

# The National Association of Broadcasters

1760 N STREET, N. W. \* \* \* \* \* WASHINGTON 6, D. C.

August 13, 1943

SPECIAL A. F. of M. BULLETIN

No. 20

## Late Developments in the Petrillo Fight

1. The War Labor Board has appointed a panel to hear and report on the merits of the controversy between the transcription companies and the A. F. of M. This panel consists of the following:

### *Representative of Labor*

Max Zaritsky, President of United Hatters Cap and  
Millinery Workers

### *Representative of Employer*

Henry S. Woodbridge, Assistant to the President of  
American Optical Co.

### *Representative of the Public*

Arthur Meyer, Chairman of the New York Mediation  
Board

Public hearings have tentatively been set to begin in New York City the first week in September. The function of the panel is to report to the War Labor Board what action, if any, should be taken. The War Labor Board denied "at this time" the plea of the transcription companies that the union be ordered to terminate its strike at once, but the form of the order leaves it open for such action to be taken in the future at the recommendation of the panel.

2. Station WSAW in Rochester, which was cut off the Mutual Network as a result of a threat by Petrillo to deprive the entire Mutual Network of all of the services of musicians, has commenced an action for an injunction against James C. Petrillo, individually and as President of the American Federation of Musicians, and Leonard Campbell, individually and as President of Rochester Musicians Protective Association, Local #66, American Federation of Musicians.

The theory of the action is that it constitutes an unlawful labor objective for the union to demand that the station hire five musicians whose services the station does not need and that it constitutes an unlawful method for

the union to conspire to put pressure on Mutual to deprive the station of network musicals programs unless the station does the union's bidding. The case is brought in the Supreme Court of the State of New York and will be heard in Rochester. The motion for an injunction is scheduled to be heard on Thursday, August 12th.

### **Diamond Calls Meeting**

3. On August 5th Mr. Milton Diamond, counsel for Decca Records, Inc. and for the World Broadcasting System, Inc. which was recently purchased by Decca, called a meeting in New York City to which R. C. A. Victor,

Columbia Recording, NBC, Blue Network Company, CBS and the NAB were invited. At this meeting Mr. Diamond reported, without recommendation, the result of several months discussions with Mr. Petrillo and his Board which Mr. Diamond had carried on solely on behalf of Decca and not on behalf of any other interests.

Mr. Diamond reported that Mr. Petrillo and his Board would be willing to return the musicians to work in the phonograph record field in consideration of a payment of eighteen million dollars net over the next five years. Such payment would be made to musicians employed by the recording companies, with the understanding that the union would tax the money away from these men and put it in its own coffers. The eighteen million dollars was to be paid by "public users" of records which, after negotiations, boiled down to the broadcasting industry since it was admitted that there was no prospect of receiving any part of the contribution from juke boxes unless and until a new copyright law was passed.

Transcriptions were not specifically mentioned in this connection, but it was Mr. Diamond's understanding that the men would also return to work in the making of transcriptions.

It was part of Mr. Petrillo's proposal, however, that all industries should cooperate in the passage of a new law which would require broadcasters and other users of records to make payment for the use of records, and for the benefit of the union, for all times in the future and at such rate as might be fixed in the future. It was no part of the proposal that any part of the money be paid by the motion picture industry.

### **Price Goes Up**

Discussion brought out the fact that while Mr. Petrillo said that what he wanted for his union was eighteen million dollars net, the discussions were predicated on the fact that there also would be moneys for the recording companies and for the artists who actually made the records. It was suggested that the record companies might receive, in addition to the moneys paid to Petrillo, another eighteen million dollars, which would raise the amount involved to thirty-six million dollars. It was also pointed out that some money would be needed for the collection and administration of funds and that this would amount, perhaps, to another four million dollars. The total amount involved for the first five-year period, therefore, would be from eighteen to forty million dollars, with no limitation placed on what it might be in future periods.

What was involved in the proposal, therefore, was an agreement by the broadcasting industry to pay from eighteen to forty million dollars over the period of five years, and at the same time to agitate for the passage of a new law which would permit the collection of similar or greater amounts in the future.

