Notes

Abbreviations

AFM Microfilm, OHS  American Federation of Musicians records, Microfilm Department, Archives–Library Division, Ohio Historical Society, Columbus

Bagley Collection  Charles Leland Bagley Collection, Special Collections Library, University of Southern California, Los Angeles

Official Proceedings  Official Proceedings of the annual conventions of the American Federation of Musicians, in Bagley Collection; cited by year

Papers of Local 47  Papers of the Los Angeles Musicians’ Union, Local 47 of the AFM, President’s Office File, at the local’s headquarters in Los Angeles

Introduction


3. Two of the most frequently cited works focusing on labor’s response to technological change are David Brody, Steelworkers in America: The Non-Union Era (Cambridge: Harvard University Press, 1960); and David Montgomery, Workers’ Control in America (New York: Cambridge University Press, 1979).

4. For a general overview of the literature on government-business relations, see Thomas K. McCraw, “Regulation in America: A Review Article,” Business History Review 49 (Summer 1975): 159–83; Louis Galambos, “Technology, Political Economy, and


**Chapter One: Working Scales in Industrial America**


5. Ibid., 18. The primary source of data for this analysis was occupational statistics of the U.S. Census for 1870, 1880, 1890, and 1900. See *Compendium of the Ninth Census* (Washington, D.C., 1872), 604–7, table 65; *Compendium of the Tenth Census* (Washington, D.C., 1883), 1368–69, table 103; *Compendium of the Eleventh Census* (Washington, D.C., 1897), 396, table 741; and *Occupations at the Twelfth Census* (Washington, D.C., 1904), 1, table 4. Only the 1870 census distinguished between “musicians” and “music teachers.” In that year there were 6,519 musicians (only 173 of whom were women) and 9,491 music teachers (5,580 women). Subsequent census reports combined these two categories.


9. Constitution and By-laws of the Washington Musical Protection Union, 1865, in Bagley Collection; Body Meetings from January 1904 to December 1913, 495, Papers of Boston Musicians’ Association, Local 9 of the American Federation of Musicians, Boston. Also Price List of the American Federation of Musicians, Local 103, MIC 155, vol. 1 (1891), 19–20, AFM Microfilm, OHS.

10. Constitution and By-laws of the Washington Musical Protection Union, 1865, in Bagley Collection; Price List of the American Federation of Musicians, Local 103, MIC 155, vol. 1 (1891), 23, AFM Microfilm, OHS. Leiter states that musicians were “barely able to eke out a living.” Leiter, Musicians and Petrillo, 11.


12. The 1865 constitution of the Washington Musical Protective Union stated that members must “refuse to perform in any orchestra or band in which any person or persons are employed who are not members of this Union.” Constitution and Rules of Order of the Washington Musical Protective Union. (Washington, D.C.: Gibson Brothers, 1865), 6, in Bagley Collection. The 1906 constitution of the Los Angeles musicians’ union Local 47 forbade members to supply nonunion musicians with information regarding the union price list and directory. A fine of up to $100 could be levied against violators. In 1924 the fine was up to $200. Members had to obtain the union’s permission even to teach or conduct nonunion musicians. Constitution and By-laws of the MMPA of Los Angeles, 1906, 20, and Constitution and By-laws, 1924, in Bagley Collection.

13. Countryman, “Organized Musicians,” 76; Robert Lee Humes, “Labor Relations and the American Federation of Musicians: Six Locals in Pennsylvania” (master’s thesis, Pennsylvania State University, 1965), 67. Humes indicates that some unions required applicants to obtain recommendations from two union members, usually band-leaders. Local amateur bands, variously organized by fire or police departments, American Legion posts or other patriotic groups, and public or private schools, were sources of competition for union musicians. Employers often preferred amateur bands because they worked free or for only nominal sums. Union objections to the use of such bands often aroused the ire of the community, but union officers always objected to amateur performances that took jobs away from union musicians. Unions thus worked to limit performances by amateur groups to occasions that were not competitive or commercially oriented, such as church functions and patriotic occasions. See Constitution and By-laws of the MMPA of Los Angeles, 1937, in Bagley Collection; and letters from union officials to local musical groups, 1934–41, Papers of Local 47.


15. Sue-Ellen Hershman, “What’s in a Number? The History and Merger of Local 535,” Interlude, January–February 1993, 4; Donald Spivey, Union and the Black Musi-

16. Pianist Samuel Johnson, violinist George Bridgetower, and guitarist Justin Holland, all African Americans, were among the nation’s best-known concert musicians in the late nineteenth century, when several black women also gained fame as vocalists. Marie Selika and Elizabeth Taylor Greenfield, for example, distinguished themselves as concert sopranos, the latter once singing before Queen Victoria; Spivey, Union and the Black Musician, 5–7. See also William Barlow, Looking up at Down: The Emergence of Blues Culture (Philadelphia: Temple University Press, 1989), 119; and Susan Curtis, Dancing to a Black Man’s Tune: A Life of Scott Joplin (Columbia: University of Missouri Press, 1994).


18. Ibid., 61–63. In the early twentieth century Thomas apparently recorded more than twenty of his songs for some of the nation’s first recording companies.


20. Eleventh Census (1890), 396, table 74. A few women served as secretary-treasurers of local unions. See George Seltzer, Music Masters: The Performer and the American Federation of Musicians (Metuchen, N.J.: Scarecrow, 1989), 213–14; Overture, May 1950, 10; and April 1950, 38. See also Roell, Piano in America, 13–16. The fact that women could and did rely on one another to learn to play musical instruments no doubt encouraged women to study music.


22. Ninth Census (1870), 604–7, table 65; Tenth Census (1880), 1368–69, table 103. Census reports of later years did not indicate musicians’ nativity. Obituaries in the Chicago musicians’ trade paper, Intermezzo (June 1940, 10, and October 1940, 11), offer insight into the ethnic diversity of musicians in the late nineteenth and early twentieth centuries. Of eight musicians mentioned, three were American-born; two were born in Czechoslovakia, one in Norway, and one in Poland. The birthplace of another was unknown. Most had been longtime members of Chicago Local 10. All issues of Intermezzo cited in this study are located in AFM Local 10, Chicago.


24. Ibid.


26. American Musician, May 1, 1898, 2. Also Official Proceedings, 1947, 279. Leiter notes that the NLM had fifteen locals in 1887; in 1896 it had seventy-nine locals repre-


31. Loft, “Musicians,” 373. Miller insisted that locals “must sacrifice some autonomy to strengthen the national body.” NLM leaders often wore Prince Albert coats and silk hats to annual conventions; hence their nicknames. *International Musician*, May 1940, 1.

32. Loft, “Musicians,” 377; *American Musician*, May 1, 1898, 3–4. Gompers actually began admitting local unions of musicians to the AFL in 1891.

33. Steeper, “Civil Rights in the American Federation of Musicians,” 6. Specific duties of the president included presiding at all meetings of the executive board, signing official documents, appointing all committees, and reporting on his activities in an annual report. The ability of the president to annul provisions of the constitution has been cited as evidence that the union was a dictatorship. In fact, this power could be used only under special circumstances; it was used only a few times and for such purposes as setting aside dues payments for members in the armed forces, or for changing the dates of conventions. Locals repeatedly insisted on keeping this provision intact.

34. *American Musician*, May 1, 1898, 3–4, and Miller, “History of the AFM,” clipping in Bagley Collection. Also John Scott Kubach, “Unemployment and the American Federation of Musicians: A Case Study of the Economic Ramifications of Technological Innovations and Concomitant Governmental Policies Relative to the Instrumental Employment Opportunities of the Organized Professional Musicians” (master’s thesis, Ohio University, 1957), 35–36. Delegates of the first AFM convention agreed that in jurisdictions where two locals existed, the locals must amalgamate within three months, and AFL officials would grant a charter to the local making the most legitimate effort to consolidate. As the AFM’s first president, Miller drew up plans for the union’s second national convention, held in Kansas City in May 1897.

35. The union gave no local more than ten votes at annual conventions. Also, provisions of the constitution could be amended or repealed by majority vote at the annual convention. (In 1906 the ten-vote maximum rule was amended to give larger locals more power in the enactment of new laws.) Furthermore, the AFM gave more autonomy to local unions. Not only did each local set its own wage scales and rules regarding working conditions, but it also maintained the right to discipline or expel members so long as a formal hearing was held. Members had the right to appeal the local’s decision to the national executive board. Countryman, “Organized Musicians,” 59.
36. Ibid. See also Loft, "Musicians," 382. The Jackson County District Court issued the injunction.

37. American Musician, May 1, 1898, 2-4. The league distributed its remaining funds at the 1904 convention. Relations between the federation and its New York local remained testy for nearly two decades. In 1921, when New York refused to accept transfer cards from traveling musicians, the federation suspended its New York branch and chartered a new local in the city, Local 802. The new union quickly absorbed the membership of its predecessor, Local 310, and assumed control over labor relations in the New York music sector. For a closer look at the evolution of New York locals, see Leiter, Musicians and Petrillo, 28-32.


39. Leiter concluded that in 1905 the AFM "had developed a position of more complete control over its business . . . than that occupied by any other union in the American Federation of Labor." Leiter, Musicians and Petrillo, 24-25.

40. Kubach, "Unemployment and the American Federation of Musicians," 35. Miller's salary was probably supplemented by wages he earned as president of AFM Local 2 in St. Louis. He apparently did not begin his duties as editor of International Musician until 1904.

