions challenging union figures on unemployment among musicians. Finally, at the end of a two-day bargaining session, attorney Milton Diamond of Decca Records suggested that the union give recorders time to consider the union proposals and, if appropriate, formulate counterproposals that the two sides could then discuss. Weber agreed to the suggestion, and the negotiations were adjourned.[14]

When AFM leaders met shortly thereafter with representatives from radio, Weber reiterated the problems of musicians and offered fourteen proposals for solving them. Some of the proposals were similar to those made earlier to recorders. Others asked the networks to expand the size of their staff orchestras, end the practice of recording live performances, and, most important, urge their affiliated stations to hire more musicians. Stressing again the right of musicians to determine the conditions under which they worked, Weber promised to pull musicians from networks that fed music to affiliates without staff orchestras. Broadcasters, he warned, must come "to the realization that they can no longer have free music unless there is cooperation to employ more musicians."[15]

The networks responded that they had no control over the hiring policies of their affiliates. "You are asking us to do something which we haven't the power to do," CBS attorney Sydney Kaye said. Mark Woods, vice president of NBC, agreed. The networks were "ready to deal for those stations that we own, manage and actually operate," Woods said, but musicians would have to handle their problems with the affiliates through separate negotiations. NAB president James J. Baldwin, with the antitrust laws obviously in mind, accused Weber of trying to maneuver the networks into an unfair labor practice by forcing them to "coerce" and "compel" their affiliates to hire musicians they did not need and perhaps could not afford. But Weber stood firm. "I say to you now," he told broadcasters, "if you insist that the Federation must take our problem up with every individual radio station, it will bring us nowhere."[16]

In a final meeting with industry representatives on August 3, Weber reiterated the union's resolve. "We are willing to make the sacrifice," he said, "and to forgo the employment that we now have in the making of electrical transcriptions or recordings, or even such as we have in the radio industry." Nonetheless, when industry leaders asked for more time to study his proposals, Weber agreed not to strike before September 16. The networks promised to confer with their affiliates and "get down to some basic facts," and the union agreed to form a three-man committee to answer questions the broadcasters might raise. The executive board also agreed to state exactly how many new positions it expected radio to create.[17]

These events marked a turning point in the history of the AFM. Never before had the union reacted so strongly to issues raised by the course of industrial development. Weber had dropped his idea that rallying public support was the only way to save live music, and he said nothing more about the futility of opposing technological change. Advances in technology, he now conceded, were advantageous only if musicians had a meaningful voice in managing—and allocating the rewards of—their consequences. "An employer never concedes anything to a wage worker," Weber told industry leaders, "unless [the worker] uses his economic power." This uncharacteristic bluntness indicated that Weber believed the time for his accustomed accommodation had ended.[18]

Weber's words also showed that musicians had forged a labor ideology of their own. That ideology did not reject capitalism, free enterprise, or economic individualism, nor did it challenge the Constitution, federalism, or the two-party system of government. What it confronted and rejected was the notion that labor was subordinate to capital, or laborers to capitalists, and that laborers had no legitimate say in matters of production and the allocation of profits from production. The ideology rejected as well the argument that labor's collective interests and purposes were threats to the public good. To preserve any sense of independence, equality, and purpose in life, Weber believed, workers had to depend upon their collective power, which was not merely economic and material but moral and ethical as well, and they had an obligation to the public good as well as to their own private gain. Weber had not always articulated such views, but he drew on them now to clarify union objectives and justify resistance.

IN MID-AUGUST the union offensive began to bear fruit. The first sign of progress appeared when manufacturers of phonograph records—as distinct from electrical transcribers—agreed in principle to a plan put forward by RCA-Victor. That plan was to keep property rights in recordings in the hands of manufacturers but stipulate that their sale was for home use only. At Weber's suggestion the stipulation would be spelled out in licenses manufacturers obtained from the union. Network affiliates, which relied heavily on phonograph recordings, opposed the plan, maintaining that the licensing system put radio at the mercy of the musicians' union and thus violated the Sherman Act. Uncertainty over the legality of the plan in fact forced the union to postpone its implementation.[19]

While network affiliates resisted the licensing plan, they reluctantly accepted other union demands. The networks had made it clear they wanted to avoid a strike, and they urged their affiliates to find ways to appease the union. In a move that reflected the rising tensions between large and small businesses in the industry, some affiliates resisted network efforts to influence their labor policies. A group of about thirty midwestern broadcasters organized to "prevent the networks from herding their affiliates into the AFM fold." However, most large, prosperous affiliates favored conciliation and sought ways to stabilize industrial relations. As a result, a coalition representing roughly half of the affiliated stations organized a new association, the Independent Radio Network Affiliates (IRNA), within the framework of the NAB for the specific purpose of handling negotiations with the AFM.[20]

Despite widespread opposition to the AFM, especially among broadcasters in the South, IRNA agreed to union demands. By the strike deadline its members had agreed to spend an additional $1.5 million annually for live music, double the amount previously spent. In addition, individual stations agreed to pay local union musicians a minimum of 5.5 percent of their gross income from time sales. Industry and union leaders signed a two-year agreement detailing these terms on October 11, 1937, after attorneys had modified the language to avoid conflict with the Sherman Act.[21]

The agreement represented a major victory for musicians. By May 1938 more than 250 affiliates had signed contracts with AFM locals, and radio work for musicians had increased notably. A total of 131 affiliates without staff orchestras before the agreement now had such orchestras, and 77 others had either augmented their orchestras or raised musicians' wages. The musicians' gains, of course, came at radio's expense. In a few cases labor costs skyrocketed. One large station that had spent no money for live musicians in 1937 spent $40,000 in 1938, and another that had spent $6,000 now spent $42,000. The 1937 agreement affected all but a handful of affiliated stations, those that already spent 5.5 percent of their income on live music and those whose gross income was below $20,000.[22]