### **Broadcasters Not Interested**

The NAB was asked its opinion as to whether the broadcasting industry was interested in discussing such a plan. The NAB made it clear that the broadcasting industry would not be. It was pointed out that such plan involved the acceptance of a totally false principle, the imposing of unjustified and crushing charges, and the adoption of a technique of lobbying for new legislation by means of a strike, which was actually a strike against the American people and the Congress, until new legislation was passed.

4. James C. Petrillo announced to the press that the union, as a means of encouraging symphonic music, had appropriated \$500,000 for the giving of 570 free concerts by the leading symphony orchestras in smaller communities. The following statement was issued by Neville Miller, President of the NAB, and was widely printed:

## **Petrillo Symphonic Music Gesture Exposed as Hypocrisy by NAB**

"James Caesar Petrillo's announcement that his union intends to give 570 symphonic concerts in small towns is unequalled for hypocrisy. Mr. Petrillo has done more to prevent symphonic music in the United States than any other man in the history of our country.

"Before Mr. Petrillo prevented the making of all recordings of symphonic music last August, the great orchestras could reach all of our people in all parts of the country through the phonograph record. The recordings so made were available for the home, schools, broadcasting stations and for all of our citizens wherever situated and whenever they wanted to hear symphonic music, not merely once each in 570 communities hand-picked by the union. The very orchestras which Mr. Petrillo now wants to bring to the people, are those which, for one full year, have been prevented from making phonograph records. If Mr. Petrillo were sincerely interested in the welfare of symphonic music, he could, by lifting his ban, permit the equivalent, not of 570, but of hundreds of thousands of times 570 concerts.

"All of the symphony organizations are non-profit institutions. A substantial part of their revenue, in some cases as much as one-third, was derived from royalties on phonograph records, 98 per cent of which, according to Mr. Petrillo's own testimony before the United States Senate, went into the American home and formed a permanent contribution to musical education. Moreover, the musician in the symphony orchestras has been deprived by Mr. Petrillo of the substantial revenue which he previously received from his recording activity. The musicians in symphony orchestras received, in addition to the royalty obtained by the orchestra itself, a minimum fee of \$28 per man for no more than 80 minutes playing time.

"Mr. Petrillo has, therefore, stifled the major source of income for the symphonic orchestras, deprived the symphonic musicians of normal compensation and withdrawn from the American people the benefits of recorded symphonic music.

"It should be noted that in making this transparent gesture, Mr. Petrillo drops the last vestige of justification for his ban on recordings. He has contended that records commercially used in the smaller cities deprived local musicians of employment opportunities. Yet, when the union sets aside \$500,000 to bring some music to the American people it does not employ local



musicians, but instead spends it on bringing into the communities the performances of the fully employed musicians who had always made recordings.

"The good faith of Mr. Petrillo's proposal may be attacked not only on these grounds, but on the basis of his own figures. His announcement says that the men in the orchestras will be paid for their services, and he sets the normal personnel of a symphony orchestra at 90 men, although in travelling, the services of baggage men, librarians, etc. are also required. At his own figures, Mr. Petrillo is allotting less than \$10 a man per concert to cover salary, railroad fares, hotels, meals, baggage car for instruments, cartage of instruments and music stands to place of performance, and incidental expenses. When a non-profit symphony society wishes to give a concert out of town today, it must pay, in addition to the high union scale, \$7.50 a man per day for mere maintenance, and the lowest union scale of symphony concert tours is \$100 a week a man, exclusive of the obligation of the orchestra to furnish first-class transportation, including sleepers. It is obvious, therefore, that Mr. Petrillo proposes to pay the men no compensation or only nominal compensation.

"The essence of Mr. Petrillo's gesture, therefore, is that he is going to compel some of his members to render free services and the orchestral societies to lend their names and reputations to his enterprise so that he may take unto himself the credit for their services."

The accuracy of Mr. Miller's figures was later proved when Mr. Petrillo, in a later statement, announced that \$250,000 was to be used in order to give 115 concerts, thereby cutting, in more than half the number of concerts, within a week after the first announcement.

On August 7th, Marshall Field, president of the board of directors of the Philharmonic Symphony Society, asked Mr. Petrillo to lift "immediately" his ban on the recording of symphonic music. Mr. Field's appeal has been approved by eleven symphony orchestras, including: the Los Angeles Philharmonic, Rochester Philharmonic, Indianapolis Symphony, Cleveland Orchestra, National Symphony and the Minneapolis Symphony.