41. International Musician, December 1950, 7. The date of Weber's birth is unclear, since one source states that he was born in 1865. It is also unclear how old he was when he came to America; two sources say fourteen, another says nine. In 1929 Weber was elected vice president of the AFL.

42. Ibid., August 1940, 1; December 1950, 7; Seltzer, Music Matters, 12-14; Kubach, "Unemployment and the American Federation of Musicians," 36. Seltzer provides sketches of other individuals who played prominent roles in the formation of the AFM. His picture suggests a strong German American influence. The first vice president was German-born George Nachman, who worked in the Odeon Theater in Baltimore for twenty-six years. The second vice president was Christian Ahbe, violinist and cornet player, also German-born. Ahbe had been a member of the Voss' First Regiment Band in Newark, New Jersey, for nearly twenty-five years. The first secretary of the AFM was Swiss-born Jacob J. Schmalz, also a performing musician. In the 1870s Schmalz apparently moved to Cincinnati, where he played an active role in the formation of the AFM. He had been one of the founders of the NLM.

43. International Musician, August 1940, 1.

44. Constitution and By-laws of the Musical Protective Association, 1872, 23, in Bagley Collection. Civilian protests of military performances dated back to 1824, when the War Department began granting extra leaves of absences for enlisted musicians. The increased opportunities for work (and income), the department hoped, would induce more musicians to join and remain in the service.

45. Official Proceedings, 1932, 36-37. The Army and Navy Appropriation Acts increased the pay of military bands. See also Countryman, "Organized Musicians," 73; Leiter, Musicians and Petrillo, 38-40; and Commons, "Musicians of St. Louis and New York," 316-17. Commons explains that the presence of one military band in St. Louis "at all times compelled [civilian bands] to adjust their prices to what managers said they could get the Army for."
46. Countryman, “Organized Musicians,” 74. Circuses and fairs were especially likely to hire foreign musicians. When American cities held great fairs at the turn of the century, the AFM sent circulars to musical circles in Europe warning of unscrupulous agents who contracted musicians without mentioning America’s high cost of living. Loft, “Musicians,” 302. The MMPU adopted a contract labor policy of its own. Members were prohibited from performing with any foreign musician for six months after the foreigner’s arrival. New York Herald, July 16, 1891, clipping in Bagley Collection.

47. New York Daily Journal, undated clipping in Bagley Collection; Official Proceedings, 1932, 33–35. In 1932 AFM president Joseph Weber told Congress that the law was hypocritical and did not reflect the intention of the original lawmakers. “All an emigrant has to do,” Weber said, “is put a musical instrument under his arm, claim to have a musical engagement here, and remain here, even though he may desert his music the next day.” Such interpretation of the law, he explained, led to greater competition for American laborers in other trades. In demanding an amendment to the 1885 law, Weber said, “Music is an art, but it does not follow that every musician is an artist.” Ninety-five percent of immigrant musicians, he suggested, were not. On March 17, 1932, President Herbert Hoover signed House Bill Number 8335, which amended the contract labor law.

48. Loft, “Musicians,” 361–62; Official Proceedings of the Twelfth Annual Convention of the NLM, 14, in Bagley Collection. The NLM had similarly accommodated what amounted to national membership by allowing members to transfer from one affiliate to another for a small fee, which practice was common in all craft unions at the time.

49. Constitution and By-laws of the MMPA of Local 47, Los Angeles, 1911, in Bagley Collection. By 1920 traveling bands were required to charge employers a 30 percent surcharge in excess of local union wage rates and to charge for transportation costs “by railroad or otherwise.” The Thirty Percent Law, which applied only to engagements of a week or longer, was superseded in 1934 by the Ten Percent Law, which demanded an extra 10 percent collection over standard wage rates for every engagement, even one lasting a single day. Surcharges were split among the members who played the engagement, the local in whose jurisdiction the engagement was played, and the national headquarters. “Notice to all Locals,” from Harry Brenton, treasurer of AFM, 1934, and “Notice to all Locals,” from AFM president Weber, February 26, 1935, Papers of Local 47.

50. Spivey, Union and the Black Musician, 9–10, 52–54; Hershman, “What’s in a Number?” 5; International Musician, July 1944, 1.

51. Hershman, “What’s in a Number?” 4–5. The first president of Local 535 was Bill Smith; the first secretary-treasurer was Harry Hicks. Hershman notes that Local 535 evolved from meetings in a Boston music store and booking office.

Chapter Two: Boom and Bust in Early Movie Theaters

1. The Motion Picture 2, no. 5, p. 3, clipping in Bagley Collection. See also New York Times, April 24, 1895.

2. Official Proceedings, 1929, 43–44. In 1913 sidemen traveling with vaudeville shows earned approximately $50 a week, and leaders $75. Body Meetings from January 1904 to December 1913, 495, Papers of Boston Musicians’ Association, Local 9 of the Ameri-


4. Quotation from Roell, *Piano in America*, 52. On photoplayers, see Bowers, *Nickelodeon Theatres and Their Music*, 131-70. Operators could even replace music rolls while the instruments played, although this was not easy.

5. Roell, *Piano in America*, 52; Bowers, *Nickelodeon Theatres and Their Music*, 131–70. Photoplayer sales were strongest from 1913 to 1923, before the introduction of large theater organs.


10. *Monthly Labor Review*, 33 (November 1931): 1006–7; *Film Daily*, October 22, 1929, 1; *Overture*, November 1926, 14; *Official Proceedings*, 1929, 14; *International Musician*, January 1954, 34. In 1928 Weber estimated that ten thousand musicians held full-time jobs in hotels, cafés, and restaurants, and that another fifteen hundred worked in traveling bands. *Intermezzo*, April 1928, 9. In Columbus, theater musicians in 1891 earned $16 a week (with or without Sunday performances), and their leaders
made $25. In 1920, theater musicians in Columbus could earn $45.50 a week, and their leaders $68.25. Price Lists of the American Federation of Musicians, Local 103, MIC 155, vol. 1 (1891), 24, and MIC 155, vol. 11 (1921), 5, AFM Microfilm, OHS.


12. Overture, September 15, 1926, 3. Overture, the trade paper of AFM Local 47, was published twice a month until 1927, when it changed to a one-a-month format. See also MIC 155, vol. 11 (1921), 3, and vol. 6 (1914), 23, AFM Microfilm, OHS.


14. Overture, September 15, 1926, 1, 6; September 1927, 2. By 1927 Overture had changed from a bimonthly to a monthly trade paper.


20. Since keys occasionally failed and wires sometimes loosened, organists often had to repair their instruments on the spot. See Hall, Best Remaining Seats, 183, 198. Also Musician, November 1919, 8; Overture, August 1928, 21–22; September 1930, 10; June 1930, 22; and Dennis James, “Performing with Silent Films,” in McCarty, Film Music I, 65–66. Some of the more famous theater organists included Jesse Crawford, Albert Hay Malotte, Henry Murtagh, and Oliver G. Wallace. Address by Farny R. Wurlitzer to American Association of Theatre Organ Enthusiasts, July 6, 1964, in Bowers, Nickelodeon Theatres and Their Music, 200–203.


22. Ibid.

23. Ibid.

25. Ibid., July 1, 1926, 8; July 15, 1926, 8. Union bylaws typically demanded that if management required musicians to wear special costumes, management provided the costumes and paid each musician an additional fee of $2 a week to wear them. “Blacking up” to appear as “colored” musicians required an additional fee of $2 per performance. MIC 155, vol. 11 (1921), 1-3, and vol. 3 (1903), 23, AFM Microfilm, OHS.


27. Overture, September 1930, 2; July 1, 1926, 18. Wages in dance halls, restaurants, and hotels also improved during this period. Leiter, Musicians and Petrillo, 80.

28. Warners advertised its name only as “Warner Bros.” Joel Swenson, “The Entrepreneur’s Role in Introducing the Sound Motion Picture,” Political Science Quarterly 63 (September 1948): 411. See also McCarty, Film Music I, 74-77.


30. Douglas Gomery, “The Coming of Sound to the American Cinema: Transformation of an Industry” (Ph.D. diss., University of Wisconsin–Madison, 1975), 304. Historians’ estimates of the cost of purchasing and installing sound systems vary widely; this is due partly to the fact that prices varied according to the quality of equipment purchased. According to Overture, sound systems and installation costs ranged from $6,500 to $25,000. Overture, June 1928, 19. Swenson maintains that costs ranged from $16,000 to $25,000. Swenson, “Entrepreneur’s Role,” 411. As a result of sound films, net profits for producers went up 400 percent between 1927 and 1929. Sklar notes that much of the savings theater owners gained by cutting live talent went to producers, who demanded higher rental rates for sound movies. Sklar, Movie-Made America, 152.

31. Film Daily, October 28, 1929, 1; Robert Sobel, RCA (New York: Stein and Day, 1986), 80. Film Daily reported that thirty-five hundred theaters had been wired for sound by 1930. Sobel states that by early 1929 four thousand theaters had been wired or were in the process of conversion. He maintains that by 1929 theaters had spent $37 million on sound equipment. See also Sklar, Movie-Made America, 152; Garth Jowett, Film: The Democratic Art (Boston: Little, Brown and Company, 1976), 475; and Balio, American Film Industry, 113.