The agreement with affiliates helped pave the way for settlement with the networks. Although the NAB initially resisted union demands, both NBC and CBS agreed to spend an additional $60,000 annually for musicians at each of their network stations, and Mutual agreed to boost its total expenses for live music by $45,000. The agreement with the networks meant an additional $0.5 million in annual income for musicians.[23]

The employment of instrumentalists in the 386 stations not affiliated with any network had been a low priority for union leaders. The reason for this was the low income of the stations. At the time of the negotiations just concluded, nonaffiliated stations accounted for only a seventh of radio's gross income, and nearly a third of the stations were outside the jurisdiction of AFM locals. Nonetheless, after three days of negotiation in the spring of 1938, the AFM signed an agreement with a newly formed organization representing about sixty of the largest nonaffiliates. This agreement required nonaffiliated stations with gross income in excess of $25,000 (about 145 stations) to spend 5.5 percent of their income on live music, which generally meant no more than a few part-time jobs.[24]

Efforts to regulate the sale of recordings were less successful. Throughout 1938 the union negotiated with manufacturers of phonograph records and electrical transcriptions, making a variety of proposals to control the commercial use of recordings. The problem, as union lawyers had warned all along, was that every one of the proposals might violate the antitrust laws. But that was not the only obstacle. The union had just agreed that broadcasters could use recordings as long as they hired musicians; a boycott of record and transcription companies would jeopardize that agreement. In effect the union had bargained away its leverage in this area. Unable therefore to insist that recorders restrict the sales of records for commercial purposes, the union settled for an arrangement in which manufacturers applied for union licenses that had the legal standing of labor contracts. Licensees agreed to employ union musicians, to maintain specified working conditions, and to secure union approval for rerecording—"dubbing"—over previously recorded performances.

By late 1938, then, the union's militancy had paid off. By threatening to strike, the union had doubled wages in record companies, though Weber insisted that even the new wages were "not in fair relationship to the use made of musical recordings."[25] For single recording sessions of two consecutive hours, of no more than forty minutes' playing time each, musicians now received $24 plus $6 for each additional half-hour of work, while leaders received at least twice those amounts.[26] In addition, the union had curtailed some of the recording industry's most abusive management practices. The AFM was even more successful in the field of radio, where it forged new patterns of labor relations by forcing employers to pay a specified percentage of revenues to workers, one result of which was a significant rise in employment.

The result showed that sound reproduction had not stripped the union of its usefulness, for industry still relied heavily on live musical performances. The best orchestras, like the best comedy and dramatic talent, still made network programming far superior to local programming, which increased the competitive advantage of the networks. In other words, the new agreements helped the networks maintain, perhaps even increase, their industrial dominance. Their affiliates were unable or unwilling to incur higher labor costs on their own, which made them dependent on the networks and thus willing to conciliate the union. The union campaign thus showed that all sectors of radio and recording were susceptible to union pressure and willing to deal with the union to avoid a strike.

The AFM victories coincided with and were not unrelated to parallel advances made by workers in other industries at the time. Labor gains in the late 1930s came chiefly from the new solidarity and militancy of workers, manifested in organizing drives, sit-down strikes, and other forms of activism. A fundamental shift in the attitude of the federal government toward organized labor, which the new activism both helped produce and benefited from, also contributed to the gains. To rejuvenate the flagging economy and provide badly needed relief to millions of hard-pressed Americans, Congress had passed legislation that improved the position of organized workers vis-à-vis their employers. Unemployment compensation, low-income public housing, and federal welfare assistance were among other New Deal policies that benefited the working class.

Of all the new legislation, the National Labor Relations Act, popularly known as the Wagner Act, was of most benefit to organized labor. Guaranteeing workers the right to organize and bargain collectively, the act made possible a dramatic increase in the number of unionized workers. New unions emerged in the steel, rubber, automobile, and other mass-production industries long ignored by the craft-oriented AFL. The Congress of Industrial Organization (CIO), an umbrella organization of the new unions of unskilled and semiskilled workers, was generally more militant than the AFL. By the end of 1937 the CIO had nearly four million members and was a major force in American economic and social life. Embracing militant strategies, CIO affiliates helped millions of industrial workers make meaningful gains in wages, working conditions, and workplace control. This rise of mass activism invigorated conservative unions in the AFL, which saw the CIO as a threat to their own influence in industrial relations. Undertaking new organizing drives of their own, AFL unions increased their membership in the late 1930s from 3.5 million to nearly 4 million. Machinists, carpenters, teamsters, and other AFL affiliates embraced the militant tactics of CIO unions to improve their positions in their respective industries.

This activism had implications for musicians and their union. In 1936 and 1937 the CIO made several attempts to organize instrumentalists and even chartered a few local unions. This created anxiety in some AFM locals. San Francisco Local 6, for example, reported considerable CIO activity among musicians in the Bay Area and urged that the federation "try through every possible means to bring [the] contending parties together." At the 1937 national convention Weber promised to spare "no effort and no expense" in jurisdictional battles with the CIO, and he warned John L. Lewis of the CIO not to "trespass" on the territory of "bona fide" unions. Lewis, who probably thought of Weber as another timid leader of a complacent craft union, made no concessions to Weber's warning, but he never seriously challenged the AFM. The threat from the CIO nevertheless encouraged AFM leaders to take more aggressive action in behalf of musicians.[27]

Thus, the gains musicians made in radio and recording mirrored the general pattern of changing industrial relations. The upsurge of labor militancy and the response of the federal government encouraged employers in radio and recording as well as in other industries to mute their traditional resistance to unions. Industrial conflict in radio and recording no less than in coal or transport promised not only to disrupt profits but also to attract the attention of a federal government now relatively sympathetic to organized labor and relatively suspicious of recalcitrant employers. In fact, other labor problems reflecting national changes in industrial relations diverted the attention of many employers from the problems they had with musicians. NBC's parent corporation, RCA, for example, had to deal simultaneously with the newly organized United Electrical Workers, a far more threatening union than the AFM. In short, industry leaders accepted the National Plan of Settlement partly because it promised to stabilize their relations with musicians while they dealt with what they must have felt were more serious challenges.