Also an estimated 700 members of N. Y. Local 802 signed petitions demanding that Mr. Petrillo execute his project by giving work to totally or partially unemployed musicians rather than to symphony instrumentalists who already were earning high wages.

Details of Marshall Field's appeals and the protest of the 700 members of N. Y. Local 802, A. F. of M., are given in articles from the *New York Times* reprinted below. Also we are printing an editorial from the *New York Times* of August 10:

(N. Y. Times, Aug. 10)

## Field Asks Petrillo to Lift Ban On Recordings by Philharmonic

James C. Petrillo, president of the American Federation of Musicians, has been asked by Marshall Field, president of the board of

directors of the Philharmonic-Symphony Society, to lift "immediately" his ban on the recording of symphonic music, it was disclosed yesterday.

The society "desires, in fact requires" royalties from its recordings in order that the Philharmonic may continue, and other major symphony orchestras are "similarly situated," Mr. Field told Mr. Petrillo in a letter dated Aug. 6, which sets forth the conditions under which the society will permit the use of its name in the series of free concerts that the union proposes to give in the smaller cities with the union musicians of leading symphonic organizations.

After outlining the conditions—that the society shall approve the cities played, the programs given and the conductors who conduct the orchestra, and that the performances shall neither involve the society in any expense nor be broadcast or recorded—Mr. Field's letter continues:

"I have spoken informally to a number of members of our board and I believe that if these conditions are complied with, you will receive the society's cooperation to your project. They have expressed the hope, in which I join, that if the society cooperates, you will see the importance, for the same ends to which your proposed performances are aimed, to lift the ban which you have placed on recordings by our orchestra."

Acknowledging Mr. Petrillo's professed desire to bring "symphonic music to persons who might not otherwise have the opportunity to hear it," Mr. Field informed the union leader that "the recording of the great symphonic orchestras of this country under their famous conductors is also a means of bringing that symphonic music to persons who might not otherwise hear it."

Mr. Field was "frank to admit," he said, "that the society desires, in fact requires, the royalties from its recordings in order to insure the continuance of the orchestra which you are proposing to borrow. The other great symphonic orchestras of this country are similarly situated. Their very existence is threatened by the loss of recording royalties."

Accordingly, the letter continued, "my plea to you, and I am sure it will be the plea of the management of every symphonic orchestra in America, is that you will immediately lift your ban on the recording of symphonic music and by doing so contribute to the availability of symphonic music throughout this country in a manner that not even your proposed concerts can accomplish. In addition, we have the word of Army and Navy officers, as well as civilian officials in Washington, that the continuance of recording is necessary for the maintenance of military and civilian morale, one of the primary purposes stated by you for your own concerts."

A statement from the Philharmonic-Symphony Society office said that copies of the letter had been sent to other major symphonic organizations, and that by the time the letter was mailed to Mr. Petrillo telegrams "approving Mr. Field's position" had been received from the Philadelphia Orchestra Association, the Chicago Symphony, the Boston Symphony, the Cleveland Orchestra, the National Symphony of Washington, D. C., and the Cincinnati, San Francisco and Minneapolis Symphonies.

Mr. Petrillo announced his free concert plan on July 27, at which time he said that the union had authorized an expenditure up to \$500,000 for an estimated total of 570 concerts. The plan was first suggested to him, he declared, by President Roosevelt. The day after its announcement, the proposal was assailed by Neville Miller, president of the National Association of Broadcasters, as "unequaled for hypocrisy." Through his ban on the making of records, Mr. Miller charged, Mr. Petrillo had "done more to prevent symphonic music in the United States than any other man in the history of our country."

Mr. Petrillo was not available yesterday for comment.

(Continued on page 4)

## Musicians Oppose Petrillo Concerts

Against Leader's Proposal to Give Free Performances by Symphony Orchestras

### WORK FOR JOBLESS SOUGHT

Petitions Point to Fact That Those Affected by Project Already Earn High Pay

Opposition to the plan of James C. Petrillo, president of the American Federation of Musicians, to have the major symphony orchestras give free concerts in smaller cities developed yesterday within Mr. Petrillo's own union.