32. Exhibitors promised that sound films would evoke “the highest emotional expression.” “In the history of motion pictures,” one advertisement for Don Juan explained, “no production has ever so combined the qualities of entertainment and box office power.” See Carl Laemmle, “The Business of Motion Pictures,” in Balio, American Film Industry, 162–66; Motion Picture Classics, August 1929, 6; October 1929, 99; and Exhibitor’s Herald, February 12, 1927, 14–15.

33. Film Daily, October 28, 1929, 1; Sklar, Movie-Made America, 152.

34. [Chicago] Federation News, September 4, 1926, 7; September 18, 1926, 1–2. The wages of bandleaders in Chicago theaters were often one and a half times higher than the wages of sidemen.

35. Ibid., September 15, 1928, 14.
36. Interview with John TeGroen, former president of Los Angeles Local 47 of the AFM, Los Angeles, March 7, 1987. TeGroen remembered that when AFM president Weber heard new electrical phonographic recordings in “about 1924,” he reportedly said, “That’s beautiful, but it will never replace live musicians.” See also Overture, January 1928, 18-19; and Behlmer, “Tumult, Battle, and Blaze,” 45.

37. Overture, August 1927, 1; June 1928, 19; November 1928, 18.


40. Gomery, “Coming of Sound,” 299; Exhibitor’s Herald, September 15, 1928, 19; October 27, 1928, 26; Motion Picture News, September 8, 1928, 785.

41. Exhibitor’s Herald, October 27, 1928, 26. Estimates of the number of theaters in Chicago in 1928 range from 250 to nearly 400, depending on the source consulted and, apparently, on the definition of the metropolitan area used. Federation News, September 6, 1928, 2; Los Angeles Citizen, September 7, 1928. See also Cohen, Making a New Deal, 130.

42. Gomery, “Coming of Sound,” 302-4; Exhibitor’s Herald, September 15, 1928, 58; Motion Picture News, September 15, 1928, 845.

43. Overture, June 1929, 7; Official Proceedings, 1930, 32.

44. Overture, June 1929, 13; Leiter, Musicians and Petrillo, 60.

45. Los Angeles Citizen, August 3, 1928.


47. American Federationist, September 1931, 1070; Film Daily, October 24, 1929, 10; Official Proceedings, 1931, 36-37; 1930, 32; Monthly Labor Review 27 (November 1928): 1029-30; Federation News, November 9, 1929. Ironically, a union suffering from a communications revolution utilized mass media to communicate its problem to the public and enlist public help.

48. Exhibitor’s Herald, September 7, 1929, 29; September 21, 1929, 36; Film Daily, November 15, 1929, 7; December 2, 1929, 7; August 28, 1930, 1; September 14, 1930, 1; September 19, 1930, 1.

49. Film Daily, September 12, 1930, 1; December 22, 1930, 1; October 3, 1930, 3.


51. Balio, American Film Industry, 216-20; Film Daily, October 3, 1930, 3.

52. Cohen, Making a New Deal, 128-30. All of Chicago’s fifty largest theaters apparently featured sound movies. See also Sklar, Movie-Made America, 162; Balio, American Film Industry, 213; and Jowett, Film: The Democratic Art, 482.


54. Monthly Labor Review 33 (August 1931): 261; Leiter, Musicians and Petrillo, 60; Overture, April 1938, 18. In Los Angeles, a city with a population of 1.5 million and the nation’s third largest musician’s union, only thirty musicians worked in theaters in 1938.

55. Federation News, August 30, 1930, 79. Hayden blasted the use of “robot music” and blamed big business for the musicians’ troubles: “We know that the forces behind
the moving picture trust are Bell Telephone, the Westinghouse, the General Electric, the Radio Corporation, the DuPons, and so forth."


57. Monthly Labor Review 33 (November 1931): 1014–16. One former organist had become chief usher and advertising agent for the theater in which he once performed. He made $25 a week, far less than the $62 he had earned, and the loss had forced him to move in with his mother-in-law. One musician who had earned $40 a week was "absolutely without means except for the little income that his wife [brought] in by occasional sewing."

58. International Musician, December 1938, 15. The AFM reported that Nicholas Schenck, representing both Metro-Goldwyn-Mayer and 20th Century-Fox, made this comment in 1938 labor negotiations.

59. Overture, May 1929, 21; American Federationist, October 1928, 1183. Weber said in 1928 that the musician "is not professionally jealous of this machine . . . because he does not concede the possibility that canned music can ever attain artistic quality, but he is fearful that it may work at least a temporary revolution in the musical field."

Chapter Three: Encountering Records and Radio


5. Leonard, Jazz and the White Americans, 96–97.


7. Ibid., 48–50; Sanjek, American Popular Music, 2:391. The total money Caruso earned from Victor was actually much higher. He was apparently paid an additional $10,000 for a second ten sides and then earned royalties over the next several years far exceeding these payments.

8. Official Proceedings, 1925–26, 33. In 1925–26 the union’s proceedings were biennial. The fidelity of early recordings was so poor that the emphasis was on singers, not instrumentalists. Orchestral recordings did not become technologically practical until 1913. Vern L. Countryman, “The Organized Musicians” (part 2), University of Chicago Law Review 16 (Winter 1948): 240–50.


13. Memoirs of Dorothy Humphreys, Dorothy Stephens Humphreys Papers, box 1, folder 5, Ohio Historical Society, Columbus.

14. Ibid. WCAH became WBNS. Humphreys performed for the station for twenty-five years.


18. *Intermezzo*, April 1924, 2.


20. In 1934 the wages of musicians in radio could range from $30 to $100 a week and more. Musicians in radio worked twelve to forty hours a week. *Official Proceedings*, 1934, 37. Also *Overture*, May 1933, 7.


27. J. Fred MacDonald, *Don’t Touch That Dial! Radio Programming in American
Life, 1920–1960 (Chicago: Nelson-Hall, 1979), 25. WEAF later became WRCA and eventually WNBC. WJZ was originally located in Newark, New Jersey, and relocated to New York. Some network affiliates hooked up to both WEAF and WJZ. RCA purchased WEAF from AT&T. Fees for radio programs depended partly on the size of the audiences to whom affiliates broadcast.


32. Billboard, October 18, 1941, 5; January 17, 1942, 6; Sanjek, American Popular Music, 3:256. The origins of ABC can be traced to a legal suit Mutual filed against RCA for $10.275 million in damages. The action was taken under the Sherman Antitrust Act. A few regional networks, such as the “Dixie,” “Yankee,” and “Southwest” chains, connected dozens of other stations. Pusateri, History of American Business, 268–70; Official Proceedings, 1934, 33.


36. Shaw, Jazz Age, 175.


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41. Official Proceedings, 1932, 232, 250. Philadelphians attempted to levy a $3 tariff on stations for each network program they received. If the station employed a staff orchestra, the tariff would be lower.

42. Federation News, July 17, 1926, 3; Countryman, “Organized Musicians,” 248–49. Perplexing court rulings about the role of government in broadcasting and harsh criticism from broadcasters opposed to efforts to regulate radio caused confusion at the FRC. As a result, officials requested an opinion concerning federal authority in radio from the attorney general, who stated that Congress had “broken down” the regulatory power of the FCC over radio by not passing the necessary legislation. This statement apparently prompted the FRC to abandon policies established by Hoover.

43. Billboard, January 3, 1942, 67, 73; Leonard, Jazz and the White Americans, 91.

44. Billboard, November 29, 1941, 91; Eberly, Music in the Air, 86. Albums were also introduced in 1935. Jukebox operators paid only 21 cents for Decca records. See also James Lincoln Collier, Benny Goodman and the Swing Era (New York: Oxford University Press, 1989), 188–94.

45. Billboard, October 4, 1941, 65; Overture, August 1942, 22.

46. Official Proceedings, 1932, 250; Eberly, Music in the Air, 76–79, 178–94. The first commercial use of transcriptions by radio was apparently in 1929, when WOR demonstrated their capacity for high-quality reproduction of sound. Transcriptions spun at a slow thirty-three and one-half revolutions per minute.

47. In 1938, 46 percent of RCA-Thesaurus clients were not affiliated with any network. Broadcasting, April 15, 1939, 64. Also FCC, “Early History of Network Broadcasting,” 171; Countryman, “Organized Musicians,” 251; and Eberly, Music in the Air, 134.


50. Barnouw, Tower in Babel, 121–22; Mackey, “Development of NAB,” 310–17; Variety, May 24, 1923, 40. The ability of NAB to invade labor’s domain was made clear in 1940, when the association organized Broadcast Music Incorporated (BMI), a competitor to ASCAP made up of songwriters who agreed to abandon royalty demands in return for the chance to have their music on radio. With the formation of BMI, broadcasters had two sources from which they pulled musical selections. See also John Kenneth Galbraith, American Capitalism: The Concept of Countervailing Power (Boston: Houghton Mifflin, 1956), 113.

51. Mackey, “Development of NAB,” 305–6. Mackey reports that in 1956 the NAB

52. As quoted in Sally Bedell Smith, *In All His Glory: The Life of William S. Paley, the Legendary Tycoon, and His Brilliant Circle* (New York: Simon and Schuster, 1990), 41. Paley's father had moved from Chicago largely because of the rising power of the local cigarmakers' union. During the 1919 strike young Paley ignored requests of the local Cigar Manufacturers' Association as well as the cigarmakers' union. See also Patricia A. Cooper, *Once a Cigar Maker: Men, Women, and Work Culture in American Cigar Factories, 1900–1919* (Urbana: University of Illinois Press, 1987), 301.