THE UNION turned next to the film industry. Since the late 1920s rank-and-file musicians had urged Weber to challenge Hollywood because of the loss of jobs caused by sound movies. Many musicians believed that a union boycott of motion-picture studios could bring back jobs in theaters. Why could not large, profitable theaters feature both live orchestras and sound movies?

The year 1937 seemed a propitious time to confront this issue. The national economy had improved and the movie industry was prosperous. Between 1933 and 1937, unemployment had dropped from 25 percent to 14 percent of the nation's nonfarm workforce, and the real income of Americans had nearly doubled since the depths of the depression five years earlier. Hollywood itself had become a new national symbol of affluence. This was indeed Hollywood's Golden Age, the era of Clark Gable, Shirley Temple, and Fred Astaire, and film had become one the nation's leading industries in terms of assets and volume of business. The major studios were in fact thriving. Since 1935 the net profits of Paramount had risen by more than 800 percent, those of Warner Bros. had risen by almost as much, and those of the leader, Loew (MGM), had doubled. The studios had also increased their control of the exhibition sector of the industry. The seven major studios now owned about fifteen hundred of the nation's seventeen thousand theaters, among them many of the largest and most profitable in the country.[28]

Weber did not call for meetings with studio representatives until 1938, by which time the national economy had turned downward, as had earnings in film. The depth and length of this "Roosevelt recession," however, were not clear when Weber and the union board sat down in New York with the Studio Producers' Committee, a group representing the major studios. At the meeting Weber told producers that before the advent of sound movies, twenty-one thousand musicians had earned nearly $50 million a year in theaters. Now theater work had nearly vanished, and the earnings of musicians in film totaled less than $8 million. The coming of sound movies had thus been "devastating" to musicians, a disaster "incomparable with the destroying of employment opportunities of other workers." Unlike other victims of technological displacement, Weber continued, musicians made the very products that put them out of work: "We are the only craft that makes the medicine that is destroying us." What would happen, Weber wondered aloud, if musicians quit making that medicine? Not wanting a strike, he offered the producers a proposal. If the film studios would hire musicians in their own theaters, the union would consider a reduction in the wage scale of studio musicians in Hollywood. Weber believed that the proposal, if accepted, could generate as many as five thousand new jobs and thus quiet the "clamoring" of the unemployed members of his union.[29]

The Producers' Committee quickly and unanimously rejected Weber's proposal. "For the first time in thirty years," Nicholas Schenck of MGM told Weber, his union had made an "impossible proposition." Theaters got rid of musicians because retaining them had become uneconomic; and it was uneconomic, he reminded Weber, because the public came to theaters to see movies, not to hear musical concerts. Leo B. Spitz of RKO agreed and pointed to recent experiments that had shown the financial impracticality of reemploying theater musicians. To underscore the latter point, the representatives from RKO and Warner Bros. discussed the financial straits those studios then faced, while Albert Warner noted that his company had lost $1.4 million in the last quarter. Paramount's Austin Keough added another reason for opposing Weber's proposal. The Justice Department, he reminded both sides, was suing the studios for violating the antitrust laws by conspiring to restrain trade; and if courts upheld this suit, the studios would have to divest themselves of the theaters they owned. The chances of that happening, Schenck thought, were four to one, and without the theaters the studios would be in no position to help musicians in the way Weber was proposing.[30]

The producers' objections were well founded. The public liked sound movies; if it also wanted live orchestras in movie theaters, that demand would have manifested itself in a willingness to pay higher admission prices, and musicians would be in the theaters. But that demand had not manifested itself; on the contrary, the consumer preference for sound movies over musical performances was everywhere clear. Equally clear was the industry's declining income. In 1938 the net profits of all the studios fell precipitously, with drops ranging from 15 percent in the case of Warner Bros. to nearly 100 percent at RKO. And producers were right about the antitrust suit; it promised to restructure the movie industry in ways that would prohibit producers from hiring theater musicians.

This antitrust suit had its own history, but its implications for musicians were especially pointed. In 1937, when the economy turned downward, Washington had taken new steps to stimulate production and consumer spending. One of those steps involved revitalizing the Antitrust Division of the Justice Department. In early 1938 Roosevelt appointed forty-seven-year-old Thurman Arnold, a hardworking Yale law professor, to head the division, and with increased funding Arnold revamped the division and launched a new crusade to increase industrial and business competition. In May, Arnold began appealing to businessmen and others to notify him of industrial practices that restrained production or competition, promising to prosecute anyone and everyone guilty of such practices. The film industry was one of the first targets of Arnold's campaign. In July he filed twenty-eight separate charges of monopolistic practices against the studios and proposed, among other things, that the courts divest the studios of the theaters they owned.[31]

By 1939 Arnold's antitrust suit had compromised the leverage Weber was seeking to use against the industry. Nonetheless, the suit did not prevent Weber from asking for what he had probably wanted all along: a tariff on the exhibition of films. If the studios could not create theater jobs as Weber had proposed, perhaps the union could "tax" their films and spend the revenues on unemployed musicians. Specifically, the union proposed to levy a "nominal" fee on the showing of "each reel of a picture," a fee that would vary according to theater size but would be so small that it "would hurt no one." In deluxe houses the price of showing a film might rise $40 a week, but in small houses the price increase would be "negligible." Weber believed that the plan would raise between $18 million and $25 million a year, which the union would use to hire musicians to perform free public concerts.[32]

The proposal was unique, radical, or bizarre, depending upon one's interests and perspective. Weber had asked studio management to recognize that technological changes in the methods of production had proved tragic for a specific labor group and to acknowledge that management had a moral obligation to help alleviate the "misery" and "distress" of members of that group. Weber asked specifically for a compensatory unemployment fund, which could provide pride as well as jobs and income for victims of technological displacement. In 1939 no group of displaced workers had ever had such a fund.