An estimated 700 members of Local 802 of the federation, covering the metropolitan area, signed petitions demanding that Mr. Petrillo execute his project by giving work to totally or partially unemployed musicians rather than to symphony instrumentalists who already were earning high wages.

The petitions were delivered late yesterday afternoon to Mr. Petrillo's office at 570 Lexington Avenue, where they were accepted by Harry Steeper, assistant to the union leader. Mr. Petrillo was said to be in Chicago.

Circulation of the petitions was done by the faction within Local 802 known as the "Unity Group." The group in recent months has offered increasing strong opposition to the present local administration, headed by Jacob Rosenberg, president, and William Feinberg, secretary.

Mr. Rosenberg declined to comment on the petitions.

### Not Fighting Recording Ban

While the petitions represented the first intra-union opposition to Mr. Petrillo since he started his fight against "canned music," Billy Vann of the "Unity Group" emphasized that the signers were not fighting the federation's ban on recordings.

In a letter accompanying their petitions, however, a committee of the "Unity Group" noted that Mr. Petrillo had declared repeatedly that the purpose of the recording ban was to aid needy musicians.

"Last week, in an apparent desire to gain the public good will, the federation announced that it would spend \$500,000 on a program designed to bring good music to small communities," the letter continued. "Are the musicians who are to be so used unemployed? No! Famous symphony orchestras have been designated to do this work."

The letter added that the plan as announced by Mr. Petrillo had the effect of "proclaiming that we have no competent unemployed musicians on whom the funds of the organization should be expended."

### Suggestion From Committee

The committee suggested that, if the federation were to subsidize music, "new orchestral units be formed using those musicians who are not already fully employed at high wages."

Mr. Vann said that twenty members of the New York Philharmonic-Symphony had signed the petitions but he declined to make public their names.

He reported that some members of the symphony were opposed to working for \$10 a concert, the fee proposed by Mr. Petrillo, Committee members said that the commercial scale was \$16.

The committee members signing the letter were Nicholas F. Vitalo, recording secretary of the group; Alfred Manuti, Calmen Fleisig, Maurice Benavente, Jack Cohen, Raymond Parker, Frank Morse, Charles Sanchik, Benjamin Berkowitz, Hyman Grossman, Benjamin Margulis and Albert Stanley.

The Philharmonic-Symphony Society of New York meanwhile announced that a total of eleven symphony orchestras in the country had voiced approval of the position of Marshall Field, the society's president, in asking for lifting of the ban on records. The latest adherents were the Los Angeles and Rochester Philharmonic Orchestras.

(N. Y. Times, Aug. 10)

### BEGGING MR. PETRILLO

Marshall Field, as president of the board of directors of the Philharmonic-Symphony Society, has asked James C. Petrillo, president of the American Federation of Musicians, to lift immediately his ban on the recording of symphonic music.

Mr. Field is "frank to admit," he declares, "that the Society desires, in fact requires, royalties from its recordings in order to insure the continuance of the orchestra which you are proposing to borrow. The other great symphonic orchestras of this country are similarly situated. Their very existence is threatened by the loss of recording royalties."

"Accordingly," Mr. Field continues, "my plea to you, and I am sure it will be the plea of the management of every symphonic orchestra in America, is that you will immediately lift your ban on recording of symphonic music and by doing so contribute to the availability of symphonic music throughout this country in a manner that not even your proposed concerts can accomplish."

This plea has the merits of understatement. Mr. Petrillo, through the use of irresponsible private power, is denying music to millions by his ban on recording, while he ostentatiously offers "free concerts" as a special favor to a few thousand. Why should the country be placed in the position of pleading with Mr. Petrillo to remove a ban that he ought never to have had the power to impose? Mr. Petrillo has this power only because Congress and the Administration have in effect delegated such power to him. If they will revise our ill-considered labor laws, which give Mr. Petrillo the power to impose ruinous boycotts against individual musicians as well as concert halls, theatres, restaurants, transcription companies and radio stations, nobody will have to appeal to Mr. Petrillo not to abuse his powers. They will no longer be his to abuse.