55. *Official Proceedings*, 1936, 205; 1934, 213.

56. The proposed tariff was $5. If the station receiving a chain program employed a staff orchestra, the tariff would be lowered to $3. Ibid., 1932, 251; 1935, 45–46.


58. *Official Proceedings*, 1928, 7–16; 1929, 53; 1934, 7–15, 249; 1935, 45–47. To locals that proposed that transcriptions be denied stations on the federation's “unfair list,” president Weber explained that the opportunity for enforcing such a rule would be “nil.” To locals that wanted to prevent networks from sending chain programs to stations not employing a staff orchestra, Weber maintained that such action would also be unenforceable and would involve the union in a dangerous altercation with the FCC.


60. The jobs of nearly one thousand musicians working for the three major networks had become an important asset to the financially troubled union. *Official Proceedings*, 1935, 46; 1937, 92.

61. Joseph N. Weber to All Local Unions, November 6, 1933, Papers of Local 47.

62. Postal telegraph from Weber to F. D. Pendleton, president of AFM Local 47 of Los Angeles, December 23, 1933, and Weber to “all locals of the AFM,” November 6 and 18, 1933, Papers of Local 47. Weber hoped to create part-time employment totaling 25 percent of the hours worked by regularly employed instrumentalists. Also *Intermezzo*, June 1934, 1; *Official Proceedings*, 1934, 31; C. Ellsworth Wylie, general manager of KJH, to Weber, January 12, 1934, Papers of Local 47.

63. Gerald King, manager, KFWB, to Frank Pendleton, president of AFM Local 47 of Los Angeles, Papers of Local 47. Clearly, relations between the AFM and station KFWB were not amicable. The manager of KFWB wrote, “Mr. Weber states he has no objection to our signing a contract with a musician if we will agree that his organization can make any changes in the contract which he may desire at any time hereafter.” The AFM, the manager believed, is “willing to trade a horseshoe for a horse any time.” See also *Official Proceedings*, 1934, 80.
Chapter Four: Playing in Hollywood between the Wars

1. Local 47 president Frank D. Pendleton to Joseph N. Weber, November 27, 1933, Papers of Local 47.

2. Overture, July 1938, 2; September 1938, 2; May 1933, 6–9. Filmmaking was the leading industry in Los Angeles in the 1920s. In 1939 it employed thirty thousand to forty thousand workers and spent an estimated $190 million on the manufacture of motion pictures. The city’s radio orchestras increased in size and number as the emergence of “sound stars” encouraged the networks to broadcast more shows from Los Angeles. In 1938 six Hollywood radio stations paid over $5 million to six hundred film stars. Carey McWilliams, Southern California: An Island on the Land (Santa Barbara: Peregrine Smith, 1973), 339–40.

3. Further solidifying the AFM’s grip on musical services was the fact that employers of musicians, in constant search of larger audiences, competed for the best bands and orchestras, not simply the least expensive. Constitution and By-laws of the MMPA of Los Angeles, 1937, in Bagley Collection. Also letters from union officials to local musical groups, 1934–41, Papers of Local 47.


6. Official Proceedings, 1919, 8; 1920, 8; 1930, 8; 1940, 8. See also Perry and Perry, History of Los Angeles Labor, 489; Robert D. Leiter, The Musicians and Petrillo (New York: Bookman Associates, 1953), 69, 80–83, 95; Overture, April 1928, 2; August 1950,
and Murray Ross, *Stars and Strikes: The Unionisation of Hollywood* (New York: Columbia University Press, 1941). Trends in the membership of other locals of the AFM underscored the fact that musicians were looking to Los Angeles as a place to further their careers. In 1929 Philadelphia had a population 50 percent larger than Los Angeles but nearly eight hundred fewer union musicians. Louisville, Kentucky, was one-quarter the size of Los Angeles, but its musicians' union had only one-tenth as many members as Local 47. In the 1940s, when membership in the Los Angeles union mushroomed to over thirteen thousand, the federation's fourth largest branch, in Detroit, had fewer than five thousand members. By that time Local 47 had surpassed Chicago as the second largest affiliate of the AFM.


8. TeGroen interview, October 1, 1988; interview with Phil Fischer, radio representative of Local 47, Los Angeles, October 1, 1988.

9. Contractors were in constant competition with one another for the services of "name" musicians. Interviews with Eudice Shapiro, Los Angeles, January 14, 15, 1989. In addition to the major studios, a dozen or more independent companies used live, though smaller, orchestras. *Overture*, April 1938, 18-19; interview with Phil Fischer, Los Angeles, April 3, 1987.


11. *Overture*, January 1942, 21; interview with Phil Fischer, Los Angeles, January 19, 1989. Union rules required individuals in leadership positions to receive at least "double scale." The length of the workday of film musicians varied according to rehearsal schedules and production problems, but union rules demanded extra pay for longer hours. Smith got his break when a contractor, acting on the advice of another musician, requested his services. Interviews with Art Smith, Los Angeles, September 25, November 21, 1988.

12. Shapiro interviews, January 14, 15, 1989. Concertmasters were common in symphony orchestras as well as in motion-picture orchestras. Concertmasters not only performed in film orchestras but helped string players orchestrate common fingerings for special musical passages and checked the bowing and tuning of instruments.


much earlier hours than instrumentalists in traditional areas of employment: "Usually we would start at nine or ten o'clock in the morning, have a break for lunch, and work during the day until five, six, or seven." Since instrumental solos were generally recorded after the full orchestra was dismissed, Kaufman occasionally worked late. When Local 47 insisted on higher wages for work done after midnight "things began to be more regularized. From then on," he said, "the sessions ended promptly at midnight, if we were still working at that hour." He said that the work of soloists "was a great strain and not everybody was able to take it."

16. Charles Hofmann, Sounds for the Silents (New York: DBS, 1970), 38–41. Actress Lillian Gish agreed that D. W. Griffith did not use sideliners. "Griffith would never allow any music on the set. So many of us loved music," Gish explained, "if it was played as we tried to work we would stop to listen to it and never get the film finished."


19. Lawrence Morton, "Film Music Profile: Adolph Deutsch," Film Music Notes 9 (November–December 1949): 4; Morton, "Film Music Profile: André Previn," Film Music Notes 10 (January–February 1951): 4. Film composer Herbert Stothart explained that his job was to use the orchestra so that the audience would not become "music conscious at the expense of the dialogue or drama." Herbert Stothart, "The Orchestra—Hollywood's Most Versatile Actor," Film Music Notes 3 (February 1944): 14. Also Harvith and Harvith, Edison, 121–25.

20. An eighty-piece orchestra recorded the music for King Kong. The music, for which Steiner won an Oscar, increased the film's budget by $50,000. William LeBaron was the RKO production chief who hired Steiner, but Merian C. Cooper produced King Kong. See Orville Goldner and George E. Turner, The Making of King Kong: The Story behind a Film Classic (New York: A. S. Barnes and Company, 1975), 190–91; Christopher Palmer, The Composer in Hollywood (London: Marion Boyars, 1990), 27–29; and King Kong (1933), Wong Audio-Visual Center, University of Hawaii at Manoa, Honolulu.


23. In an effort to increase the number of radio jobs, Local 47 prohibited musicians from working in both sustaining and commercial orchestras. Most locals did not make such sharp distinctions. Ibid.; Philip K. Eberly, Music in the Air: America's Changing Tastes in Popular Music, 1920–1980 (New York: Hastings House, 1982), 23; interview with Lenny Atkins, Los Angeles, September 7, 1988. Throughout the 1930s both large and small stations employed sustaining bands. They also relied on the services of part-time musicians when orchestras were expanded for special programs.
24. Interview with Lenny Atkins, Los Angeles, November 18, 1988; Smith interviews, September 25, November 21, 1988.

25. Overture, May 1933, 6-9; January 1943, 9; Fischer interview, April 3, 1987; interview with Henry Gruen, Los Angeles, November 14, 1988; Atkins interview, November 14, 1988. Until 1940, when the AFM gave locals greater control over radio because of the threat of antitrust action against the union, the size of network orchestras and the annual wages of their members were largely determined in labor negotiations between broadcasters and the AFM’s executive board. Broadcasting, March 1, 1939, 64. The minimum-size-orchestra policy was not followed in the motion-picture industry until 1944, when film companies agreed to thirty-six- to fifty-piece orchestras hired on an annual basis. Leiter, Musicians and Petrillo, 82-83. In 1945, network and local radio stations paid approximately $12 million in wages to twenty-nine hundred staff musicians. Official Proceedings, 1946-47, 61.


27. Gruen interview, November 14, 1988; Fischer interview, April 3, 1987. Unlike many musicians, Gruen never auditioned for the job. His personal connections as well as his reputation as a skilled and dependable horn player had secured studio employment. “I got it,” he said, “because I had friends in the band.”


31. Ibid., 156-57.


33. Overture, 1956, 6; Official Proceedings, 1932, 16; interview with John TeGroen, Los Angeles, February 3, 1989. On discrimination and segregation in Los Angeles during the 1930s and 1940s, see Verge, Paradise Transformed, 39-60.