To members of the Producers' Committee, Weber's proposal amounted to a privatizing of welfare. Schenck called the objectives of the proposal a "dole" and said that MGM "would have nothing to do with it." The studio, he suggested, would sever its ties with the union rather than agree to such an arrangement. This proved to be the general consensus, and in January 1939 the head of the Producers' Committee, Pat Casey, formally rejected the union proposal. "We cannot accept the financial burden or moral responsibility for the unemployed," Casey told Weber. Producers felt "sympathy" for unemployed musicians but could "do nothing" to help them. The logic of the union proposal, Casey said, would "drive us into a position where . . . the industry must assume the responsibility of furnishing [the worker] with continuous employment or, in the alternative, with relief when his type of service is no longer required. . . . Today the musicians demand relief, tomorrow the former stage hands may demand relief, and the following day the pantomime artists." Casey also denied that the studios had "profited hugely" from sound movies, as Weber contended. To the contrary, they had spent fortunes to survive the transition to sound. "With the introduction of sound," he said, "producers were forced into large capital expenditures, in equipping studios with electrical sound recording apparatus, constructing and remodeling sound-proof stages, completely changing sets and stage lighting and training personnel in the intricacies of a new art." And owning theaters had been no financial bonanza, either. "Theaters [built to exhibit silent films had] to be remodeled and reconditioned for proper acoustical results."[33]

Casey rejected the idea that technological innovation had destroyed more jobs than it had created. "Technological advance did not result in unemployment," he wrote. "On the contrary, what happened was that a *shift* in employment took place and countless thousands of new jobs were created for engineers, electricians, technicians, service men and innumerable others." Producers needed thousands of new workers in sound booths and elsewhere to operate recording equipment, and perhaps even more in the field to exhibit and service the fruits of technological advances. There was no denying that musicians had lost jobs, but those losses were the "cold facts" of technological progress. "It is indeed unfortunate that during the past ten years the displaced musicians have been unable to secure employment in their chosen field. . . . The dislocation of musicians, [however], is no more tragic than the dislocation of skilled workers or artisans which has taken place in other industries as the result of the unrelenting march of the machine age."[34]

Producers thus rejected the union's ideology as well as its demands. To them the sound revolution was an entrepreneurial as well as a financial success, an accomplishment not of predatory businessmen using labor-saving machinery to displace workers but of men of social vision as well as business acumen. Their obligation in its aftermath was not to musicians narrowly defined as workers but to the general public as beneficiaries and consumers of the new forms of entertainment and leisure activity that the sound revolution brought to the masses. Among those beneficiaries were many musicians themselves, in those hundreds of high-paying steady jobs in Hollywood studios. "We have done all we can possibly do," Casey told the union representatives.[35]

Weber of course rejected these views, but he responded to them by demanding more bargaining sessions, which he postponed twice, the last time indefinitely. There were good reasons for this restraint. By 1939 the seriousness of the economic downturn had become clear. Nonfarm unemployment had climbed back to 19 percent in 1938, and it was still 17 percent in 1939. The fortunes of the studios paralleled these developments. After a nearly disastrous year in 1937–38, profits began to rise again, but the studios were still losing money in 1939, especially Warner Bros., Universal, and RKO. Meanwhile, the government's antitrust suit was proving to be especially distracting; when it finally came to trial in 1940, it had been postponed thirteen times. A union "tax" on films would have strengthened Arnold's argument that the major studios had monopolized the supply of films, and it might have inadvertently drawn Arnold's attention to the AFM's own insistence on minimum-size orchestras in radio.[36]

Then, too, it was not clear that the union could win a studio strike. That the industry depended upon fewer than five hundred musicians was not a fact the union could necessarily use effectively. To ask a relatively few high-paid musicians to strike for someone else's benefit was not a sure formula for success, especially after Weber had told the producers he would consider a reduction in those same musicians' pay in return for additional jobs in theaters. Whether Weber's failing health was an additional factor in the handling of the strike question is unclear, but it made the union's immediate future uncertain.

THERE WERE other considerations as well. The National Plan had created unexpected problems. Recording musicians found that higher wages resulted in less work. Faced with rising wages and stagnant sales, producers responded by recording smaller bands and orchestras. A single organist might replace as many as six instrumentalists, and popular bandleaders began practicing what a later generation called downsizing.[37]

A revitalization of the NAB also pointed to future problems. Many broadcasters believed that acceptance of the National Plan reflected a failure of NAB leadership and the association's inability to protect the interests of radio. Two executives of WBEN in Buffalo aired these views in a letter to hundreds of broadcasters. "The condition will become worse rather than better," they warned, "unless we take ourselves by the bootstraps and apply effective, corrective measures." In response to this new call to arms, broadcasters reorganized the NAB in late 1937, creating a separate department to deal exclusively with labor problems and increasing membership dues by a combined total of $80,000 to $120,000 a year. (The voice of network affiliates, IRNA, remained, at least temporarily, a separate entity within the NAB.)[38]

Criticism of the National Plan mounted as the expiration date of the plan approached. Network affiliates complained that the plan was "an onerous burden," while broadcasters in small cities complained that they were unable to "sell" local staff orchestras to advertisers. The quality of local musicians, they argued, was inferior; audiences and advertisers alike preferred recorded music and network programs. In fact, many broadcasters, especially in the South and West, had hired musicians as the agreement dictated but refused to use them. These broadcasters understandably complained that the National Plan was "an enforced payment of tribute," a "subsidy" exacted from them by the union. *Broadcasting,* the trade journal of the industry, gave voice to the growing discontent. The agreement with musicians, one of its editorialists complained, was a "miserable flop . . . procured under duress," while another complained that broadcasters had signed the agreement "with a sword hanging over [their] heads."[39]

