

# National Association of Broadcasters

1760 N STREET, N. W. \* \* \* \* \* WASHINGTON, D. C.

March 5, 1943

SPECIAL A. F. of M. BULLETIN

No. 17

## A. F. M. Board To Meet

James C. Petrillo, president of the American Federation of Musicians, has advised the recording companies that his executive board will meet March 16 in Chicago to draft an answer to the recording companies' reply to the A. F. of M. "demands."

Here is the text of the recording companies' reply which Mr. Petrillo referred to:

Mr. James C. Petrillo, President,  
American Federation of Musicians  
1450 Broadway  
New York, N. Y.

New York, February 23, 1943.

Dear Mr. Petrillo:

After meeting with you on February 15th, the undersigned companies engaged in various phases of the recording and transcription business met to consider the proposals which you had distributed on February 12th. Considerable time has been spent by us in an effort to find a response which would result in your permitting the re-employment of your members. Any such response must be viewed in relation to these prior facts:

On June 25, 1942, without previous notice or demands, you announced that you would not allow any of your musicians to perform for recordings after July 31st. This meant a complete cessation of recording because we had been operating under a license from you which imposed on us a "closed shop" for your union. Under this license, we had been paying your members at rates which are among the highest for skilled service in any industry. In addition substantial royalties for each phonograph record manufactured and sold have been paid to the musicians or orchestras who made them. Although hours and other working conditions were beyond criticism, you nevertheless called a strike, without previous notice or demands.

While you allege wholesale unemployment of your members (a claim we deny), you have continued this strike and the resulting unemployment for a period of almost seven months, to date. In doing so, you disregarded pleas of Elmer Davis of the O.W.I. on behalf of both military and civil officials, that the strike was harmful to the War effort. During those seven months you at no time offered to return your members to work or even to state the conditions upon which you would do so. This continued until a Senate Committee under the Chairmanship of Senator D. Worth Clark of Idaho insisted that you make some proposal. Even now your proposal is a proposal in form only.

You propose that the recording companies pay an additional sum directly to the union over and above their payments to the musicians employed. You further propose that this sum be accumulated or disbursed in the union's uncontrolled discretion *for the benefit of union members who render no service whatsoever to the recording companies*. The destructive and dangerous fallacy of your proposal is that it assumes that a specific industry owes a special obligation to persons not employed by it,—an obligation based only on such persons' membership in a union. In addition to the inherent unsoundness of such a proposal, the following objections are at once apparent:

### (a) *Obstructs Technical Progress*

We are alarmed at the damage which might be done to the whole field of technical and technological improvement if the manufacturer of any new device, of proven value to the people as a whole, were to be saddled with the costs of special industry unemployment relief in addition to the already heavy costs of pioneering research and development, and subsequent promotion.

### (b) *Subsidizes Non-Employees*

We do not believe that our companies, who before your ban were employing the maximum number of musicians at the highest wages in the history of the music industry, should be asked to assume responsibility for unemployment, even if such unemployment exists, of such of your union members who are not and cannot be employed by us.

### (c) *Penalizes Employment and Use*

We cannot approve a proposal which imposes a private tax upon every phonograph record manufactured and sold when it is obvious that the records used in the home, far from creating unemployment, have been the source of much profitable employment to your members. This (*Continued on page 2*)

**A. F. M. BOARD TO MEET**  
(Continued from page 1)

has been publicly and officially proclaimed on more than one occasion at your own union's conventions. Such records used in the home constitute at least eighty percent of the total phonograph record output, and thus, under your proposal, eighty percent of your tax would ultimately fall squarely on the public which buys records for home use and is in no way responsible for whatever unemployment you may claim exists.

(d) *Duplicates Government Relief*

The Government has provided taxes for unemployment relief. A second tax for a new private system aimed at the same relief seems wholly unjustified. Similar proposals could, with no more excuse, be made by singers, engineers and others contributing to the high quality of our products. Any such private and isolated system of unemployment relief within an industry is not only contrary to public policy but would be in direct conflict with the various plans under discussion in Government circles for the expansion of uniform and nation-wide social security measures. No private and limited scheme for the benefit of a few within an industry can be pyramided on top of Federal and State social security plans without creating serious inequities. Certainly mere membership in a union should not entitle a member to special privileges from an industry which does not employ him but happens to employ some of his fellow members.