35. Loza, Barrio Rhythm, 21, 33. In the 1940s Los Angeles became a center for small independent companies specializing in blues recordings. Among those companies were Aladdin Records, Exclusive/Excelsior, Black and White Records, and 4 Star Records. When the companies were founded is unclear. See William Barlow, Looking up at Down: The Emergence of Blues Culture (Philadelphia: Temple University Press, 1989), 33-34.
36. Across the nation local unions vehemently opposed the use of transcriptions, since these long-playing records could be used as substitutes for live radio bands. Union opposition to transcriptions offers another example of how labor, through resistance to technological change, could shape industrial practice. Federation policies limited the use of transcriptions and encouraged broadcasters to use live orchestras. *Overture*, September 1938, 2. A few musicians worked steadily for record manufacturers and earned wages comparable to those of instrumentalists in radio and motion pictures. Hendrickson interview, January 21, 1989.


39. Smith interviews, September 25, November 21, 1988; TeGroen interview, February 3, 1988; Eberly, *Music in the Air*, 96. The Culver City Cotton Club was an imitation of the more famous Harlem nightclub of the same name.


41. Al Hendrickson to author, June 8, 1994.


43. Proposed Yearly Quota System, March 1, 1955, Bulletin, Papers of Local 47. This eleven-page bulletin gives a brief history of the quota laws, followed by ten pages detailing the various quota regulations.

44. Cliff Webster to Joe Weber, June 25, 1936, Papers of Local 47. Beginning in 1934 the AFM required traveling bands to charge employers 10 percent above union price lists for performances, though the Ten Percent Law did not stop the influx of outside bands into Los Angeles. This law, which superseded the Thirty Percent Law, applied to union engagements of a week or longer. Joseph N. Weber to Local Unions, February 26, 1935, Papers of Local 47.

45. Webster to Weber, June 25, 1936, Papers of Local 47.

46. Joe Weber to F. D. Pendleton, July 7, 1936, Radiogram, Papers of Local 47; Harry E. Brenton, secretary treasurer of AFM, to Local Unions, August 1, 1936, Papers of Local 47.


Chapter Five: Rising Militancy


2. *Billboard*, January 3, 1942, 70–72; *Overture*, August 1942, 22; *Variety*, December 6, 1939, 39; *Official Proceedings*, 1938, 168; 1942, 279. Jukeboxes cost $175 and up; operators typically collected about $8 a week per machine, of which the proprietor received about 20 percent. Operators also paid license fees of $10 a month to the American So-
ciety of Composers, Authors, and Publishers (ASCAP), and usually a small fee of about $1 to local government. Musical Instrumental Distributing Company was a leading distributor of jukeboxes.

13. Ibid., 94–99; *International Musician*, August 1937, 1, 3. Less controversial propositions would have prohibited manufacturers from recording music without the knowledge of performers, or making new recordings from old ones. One proposal similar to the first suggested that AFM members not offer services at any place that used records unless the place also employed musicians. Another proposal suggested that recordings be given a registered number and those numbers be placed on file with the AFM; the union would then grant permission to use registered recordings under specific conditions. Still another promised to assign a registered number to recordings and then require persons using recordings to obtain permission from the AFM.
15. Ibid., 120; *Variety*, August 4, 1937, 30.
17. *Variety*, August 4, 1937, 30; *Official Proceedings*, 1938, 116, 141; *International Musician*, April 1938, 15. Weber had resisted efforts to pinpoint the number of jobs the union hoped to gain, saying only that “a few hundred would be unsatisfactory.” At one point he told the network, “I know that you cannot put every unemployed musician to work, but you can help in that direction.” Membership of the three-man committee of the executive board rotated regularly.
21. *Variety*, November 15, 1937, 35; March 16, 1938, 39; *Official Proceedings*, 1938, 151–59; *International Musician*, November 1937, 1; April 1938, 1. The agreement did not cover the twenty-two smaller stations owned by the major networks; these stations apparently reached individual agreements with the AFM. *Variety* reported that southern stations were most critical of the AFM and were especially opposed to revealing, even
to IRNA, any facts concerning their profits or employment levels. *Variety,* October 6, 1937, 30.

22. *Official Proceedings,* 1938, 158–59. The lowest amount allocated to a single station was $560. Only sixteen stations had annual incomes of less than $15,000 to $20,000.

23. *Variety,* October 6, 1937, 30. The agreement raised NBC's expenditures on staff employment to more than $1 million, and that of CBS to $550,000.

24. *International Musician,* April 1938, 11; October 1938, 3; *Official Proceedings,* 1938, 107, 126, 151, 166, 170–74; *Variety,* March 30, 1938, 31; April 27, 1938, 35. About 40 of the nation's 386 nonaffiliated stations earned 50 percent of this group's income. The union agreed to subtract $15,000 to $20,000 from the annual incomes of many nonaffiliated stations before determining their need for instrumentalists.

25. *Official Proceedings,* 1939, 97; *International Musician,* April 1938, 11; August 1938, 3. Recorders insisted that contract language made them liable for damages and prosecution for secondary boycotts. In regard to dubbing, the union wanted to make sure that musicians who had originally recorded music agreed to having their recorded music altered.

26. *Intermezzo,* September 1938, 1; *Official Proceedings,* 1938, 184. Wage scales in electrical transcription companies were somewhat different. For each fifteen-minute program recorded, musicians received $18. For each thirty-minute program they received $24.


28. *International Musician,* December 1938, 14. See also Leo C. Rosten, *Hollywood: The Movie Colony, the Movie Makers* (New York: Harcourt, Brace and Company, 1941), 377. Studios apparently owned more than 50 percent of the stock in these fifteen hundred theaters. They owned 25 percent or more of the stock in a total of about twenty-three hundred theaters.


30. Ibid.


*Notes to Pages 116–121*
34. Ibid.
35. Ibid.
37. Variety, October 26, 1938, 30.
38. Ibid., October 13, 1937, 28. WBEN vice president A. H. Kirchofer and station director E. H. Twamley wrote the letter. The NAB, they stated, “has failed to meet every crisis that has confronted the industry.” They called for reorganization “to save the industry from the dangers that threaten.” One force behind the reorganization of the NAB was concern among the networks over the rise of IRNA, an association the networks believed might undermine their position. The networks did not want IRNA to become a permanent dues-paying organization, a development that would reduce their influence.
40. Ibid., November 15, 1939, 20; January 15, 1940, 19. The 1937 National Plan of Settlement was set to expire on January 17, 1940.
41. The following reports from Broadcasting give some idea of how fast the profits of the radio and recording industries were rising. The magazine reported that 1935 had been a “record year, . . . showing a 20 percent [increase] over the preceding year,” and that 1936 would be better still, with advertising sales hitting $100 million for the first time. From 1941 to 1942 time sales rose by another 14.2 percent. The net profits of RCA, which manufactured radios and records, rose 13 percent from 1940 to 1941. The exact figure for households with radios was 82.8 percent. See Broadcasting, January 1, 1936, 10-11; January 27, 1941, 1; February 2, 1942, 1; March 3, 1942, 16; August 3, 1942, 1.
42. Ibid., January 15, 1940, 19.
43. Ibid., December 1, 1939, 1, 14, 76. The head of the Complaint Section of the FCC told Rosenbaum that the Justice Department would act against the union.
44. Ibid., February 1, 1940, 17; International Musician, March 1940, 22. Labor contracts between locals and network affiliates covered wages, hours, and conditions of employment, but not the size of staff orchestras, which had been set by the National Plan.
45. Jack Gillette, delegate from Local 47 in Los Angeles, then nominated Petrillo, and Harry Brenton, the AFM's international treasurer, seconded the nomination. Both men praised Petrillo for the “vision” he had shown as head of AFM Local 10. Intermezzo, July 1940, 1. See also Intermezzo, March 1937, 1-2; April 1937, 1; June 1937, 1; International Musician, January 1937, 36; and Anders S. Lunde, “The American Federation of Musicians and the Recording Ban,” Public Opinion Quarterly 6 (Spring 1948): 47.
46. To maintain employment in theaters, the union insisted that sound-picture recordings made in Chicago (of which there were few) could not be used in theaters charging over 25 cents admission, and even those theaters had to employ at least an organist or pianist. One of Local 10's most controversial requirements was that broadcasters employ a “standby” orchestra of live musicians whenever they played records. The union insisted that standby bands be equal in number to the musicians who per-
formed on any records used. Essentially the standby rule meant that groups of musicians would be paid with no expectation of their rendering services. Since 1911, when the AFM adopted the rule, various locals had demanded that employers hire standby orchestras when employers used nonunion musicians or traveling bands on a temporary basis. Designed to protect and maximize employment, the standby technique resembled tactics practiced by railroad employees, construction workers, and other organized laborers. Employers derisively called such practices "featherbedding." The union had also demanded that Chicago recordings not be used within the territory of other locals without their permission.