Local branches of the AFM, however, were insisting that the provisions of the agreement be expanded to include more musicians. This sentiment was strong enough to cause Weber, in November 1939, to ask radio to boost the size of staff orchestras. In negotiations conducted not long before the agreement was to expire, Weber proposed that the networks agree to double the money they paid for staff musicians and that their affiliates spend an additional $1.5 million. Invoking the tactic that had worked two years earlier, Weber threatened a general strike if radio failed to accept these demands.[40]

Weber justified the demands on the grounds that industry profits had soared under the agreement. Indeed, radio's experience had differed from that of film. Net profits rose dramatically in the several years around 1940. Typical headlines in *Broadcasting* read, "All Time Sales Records" and "Radio's Best Year." Gross time sales of broadcasters in 1939 were 14 percent higher than in 1938, and in 1941 they were 21.5 percent higher than in 1939. This steady and substantial rise reflected the growing numbers of radios in American households and consequent increases in advertising revenue. By 1940 more than 80 percent of all homes in the nation had radios, and Weber thought musicians deserved a fair share of the rising wealth.[41]

Broadcasters disagreed, or rather they had a different view of what constituted a fair share. They denounced Weber as "dictatorial" and the AFM as a "parasite" whose thirst for blood would end up "killing the goose." Repeating those views, network affiliates "flooded" IRNA with "letters, telegrams and phone calls," insisting, in the words of Samuel R. Rosenbaum, who headed the new organization, that IRNA reject Weber's "outrageous" and "unfair" demands. On November 20, 1939, Rosenbaum announced that the affiliates would not renew the National Plan, proposing instead that the union negotiate agreements with each affiliate "without reference to any national plan or quota."[42]

In taking this stance the affiliates had no doubt been encouraged by recent actions of the Justice Department's Antitrust Division. Only one day before Rosenbaum notified musicians that the National Plan of Settlement would not be renewed, Thurman Arnold sent a letter to the Central Labor Union in Indianapolis detailing practices in the building trades that he considered "unreasonable restraints of trade" and "unquestionable violations" of the Sherman Act. Among the practices he listed were those designed to compel the hiring of "useless" or "unnecessary" workers. Broadcasters recognized at once the potential applicability of these descriptions to provisions in the National Plan. So too did the Justice Department. Less than two weeks after Rosenbaum rejected Weber's proposals, the Federal Communications Commission (FCC) informed him that the Justice Department would act against the musicians as soon as broadcasters filed a formal complaint with the agency. Rosenbaum did so at once, citing the "enforced employment of musicians" as a restraint of trade upon radio.[43]

News of the resulting antitrust suit was soon reverberating through AFM headquarters. Union leaders feared that the courts would uphold Arnold's definition of restraint of trade, and thereby largely destroy musical employment in radio outside media centers. The union therefore made a strategic retreat. On January 17, 1940, Weber announced that he would not seek renewal of the National Plan, and he instructed union locals to "use their own judgement in entering into contracts with the radio stations in their jurisdictions." He also withdrew the threat of a nationwide strike.[44]

Broadcasters hailed this as a "major victory" for free enterprise. It was no victory, however, for working musicians. When the 1937 agreement expired in February 1940, network affiliates were free to hire musicians or not as they saw fit. Again the availability of recorded music and network programming had undercut the union's bargaining power. But if the collapse of the National Plan eliminated the requirement to hire musicians, it did not cause the musicians to leave their jobs quietly. On the contrary, from Florida to Minnesota, musicians did whatever they could to protect their position in radio. James C. Petrillo, who had recently succeeded Weber as president of the AFM, coordinated their efforts.

PETRILLO HAD WON the union presidency by unanimous vote at the annual convention in Indianapolis in 1940. His election, which came after Weber announced his retirement for reasons of health, had been long anticipated. Musicians across the country, especially those in small locals and those devastated by the impact of technological innovation, considered Petrillo, head of Chicago Local 10, as the man most likely to do something effective about their problems. The Chicago union was not only militant; it had also pioneered ways of responding effectively to the problems caused by recorded music. In 1935, to illustrate, Local 10 had pressured Chicago broadcasters into agreeing to destroy records after the stations had used them once, and even before the National Plan was in place the local had prohibited its members from recording for manufacturers it had not licensed. The licenses not only protected wages and working conditions in record companies but also restricted record sales to commercial companies deemed fair to labor. This restriction, which lasted a year, cost Chicago musicians perhaps $150,000 in lost wages and prompted several recording companies to move out of the city. The union action, however, made it clear that Petrillo would do whatever he could to protect musicians from the impact of recorded music.[45]

Petrillo's willingness to fight sprang from no naive belief that workers could "uninvent" technology. He recognized that unions could not, any more than management, hold back technological change. "From the time when organized labor first engaged in warfare against the use of machinery," he said in 1928, "conflict has resulted in the complete, or partial, destruction of the union involved." Petrillo believed, however, that musicians were in a position to influence the impact of recording technology on their work and thus on their well-being. "In the endless conflict between labor and machinery," he stated, "the musician is more favorably situated than any other worker." Unlike workers in mass-production industries whose skills new technology made marginal, "the living musician," Petrillo said, "must be consulted and his services utilized . . . or else the machine will be silent." The Chicago leader hoped to control the use of sound technology by enlisting the support of instrumentalists who made recorded music.[46]

Petrillo's background partly explains his tough-minded approach. Son of an immigrant Italian father who supported his family by digging sewers, Petrillo grew up in a rough, run-down neighborhood on Chicago's West Side. He had little education—he never finished elementary school—and even less refinement or tact. Nor was he, by his own admission, a good musician (he played the trumpet). What he was was a union man. In 1914, at the age of twenty-two, he was elected by his fellow musicians to the office of president of the Chicago chapter of the American Musicians' Union, and when they denied him reelection three years later, he switched his allegiance to the Chicago local of the AFM. A year after that the four thousand members of the local elected him vice president and, in 1922, president. For eighteen years the diminutive man—he was five feet four inches tall—oversaw an organization many of whose members were variously associated with gangsters and with the buying and selling of alcohol during the Prohibition era. It is not surprising that he rode around Al Capone's Chicago in a bulletproof car and walked about it with armed bodyguards. In 1924 a bomb exploded on the porch of his home.[47]