We recognize that because a social philosophy is new it is not necessarily wrong. What you have proposed is a startling new kind of social philosophy for both industry and labor. While we believe that it is wholly wrong in principle, we doubt that either a single union or a single industry is qualified to be the final judge. Only the people of the United States are qualified to decide whether multiple systems of unemployment relief administered by a variety of private as well as governmental agencies shall now be created. Authority for the application of such basically new social theory should therefore come from the people's representatives in the Congress. Such sanction would necessarily be accompanied by rules and regulations defining the limits, requirements and approved objectives of such union relief funds, and subjecting the union and its administration of such funds to Governmental control and supervision. As in the case of pension and retirement plans created by corporations for the benefit of their employees, the Treasury Department would unquestionably desire to participate in such regulation and supervision.

This is not rhetoric but plain statement of fact because only the Congress should be called upon to answer such fundamental questions as the following:

(a) Would not such a payment directly to a union offer an easy means of evading the "wage freeze" regulations; or, on the other hand, would it not be deemed an indirect increase in compensation to the members employed and, as such, in violation of the regulations?

(b) If, on the other hand, it were ultimately determined that the additional payment directly to the Federation were not additional compensation, direct or indirect, to the employees, would not such a payment be merely a gratuity, and therefore a waste of a company's assets which would subject the company's management to liability under the law?

(c) Would not your proposal be in violation of Section 8 of the National Labor Relations Act which pro-

vides that it shall be an unfair labor practice for an employer to "contribute financial or other support" to any labor organization?

(d) What would the Treasury think of your proposal if it resulted in diverting taxable income in the hands of the employer to non-taxable receipts in the hands of your union?

(e) If on the other hand the Treasury Department refused to allow such payments as a deductible expense of the employer, would not the employer be compelled to pay not only the contribution to your fund but also an income tax on the amount of that contribution?

(f) Would not any plan for creating artificial employment for unemployed members of the Federation be contrary to the policy of the Manpower Commission, which is seeking to draw into War industries at least those persons not presently employed?

(g) Would not such a payment as you propose subject both you and us to the charge of a conspiracy to maintain or to increase prices,—and a resulting prosecution by the Government or civil suit by an injured consumer.

Only if you procure Congressional authority for the creation of a fund in accordance with your proposal could such a proposal become operative without raising many presently unanswerable questions.

Pending such Congressional authority for a plan which you yourself have termed "absolutely new", we suggest that you permit your members to return to work immediately and produce phonograph records and transcriptions which are sorely needed for both civilian and military morale.

You know of course, that we stand ready to meet with you at all reasonable times when you have anything further to submit. We want you also to know that the views expressed represent our individual as well as our joint decisions.

Very truly yours,

*Electrical Transcription Companies*

Associated Music Publishers, Inc.

By JOHN R. ANDRUS, Vice President.

Empire Broadcasting Corporation

By GERALD A. KELLEHER, President.

Lang-Worth Feature Programs, Inc.

By C. O. LANGLOIS, President.

Muzak Corporation

By C. M. FINNEY, President.

Radio Recording Division

National Broadcasting Company, Inc.

By C. LLOYD EGNER, Vice President

Standard Radio

By GERALD KING, Partner.

World-Broadcasting System, Inc.

By A. J. KENDRICK, Vice-President.

C. P. MACGREGOR

*Phonograph Record Companies*

Columbia Recording Corporation

By EDWARD WALLERSTEIN, President.

Decca Records, Inc.

By JACK KAPP, President.

RCA-Victor Division

Radio Corporation of America

By LAWRENCE B. MORRIS, Director of Personnel Contract Relations.

*Soundies*

Soundies Distributing Corp. of America, Inc.

By SAMUEL OLIPHANT, Attorney.