48. Intermezzo, July 1932, 1; Broadcasting, June 15, 1940, 16.
49. Interviews with Henry Gruen, Los Angeles, October 8, 15, 1993. Gruen received no extra fees when stations made remote broadcasts.
50. International Musician, October 1946, 6-7.
53. Interlude (trade journal of Local 9 of the American Federation of Musicians, Boston), November 1940, 7; Official Proceedings, 1941, 38-40; International Musician, June 1941, 1, 21.
54. Official Proceedings, 1941, 38-40. In some cases band members lost about 15 percent additional wages when the union pulled remotes.
55. Billboard, November 29, 1941, 91; November 27, 1941, 145; January 3, 1942, 70-72; Overture, August 1942, 22. Roughly 20 percent of all jukeboxes were in three states: Texas, California, and New York. Jukebox interests expressed many of their concerns through the National Automatic Merchandising Association, whose members engaged in the manufacture, placing, and servicing of candy, cigarette, gum, soft drink, nut, and weighing machines.
57. Official Proceedings, 1942, 277-78; International Musician, June 1937, 3; July 1940, 11; August 1940, 4; September 1940, 19; Sanjek, American Popular Music, 3:173.
58. Official Proceedings, 1942, 279; Billboard, November 8, 1941, 66.
59. Official Proceedings, 1942, 326-27. The label fund was also to pay the operator's bookkeeping expenses and the cost of the labels.
60. Ibid., 1944, 56; International Musician, February 1943, 1. The new pay raise at the Ringling Brothers' Circus gave the twenty-six white musicians $54 a week. Black musicians got $30.50. Two weeks after the strike began, Ringling agreed to rehire the white musicians at the requested rate, but Petrillo refused the terms: "I told them that
all the men came out when the strike was called and that no settlement could be made unless all the men went back to work.”

61. *Billboard*, October 18, 1941, 9; October 25, 1941, 5.


64. *Official Proceedings*, 1942, 27, 54-56. “Exceptions will be made,” Petrillo said, “for home consumption, for the armed forces of the United States, and at the request of the President.” His promise to allow recordings for home consumption was vague and did not materialize. Petrillo eventually reneged on his promise to change his policy at the request of the president, for by the time Roosevelt appealed to the union to end the ban, the AFM was on the verge of wresting concessions from the networks. Decca Records had already signed a new agreement, and Petrillo insisted that he could not end the ban until all recorders had agreed to the same terms.

65. *International Musician*, July 1942, 1. Petrillo wrote to the recording and transcription companies, “Your license from the American Federation of Musicians for the employment of its members in the making of musical recordings will expire on July 31, 1942, and will not be renewed. From and after August 1, 1942, the members of the American Federation of Musicians will not play or contract for recordings, transcriptions or any other form of mechanical reproductions of music.” Petrillo sent a similar letter to all locals of the AFM.

66. *Overture*, August 1942, 22. The Antitrust Division, still under the determined leadership of Arnold, had now filed suit against some 180 business firms and labor unions, a figure that represented almost half of all action taken under the Sherman Act.

67. Ibid.

**Chapter Six: Recording Ban**


2. Interview with Bill Hitchcock, Honolulu, August 13, 1993; interview with Will Brady, Honolulu, August 19, 1993.


4. *Broadcasting*, July 20, 1942, 9. Perhaps the most influential voices in the NAB were those of representatives from RCA, parent company of both NBC and Victor

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5. *Broadcasting*, July 20, 1942, 7, 54; July 27, 1942, 8; August 17, 1942, 15; August 31, 1942, 10. A poem in the *New York Herald-Tribune* asked Petrillo for permission "to just hum" the national anthem.

6. *International Musician*, February 1944, 1; *Broadcasting*, January 15, 1937, 12; *Overture*, September 1950, 9. According to *Overture*, broadcasters owned 25 percent of the newspapers in the country. The number of newspaper-controlled stations is unknown, but it was large enough for Congress to investigate the matter in 1937. See also Sanjek, *American Popular Music*, 3:169.


10. “Memorandum of the United States in Opposition to Defendants’ Motion to Dismiss the Complaint and in Support of the Government’s Application for a Preliminary Injunction,” in District Court of the United States for the North District of Illinois, Eastern Division (Civil Action No. 4541, Filed October 1, 1942), 1–2 (hereafter cited as District Court Papers). In July 1942 Attorney General Francis Biddle authorized Arnold to file a complaint against the AFM charging the union with violation of section 1 of the Sherman Act. NAB officers denied that they had initiated the legal action against the union, but the close contact between Arnold and NAB officials suggests otherwise. *Broadcasting* reported that the meeting with Arnold was his idea, noting that Arnold believed that a case against the AFM might be a means to overturn recent court rulings concerning “make-work” issues. NAB officials agreed to gather evidence for a possible suit. *Broadcasting*, August 17, 1942, 59. The Supreme Court had given tacit approval to standby orchestras on March 2, 1942, when it upheld the right of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers to require the use of its members on trucks entering New York. *Broadcasting*, March 9, 1942, 1.

11. *International Musician*, August 1942, 1, 3. See also Leiter, *Musicians and Petrillo,*
Some of the musicians in the Interlochen band were not amateurs but older, accomplished musicians who taught at the camp.


14. *International Musician*, January 1944, 1. The text of the Senate resolution to probe Petrillo is in *Broadcasting*, August 31, 1942, 9, 11; and September 7, 1942, 7. Clark’s bill was Senate Resolution 286.


16. *Broadcasting*, September 21, 1942, 11; *Senate Hearings*, 1942, 3–12; *International Musician*, August 1942, 1. Davis reminded the subcommittee that he had already asked Petrillo to rescind the ban but that Petrillo had refused.

17. *Broadcasting*, September 21, 1942, 63; *Senate Hearings*, 1942, 13–55. Fly accumulated his statistics after Senator Vandenberg, responding to the Interlochen dispute, requested that the FCC investigate the practices of Petrillo. Fly noted that 723 of the nation’s 796 radio stations had responded to an FCC questionnaire that had been mailed to broadcasters. The survey indicated that network affiliates in smaller cities were more likely to rely on recorded music than those in larger cities. It also showed that more than half of all recorded music was from transcriptions rather than phonograph records. Many of the seventy-three stations not responding to the FCC questionnaire were no doubt stations without staff orchestras. The survey showed that 463 of the stations responding employed no full-time musicians, and 124 stations employed only one musician.

18. *Broadcasting*, September 28, 1942, 57. “If it could be measured,” Padway said, the union’s contribution to the war effort would amount to “hundreds of thousands of dollars.” *Senate Hearings*, 1942, 110–11. Also Hitchcock interview, August 19, 1993. RCA-Victor, Columbia, Muzak, and World Broadcasting produced “V-disks” for the military. The first shipment went out in 1943. Roughly a third of the recordings were of new material; the remainder came from radio programs. V-disks could be distributed to U.S. hospitals that sheltered wounded soldiers. Hitchcock reported that musicians were eager to record V-disks, even though they did so without charge. “Musicians wanted to play,” he said. Hitchcock himself recorded with the “V-Disks All Stars,” a sixteen-piece band that included Wilbur “Willie” Schwartz, Ted Nash, and Mahlon Clark.


20. District Court Papers, 16–17. In stressing the importance of recorded music to the industry, Arnold provided a close look at the nature of the recording industry. His memorandum explained that the nation’s record companies were licensed by the AFM to employ union members. Using the services of AFM members, the record companies made “master discs,” from which millions of reproductions could be made. Subsidiary distributors sold these reproductions to retailers or “jobbers,” who resold the records to retailers. Arnold noted that of the one hundred thousand records sold annually, 80 per-
cent went to retailers who sold the records to the general public for home use, 19 percent went to operators of jukeboxes, and 1 percent went to radio broadcasting companies.

21. *International Musician*, November 1942, 1, 19. Arnold suggested that 60 percent of AFM members worked outside music and thus were not unemployed. He noted that more than two hundred of the small stations that employed no musicians operated in areas where no musicians' union existed.

22. "Affidavits Filed by the United States in Support of Request for Preliminary Injunction," District Court Papers, 66–69. Miller estimated that 60 percent of the members of AFM locals were not professional instrumentalists but people who made their living largely in other occupations. According to Miller, Petrillo's tactic of withdrawing the services of name bands from the networks was an attempt to force businesses to conspire against one another, and to "deprive broadcasting stations of services vitally necessary to their continued existence." Miller told Judge Barnes that 176 radio stations broadcast in areas in which no musicians' union existed. In those areas, Miller said, broadcasters were "wholly dependent for their continued existence upon the use of recorded music."

23. Ibid., 95, 114. "Only about 10%" of the members in the local musicians' union, Le Poidevin suggested, were "professional musicians who rely on music for a livelihood." Le Poidevin said his station needed a "fresh supply" of recordings to survive. "Without these mechanical records," he said, "the quality of our programs will deteriorate."

24. Ibid., 142.

25. Ibid., 224–25. Pressley's business had cabins in back and two gas pumps in front. His clientele consisted of truck drivers and travelers. He said his dance floor was "entirely too small to accommodate a large enough crowd for an orchestra."

26. District Court Papers, 114.


30. *Official Proceedings*, 1944, 54–56; *Broadcasting*, January 25, 1943, 8. The Pittsburgh dispute led to a three-month agreement, during which the staff orchestras on both stations worked according to previous labor contracts.


32. Ibid., January 18, 1943, 38–42. Petrillo said that Arnold had threatened him with "five years in the can" if he participated in a secondary boycott. AFM counsel Padway suggested that 1 or 2 cents per record would be a reasonable royalty fee.