By 1940 broadcasters and recorders were well aware of Petrillo's reputation for confrontation. A member of the AFM executive board since 1932, Petrillo played an active role in the negotiations that resulted in the National Plan. Commenting in 1940 on his elevation to the AFM presidency, *Broadcasting* predicted a "new and more vigorous regime for union musicians," one that would likely produce "increased demands upon radio." Petrillo, the trade journal noted, had pledged a "fight to the finish" against Thurman Arnold's effort to limit the power of musicians to protect their jobs in and out of radio. Broadcasters expected Petrillo to launch a campaign against radio, for he had long argued that the union should exercise greater control over musicians who worked for network stations.[48]

Petrillo did indeed have plans to shake up radio. Specifically, he planned to help musicians by restricting remote broadcasting. Radio performances of traveling big bands had become increasingly popular in the 1930s. During prime-time hours at the end of the decade, the networks regularly broadcast to their affiliates the live concerts of Benny Goodman, Artie Shaw, and others. Petrillo hoped that by occasionally forbidding musicians to make remotes, he could force the networks and their affiliates to accept higher wages and minimum orchestra sizes. Although remotes were less important than staff orchestras for network programming purposes, Petrillo was willing to gamble that the networks would be reluctant to do without such high-profile programs. If pulling the remotes proved ineffectual, he was prepared to pull staff orchestras from network-owned stations. The plan, of course, demanded union solidarity.

Saxophonist Henry Gruen later shed light on the work patterns behind Petrillo's maneuverings. In 1937 and 1938 Gruen traveled with Jimmy Joy's twelve-piece orchestra, performing at hotels and dance clubs throughout the Midwest. For two or three weeks at a time the band worked at the Stevens Hotel in Chicago. "We played there six nights a week," he recalled. "We started about eight and played till one. [We] played songs like 'Ain't She Sweet,' 'After You've Gone,' and 'Maria.'" The networks sometimes picked up these performances. "We loved it," Gruen said of remote broadcasting. "It helped you make a name for yourself. When I did a solo the announcer would say, 'Alto solo by Henry Gruen.'" The remotes also helped the band get more and better jobs. "They made us popular," Gruen explained. "People would flock in to see us because they heard us on radio." Gruen had been unaware of Petrillo's specific plans to restrict remote broadcasting, but he had liked Petrillo and knew "he planned to quit giving our product away." He reminisced, "We thought he would be great because he did so much for Chicago. He was truly for the sideman. He was one of those guys like Truman [who said], 'The buck stops here.'" Gruen not only trusted Petrillo; he also was prepared to sacrifice to help him accomplish his goals. "I saw [theater owners] cover up the pits with canvas," he recalled of the loss of theater jobs, "and felt something needed to be done [to prevent a similar loss] in radio. So many people were making money off the sweat of musicians. They were bleeding the workingman to death."[49]

Petrillo's charisma and confrontational style would obscure the role of the AFM executive board in industrial relations, yet the board significantly shaped union policies throughout Petrillo's presidency. In 1940 the board embodied a wealth of experience and expertise. Thomas Gamble, a board member since 1908, had served as president of Local 198, Providence, and worked on the legislative committee of the Rhode Island State Federation of Labor. Chauncey Weaver, who joined the board in 1915, had headed Local 75, Des Moines, and worked as a musician, lawyer, and journalist. Charles Bagley, vice president of the AFM since 1931, was one of the union's principal legal advisers and had previously held office as president of Local 47, Los Angeles. Oscar Hild, who joined the board in 1940, had served as president of Local 1, Cincinnati, since 1931.[50]

Disputes between network affiliates and AFM locals quickly provided occasions for Petrillo and the executive board to demonstrate both leadership ability and union solidarity. In June 1940 officials at the St. Paul local asked Petrillo for assistance when negotiations with station KTSP broke down. Since KTSP was an NBC affiliate, Petrillo notified the network that unless the dispute was settled within twenty-four hours to the satisfaction of the local union, he would prohibit traveling bands from performing for NBC remote broadcasts. When that condition was not met, Petrillo made good his threat. On June 28 he ordered ten big bands to cease playing on NBC. Among the bands affected were those of Woody Herman, Tommy Dorsey, and Gene Krupa. When KTSP still refused to meet his demands, Petrillo promised to pull staff musicians from NBC itself within twenty-four hours. The following day KTSP and the musicians settled their differences in a manner Petrillo described as "satisfactory to the St. Paul Local."[51]

While these events transpired, a similar dispute arose in Richmond. There the struggle involved musicians at WRVA, an affiliate of CBS and MBS, who requested Petrillo's help when the station proposed to lower their wages. After investigating the situation Petrillo gave Richmond the same assistance he gave St. Paul. He ordered eight traveling bands to discontinue remote broadcasts to CBS and Mutual, and over the next few days he tightened the noose by ordering twenty-two others to do likewise. On July 10, after Petrillo had pulled a total of thirty scheduled performances from the two networks, WRVA abandoned its plan to lower the wages of its musicians.[52]

Petrillo had protected wages and working conditions in local areas by withdrawing programming from the networks. His gamble had paid off. The St. Paul and Richmond episodes had shown what Petrillo suspected: that affiliate stations were willing to resist the union, but the networks were not. The affiliates had used network programming to undermine union locals, and the networks now used the union threat to that programming to force them to agree to union demands. The affiliates, in other words, could not prosper, perhaps could not even survive, without network programming. The movie and radio industries had long relied upon the star system; now, cleverly, the musicians' union was putting that system to its own use.

Petrillo was determined to lose no radio staff orchestras. In mid-October 1940 he told representatives of the three networks that beginning January 1, 1941, he would permit no remote performances that created "unfair competition" for local musicians. In January, accordingly, he canceled remote performances to protect jobs in Akron and Scranton, and in February he did the same thing for Nashville. To the ire of broadcasters and audiences alike, the music of Lawrence Welk, Duke Ellington, and Artie Shaw become unavailable in those cities. Petrillo's tactic was working. "I believe that the chains are beginning to realize," he said in July 1941, "that when I say a strike will be called, it will be called."[53]

Musicians in traveling bands made few complaints when Petrillo prohibited remote broadcasting of their performances, even though they sometimes lost income as a result of the prohibition. Petrillo banked on the solidarity of the musicians, and he appreciated their sacrifice. "When remote control bands from coast to coast were directed to discontinue services they did so at once," he noted in 1941, "without even one of the bands involved questioning what it was all about." Petrillo also acknowledged the role of local union officials in the success of his effort. "I want to thank the officers in Locals involved," he said also in 1941, "for the splendid cooperation given my office by each and every one of them." This cooperativeness was partly a tribute to Petrillo's persuasiveness, but it was also due to big-band musicians' recognition of the strength of the AFM. Their own jobs, in other words, depended on their cooperativeness. Their cooperation, as it turned out, cost them little. Petrillo may not have wanted remote broadcasting at all, but he realized that since it existed it was to his advantage to manipulate it rather than attempt to destroy it.[54]

WHILE PETRILLO struggled to protect radio staff orchestras, the problem of canned music persisted. Jukeboxes continued to displace musicians by the thousands. In 1941–42 six thousand jukebox operators had perhaps four hundred thousand of the machines in operation, which by Petrillo's estimate deprived musicians of eight thousand jobs. That estimate may have been high, but many clubs and dance halls that had once featured live music now operated as "juke joints."[55]

"Hepcats" and a jukebox, circa 1940. Nickel-in-the-slot machines created hit tunes and popularized orchestras; they also displaced live musicians—prompting James Caesar Petrillo, then president of the American Federation of Musicians, to launch a national campaign to regulate the commercial use of canned music. *(Bettmann Archive)*

Frequency-modulation (FM) broadcasting and television were other recent innovations with major implications for the future of working musicians. FM broadcasting was the stepchild of Edwin H. Armstrong, a New York inventor who had made an earlier contribution to radio with the development of feedback circuits. In 1933 Armstrong first demonstrated FM, which transmitted sound at higher wavelengths and within a wider band of frequencies than the traditional amplitude modulation (AM). As a result, FM transmissions were virtually static-free. Although FM receivers did not become generally available for several years, broadcasters demonstrated FM technology to civic and business groups across the nation, and interest in the new process was high. By 1941 mass production of FM sets was under way, spearheaded by General Electric and Philco. Stations soon flooded the FCC with applications for FM licenses. Musicians, however, realized that FM would mean new jobs only if the recorded music and remote broadcasts that were the staples of AM radio did not also become the bulk of FM programming.[56]

Meanwhile, the first public display of television took place in 1939 at the New York World's Fair. AFM leaders, however, knew already that the advent of television was imminent, and they knew too of the interest of the radio networks in it. By 1937 NBC and CBS had built television transmitting stations, and Zenith, Philco, General Electric, and Dumont Laboratories were manufacturing television sets. Union officials no less than industry leaders were uncertain of the future of the new medium, but the former hoped and anticipated that the public wanted to see the performances they had heretofore only heard. Petrillo doubted that television would use live musicians unless the union put up a fight. In 1941 he assured members that the union was preparing "the musicians' platform for commercial Television . . . when [television] comes into general use."[57]

There were still other concerns caused by new technology. Wired-music companies had developed an experimental "telephone jukebox," a machine that allowed an individual to drop a coin into a slot, pick up an attached microphone, and request that a certain song be played. At a nearby station a disc jockey—"pancake turners," in union lingo—played the requested recording, its sound transmitted to the requesting machine through electric power lines. Still another development, this one in sound-on-film technology, had resulted in coin-operated machines that projected onto screens filmed scenes of bands playing or musicians otherwise performing to the accompaniment of their recorded music. By 1941 Alvino Rey, Count Basie, and other popular musicians had appeared before these "Soundie" cameras. These "coin-operated movies" were still "an unknown quality" to Petrillo, for they were not yet commercially practical. But a few of the machines were around, and musicians and the union eyed them warily.[58]

Local branches were fully aware of these threats, and delegates to the 1941 national convention in Seattle offered a score of proposals concerning them. Those from Local 453 in Winona, Minnesota, urged the executive board to get the 1909 copyright law amended to give musicians ownership of the music they recorded in the same way authors owned the lyrics and scores they wrote, or indeed the books they published. Other locals suggested that the board concern itself with closer regulation of the distribution of records, including restricting the sale of records to home use only. Local 616 of Salinas, California, offered an elaborate plan to require jukebox operators to pay the union 65 cents for every 35-cent record they made available to the public, and 50 cents for each of the 50-cent longer-playing records many of them preferred, in effect making each record cost operators $1. The "label fund" thus generated would be distributed according to a formula under which the local in whose jurisdiction the jukebox operated would receive 78 percent. The local would use the money to police the jukebox business and help unemployed musicians. The remaining 22 percent of the fund would be divided between the national union and the musicians who had made the records.[59]

While union leaders weighed these proposals, new labor disputes dramatized the circumstances that had generated them. Until June 1, 1941, to illustrate, the workforce of Ringling Brothers' Circus included forty instrumentalists: twenty-six white musicians who played for main events at $47.50 a week each, and fourteen black musicians who worked the sideshows at rates of $26.50. When the circus management refused to increase each of these rates $2.50, the musicians went on strike, during which time management used recorded music and the show went on. The strike ended when Petrillo and Robert Ringling agreed, for reasons that are unclear, to a wage settlement that exceeded the original demand. Nonetheless, the dispute showed again the reality of the threat posed by recorded music.[60]