33. *Broadcasting*, December 7, 1942, 38–42; *International Musician*, July 1943, 1. Padway strengthened this argument by submitting a fifty-page statement explaining that "monopoly, interlocking arrangements, and large profits" characterized broadcasting and recording. This statement attacked the "handful of tremendously wealthy and powerful corporations" that allegedly dominated broadcasting and recording. Petrillo pointed out that 201 network affiliates were paying nothing to musicians.
35. Ibid., October 26, 1942, 56; Overture, November 1942, 2. “It will do us no good to destroy Petrillo as an individual,” Rosenbaum stated. “There will only rise up others to succeed him ... who will be even more determined and unyielding.” Refuting the position of the majority of broadcasters, Rosenbaum maintained that musicians had a “just complaint.” Phonograph recordings, he admitted, “when used for profit, destroy the further employment of the very men who made them.”
37. Ibid., February 1, 1943, 14. Annual profits of the jukebox industry were estimated to be $150 million.
38. Ibid., March 1, 1943, 9; March 22, 1943, 39-40. The AFM reminded the industry that the recording ban had the support of musicians’ unions in England and in several nations in South America, all of whom agreed not to export recordings to the United States for the duration of the ban.
39. Ibid., April 19, 1943, 9; May 17, 1943, 16; May 24, 1943, 11. Petrillo initially spurned industry overtures, explaining that there was no reason to meet until record companies offered a constructive proposal; but he changed his mind. The union planned to tie the size of the required orchestras to the wattage of the radio stations. More powerful stations would employ larger orchestras. In a concession to the union, industry leaders agreed to conduct separate negotiations with manufacturers who produced popular records and with those who made long-playing transcriptions. (Dozens of small firms produced only one of these types of recordings.) The concession, however, proved of little value. On April 19, manufacturers of phonograph records used in homes, jukeboxes, and radio rejected the union’s fixed-fee plan. A meeting with subscribers, held in early May, also proved fruitless.
40. International Musician, March 1943, 1; May 1943, 1; Broadcasting, May 3, 1943, 74. In late April Judge Barnes once again dismissed an antitrust suit that Arnold had filed.
42. International Musician, October 1943, 1; January 1944, 1; Official Proceedings, 1946, 86. The WLB began hearings on the record dispute in July 1943. Only 5 percent of the fund could be used by the musicians’ union for administrative purposes. Musicians received union wages for Record and Transcription Fund performances. According to the union, the fund offered partial compensation for technological displacement and promised to “foster musical culture.”
43. Interview with Milton Gabler, Honolulu, July 13, 1994. Gabler, who became the vice president of the Artists and Repertoire Department, said that Jack Kapp, “a Chicago man,” was “friendly with Petrillo.”
44. International Musician, July 1944, 1; Gabler interview, July 13, 1994. Recording companies realized that music-starved consumers might spend millions on new recordings once the boycott ended. All of them hoped to benefit from the resulting spending spree.
45. Overture, July 1944, 11; Official Proceedings, 1945-46, 85. The WLB decision to order musicians back to work was reached by a vote of eight to four, with labor representatives on the board dissenting.
46. Official Proceedings, 1945–46, 79–82; International Musician, November 1944, 1. The WLB sent “the canned music controversy” to the Economic Stabilization Board, which passed the problem on to Roosevelt.

47. Gabler interview, July 13, 1994. Vinylite was apparently used in the production of most transcriptions, including V-disks. It too was difficult to procure during the war. Transcription companies often relied on reprocessed Vinylite to make new recordings. Sanjek, American Popular Music, 3:220. Also Leiter, Musicians and Petrillo, 137.

48. Overture, December 1944, 4; Official Proceedings, 1945–46, 86–87; 1946–47, 102; International Musician, February 1947, 5. Fees ranged from a quarter of a cent for each 35-cent record to 5 cents for each $2 record. For library transcription services, which rented transcriptions to radio, the fee amounted to 3 percent of gross revenues derived from the use of the material. To ensure the success of the plan, the industry agreed to give the union access to its financial books; this alone represented a major concession, and evidence of union power. Some musicians complained that the companies should pay higher fees, but Petrillo argued that the amount of the fees was far less important than the principle established.

49. Official Proceedings, 1945–46, 87. The fund proved more democratic in its effect than the earlier national radio agreements, which helped musicians only in cities where radio stations operated. The radio agreement was of little value for black musicians, since discriminatory employment practices excluded them from the newly generated radio jobs. Revenue from the unemployment fund, however, made its way to black as well as white locals. Indeed, questions about distributing the fund fairly apparently helped twelve “colored locals” under the control of white unions gain full autonomy. At the union’s 1944 national convention the national executive board abolished subsidiary charters, thus enabling black locals to “govern themselves in the same manner as any other local.” A delegation of African Americans had requested the change. The delegation consisted of R. L. Goodwin, P. S. Cooke, Harry W. Gray, L. V. Plummer, Edward Bailey, and William H. Bailey, all whom were officials of black unions in large cities. Official Proceedings, 1945–46, 69; International Musician, July 1944, 1.

50. Official Proceedings, 1945–46, 87–88. “Reactionary employers,” he said, “have acted as though the musicians they wished to employ were their vassals and slaves.” Petrillo also compared employers with nineteenth-century steelmakers, who “stopped at nothing to defeat the just demands of their employees.” “Honesty and fairness,” Petrillo concluded, “have triumphed over falsity and fraud.”

51. Broadcasting, February 22, 1943, 11; December 7, 1942, 38–42. AFM counsel Padway had predicted that the ban would produce between twenty thousand and sixty thousand jobs.

Chapter Seven: Balancing Success and Failure

nomic Ramifications of Technological Innovations and Concomitant Governmental Policies Relative to the Instrumental Employment Opportunities of the Organized Professional Musicians" (master’s thesis, Ohio University, 1957), 208. Kubach reports that in 1945 there were 2,532 musicians employed fifty-two weeks a year in radio staff orchestras. An additional 5,976 musicians and 175 leaders also worked in single-engagement positions.

2. Film Music Notes 12 (March–April 1953): 23; Overture, May 1946, 8.
5. Ibid.
8. Official Proceedings, 1945–46, 48–50. “Beginning Monday, October 29,” Petrillo’s telegram stated, “wherever musicians play for FM broadcasting and AM broadcasting simultaneously, the same number of men must be employed for FM broadcasting as are employed for AM broadcasting, which means a double crew must be employed.” The new union policy regarding the right of locals to negotiate with independent FM broadcasters reversed an earlier policy that gave the executive board control over contracts for FM broadcasting.
9. New York Times, October 25, 1945, 23. In 1945 ABC had no affiliates capable of receiving FM broadcasts. NBC and CBS were the primary beneficiaries of duplicating programs over AM and FM channels.
12. United States House of Representatives, House Reports, 79th Cong., 2d sess., January 14–August 2, 1946, Miscellaneous, 19–20 (hereafter cited as House Reports, 79th Cong.). Also Labor Law (New York: Commerce Clearing House, 1972), 1719–20; Billboard, June 21, 1947, 36; Overture, August 1947, 6; and Leiter, Musicians and Petrillo, 158–59. The bill would also have made it illegal for radio workers to restrict “the production, sales, or use of records or transcriptions” or to demand “tribute” for “materials used or intended to be used in broadcasting.” These provisions raised questions about musicians’ ability to oppose the recording of radio shows or to demand royalties from such recordings. The congressional conference changed the word tribute to exactions.
15. Congressional Record, February 21, 1946, 92, pt. 2:1547, 1554, 1559, 1563; Congres-

16. Congressional Record, 79th Cong., 2d sess., February 27, 1946, 92:1709–10; March 12, 1946, 92:2173–74; March 29, 1946, 92:2821–23; April 6, 1946, 92:3241–58; April 17, 1946, 92:3829. In a last-gasp effort to block the Lea bill, Marcantonio called it “the most extreme antilabor legislation that has ever been passed.” Truman, who generally supported labor—and even played the piano—undoubtedly realized that a presidential veto would be overturned.


18. Broadcasting, November 8, 1948, 22, 59. This radio trade journal discussed political figures reelected to Congress. In the House, Representative Capper owned WIBW in Topeka, Kansas; Ellsworth owned KRNR in Roseburg, Oregon; O’Konski owned WLIN in Merrill, Wisconsin; and Phillips owned KPAS in Benning, California. Senator Gurney held interests in WNAX in Yankton, South Dakota; and Senator Knowland was part owner of KLX in Oakland, California.


24. Billboard, June 21, 1947, 36; Labor Law, 1801. Citing a 1928 ruling involving a carpenters’ union, the judge emphasized, “Every man has a full freedom in the disposal of his labor according to his will, and workmen have a right to organize for the purpose of promoting their common welfare by lawful means. They may impose any condition of their employment which they may regard as beneficial to them.” La Buy ruled that the Lea Act violated the First Amendment protection of freedom of speech by impinging upon the musicians’ right to picket. See also Chicago Tribune, December 3, 1946, 24.

25. Petrillo must have wondered whether the new chief justice, Fred M. Vinson, would support the union’s position. In 1943, when Vinson headed the War Labor Board, he had questioned the loyalty of Petrillo and demanded that he call off the recording ban. Petrillo’s response to Vinson was unflattering. Vinson voted with the Court majority in 1947, as had Justices Black, Frankfurter, Burton, and Jackson. Justice Douglas did not participate in the case. The dissent of Justices Reed, Murphy, and Rutledge argued that the Lea Act was unconstitutional. It was unreasonable to expect “man or jury,” the dissent read, to know how many employees are needed to perform services in broadcasting. The minority maintained that questions concerning the desired quality of programs, the skill levels of employees, and the number of hours that employees worked seriously complicated the ability to determine desired levels of employment. See Overture, August, 1947, 6; and Official Proceedings, 1946–47, 92–93.
26. Congressional Record, 80th Cong., 1st sess., 1947, 63, pt. 5:6446. Unlike the Lea Act, Taft-Hartley authorized no criminal penalties for demands that employers hire “unneeded” employees. Section 8(b) prevented labor organizations from attempting to force employers to “pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed.” Also “Labor Management Relations Act, 1947,” Public Law 101, 80th Cong., 1st sess., 24, Papers of Local 47. Also Labor Law, 6121; Official Proceedings, 1948, 37–40; International Musician, February 1948, 17; Overture, July 1947, 15; August 1947, 6; and Billboard, June 21, 1947, 22.