The threat surfaced again in radio. In October 1941 H. J. Brenner, who owned CBS affiliate WJAS in Pittsburgh, refused to renew a contract requiring him to employ an eleven-piece orchestra. When negotiations deadlocked, musicians at the station went on strike, as did those at station KQV, the NBC affiliate in Pittsburgh, which Brenner also owned. Since the strikes involved the two leading networks, it had national implications. Petrillo's response to the first strike was to forbid musicians to provide remote services to CBS. Then, in a preemptive move that raised the stakes, NBC canceled its own upcoming remotes, replacing them with talk shows and staff orchestra concerts and simultaneously transmitting popular programs over its Red and Blue channels.

These moves did little to help the networks. Canceling the performances of bandleaders like Benny Goodman, Gene Krupa, and Glenn Miller while the union withheld similar bands from CBS gave Mutual a monopoly on the music of traveling bands and a lion's share of late-night audiences. Moreover, the general policies of the networks concerning musicians convinced Petrillo that the time had come for a showdown. Accordingly, on October 14 he ordered musicians on selected NBC and CBS sustaining programs to cease work, promising to reimburse them for the wages they lost. The order affected musicians in NBC studios in New York, Chicago, Hollywood, San Francisco, Detroit, and Cleveland, as well as those in CBS studios in New York and Chicago. It did not affect commercial programs, however, though Petrillo threatened to include musicians on those programs unless Brenner settled quickly with the Pittsburgh musicians.[61]

Brenner did so, and on October 17 Petrillo accordingly lifted the restrictions on remote and sustaining broadcasts on the two networks, and the musicians at WJAS and KQV went back to work. Although the Pittsburgh local agreed to minor concessions, Petrillo and the AFM had won an important victory. At a cost of $5,000 Petrillo and the union had successfully protected radio jobs outside the media centers, and he was certain the networks had pressured their affiliates to agree to his demands.[62]

Nevertheless, conflicts with radio continued. By the summer of 1942 Petrillo had intervened in more than twenty local disputes, in each case preserving radio jobs by pulling remote performances. But each time he did so he encountered anew the tenuous position of musicians in radio. The underlying problem was that the union could not afford to pay the wages of striking musicians for an extended period of time. Moreover, once he canceled remote performances, Petrillo had used the only effective weapon he had.

Paradoxically, while radio musicians worried about losing their jobs, other instrumentalists were frantically producing the products that threatened radio employment. In April 1940, for example, members of the Tommy Dorsey band were working in two recording studios a day, from early morning till late at night. Band member Joe Bushkin recalled the hectic pace. "We started at 9:00 or 10:00 in the morning and had a break for lunch, then worked through 6:00 or so. Then we had just enough time to get uptown and grab a sandwich or something. . . . So we showed up at the second studio at about 8:00 in the evening and we played until about 1:00 or 2:00 in the morning." Sidemen like Bushkin received $125 a week for these recording sessions.[63]

Musicians no less than Petrillo understood the irony of these things. At the union's annual convention in Dallas in 1941, delegates urged Petrillo to "draw the line" against the real nemesis, the unrestrained use of recorded music. He promptly did so, announcing to the convention on June 8, 1942, that union musicians would no longer "play at their own funeral." They would, that is, make no more records or electrical transcriptions—ever. Delegates received the announcement with thunderous applause.[64]

Petrillo soon set the ban in motion. He told recording and transcription companies that beginning August 1, 1942, union musicians would "not play or contract for recordings, transcriptions or any other form of mechanical music."[65] To blunt charges that the ban was a secondary boycott or otherwise in restraint of trade, Petrillo told James L. Fly, chairman of the FCC, that he and his union made no demands on industry and had nothing to negotiate with anyone. Instead, he and they had ceased recording because recorded music deprived them of work. Petrillo told Fly, "95% of the music in the United States and Canada is canned music. Only 5% is left for the poor professional musician who studied all his life so that he might make a living for his family. This is not a question of being a 'czar' or 'dictator,' it is a question of a large group of men fighting for their very existence."[66]

PETRILLO'S ANNOUNCEMENT and its subsequent implementation showed that since the difficult years of the 1930s, the AFM had regained considerable power and solidarity. Since 1936, union membership had jumped from 105,000 to 135,000, and though many of the new members lived in New York, Chicago, or Los Angeles, locals around the country had witnessed meaningful gains. Membership in Baltimore, Memphis, and San Francisco, for example, had risen by 10 to 20 percent; growth in Minneapolis and Kansas City was even greater. Many small locals, about eighty or so, resurfaced in these years. The union had not fully recovered from the twin blows of mechanization and the depression, but the rising membership clearly encouraged Petrillo's confrontational strategies. His rhetoric, however, fooled no one. Friend and foe alike knew that what he wanted was jobs for members of his union, and that he hoped somehow to create them by reducing the competition from recorded music. It was not clear that he could do so. Broadcasters had a powerful association committed to defending their interests, and many in the Justice Department and the federal courts still thought of the things Petrillo was proposing in terms of secondary boycotts and restraint of trade. In addition, consumers clearly preferred the canned music of national performers to the live product of most local musicians.

Nonetheless, musicians and their union were intent on doing what they could to protect themselves from the consequences of products of their own making. Like other workers, they rejected the notion that new technology should benefit only consumers and capitalists. Workers too deserved to benefit. It was largely musicians who had made radio and recording what they had become, and profits in these industries were at all-time highs in 1941 and 1942. "Why can't we all live?" an impassioned Petrillo asked on behalf of musicians. "Why should all big revenues go into the pockets of these radio stations . . . without paying one dollar to the musicians?"[67] Why, indeed?