30. “Minutes of Special Meetings,” 40. The motion gave the executive board power to tell AFM members “to refrain from rendering services for any or all types of recording.” The board also received permission to enter “into the music-recording business in direct competition with other recording companies if, in the wisdom of the executive board, such action should be necessary to protect the interests of members of the AFM.” Union officers no doubt realized that such action was likely to result in antitrust proceedings.


32. Ibid., December 24, 1947, 25, 32. Verne Burnett headed the public relations subcommittee. Burnett had formerly directed radio advertising for General Foods and worked as a public relations expert for General Motors and the copper industry. The organization selected as legal counsel Sydney Kaye, who worked for Broadcast Music Incorporated.

33. Russell Sanjek, American Popular Music and Its Business: The First Four Hundred Years (New York: Oxford University Press, 1988), 3229. Sanjek notes that Decca was best prepared for a strike, since it had a large collection of unreleased recordings.

34. Correspondence of Phil Fischer, 1, Papers of Local 47.

35. Ibid.; Overture, April 1948, 6; Variety, November 26, 1947, 23, 42. Niles Trammell and Frank Mullen represented NBC, Frank White CBS, Mark Woods ABC (the former vice president and treasurer of NBC became president of ABC with the incorporation of the company in 1942), and Robert Sweezy Mutual. Theodore Streibert of station WOR in New York also attended. Also Broadcasting, November 24, 1947, 13.

36. Broadcasting, November 24, 1947, 13; Overture, April 1948, 6. An additional request made by the networks concerned their efforts to adopt the “Chicago formula” for hiring staff orchestras in Los Angeles and New York. In Chicago, where 180 musicians worked full-time in staff orchestras yet very few musicians worked in commercial programs, the networks had the right to purchase the services of staff musicians and sell the services for any price to sponsors. The policy often produced profits for the networks. In Los Angeles, where ninety musicians worked full-time in staff orchestras and five hundred to six hundred musicians played on commercial programs, union
rules more clearly separated the roles of full-time and part-time musicians. Los Angeles forbade the networks to resell the services of full-time "sustaining" staff musicians, a policy designed to maximize employment for staff musicians. In New York 260 musicians worked in staff orchestras. That city had fewer commercial programs than Los Angeles and allowed stations to sell staff musicians for commercial programs, as long as this did not reduce employment opportunities for staff musicians.

37. Variety, November 26, 1947, 23. The networks also asked to use musicians for both "cooperative" and "participating" programs. For years the union had prohibited musicians from working on both types of programs. Its opposition to cooperative shows—network programs sponsored by several local companies on a regional basis—arose from concern for the jobs of instrumentalists in smaller stations. In contrast, opposition to participating shows—network programs sponsored by two or more national advertisers—stemmed from concern for big-city musicians, who stood to lose job opportunities if two advertisers already sponsoring separate programs decided to share ownership of a single program. Also Broadcasting, November 24, 1947, 13; and Overture, April 1948, 6. Representatives suggested that television would attract larger audiences if broadcasters could televise AM radio programs.

38. Correspondence of Phil Fischer, 3, Papers of Local 47. The remanding of the WAAF case to Judge La Buy's Chicago court had forced Petrillo to schedule new labor negotiations in his home town. Overture, April 1948, 6; Variety, November 26, 1947, 42. In an apparent effort to open the door to compromise, Petrillo made a single, significant concession to broadcasters. Since the networks were already carrying several cooperative programs featuring all-vocal groups not covered by AFM restrictions, Petrillo agreed to lift restrictions on cooperative broadcasting. The move had the effect of reducing job opportunities for musicians in smaller cities, but it served to increase radio employment in major media centers. Local 47 correctly predicted that cooperative programming would produce additional employment for approximately fifty musicians in Los Angeles. The press viewed the AFM's reversal on cooperative programming as a minor retreat, but Petrillo had long championed the ambitions of instrumentalists in less populated areas. He had launched the long wartime recording ban largely for their benefit. Sacrificing a measure of control over smaller job markets suggested that the AFM had become less capable of shaping labor relations.


40. Variety, December 10, 1947, 29, 32. "I think that Mr. Petrillo," Fischer explained, "was anxious to know the outcome of the case against him before proceeding any further. I think he felt that if the outcome of the trial was favorable . . . the Federation's position would be much stronger." Correspondence of Phil Fischer, 4, Papers of Local 47. Also Official Proceedings, 1947-48, 92-93; and House Committee on Education and Labor, Restrictive Union Practices of the American Federation of Musicians, 80th Cong., 2d sess., 1948, 381 (hereafter cited as Restrictive Union Practices). WAAF had apparently made $180,000 in profits after taxes without live music.

41. "Report on Stations," Correspondence of Phil Fischer, 2, Papers of Local 47.

The Kearns report suggested that before strikes, the National Labor Relations Board should conduct investigations to decide whether the majority of employees approved the strike. The Kearns committee held meetings in Los Angeles and New York as well as Washington, D.C.

43. Restrictive Union Practices, 3–5, 29. An executive from the Radio Manufacturers Association appeared, and the more recently formed Television Broadcasters Association and FM Association also sent their presidents to appear before the committee. Witnesses generally agreed that the practices of the AFM had hindered the progress of industry and the interests of consumers. As James Murray, vice president of RCA, said, "It is difficult to see how Mr. Petrillo is doing anyone any good."


48. "Statement of Milton Diamond to the Committee on Education and Labor of the House of Representatives," 3–12, Papers of Local 47. Diamond presented figures detailing the distribution of income within entertainment industries. He pointed out that members of radio staff orchestras now received only 3.5 percent of the radio industry's gross revenues, and musicians "other than leaders" secured but 1 percent of total record industry revenues. Diamond also noted that jukebox companies now collected over $230 million annually from four hundred thousand coin-operated machines, yet the companies "do not pay one penny to musicians." Although total sales of record companies in 1946 topped $165 million, the entire record industry paid musicians, excluding bandleaders, only $1.6 million. In regard to the motion-picture industry, Diamond explained that the salaries MGM and Columbia Pictures paid to musicians equaled 0.9 percent of the total expenditures of each firm. Before taxes, the profits of MGM studios were eighteen times the amount paid to musicians. Columbia's profits before taxes were 11.3 times its expenditure for musicians. Diamond stated that the film industry offered casual employment to 5,518 musicians, but "only 239 received full time employment." He asked the committee to consider "these cold facts" before passing judgment.

49. House Reports, 80th Cong., 4. Diamond defended the union as a democratic institution, explaining that musicians had a greater voice in the affairs of their union than did the stockholders of major corporations.


53. Ibid., March 24, 1948, 27, 33. Also Overture, April 1948, 6–7. The final bargaining sessions did not end until March 17, eleven days after they began. The union also lifted certain restrictions on participating programs.
The companies were Associated Program Service (Muzak), Lang-Worth Feature Programs, and Standard Radio Transcription Services. The first two companies filed charges against the AFM and New York Local 802. Standard, which had for some time been a thorn in the side of the union, filed charges in Los Angeles against the AFM and Local 47. On May 27 AFM lawyers countered accusations of the three transcription companies by submitting to the NLRB a legal defense of the union's position. Union arguments maintained that the recording ban was a direct dispute between musicians and record companies, and not a secondary boycott. The labor board's investigation continued for the next several months, requiring several meetings among AFM attorneys, NLRB officials, and legal representatives of the transcription companies.

On July 21, 1948, Associated Program Service (Muzak) withdrew its charges against the AFM. Charles T. Douds was the regional director of the NLRB. On December 10 Solicitor of Labor William S. Tyson informed Secretary of Labor Maurice J. Tobin that the fixed-fee proposal did not conflict with the Taft-Hartley Act. On December 13 Attorney General Tom C. Clark agreed.

Future trustees were to be appointed by the secretary of labor. Initially the Taft-Hartley Act stipulated that union unemployment funds could be used to help only employees of the employers who contributed to the fund. In other words, only musicians who made records could benefit from the AFM's unemployment fund. This was clearly contrary to the original intent of the fund, which was meant to aid instrumentalists harmed by the use of recorded music. The Supreme Court, however, interpreted the new law in such a way that all musicians could benefit from the unemployment fund. National Labor Relations Board v. E. C. Atkins and Co., 331 U.S. 398, 403, May 19, 1947. The new trust fund could be used to help nonunion as well as union musicians, but the union's grip on professional musical services and the logistical problems associated with distributing funds to nonunion musicians ensured that AFM members would be the primary beneficiaries of the new MPTF.


Conclusion


4. Interview with Lenny Atkins, Honolulu, October 8, 1993. The record industry has managed to reduce the size of its contributions to the MPTF since 1950 and the future of the fund is uncertain.


